



Walsall Council

Planning Committee

Thursday 9 February 2023 at 5.30 pm

Council Chamber, Walsall Council House

Public access to meeting via: [Walsall Council Webcasting Portal](#)

MEMBERSHIP:

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

QUORUM:

Seven Members

A G E N D A

Part I – Public Session

1. Apologies.
2. Declarations of interest.
3. Deputations and petitions.
4. Minutes of the previous meetings – 1 December 2022 – **enclosed** (pp. 7 - 17)
5. **Local Government (Access to Information) Act 1985 (as amended)**:

To agree that, where applicable, the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
6. Section 106 Customer Guide and Householder Validation Checklist – **enclosed** (pp. 18 - 73)
7. 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. 74 - 110)

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 hundredth of the total issued share capital of that class.</p>

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.

Planning Committee

Thursday 1 December 2022 at 5.30 pm

Council Chamber, Council House, Walsall

Present:

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

In attendance:

P. Venables	Director, Regeneration and Economy
A. Ives	Head of Planning
N. Ball	Principal Planning Policy Officer
M. Brereton	Group Manager – Planning
E. Cook	Assistant Democratic Services Officer
M. Crowton	Transportation Major Projects and Strategy Manager
K. Gannon	Developmental Control and Public Rights of Way Manager
P. Gittins	Principal Planning Officer
O. Gore	Development Monitoring Officer
N. Gough	Democratic Services Officer
J. Grant	Environmental Protection Officer
S. Hollands	Principal Planning Officer
J. Hoskinson	Senior Planning Officer
I. Jarrett	Principal Environmental Protection Officer
P. Jervis	Principal Planning Policy Officer
D. Matharu	Regeneration Officer - Conservation
K. Moreton	Head of Highways, Transport and Operations
J. Price-Jones	Planning Solicitor
D. Smith	Senior Legal Executive
S. Wagstaff	Principal Planning Officer

- 148/22 **Apologies**
- Apologies for absence were submitted on behalf of Councillor B. Allen, Councillor K. Hussain and Councillor A. Underhill.
- 149/22 **Declarations of Interest**
- Councillor Bird declared an interest with regards to plans list items 1, 2 and 3.
- 151/22 **Deputations and Petitions**
- There were no deputations introduced or petitions submitted.
- 152/22 **Minutes of previous meeting**
- The Committee considered the minutes of the previous meeting.
- Resolved:**
- That the minutes of the meeting held on 31 October 2022, a copy having been previously circulated to each member of the Committee, be approved and signed as a true record.
- 153/22 **Local Government (Access to Information) Act 1985 (as amended)**
- Exclusion of the Public**
- Resolved:**
- That, during consideration of the items on the agenda, the Committee considers that the relevant items for consideration are exempt information for the reasons set out therein and Section 100A of the Local Government Act 1972 and accordingly resolves to consider those items in private.
- 154/22 **Development Management Performance Update Report**
- The Group Manager (Planning) introduced the report (annexed) which detailed the latest performance and outcomes regarding 'Development Management'. Whilst performance on the speed of decision making reduced in Quarters 1 and 2, this was largely due to delays arising from the Cannock Chase SAC. Progress in clearing the backlog was now being seen and additional staffing would accelerate decision-making, including 3 new senior planning officers and 1 principal planning officer. A dedicated Section 106 officer had also been appointed.

Responding to questions, the Group Manager confirmed that there was still an ongoing project with an allocation for investing in affordable housing stock.

Resolved:

That the report be noted.

155/22

Responses to Birmingham City Council, Stafford Borough Council and South Staffordshire District Council Local Plan Consultations

The Principal Planning Policy Officer introduced the report of the Head of Planning and Building Control (annexed) setting out proposed responses to the Local Plan consultations of Birmingham City Council, Stafford Borough Council and South Staffordshire District Council Local Plan Consultations, which were at varying stages of the consultation process. The Local Authority had a duty to cooperate with neighbouring authorities regarding Local Development Plans.

Responding to Member questions, officers explained that housing requirements were derived from Government targets and Government had final determination on these numbers. Where neighbouring authorities proposed additional housing to their targeted needs, this may be used to off-set targets in neighbouring authorities, but with all three of the consultations in the report, it was not clear where would be affected by any off-setting.

Members discussed the implications of consultations on the Walsall Local Plan. Officers described the challenges to developing privately-owned brownfield sites which included the willingness of owners to allow such development. The Walsall Local Plan would identify the number and type of housing required.

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

Resolved (unanimously):

That the consultation responses for the Birmingham City Council, Stafford Borough Council and South Staffordshire District Council local plans (as set out in the appendices) be recommended to Cabinet for approval.

156/22

Application list for permission to develop

The application list for permission to develop was submitted, together with supplementary papers and information for items already on the plans list (see 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 and 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.

Having declared an interest in plans list items 1, 2 and 3, Councillor Bird left the Chamber. Councillor M. Statham took the Chair.

157/22

Plans List 1 – 22/0171 – Site at Ravens Court, Brownhills

The report of the Head of Planning and Building Control was submitted (annexed) and was presented to the Committee along with information contained within the supplementary paper. The Principal Planning Officer gave an overview of the proposal and explained the recommendations. Whilst the proposal was supported in principle, Highways recommended that the proposed additional access from the High Street was not required and was only for commercial advantage. Highways concerns included safety on the car park for vehicles accessing and serving other shops along the High Street. Councillor Murray had not been consulted as the ward Member, but confirmed he was happy to proceed with consideration.

The Committee welcomed two speakers on the item. Councillor K. Ferguson spoke in favour of the application and explained that the derelict site had seen anti-social behaviour and was unsafe. The traffic on High Street was slow-moving and the applicants had suggested they would be unlikely to relocate if the access off High Street was not permitted. Mr Robin Williams, Aldi's Regional Property Director, spoke in favour of the application and explained that this was a high-quality solution to a site currently undermining the economic sustainability of Brownhills town centre. The issue of the High Street access was the only outstanding technical issue.

Responding to questions, Mr Williams confirmed that the proposed access off High Street was ingress-only and that Aldi had many stores with busier accesses with no previous problems. Articulated delivery vehicles would be required to use the Ferrie Grove/Silver Street access. Mr Williams confirmed the importance of the High Street access to the viability of the proposed development and explained that the applicant's data suggested there would not be a highways issue. Mr Williams also confirmed that the applicants would plan to acquire the existing properties and planned to support current occupiers in relocating

elsewhere. Councillor Ferguson explained that the site had been derelict for approximately 10 years and that a survey conducted by Aldi had found 108 of 109 respondents in favour of the proposal.

There then followed questions to Officers. The Head of Highways, Transport and Operations explained that the first stage of assessing a potential highways safety issue was to assess whether the risk could be completely eliminated. Regarding the application, this could be done by removing the proposed access from High Street. Whilst the applicants had proposed road safety measures these were outside of the boundary of the proposed development site. These safety measures would need to be secured should Members support the proposal. Regarding environmental concerns, these related to the demolition of the existing properties rather than the proposed development itself. It was confirmed that a barrier was not proposed for the car park and the Police had not raised any concerns.

Members debated the proposal and commended Stephen Craddock for his work in championing the site. It was **moved** by Councillor Murray and **seconded** by Councillor Harris and upon being put to the vote it was;

Resolved (unanimously)

That Planning Committee resolve to delegate to the Head of Planning & Building Control to grant planning permission subject to conditions and a Section 106 agreement to secure a travel plan and subject to:

1. No new material considerations being received within the consultation period;
2. The amendment and finalising of conditions;
3. Overcoming the outstanding concerns raised by Local Highway Authority submission of a comprehensive car park management scheme to include Aldi related vehicles and non- Aldi related vehicles which service the existing units on High Street.
4. The amendment of the red line site boundary.
5. Planning Committee resolved that removing the access from High Street not be included as a condition, contrary to Officer's recommendations, for the following reasons:
 - I. The proposed access from High Street is ingress only.
 - II. The proposed access from High Street will not be used by commercial vehicles.
 - III. Whilst High Street is an A-class strategic highway, in practice, traffic flows at walking pace.
 - IV. The wider benefits the development brings to the community, including with regards to health and safety, outweigh the concerns raised.

Plans List 3 – 20/0832 – Former Old Bush Inn, Walsall Road, Pelsall

The report of the Head of Planning and Building Control was submitted (annexed) and was presented to the Committee along with information contained within the supplementary paper. The Principal Planning Officer presented an overview of the plan including layout, the surroundings and the reasons for the recommendation. Pelsall was not a district centre and according to the sequential test, the sequentially preferential site is in Brownhills considered as part of the previous plans list item (see minute 157/22).

The Committee welcomed three speakers on the item.

Mr J Thomas, a local resident, spoke against the application and explained that building a supermarket in a small community like Pelsall would destroy its High Street. The road through Pelsall was already very busy and accident prone, and for most residents travelling to Brownhills was not a problem. Mr David Archer, a local resident, spoke against the application and explained that the proposed development would have a negative effect on residents' quality of life, through creating noise. Only one local road would be suitable for the vehicles used for deliveries and the sight lines for LGVs leaving the site would necessitate their mounting of verges/pavements.

Mr Robin Williams, Aldi's Regional Property Director spoke in favour of the application and explained that failing to redevelop the site would lead to the area becoming less desirable, whilst the development would provide substantial benefits including £1million of funding for sports in Walsall through the Section 106; 40 new jobs; spin-off trade for local businesses and value for money for local shoppers.

Responding to questions, Mr Archer explained that local residents were not opposed to the principle of the site being re-developed, but that a supermarket was not an appropriate development. Mr Williams explained that late requests for information had been received from Highways, adding that local roads would be able to handle the associated large vehicles and that most car journeys were already on the road network. The lack of a bat report was due to the previous one expiring and there was no evidence bats were present at the site.

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

There followed questions to Officers. It was explained that as a locally listed building, the Local Authority did not have the same powers of enforcement as if the building was nationally listed, however it was protected and the applicants had failed to fully consider whether the asset could be retained. It was noted that the onus to maintain the building, and ensure that it did not fall into disrepair, was on the owner. Regarding the Section 106 agreement, a need for a like-for-like

replacement of the existing football pitch was not identified so the money would be split across other identified football-related projects Borough-wide.

Elaborating on Highways objections, the Developmental Control and Public Rights of Way Manager explained that Highways had requested cumulative details with application 20/0830 and that these were only received the day prior to the meeting. Whilst the applications were separate there were concerns that if the application was approved, this would block the road view and make a footpath unviable regarding the care home proposal. Regarding TRICS (Trip Rate Information Computer System), the applicant had treated the proposed development as a passing road rather than a destination. There was a weight limit on the Yorks Bridge meaning that Aldi delivery vehicles would have to come via Rushall.

Following a debate, it was **moved** by Councillor Bott and **seconded** by Councillor Waters and upon being put to the vote, it was;

Resolved (9 in favour, 0 against)

That Planning Committee delegate to the Head of Planning and Building Control to refuse planning permission for application 20/0832 for the reasons set out in the Officer's report and the supplementary paper and to:

- Allow 14 day re-consultation to obtain latest representation from the Local Highway Authority.
- Amend and finalise refusal reasons.

159/22

Plans List 2 – 20/0830 – Pelsall Villa Football Club, Walsall Road, Pelsall

The report of the Head of Planning and Building Control was submitted (annexed) and was presented to the Committee along with information contained within the supplementary paper, informing Members that the main objections related to Highways concerns.

The Committee welcomed one speaker on the item, Mr Neil Denison, the representative of the agent, who spoke in favour of the application. He explained that he viewed the reasons for refusal as spurious and highlighted that there was no evidence of significant highways impact; the protected trees at the site would remain; there was evident need for such a facility in the area and the Section 106 obligations would mitigate the loss of the football ground.

Responding to questions, Mr Denison explained that there was not a two metre pavement to the north of Bush Grove, but there was one on the south side and it was a cul-de-sac with little traffic. The transport assessment suggested that the view when turning into Bush Grove was adequate and only a small section of the hedgerow would be affected. The care home development and the Aldi development (20/0832) were

independently viable and the Section 106 agreement would be effected if only one were approved.

Responding to questions, the Principal Planning Officer explained that whilst the principle of the development was supported, officers were not satisfied that the highways objections had been overcome. The Developmental Control and Public Rights of Way Manager explained that officers were concerned that no visibility display had been provided. Furthermore, the lack of a pedestrian footpath would be unacceptable, it would be needed by users of a care home, such as the elderly and visually impaired.

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

Resolved (12 in favour, 0 against)

That Planning Committee delegate to the Head of Planning and Building Control to refuse planning permission for application 20/0832 for the reasons set out in the Officer's report and the supplementary paper and to amend and finalise refusal reasons.

At this juncture, Councillor Bird returned to the Chamber and took the Chair.

160/22

Plans List 4 – 21/1720 – Field Adjacent the Duckery, Chapel Lane, Great Barr

The report of the Head of Planning and Building Control was submitted (annexed) and was presented to the Committee along with information contained within the supplementary paper. The Principal Planning Officer provided an overview of the application, including layout, elevations, highways considerations, heritage concerns and green enhancements.

The Committee welcomed three speakers on the item. Councillor Christopher Towe spoke against the application and explained that this would represent a substantial development within the Green Belt and the Great Barr Conservation area. The development would be harmful, radically changing the area's openness and running counter to planning policy. Mr Robert Winkle, a local resident, also spoke against the application and added that the proposed development would be an unwelcome intrusion into a heritage area which provided a green gateway to Walsall and a rural retreat.

Mr Ed Pignott spoke in favour of the application, explaining that the proposal met the 'very special circumstances' requirement for developing a green-belt site. There were no other suitable sites locally and the development would produce significant environmental benefits, outweighing the harm to the green belt. Mitigations would result in a 50% net biodiversity gain.

Responding to questions, Mr Pignott stated there had been no highways, fire service or flood-risk objections and that there would be no long-standing harm, as the development would be for a temporary period with the land returning to being green field. He explained that the methodology for identifying suitable sites included specific criteria and this was the only suitable site identified.

The Head of Planning and Development explained that 40 years would not ordinarily be considered to be a temporary development and that although the site would still be in the green belt once vacated, this would be after 40 years of potential harm to it. In the view of officers, the 'very special circumstances' criteria were not met and although the development in principle would contribute to Carbon Neutral Walsall objectives, it was not suitable in this location. Highways were unable to confirm whether there would be severe traffic issues, but that conditions regarding highways during the 30-week construction period had been requested.

After a debate, it was **moved** by Councillor Gandham and **seconded** by Councillor Samra and upon being put to the vote, it was;

Resolved (unanimously)

That Planning Committee refuse planning permission for application 21/1720 for the reasons set out in the Officer's report and the supplementary paper and for the following additional reasons:

1. If approved this development would introduce an industrial feature into the green belt and conservation area.
2. Highways traffic management concerns.

161/22 **Plans List 5 – 22/0925 Mali Jenkins House, The Crescent, Walsall**

Resolved:

The application 22/0925 was withdrawn by the applicant prior to the meeting and will no longer be determined by the Local Planning Authority.

162/22 **Plans List 6 – 22/0769 – 1 Barr Common Road, Aldridge, Walsall**

The report of the Head of Planning and Building Control was submitted (annexed) and was presented to the Committee along with information contained within the supplementary paper. The Group Manager (Planning) provided an overview of the application including the site, the application's history, the local area and the reasons for the recommendation.

The Committee welcomed one speaker on the item, Mr Michael Manraj Singh, who spoke in support of the application. Mr Singh elaborated that the proposed rear and front extensions would be allowed under

permitted development rules and very special circumstances requirements should not be necessary. The neighbours supported the proposal and the additional space was needed by the occupant to continue caring for elderly relatives who lived at the property.

Responding to questions Mr Singh explained that following the proposed works the property would be a dormer bungalow. Mr Singh claimed the objective of green belt development restrictions was to prevent urban sprawl, with an exception for developments which were not materially larger and there was no strict definition on what constitutes 'materially larger'. The prior approval system would allow such a development, which should be a material consideration. Changes from the previous application included a 1m reduction in depth whilst the height change was less than 1m above the current elevations.

Officers clarified that there was no default fall-back position for applications, hence permitted development was not included as a consideration. It was clarified that personal circumstances were not material planning considerations.

There followed a period of debate. Some Members felt that a 200% expansion did represent a materially larger development and that neither of the two reasons given for the previous rejection of the application had been addressed. Other members expressed that they felt the applicant had gone some way to addressing these previous concerns and that the proposal posed no substantial harm to the green belt.

It was **moved** by Councillor Murray and **seconded** by Councillor Bott that Planning Committee refuse planning permission for application 21/1720 for the reasons set out in the Officer's report and the supplementary paper. Upon being put to the vote, this was **Rejected (6 in favour, 7 against)** and the proposed resolution failed for this reason.

