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ITEM NO: 1.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

REASON FOR BRINGING TO COMMITTEE: Major application

Application Number: 09/1695/FL
Application Type: Full application

Case Officer: Andrew White
Telephone Number: 01922
652429

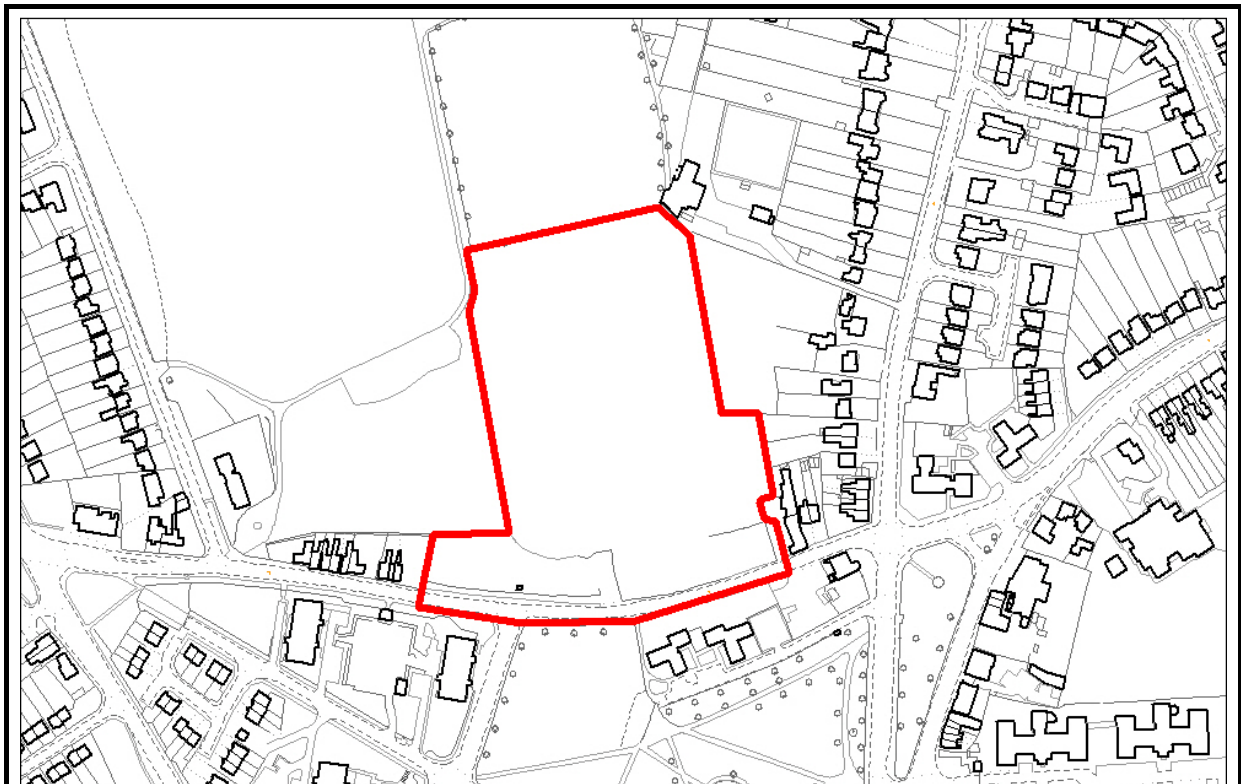
Applicant: Barratt West Midlands
Proposal: Proposed erection of 108
dwellings, garages and associated
parking, construction of access roads,
landscaping and associated works

Agent: RPS Planning & Design
Location: FORMER BLOXWICH
ENGINEERING LTD, BELL
LANE, WALSALL,

Ward: Bloxwich West

Expired: 12/03/2010

Recommendation Summary: Refuse



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Application and Site Details

The current proposal is for residential redevelopment of existing industrial premises known as Bloxwich Engineering Limited, Bell Lane, Bloxwich this is a revised proposal following a planning approval (07/0358/FL/E11) in 2007. The site is located immediately to the north of Bloxwich Town Centre just beyond the junction of Bell Lane and High Street. Bloxwich Park lies opposite the site on Bell Lane, King George V Playing Fields adjoin the site to the west and Stafford Road Sport Club and playing fields (including cricket ground) to the north. The eastern boundary adjoins garden land and that of existing premises fronting Bell Lane that are under the control of the applicant. There is a belt of trees around the north, east and western boundaries of the site within the adjacent playing fields and gardens.

There are three storey flats opposite the site on Bell Lane, terraced housing further to the west on Bell Lane and a variety of terraced and larger detached properties along Stafford Road to the east of the site. There is a cluster of commercial premises located around the junction of Bell Lane, Stafford Road and High Street that includes The Bell Public House, vacant office premises and graphic design and dental practices. To the south east are a number of 1960's 11 storey blocks of flats.

The application site included a vacant two storey detached house (now demolished) on the Bell Lane frontage, with associated yard formerly used as a coal merchants premises. The remainder of the site includes a variety of industrial buildings including single storey brick buildings, offices and larger pitched roof industrial buildings, plus car parking and internal manoeuvring areas. The site has now been cleared.

The proposal is for the erection of 108 dwellings comprising seven 1 bedroom coach house, twelve 2 bedroom houses, sixty five 3 bedroom houses and twenty four 4 bedroom houses. The development now does not include thirty 2 bedroom apartments as the design of the development has now replaced the apartments with houses. A single point of access is proposed to be located centrally within the Bell Lane frontage. There are secondary streets leading off this and other shared surface streets and private drives throughout the site. The proposed layout shows a strong built frontage to Bell Lane comprising terraced, semi-detached and detached housing with two three storey houses located on each side of the access. A row of housing follows the western side of the access road leading to a central open space with further housing surrounding the space. Further housing is located around the perimeter of the site facing out towards the adjacent playing fields and completing the perimeter blocks.

The site area is 2.96 hectares and as 108 dwellings are proposed this equates to a density of 36 dwellings per hectare. The overall parking provision provides 207%.

Barratt's have submitted a financial appraisal. They conclude that they are unable to make any financial contributions towards the provision of, Affordable

Housing, Urban Open Space, Healthcare, Public Art and Education.

They further submit; 'We appreciate the District Valuer has a particular way of appraising developments that reflects CURRENT values and alternative uses. However in business terms the Barratt Board must consider which sites achieve the best return on Capital employed for its different development parcels given the "historic" prices paid for those sites. In the case of Bell Lane Bloxwich the site was purchased in Nov 2007 at the height of the market for £8,035,000. The DV's Current valuation gives a residential land value of £2,699,343. The difference is obvious.

The D.V's report does not take this historic value into account. It also assumes alternative uses for if the residential development were not to take place, in this case, industrial. The "surplus" he shows is the difference between his current residential value and the alternative industrial use value. If the residential were not to take place because of the viability issue would the L.A. now grant permission for a new industrial use on this site, (and as importantly would the local surrounding residents be happy with this).

Three other points where we disagree with the D.V's approach;

- 1) Our External works figures are based on actual measurements of what is proposed- the D.V. is using a generalised figure;*
- 2) Barratt have suffered holding costs from when they acquired the site and will do so until we can start selling houses and obtaining income.*
- 3) The D.V. appears to be working on an affordable housing mix and tenure based on talks with yourselves. We have purchased on the back of a detailed planning consent that has 25% Shared Ownership units. The new mix would need to Fit on the site and could affect our existing layout and thereby numbers and viability'*

Relevant Planning History

07/0358/FL/E11- Erection of 132 dwellings following demolition of buildings and structures. Provision of highway works incorporating a right turn facility on Bell Lane. GSC & S106-02/08/07

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on the Planning Services Website)

Unitary Development Plan

2.2: Lists six key strategic themes that will be used to evaluate development proposals. These include creating, sustaining and enhancing a high quality natural and built environment, including a high standard of design.

GP1: Relates to sustainable development- the location of facilities where they are accessible to everyone and minimise the need to travel.

GP2: The Council will not permit development which would have an unacceptable adverse impact on the environment and lists the considerations which will be taken into account in the assessment.

GP3: Planning obligations will be used to secure any on or off-site mitigating

measures made necessary by a development.

GP7: Development proposals will be expected to have regard for the objective of designing out crime.

3.6: Development and redevelopment schemes should, as far as possible, help to improve the environment.

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land.

ENV18: The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows.

ENV24: New development should maintain the integrity of wildlife corridors.

3.113 New development provides opportunities for high quality architectural and landscape design to contribute to the environmental and economic well-being of the Borough for the benefit of residents and visitors, alike. Good design responds positively and imaginatively to the context in which development takes place.

3.114 Good design can discourage crime and increase safety as well as accommodating the access requirements of all sections of the community.

3.115 the design of buildings and structures together with landscape design have a major role to play in the creation of an environment which is distinctive, creates a sense of place.

ENV29: Development should preserve or enhance the character and appearance of a Conservation Area.

ENV32: Development needs to take account of its context and surroundings and indicates the criteria to be taken into account in assessing proposals.

ENV33: Good landscape design is an integral part of urban design and the Council will require planning applications to be fully supported by details of external layout and landscape proposals.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

JP7: It may be appropriate to consider alternative use of employment sites for housing due to the relationship of the site with surrounding land uses or because the site is not well located to meet the needs of modern industry.

Para 6.3: Housing should be in locations that have good accessibility and are well related to local facilities, such as town, district and local centres.

H3: The Council will encourage the provision of additional housing through the re-use of brownfield previously developed windfall sites, subject to a satisfactory environment being achieved.

H4: On sites suitable for provision of an element of affordable housing the Council will normally negotiate with developers for 25% of total dwellings to be affordable homes.

H9: Housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites.

H10: The design of residential developments to create a high quality living environment, integrate with surroundings and local character in accordance with principles of good design.

7.1: Seeks to promote an efficient highway network;

8.8: Residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing these facilities

T7: All development should satisfy the car parking standards set out in Policy T13. All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment.

T13: Advises on parking requirements.

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

Designing Walsall (SPD) (Feb 2008)

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DW1: Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DW2: Safe & Welcoming Places - all new development must contribute to creating places that feel safe.

DW3: Character - all new development must be designed to respect and enhance local identity

DW4: Continuity - Well defined streets with a continuity of built form are important.