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

Resolved (8 in favour, 6 against)

That Planning Committee resolve to Delegate to the Head of Planning & Building Control to grant planning permission subject to conditions and contrary to officers' recommendations, for the following reasons:

1. The proposed development poses no significant harm to the Green Belt.
2. No objections have been received from neighbours.
3. The scheme has been reduced in width, depth and height and is a superior scheme.

Part II: Private Session

162/22 **Development Management Performance Update – Table 3 only**

Resolved (by assent)

That the report be noted.

Termination of meeting

There being no further business, the meeting terminated at 10:36 pm.

Signed

Date



PLANNING COMMITTEE

9th February 2023

REPORT OF HEAD OF PLANNING & BUILDING CONTROL

Section 106 Customer Guide and Householder Validation Checklist

1. PURPOSE OF REPORT

To inform Members of the Planning Committee of the outcome of public consultation, and the subsequent implementation of:

- i. Updated Section 106 Customer Guide.
- ii. New Householder Local Validation Checklist.

2. RECOMMENDATIONS

That the Committee notes the outcome of consultation and the intended implementation date of Wednesday 1st March 2023.

3. FINANCIAL IMPLICATIONS

None arising directly from this report.

4. POLICY IMPLICATIONS

Within Council policy. All planning applications relate to local and national planning policy and guidance.

5. LEGAL IMPLICATIONS

Planning Obligations are primarily negotiated as part of the determination of planning applications in accordance with the National Planning Policy Framework 2021 (NPPF), Community Infrastructure Levy Regulations 2010 (Regulation 122)(as amended), policy DEL1 of the Black Country Core Strategy, policy GP3 of Walsall Unitary Development Plan and adopted Supplementary Planning Documents.

6. EQUAL OPPORTUNITY IMPLICATIONS

None arising from the report. The Development Management service is accredited by an Equality Impact Assessment.

7. ENVIRONMENTAL IMPACT [Page 16 of 108](#)

The updated S106 guide and the introduction of a householder local validation checklist will help to improve the quality of planning application submissions and in turn help to ensure development results in positive environmental impacts.

8. **WARD(S) AFFECTED**

All.

9. **CONSULTEES**

Regular developers and planning agents, Council Legal Team, other relevant Council service areas and teams have been consulted in the preparation of these documents.

10. **CONTACT OFFICER**

Mike Brereton: Group Manager, Planning
Michael.brereton@walsall.gov.uk

11. **BACKGROUND PAPERS**

All published.

Mike Brereton
Group Manager, Planning

i. Updated Section 106 Customer Guide

- 12.1 This guide is not a formal document requiring adoption, rather it is a document which aims to provide helpful advice and guidance to customers of the Development Management Service on all matters regarding Section 106. It is intended that the guide will be regularly reviewed and updated where necessary to ensure it remains up-to-date and takes account of any emerging local and national changes on the scope, purpose and use of Planning Obligations.
- 12.2 Key sections of the draft guide were presented at the most recent planning agent and developer forum on 20th October 2022 which were positively received.
- 12.3 This guide will help to provide service efficiencies in the processing of Section 106 Agreements which was identified as a key recommendation as part of the Planning Advisory Service (PAS) Peer Challenge review in 2021.
- 12.4 This is an update to the existing published S106 customer guide which has been updated and expanded to include standard definitions, clauses and a specific section on the agreed process in relation to securing mitigation payments towards relevant development falling within the Cannock Chase SAC 15km Zone of Influence.
- 12.5 Consultation has been carried out with planning agents and developers that frequently submit planning applications to Walsall Council, and with relevant internal colleagues and external organisations between 30th November and 29th December 2022. A total of 4 x responses were received and these have been summarised in Table 1 below.

Table 1 – Responses to S106 Guide Consultation

Name of Respondent	Respondent Feedback	LPA Response
Lambert Smith Hampton	<i>Section 11 (Viability)</i> – minor tweaks to existing wording.	Noted and amended.
Strategic Housing Team, Walsall Council	<i>Section 11 (Viability)</i> – suggests inclusion of sub-section to include First Homes eligibility criteria.	Noted and amended.
NHS Black Country	Discussions on healthcare related S106 matters being progressed as part of Local Plan preparation and future focussed SPD.	Noted, no changes required.
Planning Policy Team, Walsall Council	<i>Section 2 (What are Planning Obligations)</i> – minor tweaks to wording on driver of planning obligations. <i>Section 8 (Key S106 Thresholds)</i> – minor tweaks to wording and heading. <i>Tables 2 & 3 (Terms of Reference)</i> – reference to tables required.	Noted and amended where necessary. <i>Section 16 (Affordable Housing Tenure)</i> retained to provide helpful up-to-date guidance to customers which can be reflected in any future revised SPD which carries greater weight in the

	<p><i>Section 11 (Viability)</i> – minor tweak to text regarding some Development Plan policies allow consideration of viability.</p> <p><i>Section 14 (MIP Clause)</i> – minor additional text and tweaks.</p> <p><i>Section 15 (Affordable Housing)</i> – minor additional text and question on the purpose of enforceability section.</p> <p><i>Section 16 (Affordable Housing Tenure)</i> – Asks whether this section should be contained within an SPD.</p> <p><i>Section 19 (Cannock Chase SAC)</i> – Tweaks to text required regarding mitigation requirements arising from the Habitat Regulations. Reference should be made to HRA form as validation requirement and statement of willingness form if that is to be used.</p>	<p>decision-making process over and above this informal guide.</p> <p><i>Section 19 (Cannock Chase SAC)</i> – HRA form will become a local validation requirement in the future planned wider local validation checklist as it doesn't apply to the current householder local validation checklist referred to in this report. The LPA does not intend to introduce the statement of willingness form as the existing agreed process already provides sufficient measures to secure the necessary mitigation payments.</p>
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12.6 The guide has been updated where necessary and appropriate taking into account the above feedback. Where it has not been possible to make suggested amendments an explanation has been provided in Table 1 above. The final guide is provided in Appendix A.

12.7 The final guide will be checked and re-formatted where necessary prior to its implementation on Wednesday 1st March 2023 to ensure the document complies with the necessary accessibility standards for publishing documents online.

ii. New Householder Local Validation Checklist

12.8 This checklist has been produced to help Development Management customers understand what needs to be submitted to support a householder planning application (works to an existing house).

12.9 There is no mandatory requirement for a Local Planning Authority to implement a local validation checklist. However, applications that are accompanied by the necessary supporting information up-front helps the LPA to make an informed decision within government set timeframes. The checklist will also provide a clear set of validation requirements to Development Management customers at the outset providing them with greater clarity, certainty and transparency in the overall process.

12.10 When the information required by this checklist has not been submitted with an application and is considered by the LPA to be reasonable and necessary to assess the application correctly, the LPA will declare the application invalid. This avoids unnecessary delays being otherwise incurred during the lifetime of an on-hand planning application which usually leads to public and consultee re-consultations which could have been avoided. Delays also usually mean that extensions of time have to be sought and agreed [Page 19 of 108](#) the determination period accordingly to

facilitate the consideration of any necessary supporting information submitted later in the overall application process.

12.11 Key sections of the draft checklist were presented at the most recent planning agent and developer forum on 20th October 2022 which were positively received.

12.12 It is anticipated that the introduction of this checklist will encourage better quality householder planning application submissions. It will also help to provide service efficiencies and speed of decision-making which were identified as key recommendations as part of the Planning Advisory Service (PAS) Peer Challenge review in 2021. It is intended to develop and introduce an additional wider local validation checklist for all other planning application types later this year drawing on the work already done for this householder checklist.

12.13 Consultation has been carried out with planning agents and developers that frequently submit planning applications to Walsall Council, and with relevant internal colleagues between 30th November and 29th December 2022. A total of 2 x responses were received and these have been summarised in Table 2 below.

Table 2 – Responses to S106 Guide Consultation

Name of Respondent	Respondent Feedback	LPA Response
<p>Planning Policy Team, Walsall Council</p>	<p><i>Section 5 (bat and other surveys)</i> – minor tweaks to wording.</p> <p><i>Section 4 (What Should a Heritage Statement Contain?)</i> – minor tweaks to wording.</p> <p><i>LHV16 (Bat Preliminary Roost Assessment and Ecological Survey(s))</i> – Minor tweaks including reference to best practice guidelines.</p>	<p>Noted and amended.</p>
<p>D J Building Design</p>	<p><i>Section 6 (Simple Householder Validation Checklist)</i> – Bat and other surveys are a large expense and should be requested prior to passing an application rather than at validation stage.</p>	<p>Noted. However, these documents are necessary at the outset where required to support the assessment of the application. If they are left until later in the process once all other material considerations have been assessed this results in unnecessary delays and additional costs and resource impacts on the LPA.</p> <p>Customers are encouraged to seek pre-application advice on the likelihood of acceptability of a proposal prior to a formal planning application submission.</p>

- 12.14 The checklist has been updated where necessary and appropriate taking into account the above feedback. Where it has not been possible to make suggested amendments an explanation has been provided in Table 2 above. The final checklist is provided in Appendix B.
- 12.15 Detailed guidance on heritage, ecology and tree matters which was originally contained within the checklist itself has since been removed. This detail will instead be published alongside the checklist to ensure the main checklist document is concise and user-friendly. This provides other benefits including the ability to update each separate guidance note individually when required; these guidance notes can also be referred to in the wider validation checklist to be implemented later this year thus avoiding duplication.
- 12.16 The final checklist, and supplemental detailed guidance notes, will be checked and re-formatted where necessary prior to its implementation on Wednesday 1st March 2023 to ensure the document complies with the necessary accessibility standards for publishing documents online.

Final S106 Customer Guide

Final Householder Validation Checklist



Walsall Council

Email: planningservices@walsall.gov.uk
Web: go.walsall.gov.uk/planning

**Development Management
Zone 2B
The Civic Centre
Darwall Street
Walsall
WS1 1DG**

Final Householder Validation Checklist

What you need to include when you submit a householder planning application

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1. Introduction

Walsall Council has produced this guide to help its Development Management customers understand what needs to be submitted to support a householder application (works to an existing house). Prior Approval applications are not included in this guide.

This checklist is supplemented by a number of detailed guidance notes which have been published alongside this checklist.

A checklist has been produced under Article 11 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Planning Practice Guidance and paragraph 44 of the National Planning Policy Framework (NPPF). The guidance states that Local Planning Authorities should publish their information requirements for applications, which should contain only the information necessary to make decisions (supporting information that is relevant, necessary and material to the application).

Walsall Council welcomes and encourages you to apply for pre-application advice before submitting a planning application. Pre-application advice can assist in better quality applications with a better chance of a successful outcome. For further information regarding pre-application advice can be found on our [website](#).

When the information required by this checklist is not submitted with an application and is considered by the Local Planning Authority (LPA) to be reasonable and necessary to assess the application correctly, the LPA will declare the application invalid, and delays will occur.

If applications are accompanied by the necessary supporting information, the Council is more likely to be able to make an informed decision within the government deadline. Nevertheless, there may be instances when a validated application does not contain all the information needed to make a decision. Consequently, the Council may seek additional information post-validation under the Town and Country Planning (Application) Regulations 1988.

In the event that the application is later found to be invalid after registration, the original start date for processing the application will be disregarded, and the time from the resubmitted information will be recalculated.

If applicants or their representatives disagree with the Council's request for information or plans contained in the list, they may wish to challenge the decision not to validate the application. If this happens, applicants may be able to appeal for non-validation under Section 78 of the Town and Country Planning Act 1990. The grounds for an appeal would be a failure to resolve within eight weeks of the LPA receiving the application. The right to file a complaint with the Local Government Ombudsman remains.

2. When do extensions become a replacement dwelling?

If extensive reconfiguration is proposed to an existing dwelling where most of the internal and external walls would be lost and the original dwelling would be imperceptible following the proposed works, the proposal will be deemed to be a replacement dwelling and full planning permission will be required. This will vary dependent on the scale and design of the original dwelling and the extent and design of any proposed works. An assessment is therefore made on a case-by-case basis.

It falls to the Local Planning Authority (LPA) to determine whether an application is valid or not when assessed against local and national criteria. The LPA will not accept a proposal which it deems to comprise a replacement dwelling where it has been incorrectly submitted on a householder application form along with payment of the incorrect fee. You will be provided with an opportunity to re-submit any such application on the correct forms along with payment of the correct fee to make the application valid.

Should you disagree with the LPAs decision to make the application invalid you may choose to submit a notice under Article 12 of the Development Management Procedure Order 2015 as amended (Validation dispute). The LPA will consider the submitted notice and will confirm by return whether the application can be accepted as valid or not.

You are encouraged to seek pre-application advice prior to the submission of an application to establish whether the proposal should be submitted as a householder application or full planning application to avoid delays in the validation and registration of any subsequent application.

3. Tree Guidance

Walsall Council is committed to improving the local environment by securing high quality design resulting in development which respects existing natural features of value as well as restoring and extending the resource. It is vital to ensure that trees and woodlands be sustained throughout the borough. It is also important to conserve the visual quality of the natural environment for all people currently living or working in Walsall as well as for visitors and prospective investors.

For detailed guidance on submitting tree related information please view our separate guidance note published alongside this checklist.

4. What Should a Heritage Statement Contain?

A Heritage Statement (sometimes referred to as a Heritage Impact Statement and Heritage Assessment) is a written assessment that describes the significance of any heritage asset and / or their setting affected by a development proposal, and / or the contribution of that setting and of the impacts of that development proposal upon them.

For detailed guidance on what to include in a Heritage Statement please view our separate guidance note published alongside this checklist.

5. Preliminary Roost Assessment and Other Necessary Surveys

Walsall holds numerous local to internationally designated sites of ecological interest, with many rare and legally protected species present within the green spaces and urban areas of Borough.

Development, even those involving minor works and encompassing a small area, have the potential to adversely impact these sites and species. As such Walsall has a duty to protect them by understanding any potential impacts a development may have and ensuring the potential impacts, if noted, are avoided, mitigated, or compensated for as part of the planning process.

For detailed guidance on submitting ecology related information please view our separate guidance note published alongside this checklist.

6. Simple Householder Validation Checklist

Validation requirements

A simple checklist of what is required for a householder planning permission application is provided below.

National validation

National Requirement	Validation Code
Application form	NHV1
Fee	NHV2
Ownership certificate	NHV3
Agricultural land declaration	NHV4
Location plan	NHV5
Any other plans, drawings and information to describe the application	NHV7

Local Validation

Local Requirement	Validation Code
Site/Block Plans - Existing and Proposed	LHV8
Floor Plans - Existing and Proposed	LHV9
Elevation Plans - Existing and Proposed	LHV10
Street-scene Plans - Existing and Proposed	LHV11
Site Section Plans	LHV12
Vehicle Parking Plans - Existing and Proposed	LHV13
Heritage Statement	LHV14
Tree Surveys & Arboricultural Implications Assessment	LHV15
Bat Preliminary Roost Assessment and Ecological Survey(s)	LHV16
Flood Risk Environment Agency Form	LHV17

Full details of each validation requirement is set out further below in this checklist.

7. Detailed Validation Guidance

Application form - NHV1

Validation Requirement

- Householder application form
- All parts of the form must be completed
- The site address matched the address marked on the location plan and block plan
- The declaration must be signed and dated

Additional guidance

There are three national householder application forms to choose from.

- **Householder Application for Planning Permission for works or extension to a dwelling.**
- **Householder Application for Planning Permission for works or extension to a dwelling and relevant demolition of an unlisted building in a conservation area.**

Check if your property falls within a Conservation Area. Please view the maps published online https://go.walsall.gov.uk/conservation_areas_in_walsall

- **Householder Application for Planning Permission for works or extension to a dwelling and listed building consent.**

Check if your property is a Listed Building view the list of Walsall's listed buildings published online https://go.walsall.gov.uk/listed_buildings_in_walsall

Further guidance on this requirement can be found on GOV.UK
<https://www.gov.uk/guidance/making-an-application#Application-form>

You can apply for planning permission and complete the application forms online through the [Planning Portal](#).

[Link back to a simple checklist](#)

Fee - NHV2

Validation Requirement

- Correct full fee to be paid

Additional guidance

A simple version of the nationally set planning fees can be found on Planning Portal by clicking the following link

https://ecab.planningportal.co.uk/uploads/english_application_fees.pdf

You can also pay online using the Walsall Council online payment page by clicking the following link <https://go.walsall.gov.uk/forms/Make-planning-payment>. **Always provide the site address of the proposed planning application as the reference number.**

You can pay by credit/debit card by calling 01922 652 620. **Always provide the site address of the proposed planning application as the reference number.**

[Link back to a simple checklist](#)

Ownership Certificate – NHV3

Validation Requirement

- A completed ownership certificate
- Signed and dated

Additional guidance

Each application must be accompanied by an Ownership certificate. There are four types, and you need to identify which is the correct one for your application.

Certificate A

To be completed if you are the sole owner of the land to which the application relates and there are no agricultural tenants.

Certificate B

To be completed if you are not the sole owner, or if there are agricultural tenants, and you know the names and addresses of all the other owners and/or agricultural tenants together with one of the notices below. A Notice under Article 13 must then be served on the owner and a copy of the notices included with the planning application.

Certificate C

To be completed if you do not own all of the land to which the application relates and do not know the name and address of all of the owners and/or agricultural tenants. A Notice under Article 13 must then be served on the known owners and a copy of the notices included with the planning application.

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Certificate D

To be completed if you do not own all of the land to which the application relates and do not know the names and addresses of any of the owners and/or agricultural tenants.

Notices under Article 13

This notice is to be printed and served on individuals prior to completing Certificate B or C in the application form.

- https://ecab.planningportal.co.uk/uploads/1app/notices/householder_notice.pdf

[Link back to a simple checklist](#)

Agricultural Land Declaration – NHV4

Validation Requirement

- Completed agricultural land declaration

Additional guidance

All agricultural tenants on a site must be notified prior to the submission of an application for planning permission. Applicants must certify that they have notified any agricultural tenants about their application, or that there are no agricultural tenants on the site. This declaration is required whether or not the site includes an agricultural holding. It is incorporated into the ownership certificates on the standard application form.

Further guidance on this requirement can be found on GOV.UK
<https://www.gov.uk/guidance/making-an-application#Ownership-Certificate-and-Agricultural-Land-Declaration>

[Link back to a simple checklist](#)

Location Plan – NHV5

Validation Requirement

- Location plan based on an up-to-date map.
- Shows the application site in relation to surrounding area.
- Should identify sufficient roads and / or buildings on land adjoining the application site to ensure that the exact location of the application site is clear.
- Identified metric scale typically 1:1250 or 1:2500.
- Show the direction of north.
- Application site should be edged clearly with a red line.
- Red line should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings).
- Red line should also include any associated works to the highway falling outside of the application site i.e. dropped kerb and new vehicular access or works to the highway.
- A blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site.
- We will accept the use of disclaimers which state that the plans can only be used for Local Authority purposes or for planning purposes only will be acceptable.

Additional guidance

When using Ordnance Survey mapping for planning applications, the map should:

- NOT be Photocopy or screen grab image.
- NOT be a Land Registry map
- NOT be used for multiple applications
- NOT to be copied from existing OS mapping if using hand drawn maps
- SHOW OS Crown copyright as an acknowledgement
- SHOW the correct licence number

If you require any further information or clarification on Ordnance Survey Licences and Copyright, please contact Ordnance Survey Helpdesk on – Free phone: 03456 050505.

You can buy a plan from one of the Planning Portal's accredited suppliers

<https://www.planningportal.co.uk/buyplans>

Further guidance on this requirement can be found on GOV.UK

<https://www.gov.uk/guidance/making-an-application#Plans-and-drawings>

[Link back to a simple checklist](#)

Any other plans to describe the application – NHV7

Validation Requirement

Additional plans and drawings will in most cases be necessary to describe the proposed development, as required by the legislation (see [article 7\(1\)\(c\)\(ii\) of the Town and Country Planning \(Development Management Procedure \(England\)](#)

[Link back to a simple checklist](#)

Site/Block Plans - Existing and Proposed – LHV8

Validation Requirement

- Block or Site Plan.
- Based on an up-to-date map.
- Shows the proposed development in relation to the site boundaries and other existing buildings on the site.
- Must show access arrangements.
- Must show all buildings, roads and footpaths on land adjoining the site including access arrangements within 10 metres of the boundary.
- Identified metric scale typically 1:100, 1:200 or 1:500.
- Show the direction of north.
- Should be scaled to fit onto A4 or A3 size paper
- We will not accept plans which have a disclaimer stating 'Do Not Scale'. Similar terms such as 'Not for Measuring', 'Use Provided Measurements Only' or 'All Measurements to Be Confirmed' will also not be accepted.
- We will accept the use of disclaimers which state that the plans can only be used for Local Authority purposes or for planning only will be acceptable

Should include unless they would NOT influence or be affected by the proposed development

- All public rights of way (crossing or adjoining the site).
- The position of all trees on the site, and those on adjacent land.
- The extent and the type of any hard surfacing.
- The boundary treatment including walls or fencing where this is proposed.

Additional guidance

When using Ordnance Survey mapping for planning applications, the map should:

- NOT be Photocopy or screen grab image unless you have;
 - An annual licence to make copies; or
 - A bulk copy arrangement; or
 - Have purchased the site-specific map from the Planning Portal for the purposes of attaching to a planning application, appeal or representation.
- NOT be a Land Registry map
- NOT be used for multiple applications
- NOT to be copied from existing OS mapping if using hand drawn maps
- SHOW OS Crown copyright as an acknowledgement
- SHOW the correct licence number

If you require any further information or clarification on Ordnance Survey Licences and Copyright, please contact Ordnance Survey Helpdesk on – Free phone: 03456 050505.

You can buy a plan from one of the Planning Portal's accredited suppliers

<https://www.planningportal.co.uk/buyplans>

Further guidance on this requirement can be found on GOV.UK

<https://www.gov.uk/guidance/making-an-application#Plans-and-drawings>

[Link back to a simple checklist](#)

Floor Plans - Existing and Proposed – LHV9

Validation Requirement

- Label plans clearly and logically, for example, by showing the room names.
- Show internal divisions within the building.
- Clearly show existing layout and proposed layout for example through use of different coloured lines accompanied by a key to describe each.
- Show 45 degree line in relation to the proposal from nearest neighbour(s) habitable window(s).
- Identified metric scale typically 1:100, 1:200 or 1:500.
- Should be scaled to fit onto A4 or A3 size paper.
- We will not accept plans which have a disclaimer stating 'Do Not Scale'. Similar terms such as 'Not for Measuring', 'Use Provided Measurements Only' or 'All Measurements to Be Confirmed by Architect' will also not be accepted.
- We will accept the use of disclaimers which state that the plans can only be used for Local Authority purposes or for planning only will be acceptable.

[Link back to a simple checklist](#)

Elevation Plans - Existing and Proposed – LHV10

Validation Requirement

- All elevations must be clearly and logically labelled, for example front or rear elevation and given titles which refer to their content.
- Clearly show existing and proposed elevations for example through use of different shading or colour accompanied by a key to describe each.
- Where any proposed elevation adjoins another building or is in close proximity, the drawings should clearly show the relationship between the buildings, and detail the positions of the openings on each property.
- Where an existing building is being extended or altered, the whole of any existing elevation that is being extended or altered must be shown, not just part of it.
- Identified metric scale typically 1:100, 1:200 or 1:500.
- Should be scaled to fit onto A4 or A3 size paper.
- We will not accept plans which have a disclaimer stating 'Do Not Scale'. Similar terms such as 'Not for Measuring', 'Use Provided Measurements Only' or 'All Measurements to Be Confirmed by Architect' will also not be accepted.
- We will accept the use of disclaimers which state that the plans can only be used for Local Authority purposes or for planning only will be acceptable.

[Link back to a simple checklist](#)

Street-scene Plans - Existing and Proposed – LHV11

Validation Requirement

- Show existing and proposed front elevations on street-scene plans and relationship with adjoining and adjacent properties where a proposal includes substantial changes to the main elevation and/or includes any change to the main roof that would be visible within the street scene.
- Show any changes in land levels between application site and adjoining or adjacent properties.
- Clearly annotate existing and proposed eaves and ridge heights where a proposal involves any change to the main roof.
- Clearly label each elevation.
- Identified metric scale typically 1:100, 1:200 or 1:500.
- Should be scaled to fit onto A4 or A3 size paper.
- We will not accept plans which have a disclaimer stating 'Do Not Scale'. Similar terms such as 'Not for Measuring', 'Use Provided Measurements Only' or 'All Measurements to Be Confirmed by Architect' will also not be accepted.
- We will accept the use of disclaimers which state that the plans can only be used for Local Authority purposes or for planning only will be acceptable.

[Link back to a simple checklist](#)

Site Section Plans – LHV12

Validation Requirement

- Show any proposed changes to site levels over 0.3 metres within the application site.
- Show any relationship with adjoining changes in land levels.
- Show a cross section(s) through the proposed building(s) and/or extension(s).

- Identified metric scale typically 1:100, 1:200 or 1:500.
- Should be scaled to fit onto A4 or A3 size paper.
- We will not accept plans which have a disclaimer stating 'Do Not Scale'. Similar terms such as 'Not for Measuring', 'Use Provided Measurements Only' or 'All Measurements to Be Confirmed by Architect' will also not be accepted.
- We will accept the use of disclaimers which state that the plans can only be used for Local Authority purposes or for planning only will be acceptable.

[Link back to a simple checklist](#)

Vehicle Parking Plans - Existing and Proposed – LHV13

Validation Requirement

- Showing existing and proposed vehicle parking spaces measuring 2.4m by 4.8m each within the application site.
- Identified metric scale typically 1:100, 1:200 or 1:500.
- Should be scaled to fit onto A4 or A3 size paper.
- We will not accept plans which have a disclaimer stating 'Do Not Scale'. Similar terms such as 'Not for Measuring', 'Use Provided Measurements Only' or 'All Measurements to Be Confirmed by Architect' will also not be accepted.
- We will accept the use of disclaimers which state that the plans can only be used for Local Authority purposes or for planning only will be acceptable.

[Link back to a simple checklist](#)

Heritage Statement – LHV14

Validation Requirement

- Describe the significance of any heritage assets affected, including any contribution made by their setting.
- Level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

Please refer to the separate published detailed guidance note for further guidance.

[Link back to a simple checklist](#)

Tree Surveys & Arboricultural Implications Assessment – LHV15

Validation Requirement

- Survey and appraisal of trees on the application site and adjoining land consistent with the standards set out in British Standard 5837:2012.
- A tree survey in table and plan form in accordance with the provisions of B.S.5837:2012 Trees in Relation to Design Demolition and Construction – Recommendations must be provided showing the condition, location and constraints of all trees on and adjacent to the site.
- Trees which are to be retained and removed should be clearly marked on a Tree Protection Plan (TPP) and the Proposed Site/Layout Plan, illustrating root protection areas.

- Arboricultural Method Statement and Tree/hedge Protection Plan (TPP) should be provided detailing the measures to be taken to protect all trees proposed to be retained on the submitted drawings accompanied by schedules of any necessary facilitative tree work. Details of special construction techniques and any other special measures required to retain trees should be included.
- Schedule of tree works/pruning to retained trees in accordance with B.S.3998: 2010 Tree Work – Recommendations should be included.

Please refer to the separate published detailed guidance note for further guidance.

[Link back to a simple checklist](#)

Bat Preliminary Roost Assessment and Ecological Survey(s) – LHV16

Validation Requirement

- Include existing and proposed site plans.
- Up-to-date site photographs.
- Desktop study.
- Up-to-date best practice guidelines for survey and reports should be adhered to and referenced. Where deviation/s or limitation/s have occurred, these should be clearly justified within the submitted report.
- Field Survey:
 - o Undertaken by an appropriately qualified and experienced person.
 - o Details of the survey methodology undertaken.
 - o Conducted at an appropriate time of year and undertaken within last survey season.
 - o Appropriate surveys for the development undertaken.
- An assessment determining the results of the field survey, proposed mitigation and whether further survey work is required.
- Should a Natural England License be required after planning approval, a detailed response to the three tests under the Conservation of Natural Habitat and Species Regulations 2010 (See Annex 9 in the Council's published Natural Environment SPD) will be required.
- Any proposals for enhancements of biodiversity. This could include the incorporation of bat and bird boxes within the building or within the wider application site.

Please refer to the separate published detailed guidance note for further guidance.

[Link back to a simple checklist](#)

Flood Risk Environment Agency Form – LHV17

Validation Requirement

Applicants should use the Environment Agency's published advice for minor extensions to complete the form published alongside this checklist for a minor extension falling within Flood Zones 2 or 3. Any necessary flood mitigation measures will usually be included as a condition on any approval of your planning application.

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A minor extension is defined as a household or non-domestic extension with a floor space of no more than 250 square metres.

Standing advice:

<https://www.gov.uk/guidance/flood-risk-assessment-standing-advice#advice-for-minor-extensions>

The published Flood Risk form is produced by the Environment Agency. Walsall Council cannot provide this form in any other format and you may wish to print and complete the form in writing and then scan it and submit it electronically to Walsall Council as part of the overall planning application submission.

[Link back to a simple checklist](#)

Development Management

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Walsall Council

Customer Guide to Completing Planning Obligations

1. Introduction
2. What are Planning Obligations?
3. Who may enter into a Planning Obligation?
4. How are Planning Obligations secured?
5. How are Planning Obligations enforced?
6. How are Planning Obligations recorded?
7. Costs of Planning Obligations
8. Key Development Plan Policies and S106 Thresholds
9. Level of developer contributions / provision
10. Planning Obligation Terms
11. Financial Viability Procedure
12. Supplemental Deed procedure (variation of a completed Planning Obligation)
13. Payment of contributions due under a completed Planning Obligation
14. Mortgagee in Possession Clause
15. Affordable Housing Requirements
16. Affordable Housing Tenures & Glossary of Terms
17. Landscape Management Requirements
18. Travel Plan Requirements
19. Cannock Chase SAC

1. Introduction

This guide has been produced by Walsall Council to assist its Development Management customers in completing Planning Obligations (Section 106 Agreements and Unilateral Undertakings).

Planning Obligations under the Town and Country Planning Act 1990 (as substituted by the Planning and Compensation Act 1991) are normally required alongside planning applications for major developments but can sometimes be required for minor applications (please see table in section 8.1 of this document). Major development is defined in the Development Management Procedure Order 2015 (as amended) as:

“(a) the winning and working of minerals or the use of land for mineral working deposits;

(b) waste development;

(c) the provision of dwellinghouses where —

(i) the number of dwellinghouses to be provided is 10 or more; or

(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);

(d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or

(e) development carried out on a site having an area of 1 hectare or more;”

The purpose of a planning obligation is to secure community infrastructure to meet the needs of residents in new developments and/or to mitigate the impact of new developments upon existing community facilities for matters that cannot be secured through the normal planning process but is required in order for the development to be deemed acceptable in planning terms which would otherwise be refused. Planning Obligations **must** meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended):

- Necessary to make the proposed development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

2. What are Planning Obligations?

Planning Obligations are obligations relating to a person's land which bind the land and whoever owns it to undertake various requirements that are set out within the terms of the agreement. They are made by deed under Section 106 of the Town & Country Planning Act 1990 (as substituted by the Planning and Compensation Act 1991) and can:-

- Restrict the development or use of the land in a specified way;
- Require specified operations or activities to be carried out on the land;
- Require the land to be used in any specified way;
- Require a sum or sums to be paid to a specified authority on a specified date or dates or periodically.

Planning Obligations provide a means of ensuring that developers contribute towards the infrastructure and services that Walsall Metropolitan Borough Council deem necessary to facilitate proposed developments in accordance with local and national planning policy. Contributions required through planning obligations are mainly required by policies in the Development Plan and are explained in more detail in Supplementary Planning Documents. They may comprise commuted sums or provision in-kind and some of the most frequent requirements are explained in, and controlled by our Development Plan and adopted Supplementary Planning Document's (set out at section 8 of this document below).

The main topic areas are Affordable Housing, Primary and Secondary Education, Urban Open Space and Highways Improvements. Planning Obligations can also be used for many other things including:

- To ensure agricultural dwellings are not sold separately from the land they serve;
- To ensure residential annexes do not become separate independent dwellings;
- To require infrastructure (roads, drains) to be provided;
- To control the use or operations of land;
- To secure and monitor full Travel Plans;
- To secure the implementation or non-implementation of certain works or permissions.

A Section 111 Agreement (of the Local Government Act 1972) is usually entered into with an LPA to agree to enter into a necessary Section 106 Agreement upon completion of the transfer of Council owned land which is necessary to facilitate the associated development. This is because a Council cannot enter into a Section 106 Agreement 'with itself'.

3. Who may enter into a Planning Obligation?

Planning Obligations are legally enforceable against the owner(s) (including their successors in title) of the land to which they relate. This means that generally only owners can enter into obligations even if a prospective purchaser/developer of the land has applied for the planning permission (although it is possible for prospective purchasers to be party to the obligations where they have exchanged contracts to purchase).