DW5: Ease of Movement – connections to existing routes

DW6: Legibility - new development should contribute to creating a place that has a clear identity

DW7: Diversity – contribute to creating living places that offer a mix activities to the widest range of possible uses.

DW8: Adaptability – contribute to creating flexible and adaptable places that can easily change over time.

DW9: High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality

DW9b Contributions towards Public Art for 15 Residential units and above. A contribution of £37,800.00 is required to comply with the Designing Walsall SPD and ENV34 of the UDP.

DW10: Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68sqm for housing

and 20sqm per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Regional Policy

The Regional Spatial Strategy for the West Midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance.

Supplementary Planning Document for Urban Open Spaces

Identifies the requisite local standards and contributions that developers will be required to make towards provision and improvement of open spaces. An Urban Open Space contribution of £220,570.00 is required to comply with the Urban Open Space SPD and LC1(d) of the UDP

Supplementary Planning Document for Affordable Housing

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities. 25% of the total 108 units should be provided as affordable homes on site equating to 27 units. The 27 units should be divided into 75% social rent and 25% shared ownership spread across the mix of property sizes/types on the development.

Supplementary Planning Document for Education

Sets out the contributions that developers will be required to make towards the provision and improvement of local education facilities. The level of surplus places in local secondary schools is below 10%, therefore a contribution of £239,533.65 is required towards secondary school provision within the local area, in line with Policy 8.8 of the UDP and Education SPD.

Supplementary Planning Document for Healthcare

Seeks to provide adequate healthcare facilities and sets out requirements for contributions from potential developers. A healthcare contribution of £123,744.60 is required to comply with the Healthcare SPD and 8.9 of the UDP.

National Policy

PPS1 Delivering Sustainable Development, PPS3 Housing, PPS4 Planning for Sustainable Economic Growth, PPG9 Nature Conservation, PPS10 Planning for Sustainable Waste Management, PPG13 Transport, PPG14 Development on Unstable Land, PPG15 Planning and the Historic Environment, PPG16 Archaeology & Planning, PPS23 Planning and Pollution Control, PPS24 Planning and Noise, PPS25 Development and Flood Risk, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places- The Planning System & Crime Prevention.

Consultations

Transportation - No objections subject to safeguarding conditions.

Environment Agency- Acceptable if development follows the measures detailed in the Flood Risk Assessment.

Drainage – Satisfactory, check with Severn Trent.

Severn Trent- No objections subject to safeguarding conditions

Education - We base our contribution requests on whether there are sufficient surplus places in local primary and secondary schools. If the level of surplus places is below 10% for either phase, we ask for a contribution. In this case the level of surplus places in local Secondary schools is above 10% so no contribution is required for this phase. However, the level of surplus places in local primary schools is below 10% and therefore we do require a contribution towards primary school provision.

The contribution calculation is sensitive to the type and mix of dwellings to be built. It involves combining the expected pupil yield for the development by a Building Cost Multiplier provided by the DCSF at the start of every financial year based on current prices, we would look for a contribution of £239,533.65.

Housing - 25% of the units (27 units) should be provided as affordable on site. These should be 75% social rent and 25% shared ownership spread across the mix of property sizes/types on the development.

Conservation Officer- No objections and the proposal is in general accordance with UDP policies ENV29, ENV32 as well as the aspirations of the Bloxwich Conservation Area Appraisal and Management Plan and the Designing Walsall SPD.

Landscape - No landscape objection.

Tree Officer - No objection in principle subject to tree protection measures being adhered to as detailed in the arboricultural assessment.

Ecology - No objections as the buildings have been.

Pollution Control- Contaminated Land- Supports the proposal subject to works being implemented to remediate contamination and gas as identified in the Geo-environmental Assessment

Pollution Control- Scientific Team- No objections subject to safeguarding conditions.

Fire Service - Satisfactory

West Midlands Police - No objection subject to safeguarding conditions.

Centro - No objection subject to safeguarding conditions.

District Valuer- The proposed residential development scheme is marginally viable with payment of contributions for Affordable Housing, Urban Open Space, Healthcare, Public Art and Education in full at the date of this report, taking into account an Alternative Use Value, which is based on B2 (General Industrial) and B8 (Storage and Distribution), with an allowance for developers profit based on 12.5% gross development value for open market housing and 8% for the affordable housing.

The residual value appraisal (£2,699,343) excludes allowances for Code 3 Sustainable Homes. Should these costs be payable, then this would reduce the residual land value further.

Barratt Homes have confirmed that they have not obtained grant funding for the affordable housing units. The Council should be aware that if grant funding was to be obtained, then the development appraisal should be reassessed.

Barratt Homes submitted residual value appraisal (£4.44million) is based on a slightly different scheme, as provided by their planning consultants and with this figure they are unable to make a profit. In particular, their appraisal is based on Shared Ownership tenure affordable housing units, whereas the Council's revised instructions have confirmed that they require Social Rented and Shared Ownership affordable housing which is what my development appraisal is based on. The Council should be aware that if the proposed affordable housing tenures were to change, then the appraisal should be reassessed.

The DVS has taken into consideration additional construction/abnormal costs and development fees as provided by Barratt Homes. This assessment has been carried out in a period where residential dwelling/residential flat property values are falling and where there are consequential effects on development viability.

It is likely that the current market conditions/downturn in the housing market/economy may change over a reasonable period of time, and the DVS recommends this assessment should be reviewed (*this is not possible as Committee must make a decision based upon the information in this report*), if any planning consent has not been substantially commenced within one year of being granted, or if the development was to be constructed in phases. The local Authority may also wish to consider whether a claw back or overage provision should be applied (*this is outside of the local planning authorities remit*). At the present time, the landowner/ house-builder appears willing to proceed with the proposed development schemes, obviously subject to the Section 106 contributions.

The DVS has had regard to comparable evidence in the surrounding Walsall/West Midlands area. The transactions have been considered adjusting for date, state of the market and location.

The DVS report should not be regarded as valid for a period in excess of three months from the date hereof, nor if the circumstances are altered, without reference to the DVS office.

Representations

3 letters of objection have been received, two from Stafford Road Sports Club, and one letter from a neighbour. The objections are summarised below;

- Loss of views,
- Traffic noise and congestion,
- Will Bell Lane be widened towards to our property?
- Anti social behaviour,
- Elderly people don't feel safe in their homes,
- Proximity of dwellings to Bloxwich Cricket Club Ground and Sports Club (which is licensed for the sale of alcohol and live and recorded music and dancing) could give rise to complaints and constrain club activities,
- Sports standard protective screening 9metres high relating to the sports activity should be provided to stop cricket balls with palisade fencing for security.
- Plans incorrectly refer to club site as part of King George 5th pitches on King George 5th playing fields (*officers have visited the site and surrounding to ascertain the context*)

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Principle of residential development
- Layout and Design
- Access and Parking
- Impact on the Conservation Area
- Impact on Neighbouring Properties
- Impact on trees
- Education/Urban Open Space/Healthcare/Public Art/Affordable Housing provision

Observations

Principle of residential development

The application site was an employment site and not within a Core Employment Area within the UDP. Bloxwich Engineering Ltd established new premises within the local area (Fryers Road, Bloxwich). The loss of the site from employment use to residential was considered acceptable at the 24/04/07 committee. The use is more compatible with the surrounding properties which are predominantly residential in character than the then existing industrial buildings. Overall it is considered that the principle of

residential development of this site is the more effective use of previously developed land in an established urban area which is welcomed in principle in accordance with policies GP1, GP2, ENV14 and H3 of the UDP.

Layout and Design

The key principles of the design and layout are to create an active frontage to Bell Lane, provide an appropriate scale and character to the surrounding area, provide active frontages to the surrounding park and sports ground, create a pedestrian link to the park from the site, protect the tree belts around the perimeter of the site, create a communal focal point within the site, clearly define public and private spaces and create a safe and secure environment. This closely reflects the previously approved scheme at the site.

The proposal includes a continuous built frontage along Bell Lane which enhances the street scene creating an active edge. Two houses either side of the access are 3 storeys high framing the entrance creating a sense of place at the entrance of the development. These buildings have been designed to turn the corner into the site for added surveillance. Immediately at the rear of these properties there are parking courts enclosed by buildings or gated accesses providing a secure dedicated parking area for residents.

The main street continues with a built frontage, defining the public and private space with further housing focussed around a central open space. This central square of open space will form a focal point for the development and it is proposed to install a public art feature in the form of a commemorative plinth to the former industrial premises. Dwellings facing King George V Playing Fields and the Sports Club taking advantage of the outlook and improve surveillance to these areas.

The elevations have been designed in a traditional manner in order to respect the character of the Conservation Area. Each of the dwellings has a private rear garden. The mix of terraced, semi-detached and detached properties on the Bell Lane frontage (Plots 1-15 and 95-108) have garden areas of 39.7sqm to 86.94sqm and garden lengths 6.8 metres to 11.6 metres. The rest of the houses (plots 16 to 94) including 1 bed to 4 bed houses have garden areas of 36.19sqm to 194.21sqm with garden lengths between 4.5 to 14.1metres. It is considered that the benefit of living in close proximity to local parks and the incorporation of the central square will offer compensatory amenity for the houses that do not fully meet the Council's SPD annex E standards and therefore does not warrant a refusal of the planning application in this instance.

Impact on the Conservation Area

The development creates a strong built frontage to Bell Lane and improves on the character and appearance of the Conservation Area. This frontage has been dominated by the parking areas of Bloxwich Engineering with the buildings set back from the highway. The new dwellings are of an appropriate design and character and reflect the character of dwellings in the locality.

Access and Parking

The proposal has a central access into the site from Bell Lane with a proposed "ghost island" right turning facility into the site when approaching from Bloxwich town centre. Bell Lane will be marginally widened to accommodate the ghost island and this will be accommodated by shaving some land off the development site. Roads branch off the central access and the proposal incorporates a combination of shared surface accesses and private driveways to reduce the visual impact of the roads throughout the site. Parking is provided in the form of courtyards, driveways and garaging. The majority of the properties have two off road spaces, including 18 of the four bedroom houses. Five of the four bedroom houses have three or more spaces. Whilst there is a small short fall in off road parking for the largest of the properties compared to the UDP policy, it is considered the site location is a sustainable location and the level of parking is acceptable in this instance. Transportation, consider the submitted layout to be acceptable subject to safeguarding conditions which are in the recommendation.

Centro have asked that the developer fund a bus stop near to the site for by the 560 bus. However, as the district centre boundary is only 5 metres from the entrance of the application site, Bloxwich primary shopping area is within 230metres and a range of bus stops within the district centre are only 250metres of the entrance of the site, it is considered the request for the bus stop would be unreasonable in this instance given the sustainable location of the development. The UDP policy T12 requires a walking distance to be no more than 400metres to a bus stop which the development is well within.

Centro have also asked for secure cycle storage at the site, however, as the development is houses, each with their own private gardens and a large portion with their own garages, it is considered that in this instance a condition requiring cycle storage would be unreasonable. Centro have also asked for pedestrian routes to public transport routes. The layout achieves this.

Impact on Neighbouring Properties

The proposed layout respects separation distances between existing properties surrounding the site and it is considered that residential development will be more compatible with surrounding properties than the existing industrial premises as it offers an improved outlook, improved surveillance of the adjacent playing fields and the provision of high quality buildings.

The Sports Club has objected on the grounds that the proposed dwellings are in close proximity to their premises are likely to be incompatible with club activities and the adjacent cricket ground. However, there is a proposed road way in front of the new dwellings providing separation from the cricket ground, some proposed planting, 1.8 metre high railings for security and an 8 metre high net which would reduce the potential for stray balls to damage properties. The applicants have agreed to provide the fencing and planting and can be delivered via a suitable condition.

The submitted noise assessment concludes that potential noise from the social club premises would have little impact upon the development recommending a 2 metre acoustic fence be installed to the boundary with the club on plot 52 (can be secured through a condition) and recommends noise mitigation measures (windows) should be provided on those properties fronting Bell Lane which would be subject to traffic noise.

Impact on trees

The position of the proposed dwellings allows adequate separation to the boundaries of the site to ensure acceptable impacts on these trees. A condition for root protection areas to be marked out is also recommended. There will be the loss of a few trees within the site but it is considered that the proposed replacement planting throughout the site will compensate for this.

Affordable Housing, Urban Open Space, Healthcare, Public Art and Education Provision

The applicant has submitted a financial appraisal stating that they could not fully cover the costs of the development and the S106 contributions for Affordable Housing, Urban Open Space, Healthcare, Public Art and Education. The Council's section 106 contributions are based upon our up to date supplementary planning documents and include the following contributions; 25% of the development to be affordable housing (27units) spread across the mix of property sizes/types on the development of which 75% social rent and 25% shared ownership. In addition there is a requirement for an Urban Open Space contribution of £220,570.00, a healthcare contribution of £123,744.60, a public art contribution of £37,800.00 and the because level of surplus places in local secondary schools is below 10%, a contribution of £239,533.65 is required towards secondary school provision within the local area, providing a total financial contribution payable of £621,648.25.

The District Valuer has assessed Barratt's appraisal and is of the opinion that the proposed residential development scheme is marginally viable at the date of this report taking into account the Council's section 106 contributions, and an Alternative Use Value, which as B2 (General Industrial) and B8 (Storage and Distribution).

At the time of preparing this report, Barratt's had confirmed they would not be making any financial contributions towards the Section 106 requirements, despite their figures submitted to the District Valuer which shows sufficient residual value to do so. Barratt's confirm that they understand the DVS approach is to consider current values and alternative uses. Barratt's assert that they are a business and they paid eight million pounds for the land at the height of the market. Barratt's appraisal states they currently value the land at £4.4 million. The DVS has confirmed to officers that the approach they are taking to assess this case is borne out of recent appeal and secretary of state decisions around the country, that financial assessments of development must be based on current market conditions and not historic costs. The DVS has valued the land currently at £2.6 million, comparing residential value and

alternative uses value (Industrial). Barratt's also disputes the DVS's external works figure which is generalised and whilst Barratt's states their figure is based on actual measurements. The DVS has asked Barratt's to provide further information regarding their external works figure (bricks, roof materials, external finishes), but this has not yet been received by the DVS. Any further information received will be presented at the Committee meeting. There are further disagreements between the DVS and Barratt's over, holding costs since acquiring the site. The DVS has asked Barratt's to provide further information regarding holding costs figure incurred whilst the land remains undeveloped, but this has not yet been received by the DVS. Any further information received will be presented at the Committee meeting. Barratt's are also disputing the different affordable housing tenure that has gone into the DVS appraisal. The affordable housing tenure that officers have asked the DVS to consider is based on the Council's up to date Affordable Housing SPD. Barratt's affordable housing offer was based on their historic permission prior to the adoption of the current SPD. Barratt's are reviewing their position and further advice will be presented at the Committee meeting in the supplementary paper.

Officers recognise the difficult market conditions for developers and the importance of securing inward investment into the borough and bringing vacant sites back to full use.

In the absence of any offer of financial contributions, contrary to the DVS advice that the residual value should enable the contributions for affordable housing, urban open space, healthcare, public art and education to be fully met whilst still providing the developer a reasonable (in current market conditions) profit, officers are unable to support the application and recommend refusal.

Recommendation: Refuse

The proposed development would, in the absence of appropriate financial contributions or other arrangements, result in unacceptable demand on limited educational capacity, access to community healthcare facilities, public open space provision in the locality and would also fail to meet important affordable housing requirements and the provision of public art. As such the proposal is contrary to Walsall's Unitary Development Plan (2005) in particular policies GP3, 8.8, 8.9, H4 and LC1 and the Supplementary Planning Documents relating to Education, Healthcare, Urban Open Space, Designing Walsall and Affordable Housing.



ITEM NO: 2.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

**REASON FOR BRINGING TO COMMITTEE: Major application with
significant community interest and called in by Councillor Aftab**

Application Number: 09/1629/FL
Application Type: Full application

Case Officer: Alison Deakin
Telephone Number: 01922
652487

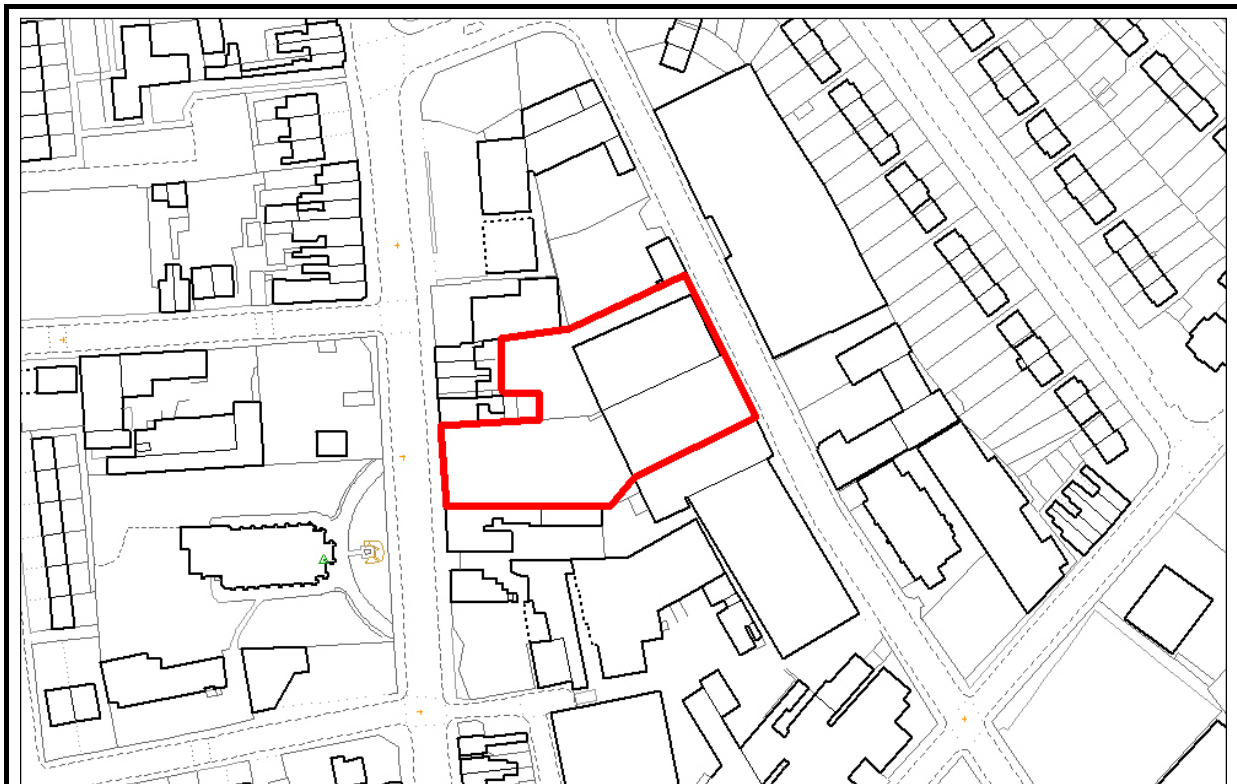
Applicant: Mr Zahid Malik
Proposal: Change of Use of premises
to banqueting and conferencing facility
and alteration to front elevation

Agent: ZS Partnership Ltd
Location: 150 Stafford Street,
Walsall, WS2 8EA

Ward: Blakenall

Expired: 03/03/2010

Recommendation Summary: Refuse



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Background

This application was called in by Councillor Aftab because he considers that there is a real need in the local community for this facility.

Application and Site Details

The proposal is for change of use of existing industrial premises at units 4-7 Phoenix Business Park, 150 Stafford Street to create a banqueting and conference facility. Alterations to the elevations of the building are proposed including new entrance doors and canopy to replace rollers shutters on the front elevation, new double doors on the side elevation and additional windows to serve the proposed bridal room, kitchen and cold room in the rear elevation of the building facing Marlow Street. The proposal is to accommodate 500 people in a large function room. A lobby, office, prayer room and toilets are located at the front of the building. The layout shows 58 car parking spaces (including 3 disabled spaces) within the site as a whole. Hours of use are to be 10.00 am until 11.30 pm including Saturdays, Sundays and bank holidays. Fourteen full time and three part-time staff are anticipated to be employed at the premises.

The floor space of the building is 1292 sq m.