Because planning obligations run with the land (meaning any outstanding obligations will be transferred with the land), all owners, lessees and mortgagees must be signatories. Planning obligations can have significant effects on the use and therefore the value of land. Before anyone enters into a planning obligation we strongly advise that they take independent legal advice or contact our Development Management Team on 01922 652677 for details of our pre-application advice services. Further information is available on the Council's website at www.walsall.gov.uk

4. How are Planning Obligations secured?

Planning obligations are secured by a formal deed, usually in the form of an Agreement which is entered into, and signed by all parties with an interest in the land. The Agreement is sealed by Walsall Council and will contain covenants (the planning obligations) covering the things each party agrees to do and / or agrees not to do.

The planning obligation will detail the circumstances and timescales within which these obligations will occur. It will also contain a plan showing the land to which it relates.

The Council will only usually accept a Unilateral Undertaking (UU) to secure Cannock Chase SAC Mitigation Payments and in relation to necessary obligations in relation to an appeal. This is because a UU does not provide the Council with the ability to require ongoing monitoring or compliance with requirements. A Unilateral Undertaking can sometimes provide an effective solution in a limited number of simpler circumstances and you are advised to seek pre-application advice for further consideration.

5. How are Planning Obligations enforced?

Planning Obligations are enforceable by Walsall Council:

- In the courts by application for an injunction or recovering contributions payable;
- By carrying out any operations required by the Planning Obligation and recovering the cost from the person(s) against whom the obligation is enforceable.

6. How are Planning Obligations recorded?

As a Planning Obligation runs with the land to which it relates, it is registered as a Local Land Charge on the Land Charges Register and will be revealed in any search submitted on behalf of a potential purchaser of an individual plot or an entire development site. It is therefore important that all obligations are complied with as non-compliance may be revealed in a search which is likely to put off, or delay, potential purchasers.

7. Cost of Planning Obligations

There are a number of costs that will be incurred upon completion of a Planning Obligation (which are payable before the s106 agreement is completed), and for any request submitted to the Council seeking confirmation of compliance. These costs are set out in the LPAs schedule of chargeable services which may be updated from time to time and is available to view on the Council's website at www.walsall.gov.uk

The Council's Planning Solicitor will provide their cost estimate to you upon receipt of a formal instruction from the LPA to commence the drafting of a new Planning Obligation. A set cost is published in the charging schedule for a Unilateral Undertaking specifically in relation to providing a Cannock Chase SAC Mitigation Payment.

Please note that the Council would usually seek compliance with the obligations from the developer/landowner or their successor in title and it is unlikely that the Council would pursue enforcement of any non-compliance against individual homeowners or occupiers.

We will negotiate a S106 throughout the life of an application and prior to determination subject to solicitor undertaking to pay the Council's associated costs regardless of the final decision.

8. Key Development Plan Policies and S106 Thresholds

The Development Plan policies that most frequently require S106 contributions are set out in table 1 below. Other contributions can still be sought by the Council on a case-by-case basis where there is an identified need, where it can be supported by local policy and meets the three legal tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Please refer to SPD's for up to date and comprehensive information on the Council's website at www.walsall.gov.uk

Table 1 – Key S106 Thresholds:

Affordable Housing	
Key Policy Requirements	<p>BCCS Policy HOU3 – 25% affordable housing required on housing development sites falling within the threshold</p> <p>UDP “saved” Policy H4 (g - j) -covers on-site provision developer to pay commuted sums where provision is to be made off-site</p> <p>SAD Policy HC3 – in line with BCCS HOU3</p>
Policy Threshold	<p>BCCS Policy HOU3 – requirement applies to housing sites of 15 dwellings or more</p> <p>SAD Policy HC3 - requirement applies to housing sites of 15 dwellings or more</p>
Other Relevant SPD Guidance	<p>Affordable Housing SPD:*</p> <p>AH2 - sets standards for type, tenure and size of affordable housing (West – 75% ownership, East – 100% social rented).</p> <p>AH3 - provides guidance on application of the “viability test” i.e. evidence needed to demonstrate abnormal development costs.</p> <p>AH4 and AH5 – provide guidance on location of affordable housing and circumstances where off-site provision is acceptable.</p> <p>* SPD is currently under review; the Council will continue to apply the adopted SPD until the revisions are adopted, although once draft revisions are published they may become a “material consideration.”</p>
Urban Open Space	
Key Policy Requirements	<p>BCCS Policies CSP3 and ENV6 – development proposals required to improve the quality and quantity of environmental infrastructure, but open space standards and requirements delegated to each authority.</p>

	<p>UDP “saved” Policy LC1 – development resulting in loss of urban open space will be resisted (compensatory provision will be taken into account), residential developments required to make financial or other contributions towards new or improved urban open space.</p> <p>SAD Policy OS1 – development affecting existing open space to be assessed against other Development Plan policies and encourages increased value of the open space network including through use of Planning Obligations.</p> <p>AAP Policy AAPLV8 – seeks protection and enhancement of existing open space network including through use of Planning Obligations.</p>
Policy Threshold	<p>UDP “saved” Policy LC1 – no specified threshold</p> <p>Urban Open Space SPD OS1 and OS2 – provide guidance clarifying that the requirement applies to all types of residential developments of 10 dwellings or more.</p>
Other Relevant SPD Guidance	<p>Urban Open Space SPD:</p> <p>OS1 – includes guidance on “viability test” i.e. justification needed to waive requirement</p> <p>OS3 and Annex C – sets scale of contributions to be sought including allowance for on-site provision</p> <p>OS4 – sets local standards for different types of open space per 1,000 population</p> <p>OS5 – provides guidance on hierarchy/ types of sites where off-site contributions will be used</p>
Education	
Key Policy Requirements	<p>BCCS Policy DEL1 – all developments must be supported by necessary on- and off-site infrastructure.</p> <p>BCCS Policies HOU2 and HOU6 – set accessibility standards and other standards for provision of education facilities.</p> <p>UDP “saved” Strategic Policy Statement 8.8 – housing development only permitted where adequate school capacity exists or can be provided.</p>
Policy Threshold	<p>UDP “saved” Strategic Policy Statement 8.8 - no threshold set, applies to all housing developments.</p>

Other Relevant SPD Guidance	N/A – former Education SPD has been revoked by the Secretary of State (08.02.12).
Healthcare	
Key Policy Requirements	<p>BCCS Policy DEL1 – all developments must be supported by necessary on- and off-site infrastructure.</p> <p>BCCS Policies HOU2 and HOU6 – set accessibility standards and other standards for provision of healthcare facilities.</p> <p>UDP “saved” Strategic Policy Statement 8.9 – housing development within the threshold must ensure adequate provision exists for accessible community healthcare facilities.</p>
Policy Threshold	UDP “saved” Strategic Policy Statement 8.9 – requirement applies to housing sites of 1ha or 30 dwellings or more.
Other Relevant SPD Guidance	N/A – former Healthcare SPD has been revoked by the Secretary of State (08.02.12).

9. Level of developer contributions/provision

The level of contribution or in-kind provision likely to be sought in connection with a new development would usually be calculated and provided to an applicant during the processing of a planning application once the relevant Council service area has provided the information in response to the consultation. Some detail on this may also be provided at an early stage during pre-application advice.

In cases where the number of dwellings are not known i.e. outline applications, a S106 will still be secured and will include a formula to calculate any necessary level of contribution at a future time when numbers are known.

For development proposals that put forward a 100% affordable scheme the policy compliant level of 25% (of a tenure required by the Council), or an off-site contribution, will be secured within a S106 unless it can be demonstrated that it would render the development unviable. A claw-back clause may also be included to review future viability aligned with staged development.

To calculate the likely required level of contribution for open space please refer to the published ready reckoner on the Council's website at www.walsall.gov.uk

10. Planning Obligation Terms

The early submission of the necessary information can help to prevent delays in the planning application process and help to avoid the possible refusal of planning permission. You are therefore strongly advised to contact our Development Management Team on 01922 652677 to seek detail on our pre-application advice services.

Please note that a planning decision notice cannot be issued until a satisfactory obligation is in place where it is necessary to meet policy requirements.

It is also important that you carry out due diligence prior to submitting a planning application to ensure that you can provide the Council with full details of all parties with an interest in each land parcel forming the application site itself, and in relation to other land subject of any off-site works required within the Agreement. Failure to do so can significantly delay the completion of the Agreement and the issuing of any planning decision.

For relevant terms of reference please see Table 2 below.

Table 2: Terms of Reference:

Instructions	The Planning Officer instructs the Council's Solicitors to draft a Planning Obligation on behalf of the Council. The requirements of the Planning Obligation are determined by the Local Planning Authority, having regard to adopted policy.
Developer's Solicitor	The Developer will need to provide the Planning Officer with the details of their Solicitor. Once appointed, the Council's Solicitor will liaise with the Developer's Solicitor and not directly with the Developer.
Title	The Developer's Solicitor will have to deduce title to the Council's solicitor. This means providing up to date Official Copies of the registered title(s) held at HM Land Registry. It may also include leases and any unregistered deeds. If the matter is protracted, you may need to provide up to date Official Copies again later in the process.
Parties	Any person with an interest in the land will be party to the s106. This will include all landowners, mortgagees, chargees, lessees, option and conditional contract holders etc. It will also include the Developer as the party who intends to build out the development and who may have applied for planning permission, regardless of whether they hold an interest in the land.
Financial Contributions	Where a financial contribution is sought by s106 agreement, the document will specify when the contribution is to be paid and stipulate what it may be used for. The decision as to what the contribution is used for is made by ward councillors. The party who pays the financial contribution may ask for it to be repaid if all or any of it is unspent or uncommitted after a period of 7 years from the date of payment.
Deed	A s106 agreement is entered into as a Deed, meaning that once it has been completed, it cannot be amended otherwise than by a new Deed. The final document is printed in a number of parts and all parties sign each part, so that each party has an original part to keep after completion. They are signed in the presence of witnesses and the plans are also signed.

11. Financial Viability Procedure

Some Development Plan policies allow viability to be taken into account. Should you require the LPA to consider the viability of your development proposal you will be required to follow the procedure set out below:

- a) You will be required to submit a Financial Viability Assessment in accordance with National Planning Policy Framework (NPPF) and Planning Practice Guidance Note on Viability (PPGV) to include:
 - Executive summary
 - Contents outline
 - Introduction and background
 - Description of site location
 - Planning policy context
 - Description of scheme
 - Market information summary
 - Build cost and programme
 - Methodology and approach
 - Outputs and results
 - Sensitivity analysis
 - Concluding statement
 - Gross Development Value
 - Benchmark Land Value – based on EUV plus approach or Alternative Use Value as endorsed by NPPF/PPG Viability Guidance
 - Viability Development Appraisal
- b) You are liable for the costs of an independent financial appraisal as this is not provided in-house by the Council. Costs can vary depending on the length of time it takes to complete the financial appraisal and the complexity of each case. Your case officer will obtain a quote from an independent assessor on your behalf upon receipt of the necessary details.
- c) It normally takes up to around **3-4 weeks** to assess and report back to the planning case officer on financial appraisals. You should therefore ensure that you submit the necessary information to your planning case officer at the earliest opportunity to avoid potential delays in the determination of your planning application.
- d) The submitted financial appraisal information will form part of the public planning file and will be published in line with national planning guidance.
- e) Please note that the planning case officer will not instruct the independent assessor to commence the review until you have agreed in writing to cover the necessary costs.
- f) Your planning case officer will notify you of the conclusions reached by the independent assessor which will inform any resulting Section 106 requirements. You will be responsible to cover any additional costs associated with any additional information required by the independent assessor at any time throughout the assessment.
- g) The planning case officer will consult with Ward Members and relevant service area/s etc on the potential areas of spend of any Section 106 Contributions before instructing the Council's Planning Solicitor to commence drafting of the Agreement.

- h) You will be issued with an invoice to pay the costs of the final financial appraisal report. Failure to settle the balance may result in referral for further recovery action which may be by a Debt Collection Agency, or legal proceedings in the County Court to recover the amount(s) due, together with costs, for which you may also be liable. Interest may also be claimed in accordance with Section 69 of the County Courts Act (1984).

For relevant terms of reference see Table 3 below.

Table 3 – Terms of Reference:

<p>Viability Review (Claw-Back Clause)</p>	<p>To be submitted by Owner to Council between 70% and 80% Occupation of the dwellings on site to ascertain if there is a Surplus from which to pay financial contributions towards infrastructure as required in line with adopted policy</p>
<p>Surplus</p>	<p>Surplus = (A + B) - (C + D) - E</p> <p>Where: A = Actual GDV B = Estimated GDV C = Actual Build Costs D = Estimated Build Costs E = Developer Profit</p>
<p>Payment provisions</p>	<ul style="list-style-type: none"> • If there is no Surplus, no contributions are payable • If there is sufficient Surplus to pay contributions in full, they are payable in full before 80% of dwellings are occupied • If there is a Surplus but it is less than the amount of contributions, the whole Surplus is payable before 80% of dwellings are occupied
<p>Escrow Account</p>	<p>If the owner wishes to avoid being prevented from continuing occupation beyond 80% of the dwellings until the Independent Valuer's Review is received and the Surplus determined, the full amount of the contributions can be paid into an escrow account either as a lump sum or in set instalments and the funds are drawn down following the Independent Valuer's Review.</p> <p>Instalments:</p> <ul style="list-style-type: none"> • Full amount deposited prior to 25% occupation of dwellings, OR • 33% of contributions deposited prior to 25% occupation • Additional 33% of contributions deposited prior to 50% occupation • Additional 34% of contributions deposited prior to 75% occupation <p>depending on the type of development</p>
<p>Gross Development Value (GDV)</p>	<p>Includes all gross receipts or revenue received or to be received (supported by evidence):</p> <ul style="list-style-type: none"> • Extracts from the company accounting system detailing all Disposals • Certified sales contracts or completion certificates detailing the purchase price for each sale • Land Registry records showing sale price information • Other receipts such as income from hoardings • Unsold/unlet components of the Development at the point of review using detailed comparable information taking into account: <ul style="list-style-type: none"> ○ Any Disposals that have taken place on the Development ○ Income from any other sources <p>All income from projected Disposals shall be based upon house type rather than pro rata values across the Site. Grants are not to be treated as part of the Gross Development Value</p>

Costs	<p>Means the sum of:</p> <ul style="list-style-type: none"> • Existing Use Value (which will not take account of historic values OR any purchase price paid / Option which is above the land value); • all build costs • all payments made or agreed to be paid in the relevant building contract including receipted invoices or costs certified by the Owner's quantity surveyor costs consultant or employer's agent; • infrastructure costs incurred or to be incurred as a result of the Development, including drainage works, highway works, adoption fees, completion of landscaping recreation, green infrastructure and open space provision, connection to utilities and decentralised energy; • removal of all works associated with the construction of the dwellings and site compound; • the Owner's legal and professional fees save that this shall not include the fees and costs payable to the Council; • general finance costs including those incurred through loans; • any non-recoverable taxes; and • professional, project management, sales, marketing and legal costs incorporating organisational overheads associated with the Development <p>PROVIDED ALWAYS that this should be net of any Grant.</p>
Developer Profit	<p>Means a percentage of the GDV and which the Owner is entitled to retain before payment of the Contributions.</p>

12. Supplemental Deed Procedure (variation of a completed Planning Obligation)

The process to vary a planning obligation by way of a supplemental deed is set out in points a) to f) below:

- a) You must apply in writing on company headed paper (signed by Company Treasurer) and should include:
 - Associated planning reference number;
 - Associated site address (in addition this may be outlined in red on a location plan);
 - Nature of your interest in the land e.g. owner, lessee or occupier;
 - Describe the part/s of original planning obligation you would like to vary;
 - Describe how you would like the original planning obligation to be varied;
 - Agree to cover the necessary Council costs;
 - Where the proposed variation would reduce or have a significant negative impact on the level of contribution/provision as agreed within the original planning obligation you must also submit your own independent financial appraisal or agree to cover the necessary costs incurred by the Council in testing the proposed variations by an independent assessor.
- b) Where a financial appraisal is required you should follow the financial appraisal procedure set out in this document;
- c) Where the proposed variation does not reduce or have a significant negative impact on the level of provision as agreed within the original planning obligation a financial appraisal will not normally be required;
- d) On receipt of your request to vary a planning obligation, the planning case officer will arrange consultation with the necessary service areas, Ward Members and stakeholders/external partners;
- e) The outcome of the consultations and other considerations (including outcome of financial appraisals where necessary) will form the basis of a report which may need to be presented to a Planning Committee at which time the Committee Members can approve, refuse, defer or amend the proposed variation;
- f) If your request to vary a planning obligation is approved you should liaise with your planning case officer to progress through to completion of a supplemental deed.