The units are located at the rear of three storey buildings on Stafford Street and are approached via a gated access between 146 and 154 Stafford Street. Unit 4 is used for car body repairs, unit 5 is vacant, unit 6 is used for sandwich distribution and unit 7 as building suppliers distribution centre. The remainder of the units on this estate are occupied for car repair and vehicle related uses. The rear elevation of the units front Marlow Street. This is a mixed commercial/residential area as there are other industrial units in Marlow Street at the rear, shops and commercial premises with living accommodation above along Stafford Street, a timber yard and church opposite and residential properties beyond these areas.

The Design & Access Statement specifies the premises would be used primarily for Asian wedding functions at weekends and other conferences and functions during the week. Catering would be carried out on site and appropriate kitchen and extract ventilation equipment will be required. The statement also discusses alternative sites considered by the applicant and sustainability of the site. It concludes that the site is sufficiently distanced from residential dwellings so as to avoid problems of noise and disturbance, the site is close to a local centre and therefore sustainable and accessible and sufficient parking can be provided within a secure environment.

The Sequential Analysis assesses the proposals against retailing and centres policies within the UDP. It concludes that there is no property more appropriate and available in or closer to a centre.

The Policy Statement on the Employment Site discusses the loss of industrial space and loss of some employment but highlights the opportunity to assist in regeneration of the area and a potential knock on effect creating new related

businesses and thus increasing employment opportunities as part of the modernisation of employment areas. The Council has already accepted changes of use from employment to Class D2 (assembly and leisure) in the vicinity of the application site at Marlow Street.

Relevant Planning History

07/2423/FL/W7 – Retrospective: Alteration of existing workshop buildings to units 2-7 inclusive by adding division walls and roller shutters – Granted subject to conditions 20/12/07

Nearby

09/0878/FL – Units 1 & 2 Marlow Street – change of use of unit 1 to leisure use (D2) – gymnastics and related sport unit and retention of unit 2 as storage & distribution (B8) – Granted subject to conditions 11/09/09. The floor space was 520 sq m and the unit had been vacant since October 2008.

Relevant Planning Policy Summary (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Unitary Development Plan (UDP)

GP1: Supports the sustainable location of development.

2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP6: Requires community facilities to provide good access for disabled people.

4.5: Employment areas (which are not included in Core Employment Areas or are best quality sites) should retain their overall industrial character, subject to Policy JP7.

JP7: Defines the uses suitable to employment areas. Assembly & Leisure (D2) uses are not acceptable unless a purely local need can be demonstrated.

3.7 & ENV10: Seeks to protect people from unacceptable noise, pollution and other environmental problems.

3.6 & ENV32: states proposals should seek to improve the environment and designed development which fails to take into account the context or surroundings will not be permitted.

S1: Defines Class D2 uses which attract a significant number of trips as town centre uses.

S6: Outside identified centre, existing local shopping, service, leisure, community and other facilities – in the form of shopping parades, clusters, single shops etc will be encouraged to continue to meet day to day needs of the community.

S7: Town centre uses in out-of-centre or edge-of-centre locations must demonstrate a need for the facility, apply the sequential tests, have no adverse impact upon the vitality and viability of existing centres, sustainable location, have no adverse impact upon traffic etc.

7.1: Seeks to promote an efficient highway network;
T7: All development should satisfy the car parking standards set out in Policy T13. All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment.
T10: Highlights the needs for accessibility by public transport, cycles, taxis and disabled car parking. Standards for non-residential parking are maximum ones. Exemptions may apply for edge-of-centre developments.
T12: Identifies accessibility standards for public transport.
T13: car parking standards
Cinemas & Conference facilities: 1 space per 5 seats, 1 bike stand for every 10 car parking spaces with a minimum of 2 bike stands plus taxi facilities.
Other buildings for public assembly and food and drink: 1 space per 22sq m, 1 bike stand for every 10 car park spaces with a minimum of 2 bike stands plus taxi facilities.

Supplementary Planning Document (SPD)

Designing Walsall SPD

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DW10 – new development should make a positive contribution to creating a sustainable environment.

Regional Spatial Strategy for the West Midlands (RSS)

Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

National Policy

PPS1 Delivering Sustainable Development: Promotes sustainable and inclusive patterns of urban and rural development.

PPG13 Transport: Seeks to minimise the use of the car by the sustainable location of development.

PPS4: Planning for Economic Growth (supersedes PPS6: Planning for Town Centres): Seeks to achieve sustainable economic growth including public and community uses. New economic growth and development of main town centre uses should be focused in existing centres.

PPG 24 Planning & Noise: The planning system should not place unjustifiable objects in the way of development which creates jobs and infrastructure, but

must ensure that it does not cause an unacceptable degree of disturbance. Noise-sensitive development should not normally be permitted where high levels of noise will continue throughout the night, especially during the hours when people are normally sleeping (23.00 to 07.00).

Consultations

Transportation – Objects. The proposed hours of operation, 10.00am to 11.30pm, 7 days per week would clash during the normal working week with the operation of the remaining businesses operating from Units 2 and 3. Whilst the applicant has stated that it is unlikely that a large function of 500 persons would be held during the working week, this cannot be precluded or controlled. Consideration has to be given to the potential impact based upon worst case scenario but it is likely that any large function would be detrimental to the satisfactory operation of both the proposed use and remaining uses on the site and to safe vehicle and pedestrian movements with the site as a whole during the working week.

A revised car parking layout has been provided increasing the number of parking spaces from 51 to 58. However, a number are inadequately designed. Therefore of the 58 spaces proposed only 47 are practical.

The applicant proposes 7 spaces dedicated for the use of the retained Units 2 & 3. Policy T13 requires a maximum of 18 spaces for Units 2 and 3 based upon their ground floor area 7 spaces is considerably below this level.

The proposed development has a gross floor area of approximately 1328 sqm and as such requires a Transport Statement to support the application in accordance with Government Guidance on Transport Assessments.

There are an insufficient number of car parking spaces allocated to disabled users. Policy T13 requires 10% of spaces to be reserved for disabled users, this would be 5 spaces. The applicant has demonstrated 3 spaces, one of which is too remote from the building entrance. The level of disabled parking is 2 spaces below the required number.

The proposed porch extends 3 metres in front of the building and is likely to adversely affect vehicle manoeuvring space to the adjacent retained industrial units and is therefore detrimental to the satisfactory operation of the units. In addition, the pole roof supports could be vulnerable to accidental collision by commercial vehicles operating from the adjacent units which would be unacceptable and detrimental to the safe operation of the development.

The applicant has failed to provide details of proposed cycle store, which should be secure, covered and illuminated.

The existing site has a maximum requirement of 63 spaces though there are only 53 spaces at present. The proposed development has a

maximum requirement of 79 spaces and the proposal is to provide 58 spaces (11 of which are impractical). The applicant has suggested that further parking could be accommodated by controlled double parking within the main access aisle. However, in practice this could only operate outside normal workings hours when the two industrial units are closed.

Although, the site is on the edge of the Stafford Street Local Centre and has access to frequent bus services, no information has been provided on the maximum number of customers expected to use the site and what mode of transport they would be utilising. The level of parking is therefore inadequate to serve the proposed development and retained units.

The main vehicle access to the development will be via the existing gated access off Stafford Street which is satisfactory with a secondary access off Marlow Street.

Pollution Control (Contaminated Land) – No objections.

Pollution Control (Scientific Team) – No objections but consult environmental health.

Planning Policy - The site is located approximately 50 metres north of Stafford Street local centre not within “Birchills Leamore local centre” as stated in the supporting information.

The application site is in an employment area. Policy JP7(c) states that assembly and leisure (D2) uses will not normally be permitted unless a purely local need can be demonstrated in accordance with policy S6.

Walsall Town Hall offers similar facilities to those proposed in the application. Furthermore, significant wedding hall/banqueting facilities under planning permission 07/0377/FL and 08/1143/FL (plus an extension under 09/0442/FL) have been approved on Pleck Road opposite Manor Hospital and on Midland Road respectively. The total floorspace of these permitted developments total 3,072sqm and together they could hold approximately 1,848 people. In the circumstances there is no local need for a further banqueting and conference facility and the proposal is contrary to policies JP7(c) and S6.

The proposal would restrict the number of parking spaces currently available to the adjoining units and could have a significant adverse impact on the viability of the neighbouring units contrary to policy GP1(c). There is no explanation of what would happen to the existing businesses if planning permission was granted. The potential loss of jobs is an important consideration.

As the application site is in an edge-of-centre location policy S7 applies and PPS4 should also be considered. In terms of the sequential test, Walsall Town Centre is the most appropriate location due to the scale of the

proposals, the potential catchment area and because the strategies target Walsall Town Centre for investment. PPS4 and policy S7 require a flexible approach to site selection. The applicant considers the alternative sites are not suitable or viable for a banqueting and conference facility. However, the policy view is that the investment proposed could be accommodated at various sites within Walsall Town Centre.

PPS4 paragraph EC16.1 states that the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal should be assessed. The applicant has not assessed the impact of the proposal on similar completed facilities and commitments in Walsall Town Centre. Although there is no longer a separate need test when assessing out-of-centre proposals for town centre uses, need is still an important factor in determining the impact of a proposal. The applicant has failed to demonstrate need and the proposal would have a significant adverse impact on investment in existing and permitted assembly and leisure facilities in Walsall Town Centre.

EC16.1e states that edge-of-centre proposals should be assessed as to "...whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres." The size of the proposed facility is 1,292sqm which is inappropriate bearing in mind the size and role of Stafford Street local centre.

There is only one bus service that carries on into the late evening beyond the proposed closing times therefore; the bus services are unlikely to satisfy the needs of staff and people visiting the site. On this basis, the proposal does not comply with the tests in policy S7(a) v and vi, as well as policies T10 and T12. Policy S7(d) also states that the proposal must not conflict with policies for the protection of employment land .

Environmental Health – Objects. The property is located in a block of units currently occupied by light industry and motor repair. The nearest residential property is approximately 50 metres from the proposed development.

There is insufficient detail to comment on the internal layout of the kitchen: The plans appear to only show a single sink unit with a drainer. No consideration has been given to the washing of food, cleaning of equipment and utensils, washing hands or toilet facilities for kitchen staff. The large-scale cooking of food for wedding parties is likely to cause the escape of fat, oil and grease into the drainage system; it is therefore necessary that a grease trap is installed to prevent blockages of the drainage system.