13. Payment of contributions due under a completed Planning Obligation

Where a planning obligation includes the Council's 'payment trigger form' you must complete and submit the form along with payment of contributions due. Where this form has not been included in a planning obligation you can make a payment in the following ways. Make sure you provide details of the type of payment you are making e.g. S106 contribution or costs along with the application number and site address at the time of making a payment so we can match the payment up with the relevant planning obligation to record compliance on our back office system:

- a) BACS transfer using account details - **Account Number – 00075795 and Sort Code – 20 90 08**;
- b) Payment line via telephone - **01922 652620**.

14. Mortgagee in Possession Clause

Some lenders require a Mortgage in Possession (MIP) Clause. The Council's standard MIP clause is provided below

1. The provisions of this Schedule 2 shall not be binding or enforceable against:
 - a. a Chargee of an individual Affordable Housing Unit PROVIDED THAT:
 - i. such Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used **reasonable endeavours** over a **period of six months** from the date of the written notice **to complete** a disposal of the Affordable Housing Units to another Affordable Housing Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
 - ii. if such disposal **has not completed within the six month** period, the Chargee shall be entitled to dispose of the Affordable Housing Units free from the affordable housing obligations in Schedule 2 of this Deed
 - b. any Protected Tenant and their successors in title

FIRST HOMES PRECEDENT S106 PROVISION:

First Homes are not a requirement of the current Development Plan, but where they are offered they should be in addition to affordable housing provided in accordance with BCCS policy HOU3.

MORTGAGEE EXCLUSION

The obligations in paragraphs 1-7 of this Deed in relation to First Homes shall not apply to any Mortgagee or any receiver (including an administrative receiver appointed by such Mortgagee or any other person appointed under any security documentation to enable such Mortgagee to realise its security or any administrator (howsoever appointed (each a Receiver)) of any individual First Home or any persons or bodies deriving title through such Mortgagee or Receiver PROVIDED THAT:

- 8.1 such Mortgagee or Receiver shall **first give written notice** to the Council of its intention to Dispose of the relevant First Home; and
- 8.2 once notice of intention to Dispose of the relevant First Home has been given by the Mortgagee or Receiver to the Council the Mortgagee or Receiver shall be **free to sell that First Home at its full Market Value** and **subject only to** paragraph 8.3
- 8.3 following the Disposal of the relevant First Home the Mortgagee or Receiver shall **following the deduction of the amount due and outstanding under the relevant security documentation**

including all accrued principal monies, interest and reasonable costs and expenses pay to the Council the Additional First Homes Contribution.

8.4 following receipt of notification of the Disposal of the relevant First Home the Council shall:

8.4.1 forthwith issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 6.5; and

8.4.2 apply all such monies received towards the provision of Affordable Housing

15. Affordable Housing Requirements

Section 106 agreements relating to affordable housing should require the affordable housing provision to be in accordance with the following requirements.

All Affordable Housing		
Number	25% of the proposed dwellings, including houses flats and maisonettes	Policy
Location	Either: <ul style="list-style-type: none"> • submit a plan for approval; or • 6 monthly progress report identifying stage, plots, locations, size, housetype, tenure and occupation date; or • both 	To secure peppercotting and acceptability of AH locations
Occupation	<25% OM prior to 33% AH; <50% OM prior to 66% AH; <85% OM prior to 100% AH	To ensure AH is provided in timely manner and secured against developer profit.
Qualifying Person	has a 'Local Connection';	
Enforceability	NOT against: <ul style="list-style-type: none"> • chargee, subject to 6months reasonable endeavours to sell to an AHP or the Council; • Right to acquire tenant; • Right to buy tenant; • Staircased tenant. 	The latter 3 are legal exclusions. The chargee is industry led.
Discounted Sale Units	new tenure with new provisions	
Tenure	Sold on Open Market at not more than 70% of the Open Market value.	
Occupation	<p>Limited to a Qualifying Person (or Secondary Qualifying Person) who will occupy as their sole residence, along with their dependents.</p> <p>Requirement to take lowest income if more than one QP (or SQP) makes application.</p> <p>Requirement to Page 57 of 108</p> <ul style="list-style-type: none"> • market as a DSU • provide notice to Council when disposing • provide 2 valuations to Council 	

	<ul style="list-style-type: none"> • provide evidence that applicant is QP. <p>If no application to purchase after 3months marketing, Council may authorise purchase by SQP, subject to:</p> <ul style="list-style-type: none"> • provide notice to Council • evidence of marketing • Estate Agent statement that no applications from QP for 3months
Qualifying Person	<ul style="list-style-type: none"> • has a right of residence in the UK; • is 'In Need of Housing'; • has a 'Local Connection'; • is a first time buyer; • no Interest in any other property; • use the Discounted Sale Unit as sole residence; and gross annual household income at the date of the application not exceeding 27.5% of the Discounted Price
Secondary Qualifying Person	<ul style="list-style-type: none"> • has a right of residence in the UK; • is 'In Need of Housing'; • no Interest in any other property; • use the Discounted Sale Unit as sole residence; and gross annual household income at the date of the application not exceeding 27.5% of the Discounted Price
Perpetuity	Hold as Discounted Sale Units, secured by covenant on title to dwelling (meaning each occupier can obtain equity in property but must always sell on for not more than 70% of the open market value)
Shared Ownership Units	
Tenure	Sale of 25-75% share with rent on balance. Could be freehold or leasehold.
Occupation	Limited to a person 'In Need Of Housing' who will occupy as their sole residence, along with their dependents.
In Need Of Housing	Means a person who has applied and is eligible for housing, and who is not able to afford to buy or rent on the open market
Terms	<p>Cannot be sold to anyone other than an AHP or an occupier who has staircased to 100% ownership.</p> <p>Hold as Shared Ownership Units in perpetuity (other than when an occupier has staircased), secured by covenant on title.</p> <p>Occupier can acquire additional shares in 5% increments, up to 15% on any one occasion and the rent reduces accordingly.</p>

	After staircasing to 100% the proceeds are put into a reserve fund by the AHP for use for AH in Walsall and the AHP to keep and produce details to the Council on request.
Social Rented Units	
Tenure	Lease/tenancy at low cost rent set against national rent regime
Occupation	Limited to a person 'In Need Of Housing' who will occupy as their sole residence, along with their dependents.
In Need Of Housing	Means a person who has applied and is eligible for housing, and who is not able to afford to buy or rent on the open market
Perpetuity	Hold as Social Rented Units, by an Affordable Housing Provider and never sold on open market or otherwise.
First Homes	
Eligibility Criteria (Local)	Has a 'Local Connection'

16. Affordable Housing Tenures & Glossary of Terms

TYPES OF AFFORDABLE HOUSING TENURES

(Glossary of terms at end. Defined Terms in bold)

Discounted Sale Units	
Tenure	Sold on Open Market at not more than 70% of the Open Market value.
Occupation	<p>Limited to a Qualifying Person (or Secondary Qualifying Person) who will occupy as their sole residence, along with their Dependents.</p> <p>Requirement to take lowest income if more than one Qualifying Person (or Secondary Qualifying Person) makes application.</p> <p>Requirement to:</p> <ul style="list-style-type: none"> • market as a Discounted Sale Unit • provide notice to Council when disposing • provide 2 valuations to Council • provide evidence that applicant is Qualifying Person. <p>If no application to purchase after 3months marketing, Council may authorise purchase by Secondary Qualifying Person, subject to:</p> <ul style="list-style-type: none"> • provide notice to Council • evidence of marketing • Estate Agent statement that no applications from Qualifying Person for 3months
Qualifying Person	<ul style="list-style-type: none"> • has a right of residence in the UK; • is 'In Need of Housing'; • has a 'Local Connection'; • is a first time buyer; • no Interest in any other property; • use the Discounted Sale Unit as sole residence; and • gross annual household income at the date of the application not exceeding 27.5% of the Discounted Price
Secondary Qualifying Person	<ul style="list-style-type: none"> • has a right of residence in the UK; • is 'In Need of Housing'; Page 108 • no Interest in any other property; • use the Discounted Sale Unit as sole residence; and

	<ul style="list-style-type: none"> gross annual household income at the date of the application not exceeding 27.5% of the Discounted Price
Perpetuity	Hold as Discounted Sale Units , secured by covenant on title to dwelling (meaning each occupier can obtain equity in property but must always sell on for not more than 70% of the open market value)
Shared Ownership Units	
Tenure	Sale of 25-75% share with rent on balance. Could be freehold or leasehold.
Occupation	Limited to a person ' In Need Of Housing ' who will occupy as their sole residence, along with their Dependents .
Terms	<p>Cannot be sold to anyone other than an Affordable Housing Provider or an occupier who has staircased to 100% ownership.</p> <p>Hold as Shared Ownership Units in perpetuity (other than when an occupier has staircased), secured by covenant on title.</p> <p>Occupier can acquire additional shares in 5% increments, up to 15% on any one occasion and the rent reduces accordingly.</p> <p>After staircasing to 100% the proceeds are put into a reserve fund by the Affordable Housing Provider for use for Affordable Housing in Walsall and the Affordable Housing Provider to keep and produce details to the Council on request.</p>
Social Rented Units	
Tenure	Lease/tenancy at low cost rent set against national rent regime
Occupation	Limited to a person ' In Need Of Housing ' who will occupy as their sole residence, along with their Dependents .
Perpetuity	Hold as Social Rented Units , by an Affordable Housing Provider and never sold on open market or otherwise.

AFFORDABLE HOUSING GLOSSARY OF TERMS

“Affordable Housing”	Means subsidised housing available to persons who cannot afford to rent or buy houses generally available on the Open Market
“Affordable Housing Provider”	Means a provider of Affordable Housing who is registered with the Regulator or such successor authority
“Affordable Housing Units”	Means 25% of the proposed Dwellings (NO. of the NO. Dwellings) to be constructed as part of the Development on the Site and of which NO.% (NO. Dwellings) shall be [AHU type] and the remaining NO.% (NO. Dwellings) shall be [AHU type] (but no more than NO. Dwellings shall be [AHU type]) in accordance with the obligations in Schedule 2 and "Affordable Housing Unit" shall be any one of them
“Chargee”	Means any legal person exercising a power of sale in respect of a mortgage or charge and shall include a mortgagee or chargee (or a receiver (including administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or an administrator (each a Receiver)) exercising a power of sale in respect of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or receiver.
“Chargee Disposal”	Means the sale or lease of a whole individual Affordable Housing Unit by a Chargee who has entered into possession of the Affordable Housing Unit to a party who may not be a Householder
“Dependent”	Means a spouse or civil partner, child, parent or any other person who lives in the same household as the Qualifying Person or Secondary Qualifying Person but excluding tenants lodgers and boarders or persons employed by the Qualifying Person or Secondary Qualifying Person
“Dependent”	Means a spouse or civil partner, child, parent or any other person who lives in the same household as the person In Need of Housing but excluding tenants lodgers and boarders or persons employed by the person In Need of Housing
“Dependent”	Means a spouse or civil partner, child, parent or any other person who lives in the same household as the person In Need of Housing but excluding tenants lodgers and boarders or persons employed by the person In Need of Housing

“Discounted Price”	Means not more than 70% of the value of a Discounted Sale Unit on the Open Market
“Discounted Sale”	Means the sale of 100% of a Discounted Sale Unit to a Qualifying Person or a Secondary Qualifying Person on an Open Market basis at a Discounted Price
“Discounted Sale Units”	Means the Affordable Housing Units which are to be provided to Qualifying Persons or to Secondary Qualifying Persons on a Discounted Sale basis for their Occupation on a Householder basis
“Disposal”	Means the sale or lease of a whole Affordable Housing Unit and Dispose shall be construed accordingly
“Dwellings”	Means the dwellings (including houses flats and maisonettes) to be constructed on the Site pursuant to the Planning Permission and Dwelling shall be construed accordingly.
“Estate Agent”	Means an agency or company which provides services for the selling renting or management of residential property appointed by the Owner to sell the Discounted Sale Unit or such other qualified RICS chartered surveyor who may be appointed by the Owner for the purposes of selling the Discounted Sale Unit
“Householder”	Means a person Occupying an Affordable Housing Unit as their sole or main residence under the provisions of this Deed
“In Need Of Housing”	Means a person who has applied for housing and is eligible and who is not able to afford to buy or rent housing on the Open Market
“Interest”	Means any interest legal or equitable in any land or property
“Local Connection”	Households will be deemed to have a local connection where an applicant or a member of their household currently resides in the area in either temporary or permanent accommodation (if temporary the Homelessness duty has to be owed by Walsall Council) and: <ul style="list-style-type: none"> i. has lived in Walsall by choice for a certain time (usually for six months out of the last 12 months or for three years out of the last five years); or ii. has close family living in Walsall, who have lived in the area for at least the previous five years; or iii. has settled employment in the Walsall Council area; or iv. has special circumstances that give rise to a local connection, for example persons who are exempt from any local connection criteria

	<p>as set out in the Armed Forces statutory guidance that took effect from 20.06.20 and is set out below:</p> <ol style="list-style-type: none"> a) Those who are currently serving in the Regular Armed Forces or who were serving in the Regular Forces at any time in the 5 years preceding their application for an allocation of social housing. b) Bereaved spouses or civil partners of those serving in the Regular Forces where (i) the bereaved spouse or civil partner has recently ceased, or will cease, to be entitled to reside in Ministry of Defence accommodation following the death of their Service spouse or civil partner, and (ii) the death was wholly or partly attributable to their service. c) Serving or former members of the Reserve Armed Forces who are suffering from a serious injury, illness or disability which is wholly or partly attributable to their service.
“Occupation”	Means occupation for the purposes permitted by the Planning Permission but does not include occupation for the purposes of fitting out decoration marketing staff training or site security and Occupy and Occupying shall be construed accordingly
“Open Market”	Means the value that a Dwelling may be expected to achieve when sold or rented free from any encumbrance from a willing seller to a willing buyer and free from the terms of this Deed
“Open Market Dwelling”	Means any Dwelling for sale lease or other disposal on the Open Market constructed as part of the Development which is not an Affordable Housing Unit
“Progress Report”	Means a report on the progress of the Development including the number location and type of Dwellings where works have commenced completed and been Occupied pursuant to Schedule 2 of this Deed
"Protected Tenant"	<p>Means any tenant who:</p> <ol style="list-style-type: none"> (a) Has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; (b) Has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; (c) Has been granted a shared ownership lease by an Affordable Housing Provider (or similar arrangement where a share of the

	Affordable Housing Unit is owned by the tenant and a share is owned by the Affordable Housing Provider) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Affordable Housing Provider all remaining shares so that the tenant owns the entire Affordable Housing Unit.
“Purchaser”	Means a freehold owner or leasehold owner of an individual Dwelling on the Site or the whole or any part of the Site and who shall be a successor to the Owner or who shall derive title from the Owner whether directly or indirectly
“Qualifying Person”	Means a person who meets the following criteria: <ul style="list-style-type: none"> - has a right of residence in the United Kingdom; - is In Need of Housing; - has a Local Connection; - is a first time buyer; - does not have any Interest in any other property; - shall use the Discounted Sale Unit as their sole residence; and - has a gross annual household income at the date of the application for the purchase of the Discounted Sale Unit not exceeding 27.5% of the Discounted Price of the Discounted Sale Unit
“Regulator”	Means the Regulator of Social Housing established pursuant to the Legislative Reform (Regulator of Social Housing) (England) Order 2018 (LRO) or any similar future authority (including any statutory successor) carrying on substantially the same regulatory or supervisory functions
“Shared Ownership”	Means the initial sale to a Householder In Need Of Housing of between a 25% and a 75% share of an Affordable Housing Unit on an Open Market basis with rent being payable on the remaining share to the Affordable Housing Provider
“Secondary Qualifying Person”	Means a person who meets the following criteria: <ul style="list-style-type: none"> - has a right of residence in the United Kingdom; - is In Need of Housing; - does not have any Interest in any other property at the date of completion of the purchase of the Discounted Sale Unit; - shall use the Discounted Sale Unit as their sole residence; and - has a gross annual household income at the date of the application for the purchase of the Discounted Sale Unit not exceeding 27.5% of the Discounted Price of the Discounted Sale Unit

“Shared Ownership Units”	Means the Affordable Housing Units which are to be provided to a person who is In Need Of Housing on a Shared Ownership basis for their Occupation on a Householder basis
“Social Rent”	Means the lease or tenancy to a Householder In Need Of Housing of an Affordable Housing Unit by the Affordable Housing Provider subject to a low cost rent set at targets in line with the national rent regime
“Social Rented Units”	Means the Affordable Housing Units which are to be provided to a person who is In Need Of Housing on a Social Rent basis for their Occupation on a Householder basis

17. Landscape Management Requirements

Management Company	<p>To be set up by the Owner prior to carrying out any development. To be responsible for the maintenance and management of the Landscaped Areas in accordance with the Management Plan for the lifetime of the Development.</p> <p>Owner is a member of Management Company and each purchaser becomes member of Management Company (i.e. shareholder), secured via restriction on title with Deed of Covenant for future owners</p>
Landscaped Areas	<p>Shown on a Plan Specifying type of landscape(s) to be specified eg Grassland, Shrubs/Bushes, Hedgerows, Trees, Wetland, Marginal/Bog, Prairie, Rooftop, hard surfaces, furniture etc and Management Plan to be tailored to refer to each</p>
Management Plan	<p>Submitted to LPA for approval.</p> <p>Approved Management Plan implemented prior to construction of development To include:</p> <ul style="list-style-type: none"> • mechanism to ensure that each Purchaser shall join the Management Company; • mechanism to ensure that each Purchaser shall contribute financially to the Management Company so as to cover the whole cost of maintaining and managing the Landscaped Areas; • provision that the Management Company shall discharge the maintenance and management obligations contained in the Management Plan on behalf of the Owner(s); • detailed plans of the Landscaped Areas; and • a detailed schedule of: <ul style="list-style-type: none"> ○ the Landscaped Areas; ○ the maintenance of the Landscaped Areas; ○ the strategies for management and maintenance of grasslands, wetlands, pools and habitats and any other relevant landscape type; and ○ planting plans specifying species and genus to be planted and ongoing maintenance and management of the planting for the lifetime of the Development
Membership	<p>Owner is a member of Management Company and each purchaser becomes member of Management Company (i.e. shareholder), secured via restriction on title with Deed of Covenant for future owners This encourages a community cohesion in the owners of the site and provides them with the responsibility for maintenance and the power to act where issues arise</p>
Review	<p>Annually for 5 years, thereafter ad hoc</p>
Step In	<p>Where there is a breach of the approved Management Plan, the Council may enter the site and carry out works, then recover the costs of doing so from the management company.</p>

18. Travel Plan Requirements

Where a Travel Plan requires ongoing monitoring and linked to an increase in performance it will need to be secured by a S106.

Interim Travel Plan Coordinator	Appointed to carry out responsibilities and duties in Framework Travel Plan prior to occupation of any part of the development
Framework Travel Plan	Appended to s106 To be implemented before occupation of any part of the development
Travel Plan Coordinator	Appointed prior to first Performance Report to carry out responsibilities and duties in Full Travel Plan
Full Travel Plan	To be submitted to LPA prior to first anniversary of first occupation. Full Travel Plan and Action Plan should clearly demonstrate how the Targets are to be achieved, including by Incentives
Performance Reports:	1 st , 3 rd and 5 th anniversary of occupation If Targets not achieved within 5 years following occupation, annual performance reports continue until the end of 9 years, or the Targets are achieved whichever is sooner.
Objectives:	<p>Minimise amount of vehicular traffic generated by</p> <p>Minimise and improve safety issues</p> <p>Reduce single car occupancy</p> <p>Supporting walking and cycling</p> <p>Promote public transport</p> <p>Reduce noise pollution by vehicular traffic</p> <p>Improve air quality</p> <p>Protect vulnerable road users</p> <p>Encourage active travel</p>
Targets:	<p>The means of achieving the Objectives and allowing progress to be measured:</p> <ul style="list-style-type: none"> • Set 5yrs from occupation • Interim targets set at 1st and 3rd year from occupation • SMART • All journeys within assessment (no exclusions) • Focused on reducing single occupancy vehicles • Promoting modal shift and sustainable and safe travel <p>If not achieved within 5 years following occupation, annual performance reports continue until the end of 9 years, or the Targets are achieved.</p>

Action Plan:	<p>Defines the measures to achieve the Targets, tailored to the specific requirements of the development. These may include:</p> <ul style="list-style-type: none"> • Timescales for Targets • Incentives • CCTV Modal Surveys (over 2-day period) • Occupier questionnaire • Vehicle counts (dates/times/frequency) • Method of collection of baseline travel data • Measuring of travel data against mode share targets • Ascertain overall modal split • Ascertain and exploit potential for sustainable travel • Travel Packs to new occupiers • Modal Choice Targets table*
Incentives:	<p>Dependent upon the type of development but may include:</p> <ul style="list-style-type: none"> • Public transport discount tickets • Personalised travel planning for occupiers • Notice boards with timetables, walking/jogging/cycling routes, car share schemes
Modal Survey:	<p>To be submitted with each Performance Report and which:</p> <ul style="list-style-type: none"> • logs the travel patterns on Site • establishes the proportion of the occupiers of the Site using different modes of travel and • compares the information with the Travel Plan Targets.

*Modal Choice Targets Table:

Target	First Action Plan (%)	End of Year 1 (%)	End of Year 3 (%)	End of Year 5 (%)
Percentage of occupiers travelling in single occupied vehicles				
Percentage of occupiers travelling in vehicles with 2 or more occupants				
Percentage of occupiers using public transport				
Percentage of occupiers traveling by foot				
Percentage of occupiers cycling.				
Percentage of occupiers travelling by Metro or Rail				
Percentage of occupiers travelling by Hybrid or electric vehicle				
Total	100	100	100	100

19. Cannock Chase SAC Requirements

Background information and guidance is available on the Council's website at www.walsall.gov.uk

Cannock Chase SAC Mitigation Payments in Walsall

Due to the evidence provided by the Cannock Chase SAC Partnership the zone of influence of potential negative impact on the protected site has been increased from 8km to 15km from the 1st April 2022.

Walsall council has joined the Cannock Chase SAC Partnership to allow mitigation for the negative impact to take the form of developmental contributions / payment for all developments that meet the below criteria. This figure will be subject to an annual increase which will apply each 1st April from 2023 onwards, in line with the All Items Group (item reference CHAW) of the Retail Prices Index published by HM Government Office for National Statistics.

Certain other types of development falling within the 15km of Cannock Chase SAC are also required to provide appropriate mitigation, usually:

- Net increase in the number of dwellings (including conversions through Prior Approvals)
- Care homes falling within Use Class C3
- C2 Residential institutions (depending on the level of care / support provided)
- Gypsy and Traveller pitches
- Hotels, holiday lets, and camping & caravan sites
- New Stables, Trekking Centres and Equine Apparatus
- Houses in Multiple Occupation (HMO)

Upon receipt of any relevant planning application submission you will be asked to complete and submit the necessary Cannock Chase SAC Habitat Regulation Assessment form. This form will be issued to you by the LPA.

The LPA will subsequently screen your application under the Habitat Regulations and your planning case officer will advise you of the outcome of this screening exercise along with providing you with a Unilateral Undertaking template for you to complete and return in order to secure any necessary mitigation contribution.

However, where other Planning obligations are necessary as part of the same development the SAC contribution can be incorporated into a single S106 Agreement. You are advised to take your own independent legal advice before entering into such an agreement.

In order to meet the requirements of the Habitats Regulations, any Undertaking or Legal Agreement must ensure that the SAC mitigation contribution is paid prior to implementation of any part of the approved development.

Development Management

Walsall Council
2nd Floor Civic Centre
Darwall Street
Walsall
West Midlands
WS1 1DG

Tel: 01922 652677

Email: Planningservices@walsall.gov.uk

Website: www.walsall.gov.uk



Development Management Planning Committee

Report of Head of Planning and Building Control on 09/02/2023

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Planning Committee

Report of Head of Planning and Building Control on 09 February 2023

Plans List Item Number: 1

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 9-11, PARK STREET, WALSALL, WS1 1LY

Proposal: CHANGE OF USE OF THE GROUND FLOOR FROM AN ELECTRONIC BINGO CENTRE (SUI GENERIS) TO AN ADULT GAMING CENTRE (ACG) (SUI GENERIS).

Application Number: 22/0587

Case Officer: Martin Dale

Applicant: Luxury Leisure Ltd

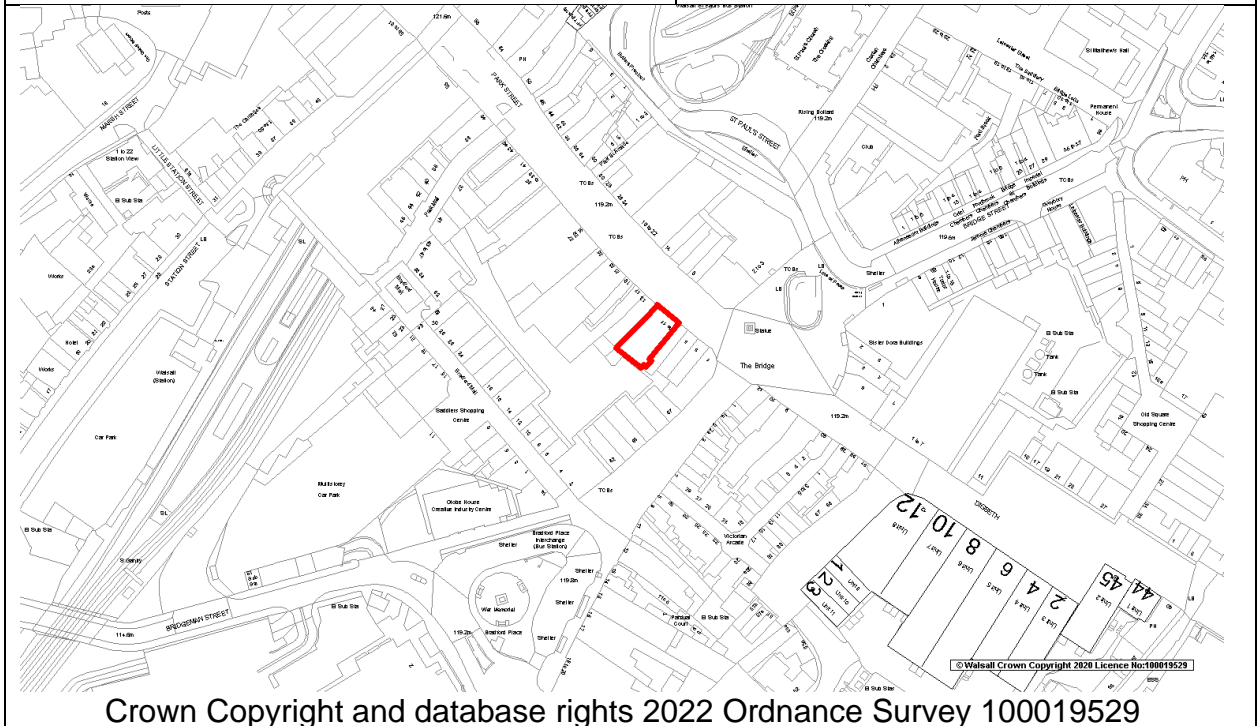
Ward: St Matthews

Agent:

Expired Date: 24-Jun-2022

Application Type: Full Application: Change of Use

Time Extension Expiry:



Recommendation:

Grant Planning Permission Subject to Conditions

Proposal

This application seeks to change the use of a double fronted unit at no 9-11 Park Street, Walsall from an electronic bingo hall (Sui Generis) with slot machines retro games and café to an adult gaming centre (Sui Generis).

Site and Surroundings

The site is situated on the southwestern side of Park Street, within Walsall Town Centre, the main pedestrianised street and primary shopping frontage within the town centre that consists of a number of retail and other town centre uses including shops, takeaways and restaurants.

The building is a three-storey unit that is currently vacant.

The previous uses on the ground and first floor levels were as a bingo hall with slot machines retro games and cafe. The site was vacated in 2018.

As detailed in the planning history this use was granted by the planning inspectorate following an appeal.

The existing shop front is to be retained, albeit externally finishing it in a bright blue colour.

Park Street has a number of shop frontages with large, glazed window displays.

The site is within Bridge Street Conservation Area.

Relevant Planning History

17/0662- Projecting and fascia signage and vinyl's to shopfront. Approved
10/07/2017

16/1145 - Change of uses to electronic bingo centre with ancillary food and drink operations alterations to entrance doors and erection of air compressor units Granted on Appeal 14/02/2017

13/0191/FL-New Shop Front. Approved 08/04/2013

07/0632/FL/W9- Installation of new shop front including roller shutter. Approved
26/06/2007

07/631/AD/W9- Display of 2 internally illuminated fascia signs and 1 internally illuminate projecting sign. Refused 12/06/2007

02/2362/AD/W4 - Display of fascia and projecting sign. Approved

BC54974P- Installation of 1 box fascia sign and 1 projecting sign illuminated. Approved 02/12/1999

BC54976P/C - Installation of new shopfront. Approved 02/12/1999

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 56) says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV27: Buildings of Historic or Architectural Interest
- ENV 28: The Local List of Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- S4: The Town and District Centres: General Principles
- S9: Amusement Centres and Arcades

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP4 Place Making
- CEN4: Regeneration of Town Centres
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable

Walsall Town Centre Area Action Plan 2019

- AAPS1: Primary Shopping Area
- AAPLV5: Protecting and Enhancing Historic Character and Local Distinctiveness
- AAPLE1: New Leisure Development
- AAPLV6: Securing Good Design

Supplementary Planning Documents

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Shopfront SPD

- SF1: Historic shop fronts
- SF2: Shop front proportions
- SF3: Materials in shop fronts
- SF4: Colour finishes
- SF5: Access to shops
- SF6: Advertisements
- SF7: Illumination
- SF8: Shop front security

Consultation Replies

Environmental Protection

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

Highway Authority

No objection

Conservation Officer

No objection

West Midlands Police

No Objection

Representations

5 x Letters of objection received on grounds of 24-hour opening will create antisocial and criminal behaviour

Determining Issues

-
- Principle of Development
- Heritage Assessment
- Impact upon adjoining occupiers
- Highways
- Fear Crime Anti-Social Behaviour

Assessment of the Proposal

Principle

Local policy supports the provision of leisure uses in the Primary Shopping Area where the retail function of the centre is not prejudiced, especially those that are contributory to centre vitality and viability.

As the existing uses is a bingo centre and café there will be no retail loss.

National policy supports strategic planning for centres 'allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries.

The AAP recognises more footfall is needed along Park Street and up to St Mathew's quarter especially at night. This proposal offers an opportunity to improve this whilst its size would not be of a scale to jeopardise the delivery of the Waterfront as a leisure destination.

The principle of the proposed use is supported and would enhance the vitality and viability of the town centre by bringing back into use a currently vacant unit within a primary shopping frontage and the conservation area, plus increasing foot fall, helping to diversify the town centre offer, whilst widening the hours of the day when customers will want to visit and use the town centre.

The principle of the proposed use is supported and would enhance the vitality and viability of the town centre by bringing back into use a currently vacant unit within a primary shopping frontage

Heritage

The site is within Bridge Street Conservation Area

The Lloyds Bank building on Park Street facing the site is a Grade II listed building and the row of shops formed by 8-14 Park Street are locally listed

Park Street is pedestrianised area of Walsall town centre where there are a number of shop frontages, mostly with large, glazed frontages.

The change of use of the building is appropriate in principle from a historic environment perspective, with the main considerations being the appearance of the shopfront.

The shopfront albeit it changed in colour to blue remains unchanged

Paragraph 202 of the NPPF states 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.

The proposed change of use has less than substantial harm to the significance of the conservation area and the setting of Lloyds Bank, Grade II listed building. The public benefits arising from bringing a vacant unit back into use which will help support the vitality of the town centre outweighs this harm.

Impact on adjoining premises

The proposed opening hours are 24 hours 7 days a week.

The proposed use is a unique concept and is considered would not have an unacceptable level of impact on any other surrounding uses in terms of their viability and is likely to promote and improve pedestrian footfall and likely to increase trade around this part of Park Street.

The proposals do not involve any extensions or additions to the floorspace only refurbishment of the premises which will not impact on the amenities of the surrounding occupiers.

On balance it is considered this is not uncommon in to find this form of use within a town centre and it will not unduly impact the amenity of adjoining premises

A noise assessment has been undertaken which concluded that when taking into account anticipated trading noises level, the noises insulation of the existing shopfront and the separation distances and intervening premises that and any adverse impact on nearby residential properties will be acceptable

In addition, the submitted planning statement advises that the Inspector concluded in his decision notice that the nature of an adult gaming centre is unlikely to result in undue noise and disturbance within this town centre location and did not consider it necessary to limit the opening hours.

There are a number of other premises with late opening times in the area.

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

Parking and Access

This is a Town Centre location with access to various modes of transport and parking facilities. This is considered to be a sustainable location and the Local Highways Authority have no objections to the proposal on highways grounds.