No details of odour control for the kitchen have been submitted with the application. A minimum requirement for the odour arrestment plant is required in accordance with DEFRA guidance. Maintenance of such equipment is also required and must be carried out to ensure these performance levels are always achieved.

Measures to mitigate noise have not been submitted with the application. The development would be used for restaurant and banqueting facilities, including wedding parties. Entertainment will consist of electronic amplified music and acoustic equipment such as drums. Noise limiters will not control acoustic equipment and noise emanating from the activities will rely on the insulation properties of the structure. Such entertainment noise would be created during the day, evening and into the early hours of the morning. Experience of similar events has revealed loud noise evident at several hundred meters distance. The nearest residential premises are in Hall Street, Croft Street and Marlow Street, the nearest being just approximately 50 metres away.

Other noise may include;

- plant / equipment such as fans or air conditioning units,
- delivery vehicles,
- coaches/taxis dropping patrons to the venue, and
- Patrons themselves entering and leaving the venue.

Noise amounting to a nuisance may be generated which would affect nearby residents, particularly during the evening and weekend when people expect to be able to enjoy their homes in relative peace and quiet. As there are no details to mitigate odour and noise nuisance it is recommended that this application is refused.

Equality & Diversity – The applicant has not demonstrated how all areas within the building will be accessible, including the stage area/bridal room, how an accessible WC is achieved and number of toilets.

Fire Service – No objections.

Public Participation Responses

One letter of objection received from the occupier of unit 2 which is summarised as follows: -

- Availability of parking space for existing and proposed users
- Highway hazard from traffic entering/exiting the site
- Conflict of traffic from the site and church opposite

Nine individual letters of support and a petition with 391 signatures in support of the proposals have also been received summarised as follows: -

- community will benefit from the facility
- businesses will benefit – positive investment benefits
- no similar service available locally
- good location central to Walsall
- nearest facility in Birmingham means users having to travel distances
- ample off-street parking

- benefits would outweigh any potential objections

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Principle of use involving loss of employment site
- Need for the facility
- Relationship with surrounding properties
- Odour and Noise
- Access and Parking

Observations

Principle of use involving loss of employment site

Policy JP7(c) states that assembly and leisure (D2) uses will not normally be permitted in employment areas unless a purely local need can be demonstrated in accordance with policy S6. There are other suitable sites in Walsall town centre that can accommodate the proposed facilities such as Walsall Town Hall and approved venues at Pleck Road and Midland Road which have a combined floor space of over 3000 sq m accommodating approximately 1800 people. The proposal provides 1292 sq m catering for up to 500 people which is considered inappropriate in scale given the size and role of Stafford Street local centre and the fact that there are existing venues that can accommodate this scale of banqueting/conference facilities in an established town centre location. The proposals would serve more than a local need for the facility and in the circumstances the loss of this employment site is not justified. The proposals are therefore contrary to policies GP1, JP7 and S6. Although permission was granted for change of use of an industrial unit in Marlow Street to a gymnastics centre this was only 500 sq m floor space therefore not the same scale as the current proposals. The unit was also vacant at the time. The gymnastics centre was considered to serve only a local need unlike the proposed conference/banqueting centre that would serve more than a local need.

It would appear that the proposals result in an increase in employment opportunities on the site as the applicant states that 10 full time equivalent jobs will be created as opposed to 5 currently employed at the premises. The supporting information and representations from third parties state that the creation of a banqueting/conference centre in this location will enhance opportunities for expansion of other businesses in the area and offer investment benefits. No evidence is provided to support this. Nevertheless, the development of a town centre use in an employment area at edge-of-centre is contrary to the above policies and also policy S7.

Need for the facility

The applicant and supporters suggest there is a community need for this facility and that there is no similar facility available locally. However, there are

facilities in Walsall town centre capable of providing similar accommodation and catering for the numbers of visitors anticipated at the application site. In terms of the sequential tests the site is at the edge of a local centre but a development of a facility of this size and scale are more appropriate within a town centre. The site, whilst accessible by bus is not as accessible by alternative means of transport as Walsall town centre and therefore fails the sequential test.

Relationship with surrounding properties

In addition to the houses to the north-west there are flats above the shops on Stafford Street that directly overlook the site and residential properties in Hall Street, Croft Street and Marlow Street nearby (the nearest being about 50 metres away). Although the flats overlook the existing external storage the proposals would intensify use of the car park in this area and more noise could be generated from this. It is likely that evening and weekend functions held at the premises would disturb occupiers in terms of noise from patrons and vehicles coming and going outside the premises, particularly as noise generated during the evening and weekend is when people expect to be able to enjoy their homes in relative peace and quiet. The proposal is therefore detrimental to residential amenities contrary to policies GP2 and ENV32.

The changes to the elevations of the building are relatively minor and would not adversely affect the outlook from the nearby flats on Stafford Road.

Odour and Noise

The proposals include provision of a kitchen as catering for parties at the premises is proposed. However, there is inadequate information to demonstrate how escape of fat, oil and grease from cooking of food will be treated in order to protect the drainage systems. No details of odour control from the kitchen have been supplied or measures to mitigate noise from the premises. Odour arrestment plant should be installed and maintained to ensure performance levels are achieved. The potential for cooking odours to be emitted from the premises could adversely affect residential amenities of nearby occupiers. Provision of such equipment could be required by submission of details for prior approval.

As the proposed use includes banqueting facilities for wedding parties it is likely that entertainment will include use of electronic amplified music or acoustic equipment such as drums. Noise emanating from the premises will rely on insulation properties of the building of which no details have been provided. Such noise could include amplification or acoustic equipment, plant and equipment such as fans on air conditioning units, delivery vehicles, coaches dropping off at the venue, and patrons entering and leaving the venue. It is therefore likely that noise from the premises throughout the day, evening and into the early hours of the morning would be audible at several hundred metres distant which is within range of the nearby residential properties in Stafford Street, Hall Street, Marlow Street and Croft Street.

In the absence of details of drainage or measures to mitigate odour and noise nuisance the proposals would have an adverse effect upon residential amenities of nearby occupiers, particularly in the evenings and at weekends when they would expect to enjoy peace and quiet.

Access and Parking

The proposed means of access to the site is via the existing gated entrance. The level of visibility at this access is acceptable in highway terms therefore despite third party concern regarding a potential highway hazard from traffic entering and exiting the site or conflict with traffic on Stafford Street, the design of the access is safe.

The proposal includes 58 off-street parking spaces within the site to serve the existing industrial units and proposed banqueting/conference centre. However, of these 58 spaces only 47 are usable due to inadequacies. Policy T13 requires provision of 79 spaces; hence the proposals are unacceptable as they are 32 spaces short, well below the required standard. There is therefore not ample off-street parking available as suggested by supporters of the proposals. The inadequacy of parking spaces for existing and proposed users has also been raised by a third party objector. There is also inadequate provision of disabled spaces as only 3 are proposed whereas 5 are required. The equality and diversity officer is also concerned that the building is not fully accessible by disabled persons.

Given the proposed hours of use and inadequacies in the parking provision (both in terms of numbers and layout) the proposals are likely to result in conflict between existing and proposed users of the site including pedestrian and vehicle movements. The position of the porch would also impede access for vehicle manoeuvring to adjacent retained industrial units. This would have an unacceptable and detrimental to the safe operation of the development. The lack of parking provision is also likely to result in indiscriminate on-street parking on Stafford Street which is detrimental to the safety and free flow of traffic, particularly during normal working days.

The size of the development which involves a gross floor area of approximately 1328 sq m requires a Transport Statement providing information such as trip generation, types of trips etc. in order to assess the impact of the proposals on the local highway network fully. No information has been provided in this respect.

Recommendation: Refuse

1. The size and scale of the proposal would provide for greater than a local need as it would serve a wider catchment and therefore there is a failure to demonstrate a purely local need for the banqueting and conference facility in this employment area at the edge of Stafford Street local centre. The proposal is therefore contrary to policies GP1, JP7(c), S6 and S7 of Walsall Unitary Development Plan and Planning Policy Statement 4: Planning for Economic Growth.

2. The proposed development would result in conflict between deliveries, parking and servicing of the proposed banqueting/conference centre and remaining industrial units within the site due to the insufficient parking levels, insufficient disabled parking spaces, restricted manoeuvring space available during the proposed hours of operation which conflict with each other and would be detrimental to the safe operation of the site and highway safety. There is also insufficient information to demonstrate that cycle storage provision is adequate to serve the development or that the facility will be fully accessible by disabled people. The proposal is therefore contrary to policies GP2, GP6, ENV32, T1, T7, T11 and T13 of Walsall Unitary Development Plan.

3. The applicant has failed to provide a Transport Statement to demonstrate existing and proposed trip generation, types of trips, measures to reduce trips etc across all modes, in order that a full assessment of the impact of the proposed development on the local highway networks can be made. The proposals are therefore contrary to policy T4 of Walsall Unitary Development Plan and inconsistent with published Government Guidance for Transport Assessments.

4. Insufficient information has been provided to demonstrate how drainage, cooking odours or noise nuisance from the premises will be mitigated. No details have been provided regarding drainage systems to trap grease, odour control equipment or noise mitigation from amplified music or acoustic equipment. The proposals are therefore likely to have an unacceptable adverse effect upon the surrounding environment and upon the residential amenities of nearby occupiers contrary to policies GP2, 3.6, 3.7, ENV10 and ENV32 of Walsall Unitary Development Plan.

5. During the day, evenings and early mornings, plant and equipment, delivery vehicles, coaches and general comings and goings of patrons entering and leaving the site on foot or in vehicles are likely to have an unacceptable adverse effect upon the surrounding environment and upon the residential amenities of nearby occupiers contrary to policies GP2, 3.6, 3.7, ENV10 and ENV32 of Walsall Unitary Development Plan.



ITEM NO: 3.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

REASON FOR BRINGING TO COMMITTEE: Major application

Application Number: 09/1823/FL
Application Type: Waste Application

Case Officer: Paul Hinton
Telephone Number: 01922
652420

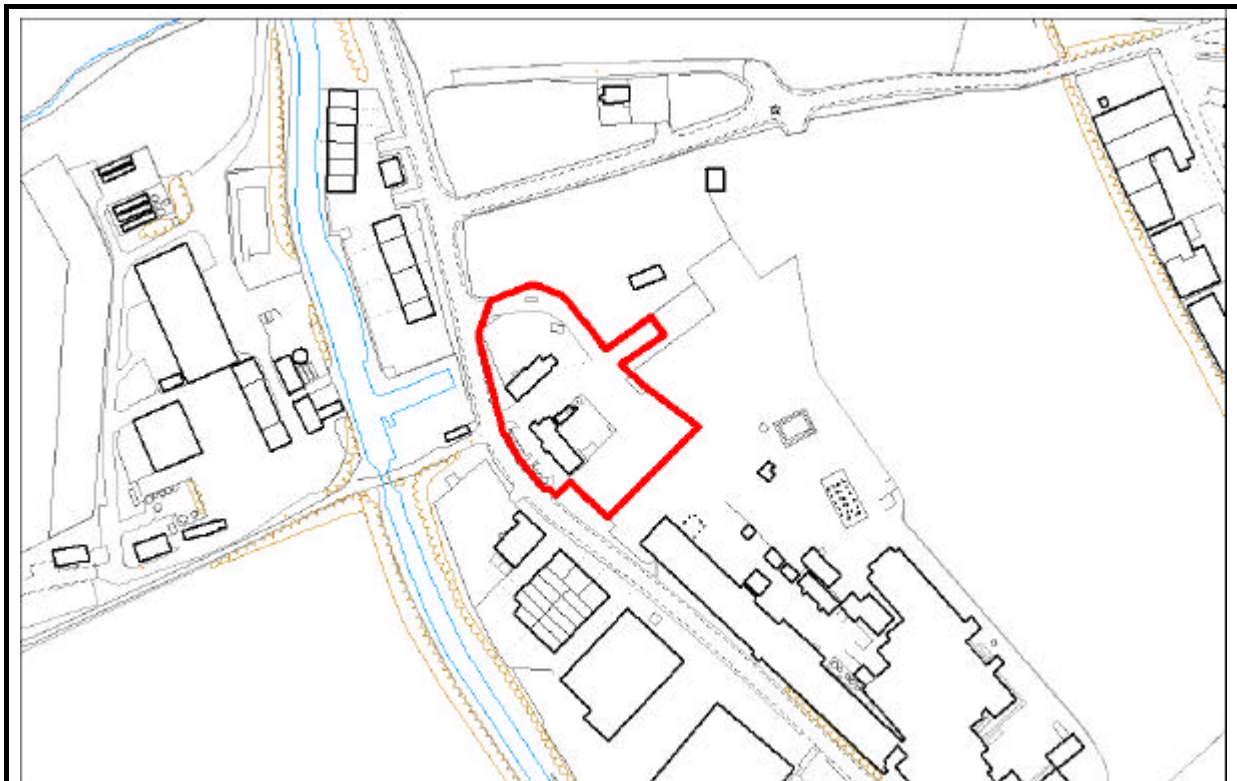
Applicant: Interserve Site Services
Proposal: Proposed materials recycling
facility

Agent: GHA Livigunn
Location: Adjacent to Ibstock
Brick, Brickyard Road, Aldridge,
Walsall

Ward: Aldridge/Central & South

Expired: 23/03/2010

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

This application seeks planning permission for the development of a Materials Recycling Facility (MRF) which includes the erection of a material reception building and an ancillary office and welfare facilities, material storage bays, materials sorting equipment, parking, weighbridge, vehicle wash and fuel tank.

The application site was formally part of Ibstock Brick (offices, staff car park and open storage to the rear). The offices have been demolished and the site fenced off from the brickworks next door. The application site is currently being used for storage of articulated lorry trailers and plant. To the north boundary is an open air waste transfer site which deals with non-hazardous inert materials which are crushed into aggregates. At the rear of the site is a former clay pit which has been restored and opposite the site is the entrance to Aldridge Marina. The site is located at the north edge of the industrial estate which includes land designated as core employment. For purposes of the UDP, the site is considered to fall within the category of other employment land.

The company who would operate from the site, Interserve, have a current waste transfer site further along Brickyard Road, the proposal is a replacement for this facility. The MRF is to accept non-hazardous household, commercial and industrial wastes. In practical terms this is soils, hardcore, timber, metal, plastics, cardboard, paper, plasterboard, tyres and other solid waste. The annual tonnage would be a maximum of 75,000 tonnes.

The existing access from Brickyard Road would be used for HGVs which would pass over the new weighbridge and deposit materials within the waste reception building which would stand at 28m by 25.8m with roof height of 10.7m. This building is metal clad (finish to be agreed with the LPA) which has its rear elevation open. Materials are sorted within the building through the use of a hopper and trommel and transferred via a conveyor belt into a covered five bay manual picking station (15m by 4m at a height of 5.5m) with the final product deposited into an enclosed bay which will be stored on site for onward sale. There will be skips stored on site to a maximum height of 2.5m. The main yard will be concrete and used for open storage of sorted material to a maximum height of 3m. A 2.4m concrete wall is proposed to enclose the yard from the view of the users of Brickyard Road.

An office building is proposed to the front of the site just behind the staff car park. This is the existing car park including a one way route with separate in and out accesses. The office block would be 28m by 5.5m with a pitch roof to a maximum height of 6m. The office would be brick or rendered block (to be agreed with the LPA) and tile roof.

A compound area is proposed which would be used for parking commercial vehicles associated with the use and left on site overnight. The frontage of the compound is a mature group of woodland trees. The applicant proposes to enhance this landscaped area. A fuelling bay of 3m in height is proposed to

the rear of the compound with a vehicle wash with 2m high perspex screen adjacent to the fuelling bay.

A design and access statement and transport statement have been submitted with the application. The transport statement says that commercial vehicles range from 7.5 tonnes to 44 tonnes and will be no more than ten per hour, with five staff vehicle movements morning and night and other occasional visitor movements. The waste transfer operations are proposed to operate between the hours of 07.00 to 18.00 Monday to Friday and 07.00 to 12.00 on Saturdays.

Relevant Planning History

None.

Relevant Planning Policy Summary (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Unitary Development Plan (UDP)

Policy 3.6 development should help to improve the environment of the Borough.

Policy 3.7 the Council will seek to protect people from unacceptable noise, pollution and other environmental problems.

GP2 the council will not permit development that would have an unacceptable adverse impact on the environment.

Policy GP7 Development is expected to design out crime.

Policy ENV10

a) Development of an industry or facility which may cause pollution will only be permitted if it would not:

1. Release pollutants into water, soil or air
2. Cause unacceptable adverse effect in terms of smoke, fumes, gases, dust steam, heat, light, vibration, smell, noise or other polluting emissions
3. Have an unacceptable adverse effect on nearby land uses and/or restrict the types of new development that could be permitted in the locality, or impose special conditions on them.

b) Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

ENV32: Poorly designed development which fails to take account of the context or surroundings will not be permitted.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Seeks conservation and protection of all water resources.

- JP7 a) uses permitted in these identified employment areas include:
- iv. scrap metal dealing, car breaking, recycling of metals and other materials, waste transfer stations and other activities which are unlikely to be acceptable in non-industrial areas, subject to policy JP8.
- b) whilst the above uses are appropriate in principle in these areas, not all uses will necessarily be suitable for all sites and buildings.

- JP8: a) The location of potentially bad neighbour uses will be given very careful consideration taking into account the particular environmental implications of individual proposals, which must satisfy all of the following:
- i. Uses should be within an existing employment area, but not in a core employment area, and should not have a detrimental effect on the environmental quality of employment areas.
 - ii. Uses should not have an adverse, or potentially adverse, environmental impact upon, amongst other facilities for sport and recreation, or other sensitive land uses.
 - iii. Sites should be capable of providing satisfactory screening and landscaping
 - iv. Uses that are unsightly and cannot be screened satisfactorily will not be permitted in prominent or visually sensitive locations
 - v. Sites must be subject to stringent operational control to minimise disturbance to nearby firms or other uses.
 - vi. Proposals should be acceptable in term of Policy GP2

- b) The Council will normally impose conditions on planning permissions covering the following matters:
- i. Height of open storage
 - ii. Location, within the site, of activities with a potentially adverse impact
 - iii. Hours of operation
 - iv. Boundary treatment
 - v. Proper demarcation of areas for parking, loading and manoeuvring which shall be kept clear of stored material

Policy 9.9 – The Council will endeavour to maintain the Metropolitan area’s contribution towards meeting the regional demand for aggregates and the role that recycled and waste materials can play in helping to meet aggregates needs.

Policy 10.4 – The Council will work towards the targets for waste minimisation and the recycling and reuse of materials.

Policy 10.7 – The Council will give particular attention to safeguarding the environment and protecting amenities of local residents, taking into account

the proximity of the site to existing or proposed housing or other sensitive uses.

Policy WM1

- a) Proposals for waste management facilities, including recycling sites, local transfer stations will be permitted if:
- i. The proposal can be demonstrated to be the best practicable environmental option for the achievement of the Council's strategy for waste management, and
 - ii. There will be no unacceptable adverse impact on the environment, amenities or health of the area
- b) Wherever reasonably practicable, waste management activities other than landfill should be contained within buildings rather than carried out in the open air

Supplementary Planning Document (SPD)

Designing Walsall SPD

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process. It identifies eight key urban design principles for consideration including sustainability, safe and welcoming places, character, continuity, ease of movement, legibility, diversity and adaptability. Local Character Guidance is also included, plus Public Art Guidelines.

Regional Spatial Strategy / Core Strategy

Policy WD3 – guides the location and siting of waste treatment and recycling facilities to appropriate locations, having regard to the proximity principle and other environmental and amenity principles as identified elsewhere in this guidance.

National Policy

Planning Policy Statement 10: Planning for Sustainable Waste Management: Waste planning authorities should concern themselves with implementing the planning strategy in the development plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should focus on whether development is an acceptable use on the land, and the impacts of those uses on the development and use of the land. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced and it should not be necessary to use planning conditions to control the pollution aspects of a waste management facility where the facility requires a permit from the pollution control authority.

PPS23 Planning and Pollution Control: Seeks to control the effects of pollution.

Planning Policy Guidance Note 24: Planning and Noise, the planning system should not place unjustifiable objects in the way of development which creates jobs and infrastructure, but must ensure that it does not cause an unacceptable degree of disturbance.

Consultations

Transportation – no objection subject to the use of recommended conditions in regards to surfacing, retention of visibility splays and details for the proposed cycle shelter.