Fear of Crime

The applicant in the submitted planning statement address this issue by demonstrating there has been a limited number of anti-social behaviour incidents in the locality of the site.

The Inspector considered the presence of customers and staff into the town centre they would act as a deterrent as this would provide some natural surveillance.

In addition, any separate necessary licence will be subject to appropriate conditions and limitations regarding anti-social behaviour.

West Midland Police have raised no objection to the scheme.

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 principle of the proposed use is supported and would enhance the vitality and viability of the town centre by bringing back into use a currently vacant unit within a primary shopping frontage and the conservation area, plus increasing foot fall, helping to diversify the town centre offer, whilst widening the hours of the day when customers will want to visit and use the town centre.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP4, CEN4, ENV2, ENV3 and ENV5 of the Black Country Core Strategy and saved policies GP2, GP5, GP6, ENV27, ENV28, ENV32, ENV35, S1, S2, S4, S9, of Walsall Unitary Development Plan; policies AAP1, AAPS1, AAPLE1, AAPLV5, AAPLV6 and AAPT5 of Walsall Town Centre Area Action Plan and Supplementary Planning Document policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9, DW10 of Designing Walsall.

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

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable, and no further changes have been requested.

Recommendation

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:

- Existing and Proposed Plans DWG 3439(B)01 Received 26/04/2022
- Existing and Proposed Elevations DWG 3439(B)02 Received 26/04/2022

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).

Notes for Applicant

This permission does not grant consent for any signs or advertisements, illuminated or non-illuminated for which a separate application may be required under the Town and Country Planning (Control of Advertisements) Regulations 2007 or subsequent legislation

This permission does not grant consent for any security shutters for which a separate application will be required. Further advice regarding the appropriateness of security shutters can be found in the Councils Shop Front SPD as well as contacting the conservation officer conservation@walsall.gov.uk .

Fire Officer

Approved Document B, Volume 2, Buildings other than Dwellings, 2019 edition incorporating 2020 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.

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 15: Vehicle access

Buildings not fitted with fire mains

15.1 For small buildings (up to 2000m², with a top occupied storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

- a. 15% of the perimeter.

b. Within 45m of every point of the footprint of the building (see Diagram 15.1).

15.2 For all other buildings, provide vehicle access in accordance with Table 15.1.

15.3 Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m (e.g. a 150m elevation would need a minimum of two doors)

Buildings fitted with fire mains

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

a. Access should be provided for a pumping appliance to within 18m of each fire main inlet connection point. Inlets should be on the face of the building.

b. The fire main inlet connection point should be visible from the parking position of the appliance, and satisfy paragraph 16.10.

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

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

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

15.6 Where fire mains are provided in buildings for which Sections 16 and 17 make no provision, vehicle access may be as described in paragraphs 15.4 and 15.5, rather than Table 15.1.

Design of access routes and hard-standings

15.7 Access routes and hard-standings should comply with the guidance in Table 15.2. Requirements can only apply to the site of the works. It may not be reasonable to upgrade the route across a site to a small building. The building control body, in consultation with the fire and rescue service, should consider options from doing no work to upgrading certain features, such as sharp bends.

15.8 Where access to an elevation is provided in accordance with Table 15.1, the following requirements should be met, depending on the building height.

a. Buildings up to 11m, excluding small buildings (paragraph 15.1): pump appliance access should be provided adjacent to the building for the specified percentage of the total perimeter.

b. Buildings over 11m: access routes should comply with the guidance in Diagram 15.2.

15.9 Where access is provided for high reach appliances in accordance with Table 15.1, overhead obstructions (such as cables and branches) should be avoided in the zone shown in Diagram 15.2.

15.10 Dead-end access routes longer than 20m require turning facilities, as in Diagram 15.3. Turning facilities should comply with the guidance in Table 15.2.

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 2, Table 15.2)

Section 16: Fire mains and hydrants

Provision of fire mains

16.2 Buildings with firefighting shafts should have fire mains in both of the following.

- a. The firefighting shafts.
- b. Where necessary, in protected escape stairs. The criteria for providing firefighting shafts and fire mains are given in Section 17.

16.3 Buildings without firefighting shafts should be provided with fire mains where fire service vehicle access is not provided in accordance with Table 15.1. In these cases, outlets from fire mains should be located as described in paragraph

16.4, with a maximum hose distance of 45m from the fire main outlet to the furthest point, measured on a route suitable for laying a hose. Stairs do not need to be designed as firefighting shafts.

Provision of private hydrants

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

- a. It has a compartment with an area more than 280m².
- b. It is being erected more than 100m from an existing fire hydrant.

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

- a. For buildings provided with fire mains – within 90m of dry fire main inlets.

b. For buildings not provided with fire mains – hydrants should be both of the following.

i. Within 90m of an entrance to the building.

ii. A maximum of 90m apart.

16.10 Each fire hydrant should be clearly indicated by a plate, fixed nearby in a conspicuous position, in accordance with BS 3251. 16.11 Guidance on aspects of provision and siting of private fire hydrants is given in BS 9990.

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

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

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, Section 8)

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)

Consideration should also be given to the following - If the fascia sign consists of luminous tube signs, designed to work at a voltage normally exceeding the prescribed voltage then it is required to be provided with a cut-off switch. This is in accordance with The Regulatory Reform (Fire Safety) Order 2005, PART 5 MISCELLANEOUS, Section 37. Fire-fighters' switches for luminous tube signs etc.

West Midlands Police

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

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

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

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

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

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

Secured By Design security standards are explained.

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

END OF OFFICERS REPORT



Planning Committee

Report of Head of Planning and Building Control on 09 February 2023

Plans List Item Number: 2

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 9-11, PARK STREET, WALSALL, WS1 1LY

Proposal: ADVERTISEMENT CONSENT FOR A NEW SHOPFRONT WITH TWO EXTERNALLY ILLUMINATED FASCIA SIGNS AND ONE EXTERNALLY ILLUMINATED PROJECTING SIGN.

Application Number: 22/0588

Case Officer: Martin Dale

Applicant: Luxury Leisure Ltd

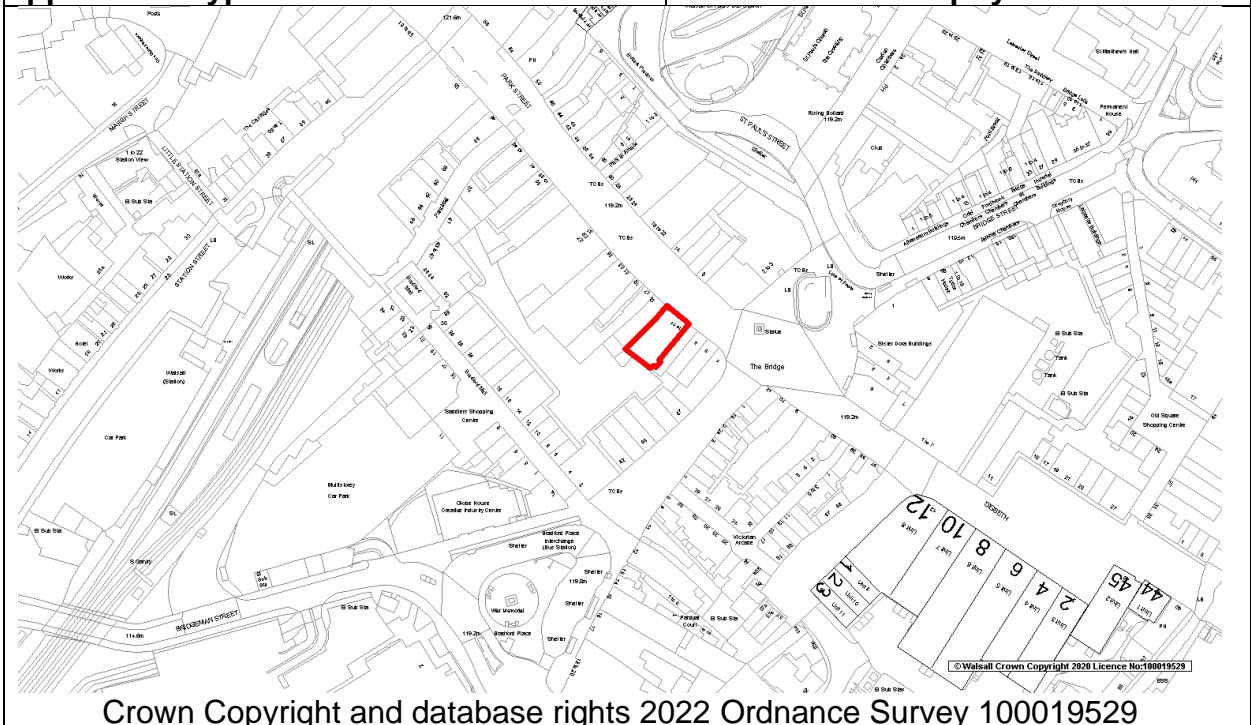
Ward: St Matthews

Agent:

Expired Date: 24-Jun-2022

Application Type: Advertisement Consent

Time Extension Expiry:



Recommendation:

Grant Advertisement Consent Subject to Conditions

Proposal

Seeking to replace the existing the timber fascia and the externally illuminated signage with two externally illuminated fascia signs and one externally illuminated projecting sign fixed on a bracket.

The timber fascia signs will be a height of 0.75m with a width 5.5m, and 0.75m high by 4.8m in width.

Both fascia signs have a height to base of 2.75m from ground level.

The projecting sign will have a width of 0.48m, a height of 0.6m and the height to base will be 2.75m.

Site and Surroundings

The site is within Bridge Street Conservation Area and lies within the designated town centre for Walsall.

Park Street is a commercial street pedestrianised street with a range of uses including 3 banks, Specsavers, mobile phone shops, WH Smith, Card Factory, Subway and McDonald's.

There is wide range of illuminated and non-illuminated fascia and projecting signage with a range of materials and colours.

Relevant Planning History

17/0662- Projecting and fascia signage and vinyl's to shopfront. Approved
10/07/2017

16/1145 - Change of uses to electronic bingo centre with ancillary food and drink operations alterations to entrance doors and erection of air compressor units Granted on Appeal 14/02/2017

13/0191/FL-New Shop Front. Approved 08/04/2013

07/0632/FL/W9- Installation of new shop front including roller shutter. Approved
26/06/2007

07/631/AD/W9- Display of 2 internally illuminated fascia signs and 1 internally illuminate projecting sign. Refused 12/06/2007

02/2362/AD/W4 - Display of fascia and projecting sign. Approved

BC54974P- Installation of 1 box fascia sign and 1 projecting sign illuminated. Approved 02/12/1999

BC54976P/C - Installation of new shopfront. Approved 02/12/1999

Relevant Policies

Part 3 (Express Consent) of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (As amended).

Applications for express consent

9.— (1) An application for express consent shall be made to the local planning authority.

(2) Subject to paragraphs (6) and (7), the application shall be made electronically or in hard copy on a form published by the Secretary of State or a form substantially to the same effect.

(3) The applicant shall—

(a) include the particulars specified in the form; and

(b) send with the application (whether electronically or otherwise) a plan which—

(i) is drawn to an identified scale,

(ii) shows the direction of North,

(iii) identifies the location of the site by reference to at least two named roads, and

(iv) identifies the proposed position of the advertisement.

(4) Unless an application is made electronically or the local planning authority indicates that a lesser number is required, three copies of the completed form and the plan shall accompany the application.

(5) Where the application is one to which directions given by the Secretary of State under regulation 11 apply, the applicant shall send with the application (whether electronically or otherwise) such particulars, plans or information specified or referred to in those directions as may have been notified to the applicant by the local planning authority.

(6) An application made on or after 6th April 2007 and before 1st October 2007, maybe made in writing on a form devised by the local planning authority.

(7) An application made after 30th September 2007 and before 1st November 2007 otherwise than by a local planning authority or an interested planning authority, may be made in writing on a form devised by the local planning authority.

(8) Where an application is made electronically, the applicant shall be taken to have agreed—

(a) to the use by the authority of electronic communication for the purposes of his application;

(b) that his address for that purpose is the address incorporated into, or otherwise logically associated with, his application; and

(c) that his deemed agreement under this paragraph shall subsist until he gives notice in writing—

(i) withdrawing any address notified to the authority for that purpose, or

(ii) revoking that deemed agreement, and such withdrawal or revocation shall be final and shall take effect on a date specified by the person in the notice but not less than seven days after the date on which the notice is given.

(9) An application made electronically shall, unless the contrary is proved, be treated as having been delivered at 9 a.m. on the next working day after the day on which it is transmitted.

(10) This regulation applies to applications for renewal of consent as it applies to applications for consent.

(11) An application for the renewal of an express consent may not be made more than 6 months before the date on which the consent is due to expire.

Power to deal with applications

14.— (1) Where an application for express consent is made to the local planning authority, the authority may—

(a) grant consent, in whole or in part, subject to the standard conditions and, subject to paragraphs (6) and (7), to such additional conditions as it thinks fit;

(b) refuse consent; or

(c) in a case to which paragraph (2) applies, decline to determine the application.

(2) This paragraph applies where the application relates to an advertisement to which section 70A of the Act, as modified as mentioned in paragraph (3), applies.

(3) For the purposes of this regulation, section 70A of the Act shall apply subject to the modifications specified in Part 1 of Schedule 4; and the provisions of that section as so modified are set out in Part 2 of that Schedule.

(4) Express consent may be granted—

(a) for the display of a particular advertisement or advertisements with or without illumination;

(b) for the use of a particular site for the display of advertisements in a specified manner, whether by reference to the number, siting, size or illumination of the advertisements, or the structures intended for such display, or the design or appearance of any such structure, or otherwise; or

(c) for the retention of any display of advertisements or the continuation of the use of a site begun before the date of the application.

(5) The conditions imposed under paragraph (1)(a) may, in particular, include conditions

(a) regulating the display of advertisements to which the consent relates;

(b) regulating the use for the display of advertisements of the site to which the application relates or any adjacent land under the control of the applicant, or requiring the carrying out of works on any such land;

(c) requiring the removal of any advertisement or the discontinuance of any use of land authorised by the consent, at the end of a specified period, and the carrying out of any works required for the reinstatement of the land.

(6) In relation to the display of an advertisement within any class specified in Part 1 of Schedule 3, the local planning authority shall not impose any condition more restrictive than those imposed by regulation 6(1)(b) in relation to advertisements of that class.

(7) Subject to paragraph (6), an express consent shall be subject to the condition that it expires at the end of—

(a) such period as the local planning authority may specify in granting the consent; or

(b) where no period is so specified, a period of 5 years.

(8) The local planning authority may specify, as the date on which the period under paragraph (7)(a) is to begin, whichever is the earlier of—

(a) the date of the commencement of the display; and

(b) a specified date not later than 6 months after the date on which the consent is granted.

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 4 – Decision Making**
- **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

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings

Supplementary Planning Document

Designing Walsall

- DW3 Character
- DW4 Continuity
- DW6 Legibility
- DW9 High Quality Public Realm

Shop Front

- Policy SF6: Advertisements
- Policy SF7: Illumination

Other Relevant Policy

The institution of Lighting Engineers, Technical Report Number 5: *Brightness of Illuminated Advertisements.*

- E2 – Low district brightness areas (eg rural or small village locations)
- E3 - Medium district brightness areas (eg small town centres, urban locations)
- E4 – High district brightness areas (eg town/city centres with high levels of night-time activity)

Recommendations for Maximum Luminance (cd/m²)

Illuminated Area (m ²)	Zone E1	Zone E2	Zone E3	Zone E4
Up to 10.00	100	600	800	1000
Over 10.00	n/a	300	600	600

Consultation Replies

Street Lighting Engineer

The method of lighting (downlight) and the luminous intensity would appear to be acceptable.

Highway Authority

No concerns.

Public protection

No objection.

Conservation

Application is lacking a heritage assessment but otherwise has no objection to the signage.

Representations

Five letters of objection but these all relate to the associated separate planning application for the proposed change of use.

Determining Issues

- Visual Appearance
- Highways and Public Safety
- Heritage Impact

Assessment of the Proposal

Visual Appearance

The proposal is replacing similar signage.

The street scene has a wide range of illuminated and non-illuminated signage with similar projecting signs. This proposal will not detract from this scene.

The institution of Lighting Engineers, Technical Report for illumination within an E4 zone (urban locations), i.e., below 1000cd/m².

The proposal states illumination will be 299 Cd/m². This can be re-affirmed by a planning condition, which can additionally require day-time illuminance levels to not exceed this level.

Highways and Public Safety

The signage is located on a pedestrianised street meaning no adverse impact on highway safety.

The Highways Authority have not objected to the proposal.