Pollution Control (Scientific Team) – no objection subject to the use of recommended conditions relating to hours of operation to ensure local residents are protected.

Pollution Control (Contaminated Land) – no objection. Due to the number of former landfills within close proximity that may impact upon the development, it is felt necessary that conditions should be attached to any approval, to ensure the safety of the site once brought into use.

Environment Agency – no objection. The proposal will require an Environmental Permit from the Environment Agency. The environmental permit will manage all potential risks that may arise as a result of this development.

Environmental Health – no objection.

Landscape – no objection subject to the submission of a detailed landscape scheme.

Tree Officer – no objection.

Severn Trent – no objection subject to the use of a condition requiring details of drainage plans.

Police Architectural Liaison Officer – no objection. Due to its isolation serious consideration should be given to the security of the site.

Fire Services – no objection.

Public Participation Responses

None.

Determining Issues

- Principle of use
- Impact upon amenity
- Impact upon highway safety

- Sustainable waste management
- Community safety

Observations

Principle of use

The application site is within an industrial area and is defined as other employment land within the UDP. Policy JP7iv states that waste transfer stations are acceptable in other employment areas subject to meeting all the requirements of policy JP8a. Therefore the principle of the use is acceptable providing that the application demonstrates that the use would not have an adverse impact upon other land uses and that it is capable of providing satisfactory screening and landscaping.

Impact upon amenity

There are six tests of policy JP8a which need to be satisfied. The proposal should be in an existing employment area and should not have an effect on the environmental quality of employment areas. The proposal is within an employment area and surrounded by a mix of industrial uses, with an open air screening and crushing use adjacent. The waste will be deposited in the waste reception building, sorting of waste will be contained within the building and then transferred into a covered manual picking station with the final product deposited into an enclosed bay which will be stored on site for onward sale. The yard area will be impermeable concrete with interceptors used on a controlled drainage system. Materials will be stored to a maximum height of 3m which is largely screened by the office building and 2.4m high boundary wall. Due to the nature of materials being stored, in a cone shape, the mass of the storage above the height of the wall would not be considered excessive. However it would be viewed from the public domain, therefore it is recommended that the screen wall is increased in height to 3m which would be in line with the eaves of the office block. This can be secured by condition.

The applicants propose to enhance the existing mature woodland adjacent to the road frontage. Landscape Officers do not object to this but require a full landscape scheme to be submitted. This can be secured by condition. It is therefore considered that the proposal would not have a detrimental effect on the environmental quality of employment areas and is capable of providing satisfactory screening and landscaping.

A further requirement of JP8 is that the use should not have an adverse environmental impact on housing, schools, facilities for sport and recreation or other sensitive land uses. The nearest housing is across the Vigo Utopia Quarry 495m away. Forty metres away across Brickyard Road is Aldridge marina, a residential mooring. Neither Environmental Health nor Pollution Control raise objection to the application on the grounds of noise and disturbance to adjacent occupiers. Sound recording information has been provided to Pollution Control which demonstrates that operations would be within acceptable limits to ensure that it does not have an adverse impact on

the residential use of the marina. The nearest housing would be sufficiently distant to be unaffected.

The Vigo Utopia Quarry has nearly ceased accepting waste and will shortly commence restoration as open space. The proposal due to its containment within buildings and boundary treatment would ensure that it will not impact upon what would be a future sensitive land use.

The management of the site would be controlled through by the Environment Agency with the support of Pollution Control. This would ensure that the site is properly managed and that adequate pollution control and health and safety standards are maintained.

The design of the office block is typical of small offices found on industrial estates. It has clean lines and would be appropriate in this location. The waste reception building is on land 2m higher than the offices and yard area and has a pitched roof of 10.7m. The high eaves are required to ensure that commercial vehicles can access the building to ensure operations can take place in a covered environment. Brickyard Road is characterised by metal clad buildings used for manufacturing and storage and distribution. The adjacent Ibstock building (which is on the same ground level as the proposed waste reception building) is 8.8m in height. The proposed industrial building is typical of those found in industrial areas and subject to further information on the external finish (under a condition) to the building it is appropriate to the character of the area.

The applicants operate a waste transfer station in a yard further along Brickyard Road. It is clear that this is severely constrained by the close proximity of adjacent uses, with buildings and internal access road tightly positioned. The transfer operations take place in the open with limited manoeuvring space for commercial vehicles. It is clear that the site is no longer suitable and the application site would provide greater space to significantly improve the working environment.

Impact upon highway safety

Transportation raise no objection to the application subject to conditions in regard to retaining visibility splays, surfacing and details of the cycle shelter. The applicant looks to relocate the present operation from another location in Brickyard Road to the proposed site. In terms of vehicle movements the applicant proposes no more trips than the present operation generates and therefore it is considered unlikely that there will be any detrimental impact on the local highway network.

The applicant proposes to utilise the existing accesses. The applicant looks to provide 11 car parking spaces fronting the offices, plus an overspill area for parking within the HGV compound if necessary. This is considered acceptable.

Sustainable waste management

Waste transfer stations can be permitted if it can be demonstrated to be the best practicable environmental option for the achievement of the Council's strategy for waste management and that there will be no unacceptable adverse impact on the environment. Wherever reasonably practicable, waste management activities should be contained within buildings rather than carried out in the open air which is largely the case in this application. The proposal would continue a current operation within Walsall that assists reducing the need to take waste to landfill and ensure that it can be reused.

Community safety

The Police Architectural Liaison Officer raises comment on the isolation of the site and requirements for security measures. The site is secured by 1.8m palisade fencing. The Officer also recommends that a CCTV system is installed and an intruder alarm installed in the office building. The windows in the office should conform to BS7950 standard and consideration should be given to installing internal security grilles or external roller shutters. Planting should not impede surveillance of the site.

These comments have been provided to the applicant who confirms that a CCTV system has already been installed in conjunction with Ibstock Brick and they will consider installing an alarm. In terms of security shutters or grilles these have not been provided as part of the application. Grilles are less visually obtrusive than security shutters and it is considered these should be erected. This can be required by condition. Additional landscaping is required to screen the compound area to soften the appearance of parked commercial vehicles and in the circumstances given the other security measures in place it is not considered necessary to reduce landscaping to the frontage as this would be detrimental to visual amenity.

Summary of reasons for granting planning permission

The proposed waste transfer station is appropriate in this employment land location. The proposal is largely contained within a covered building which would ensure that its operations would not have a detrimental impact upon the environmental quality of the employment area. The use is sufficiently distant from the nearest houses to have no impact upon residential amenity. Noise data provided demonstrates that the proposal would not have an adverse impact upon the users of Aldridge Marina across Brickyard Road. There have been no objections from Environmental Health or Pollution Control

The location of the waste reception building and office block with boundary treatment in the form of concrete walls and enhancements to the mature woodland provides satisfactory screening to the use. The design of the buildings, subject to confirmation of materials is acceptable in this industrial location.

Transportation raise no objection to the use on grounds of highway safety subject to the use of conditions for retaining visibility splays, surfacing and details of the cycle shelter.

The Police's concerns about site security have been addressed by retaining the existing palisade fence around the site, the installation of CCTV and the applicant's willingness to install an alarm and security measures to the windows and doors.

The proposal would continue a current sustainable waste management operation within Walsall that assists reducing the need to take waste to landfill and reuse waste in an alternative form.

Accordingly the proposal meets the requirements of the Unitary Development Plan policies 3.6, 3.7, GP2, GP7, ENV10, ENV32, ENV33, 3.117, ENV40, JP7, JP8, 9.9, 10.4, 10.7, WM1, Supplementary Planning Document Designing Walsall, Planning Policy Statements 10: Planning for Sustainable Waste and 23: Planning and Pollution Control and Planning Policy Guidance 24: Planning and Noise.

Recommendation: Grant Subject to conditions

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

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

2. No development shall be carried out until a schedule of facing materials to be used in the external walls, roofs, windows, doors and rainwater goods have been submitted to and approved in writing by the Local Planning Authority. The works shall only be carried out in accordance with those details so approved.

Reason: To ensure the satisfactory appearance of the development.

3. No development shall commence until details for the boundary wall to the side of the office block and to the front of the materials storage bay has been submitted to and approved in writing by the Local Planning Authority. The wall shall be of a height of 3m. The approved details shall be implemented and retained thereafter.

Reason: In the interests of visual amenity.

4. No development shall be carried out until a detailed landscaping scheme for the site (including any necessary phasing of implementation) has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use or such other period of time as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

5. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (a) grassed and planted areas shall be maintained and any areas that fail to establish shall be reinstated;
- (b) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (c) any damage to protective fences shall be made good.

Reason: To ensure the satisfactory appearance of the development.

6. No development shall commence until full details of the proposed cycle shelter have been submitted to and approved in writing by the Local Planning Authority. The shelter shall be implemented in accordance with the approved details and retained thereafter. The shelter shall be secure, covered and illuminated.

Reason: In the interests of visual amenity and sustainable travel.

7. No recycling and re-processing operations shall take place on the site until a working plan has first been approved by the Environment Agency and an Environmental Permit has been issued by the same.

Reason: To define the permission.

8. No development shall commence until details for internal or external grilles to each of the windows to the office block, or alternative security measure and details of security alarm, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and retained thereafter.

Reason: In the interests of community safety.

9. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

10. Prior to built development commencing an assessment of ground gas, having regard to current best practice shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall include details

of any gas ingress protection measures required. The approved measures shall be implemented and retained thereafter.

Assessment Ground gas should have regard to current “Best Practice” and the advice and guidance contained in Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

Reason: To safeguard the amenities of the users and neighbours to the application site.

11. No waste or recycled material shall be imported onto, nor deposited or stored in any area other than as defined on approved drawing 6366-01 Rev E received by the Local Planning Authority on 22nd December 2009. Materials shall at no time be stored any higher than 3m above ground level and only in the location as shown on the approved drawing. Skips or bins shall at no time be stored any higher than 2.5m in height and shall only be stored in the location shown on the approved drawing.

Reason: To define the permission and in the interests of visual amenity.

12. The following types of materials shall not be imported onto or deposited within the site:

- a) Any waste comprising liquids, sludges or slurries.
- b) Any waste of a putrescible nature.
- c) Any kitchen or food waste.

Reason: To prevent any incident of pollution and any risk of odours emanating from the site.