Heritage Impact

The design of the advertisements and form of illumination are considered compliant with the Shopfront SPD and will preserve and enhance the character and appearance of the Bridge Street Conservation Area.

Conclusions and Reasons for Decision

Taking into account the wide range of signage in the street scene the proposal does not present an adverse effect to the visual amenities of the area, or the character of the conservation area.

The specified illuminance levels would be acceptable within zone E4 Town Centre, in accordance with: 'The institution of Lighting Engineers, Technical Report Number 5' document, which can be conditioned.

The location and orientation of the proposed advertisement means that the signage is unlikely to result in an adverse impact to public and highway safety. Therefore, the proposal is in accordance with Saved UDP policies ENV29, ENV32 and ENV36 and Policy ENV2 of the Black Country Core Strategy.

On balance, taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable, and no further changes have been requested.

Recommendation

Grant advertisement consent subject to conditions

Conditions and Reasons

1. The adverts are hereby approved for 5 years during the period of 21/04/2022 – 21/04/2027.

Reason: Pursuant to the requirements of Part 3 Section 14(7)(8) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (As amended).

2. The development shall only be carried out in accordance with the following documents and drawings:

- Elevation as Existing and Proposed Sheet Number 3439(B)02 RevisionC

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

3. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: It is a requirement of the Regulations that the site owner's permission be obtained before any advertisement is displayed.

4. No advertisement shall be sited or displayed so as to-

- Endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
- Obscure, or hinder the ready interpretation of, any traffic sign, railway signal, or aid to navigation by water or air; or
- Hinder the operation of any device used for the purpose of securing or surveillance or for measuring the speed of any vehicle.

Reason: In the interest of public safety.

5. Any advertisement displayed, and any site used for the displaying of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To ensure the satisfactory appearance of the development

6. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: In the interest of public safety and amenity

7. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair on visual amenity.

Reason: In the interest of public safety and amenity

8. The hereby approved internally illuminated fascia signs as shown on approved plans shall not exceed luminance levels of 300 Cd/m² at any time.

Reason: To ensure satisfactory appearance in the Conservation Area and in the interest of public safety and amenity and to comply with UDP Policies ENV29, ENV32 and GP2.

Notes for Applicant

None

END OF OFFICERS REPORT



Planning Committee

Report of Head of Planning and Building Control on 09 February 2023

Plans List Item Number: 3

Reason for bringing to committee

Called in by Councillor Mazhar on the grounds that the design requires wider consideration.

Application Details

Location: 13, ALDRIDGE ROAD, WALSALL, WS4 2JN

Proposal: RESUBMISSION OF 22/0013: SINGLE STOREY REAR EXTENSION, TWO STOREY SIDE EXTENSION AND LOFT CONVERSION WITH TWO REAR FACING DORMERS

Application Number: 22/1232

Case Officer: Sean Hewitt

Applicant: Mr Maz

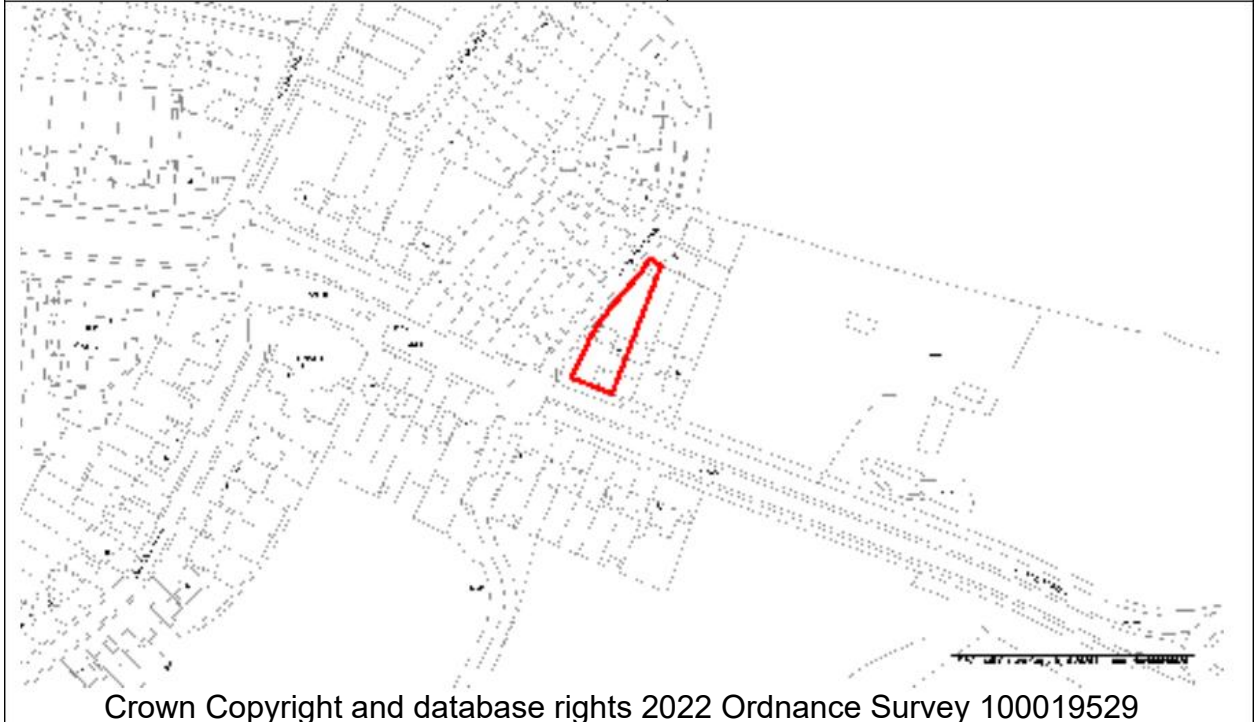
Ward: St Matthews

Agent:

Expired Date: 11-Jan-2023

Application Type: Full Application:
Householder

Time Extension Expiry: 28-Feb-2022



Recommendation:

Refuse

Proposal

The application proposal is a resubmission of an application following a refusal for a two storey side extension, single storey rear extension and two rear dormers to an existing traditional 1950's semi-detached house. The key dimensions of the current proposal are:

5.13m to eaves

7.5m to ridge height

Ground floor:

7.8m wide

7.85m deep to original rear elevation

First floor

7.5m depth

7.6m in width

Single storey rear extension:

3.5m depth on adjoining boundary and extending to 4m in depth 3.4m in from the boundary

2.8m to flat roof

3.6m to top of lantern

Two rear dormers:

Largest measuring 3.68m wide and 2.2m to flat top

Smallest measuring 2.72m and 2.2m to flat top

Site and Surroundings

The proposal site is situated at a prominent corner junction of Aldridge Road and Homestead Close. The site is currently comprised of a traditionally designed and proportioned 1950's semi-detached dwelling with a single storey flat roof garage to the side and previously added front porch. The immediate area is a mix of semi and detached traditionally designed and proportioned housing. The application house is set back 19 metres from the public highway which affords good views of the property from the street scene.

Relevant Planning History

22/0013 – 13 Aldridge Road - Two storey side extension, single storey rear extension and loft conversion with two front dormer windows and two rear dormers – refused 04/07/22:

1. The proposed changes would more than double the width of the original dwelling at first floor level and by way of its scale would introduce an incongruous addition that would significantly unbalance this pair of semi-detached dwellings. In addition, the introduction of the side facing dormer window is considered to be a bulky addition when viewed head on and would further exacerbate the conspicuous nature of this proposal. Overall, the proposal brings detrimental harm to the amenities of the street scene, neighbours and users Aldridge Road. The proposal would thus fail to comply with saved UDP policies ENV32 (Design and Development Principles), GP2 (Environmental Protection) and Designing Walsall SPD policy DW3 (Character).
2. The proposed single storey rear extension, which would measure 4m deep, would breach the 45-degree code for the nearest habitable window of the adjoining dwelling. The proposal is therefore considered to have a detrimental impact on the rear habitable window of no.15 that would lead to an unacceptable loss of outlook from this window. The proposal is therefore contrary to Appendix D of the Designing Walsall SPD.

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 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
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV32: Design and Development Proposals
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP3: Environmental Infrastructure
- CSP4: Place Making
- ENV1: Nature Conservation
- ENV3: Design Quality

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

Designing Walsall

- DW3 Character

Consultation Replies

Highways – support

Ecology – No permission should be granted before a bat survey is received. Following reconsultation after receiving the bat report, there are no objections to the proposals from ecology. Should permission be granted mitigation quoted in the bat survey should be conditioned.

Representations

Councillor Mazhar – called the application into planning committee on grounds that the design requires wider consideration, no significant harm to amenities and no detrimental impact to listed building or conservation area. Specific comments on the application are:

- Acknowledges that the applicant has overcome previous reasons for refusal aside from character and scale of the proposal but believes these are subjective
- The plot is large enough to accommodate the proposal and would not be no detrimental impact to character

Determining Issues

- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Ecology

Assessment of the Proposal

Design, layout and character

The planning authority and planning committee in assessing the applicants proposal, must consider whether this amended application has fully overcome the previous reasons for refusal of the previous planning application 22/0013. The first reason for refusal was:

‘The proposed changes would more than double the width of the original dwelling at first floor level and by way of its scale would introduce an incongruous addition that would significantly unbalance this pair of semi-detached dwellings. In addition, the introduction of the side facing dormer window is considered to be a bulky addition when viewed head on and would further exacerbate the conspicuous nature of this proposal. Overall, the proposal brings detrimental harm to the amenities of the street scene, neighbours and users Aldridge Road. The proposal would thus fail to comply with saved UDP policies ENV32 (Design and Development Principles), GP2 (Environmental Protection) and Designing Walsall SPD policy DW3 (Character).’

The key points of this reason are the ‘scale’ and how the previous proposal was seen to be an incongruous addition that would unbalance the pair of traditionally designed and proportioned semi-detached dwellings. This amended application has been submitted with the removal of the side dormer but has failed to address the scale of the proposal. The loss of the dormer, while welcomed, is considered to be a very limited change to address the overall reasons for refusal, make no difference to the overall scale and detrimental visual amenity harm the proposal will bring to the

character of the area. The applicant has therefore failed to fully overcome the reason for refusal, retaining the same scale and width as submitted for planning application 22/0013.

First-floor side extensions submitted to the LPA should be subservient to the original dwelling, which in this instance is a traditionally designed and proportioned 1950s semi detached house. As it is part of a semi detached house, in assessing the proposal, consideration must be undertaken to the unbalancing of the pair of houses. Whilst the applicant has amended the extension with a set back from the principle elevation of 0.4 metres and reduced the ridge height of the extension by 0.25 metres, being insufficient change to overcome the reason for refusal. Notwithstanding the set back and set down mentioned above, the extension would still represent a 123.4% increase to the width of the original semi detached house, unbalancing the pair of houses being detrimental to amenity of the location. A proposal to this degree is considered to increase the footprint of the house to an extent, the scale cannot be regarded as subservient to the original dwelling, creating an incongruous addition to the detriment of the appearance of the streetscene. May I refer the committee to appeal decision APP/V4630/D/17/3181865 paragraph 5 which deals with a side addition that more than doubles the width of the original house. The appeal states '*the proportions of the side extension would not be subordinate to the host property, as notwithstanding its reduced ridge height, it would almost double the width of the property at first floor level*'. This assessment from the inspector confirms that proposals which are greater in proportions than the original dwelling cannot be regarded as subservient, irrelevant of setbacks.

The design of the proposal is further compounded by the location of the proposal on a visually sensitive corner location and the adjoining dwelling. It is considered that the scale is considered to be inappropriate as it will be seen joined to the other semi-detached property. The dwellings would therefore be seen as one elongated structure that would result in an incompatible addition to the host property that would significantly unbalance the appearance of the pair of semi-detached dwellings.

Whilst recognising no.11, the adjacent corner, has undergone significant extensions on the side and rear of no. 11, these additions were approved prior to 2004 to a different house design than the current application site. They were also based on earlier policies rather than today's policies, thus cannot be used to justify the approving of the current proposal. Its presence on the prominent corner location, simply confirms that such additions are incongruous to the character of the built environment and are of poor design. In addition, the dwelling is detached and the additions would not unbalance an equally proportioned dwelling as identified at no.13.

Councillor Mazhar considers that the application would not be detrimental to the character of the area and believes that the design requires wider consideration. The Councillor's comments, confirms the applicant has only partly overcome the first reason for refusal and that the applicant has failed to address comments relating to character and scale. The Councillor believes that such matters are subjective.

Character and scale are material planning considerations set out in the planning legislation, so cannot be considered to be subjective. Should planning committee choose to approve the current extension they will need to provide a clear land use planning judgement to demonstrate how the applicant has overcome impacts to the material planning considerations of character and scale, including any relevant planning policies to justify their position. The percentage calculations of scale quoted earlier in the report gives tangible material evidence, the current proposal would introduce a scale over and above the equally proportioned pair of semi-detached dwellings which translates into a dwelling out of character to its original form creating a material and detrimental impact to the amenities of the locality.

Taking into account the above assessment, the proposal before committee has not overcome the following part of the 22/0013 reason for refusal;

The proposed changes would more than double the width of the original dwelling at first floor level and by way of its scale would introduce an incongruous addition that would significantly unbalance this pair of semi-detached dwellings.

The second part of the reason for refusal relates for the addition of the side facing dormer and its impact on the streetscene. The reason for refusal stated;

The introduction of the side facing dormer window is considered to be a bulky addition when viewed head on and would further exacerbate the conspicuous nature of this proposal

This dormer has now been removed from the plans addressing the second part of reason for refusal.

To conclude, the applicant has made very limited changes to satisfy the requirements of the previous reasons for refusal regarding the scale of the design. The first reason for refusal is therefore a material consideration which has not been fully overcome and the application is therefore recommended for refusal on the following grounds;

'The proposed changes would more than double the width of the original dwelling at first floor level and by way of its scale would introduce an incongruous addition that would significantly unbalance this pair of semi-detached dwellings. The proposal brings detrimental harm to the amenities of the street scene, neighbours and users Aldridge Road. The proposal would thus fail to comply with saved UDP policies ENV32 (Design and Development Principles), GP2 (Environmental Protection) and Designing Walsall SPD policy DW3 (Character).'

Should planning committee decide to approve the application, they would need to provide planning land use reasons for approving, plus planning land use reasons for setting aside the reasons for refusal and relevant planning policies to justify their decision. Any reference to personal or family need to justify a planning decision is not a material planning land use reason for approving any planning application. Personal need or family need are private matters that cannot be used to overcome planning

land use concerns or the harm the proposal may be judged to have to the locality or the environment.

Amenity of neighbours

The second reason for refusal on this application refers to the depth of the single storey rear extension reaching 4m and breaching the 45 degree code to the adjoining dwelling. The plans have now been amended so the rear extension on the boundary line now extends 3.5m. This change would now comply with the Council's 45 degree code and is seen to protect the outlook of the adjoining neighbour to an acceptable level.

The proposal also includes two rear facing box dormers. While these would afford the owners with a higher outlook over the rear, this would be proportionate to the views afforded through similar additions which could be done through permitted development to the original house. The dormers are therefore considered not to offer views above and beyond what is visible from first floor and is deemed to protect neighbour amenity to an acceptable level.

Highways

The additional bedrooms of this proposal would require the dwelling to have 3 on site parking spaces. It is considered that this can be met within the curtilage and the application does not pose a risk to highway safety.

Protected Species

Due to the location of the proposal and the proposed works to the dwelling, a bat survey was requested. This has outlined the application site is conclusively not being used as a bat roost with no further surveys required. The survey has recommended the installation of a single bat and bird box to the main dwelling should permission be granted. The Ecology officer has confirmed that they would have no objection to the bat survey subject to the bat survey recommendations being conditioned should the application be approved.

Conclusions and Reasons for Decision

While the applicant has made some effort to overcome the reasons for refusal, the main reason has not been addressed in any way. The dwelling remains at proportions greater in size than the original dwelling and by way of this scale, the dwelling is considered to be visually detrimental to the street scene and would significantly unbalance the pair of semi-detached dwellings. The proposal thus fails to comply with saved UDP policies GP2, ENV32; BCCS policies ENV3; and Designing Walsall policy DW3.

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 in this instance are unable to support the proposal.

Recommendation

Refuse

Reasons for Refusal

1. The proposed changes would more than double the width of the original dwelling at first floor level and by way of its scale would introduce an incongruous addition that would significantly unbalance this pair of semi-detached dwellings. The proposal brings detrimental harm to the amenities of the street scene, neighbours and users of Aldridge Road. The proposal would thus fail to comply with saved UDP policies ENV32 (Design and Development Principles), GP2 (Environmental Protection) and Designing Walsall SPD policy DW3 (Character).

END OF OFFICERS REPORT