13. All waste shall be stored and treated on an impermeable surface with a sealed drainage system. No surface water shall be permitted to enter the sewer system without first being passed through the approved interceptor tank(s), as shown on drawing number DS0714P received by the Local Planning Authority on 22nd January 2010. The interceptor(s) shall be installed prior to the development first being brought into use and shall thereafter be retained and maintained in an effective condition for the duration of the development.

Reason: To prevent ground or water pollution.

14. No operations or activities associated with this permission shall take place on any Sunday, Bank Holiday or Public Holiday*, and such operations or activities shall otherwise only take place between the hours of 07.00 to 18.00 weekdays and 07.00 to 13.00 Saturdays unless otherwise permitted in writing

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by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Note for Applicant

(* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).

Reason: To ensure that there is no adverse impact on adjacent and nearby uses arising from the duration of operations.

15. No public address facility shall be installed internally or externally to the development without the prior written approval of the local planning authority. The public address facility shall be installed and maintained in accordance with the approved details.

Reason: In the interest of the amenity of adjoining occupiers.

16. All visibility splays shown on the approved plan shall at all times be kept clear of planting and structures between 600mm and 2000mm in height above ground level.

Reason: In the interests of highway safety.

17. Prior to the development first coming into use, all vehicle parking, manoeuvring areas and accesses shown on the approved plan shall be fully consolidated, hard surfaced and drained and all parking bays clearly demarcated on the ground. These areas shall thereafter be retained for this purpose only.

Reason: In the interests of highway safety and to define the permission.

18. The waste transfer station shall not be open to the general public.

Reason: To define the permission.

19. This permission relates to the following plans 6366-01 Rev E, 6366-02 Rev D, 6366-03 Rev D, 6366-04 Rev D, 6366-05 Rev C, 6366-06 Rev C, 6366-07 Rev C, 6366-08 Rev A, 6366-10 Rev C, 6366_15 Rev A, 6366-20 Rev A, 6366-21 Rev A, 6366-22 Rev A, Design and Access Statement and Transport Statement received by the Local Planning Authority on 22nd December 2009.

Reason: In order to define the permission.

Note for Applicant

This development will require an Environmental Permit under the Environmental Permitting Regulations 2007 and may require a discharge consent under the Water Resources Act (WRA) 1991, you are advised to contact the Environment Agency to discuss the above matters. They can be contacted on 08708 506 506.

It is recommended that all windows in the office building conform to BS7950 and the performance standard relevant to the material of their construction.



ITEM NO: 4.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 09/1692/OL
Application Type: Outline Application

Case Officer: Barbara Toy
Telephone Number: 01922
652429

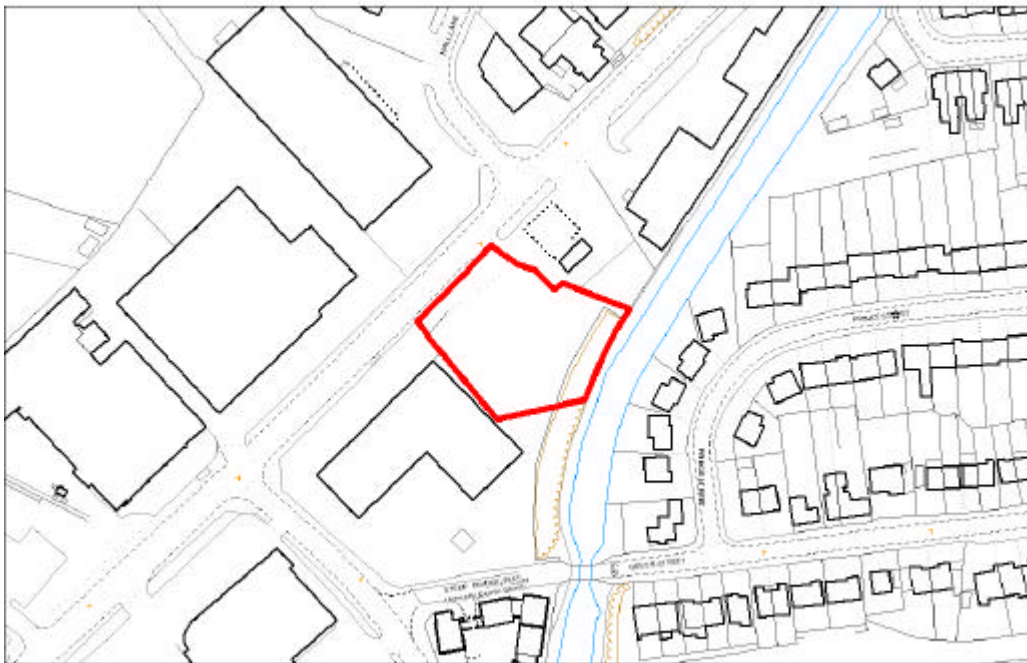
Applicant: Bace Properties Ltd
Proposal: Outline for the erection of
20 x 2 bed apartments within a 3 storey
block. Access, appearance, layout &
scale to be considered

Agent: JT Design Partnership
Location: 123 WALSALL
ROAD, WALSALL
WOOD, WALSALL, WS9 9AH

Ward: Aldridge North and Walsall
Wood

Expired: 24/03/2010

Recommendation Summary: Grant Permission Subject to Conditions and a
Planning Obligation



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Application and Site Details

The site is situated on the south eastern side of Walsall Road, to the south of Walsall Wood local centre, and comprises of a former vehicle repair garage and a former detached dwelling house (123 Walsall Road), now both demolished.

The Daw End Branch Canal lies immediately to the east (rear) of the site with two storey houses on the opposite side of the canal. To the north of the site is a car sales garage. Recently refurbished industrial premises lie further to the north and are now occupied as a furniture and carpet showrooms. To the west on the opposite side of Walsall Road are industrial and commercial premises and to the south west a two storey flat roofed tile warehouse building accessed off Boatmans Lane, with Barons Court hotel beyond. To the rear of the tile warehouse and backing onto the canal is a recently completed three storey apartment court of 24 x 2 bed apartments (Binary Mews).

Walsall Road forms part of the Strategic Highway Network (SHN) providing a strategic link from Walsall Town centre to the Chester Road (A452) and on to Lichfield and has a frequent bus service. The site is situated within walking distance of the Walsall Wood Local Centre (to the north east).

This outline application proposes the erection of 20 two bed apartments within a single three storey block, with 27 parking spaces (9 to the frontage and 18 to the rear including 3 disabled spaces). Vehicle access to the rear would be provided through the building with private amenity space to the rear as well as access to the canal. Access, appearance, layout and scale are to be considered with only landscaping a reserved matter. This is a resubmission following a previous approval in 2006 that has now expired.

Site area 0.207 hectares with a density of 97 dwellings per hectare.

Relevant Planning History

05/1352/OL/E4, outline for the erection of 18 apartments, refused 13-12-05.

06/1066/FL/E9, erection of 20 x 2 bed apartments within a single three storey block with 27 parking spaces, access and associated landscaping, approved subject to conditions and a unilateral undertaking 18-09-06.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Walsall's Unitary Development Plan (2005)

Paragraphs 2.1 and 2.2 state that the aims of the Plan include sustainable development, urban regeneration and environmental improvement, with action

to include creating, sustaining and enhancing a high quality natural and built environment, including a high standard of design, and providing for the right number, type and distribution of new homes.

GP2: Environmental Protection

The Council will not permit development which would have an unacceptable adverse impact on the environment.

Policy 3.6 seeks environmental improvement resulting from development.

Policy 3.9 high priority will be given to maximising the re-use and reclamation of derelict and previously developed land.

Policy 3.16 considers development in relation to its setting with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

GP3: Planning Obligations

These will be used, as appropriate, to secure the provision of any on or off-site infrastructure, facilities, services or mitigating measures made necessary by the development.

GP7: Community Safety

Proposals would be expected to have regard for the objectives of 'designing out crime' which include maximising the surveillance of public areas from the living areas of homes and from other buildings.

H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings.

Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

H4: Affordable Housing

25% of total dwellings shall be affordable homes.

H9: Minimum Densities

Indicates that housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites. Significantly higher densities exceeding 50 dwellings per hectare will be encouraged if the site has good access to a choice of means of transport.

H10: Layout, Design and Dwelling Mix

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

ENV14: Development of Derelict and Previously-Developed Land.

The Council will encourage the reclamation and development of derelict and previously developed land.

ENV23: Nature Conservation and New Development

Layout of all new development must take account of potential for enhancement of the natural environment through habitat creation. The

Council will require habitat creation to encourage the conservation of wildlife in proximity of wildlife corridors.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Detailed criteria are listed for consideration when assessing the quality of design of any development proposal including:- the appearance, materials, height, proportion, scale and mass of the proposed buildings, the visual relationship of the proposal with adjacent areas, the street and the character of the surrounding neighbourhood, the effect on the local character of the area.

ENV34: Public Art

Will require the provision of public art to enhance the quality and individuality of new development.

LC1(d): Urban Open Space

Residential developments will be required to make a financial contribution to enable the provision of new or improved urban open spaces.

LC9: Canals

Encourage environmental improvements to enhance the attractiveness and recreational potential of the canal network. All development alongside canals should relate positively to the opportunity presented by the waterway, to achieve high standards of design.

8.8: Residential development will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing facilities.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

Flats with Communal Parking 1.5 spaces per unit

Designing Walsall (SPD) (Feb 2008)

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DW1: Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DW2: Safe & Welcoming Places - all new development must contribute to creating places that feel safe.

DW3: Character - all new development must be designed to respect and enhance local identity

DW4: Continuity - Well defined streets with a continuity of built form are important.

DW5: Ease of Movement – connections to existing routes

DW6: Legibility - new development should contribute to creating a place that has a clear identity

DW7: Diversity – contribute to creating living places that offer a mix activities to the widest range of possible uses

DW8: Adaptability – contribute to creating flexible and adaptable places that can easily change over time.

DW9: High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality

DW 10: Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

Appendix D: Public Art

Requires a contribution of £350 per dwelling on residential developments of 15units and above.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Urban Open Space (SPD) (April 2006)

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

Education (SPD) (February 2007)

Sets out the contributions that developers will be required to make towards the provision and improvement of local education facilities.

Affordable Housing (SPD) (April 2008)

Requires provision of 25% affordable housing in developments of 15 dwellings or above, at 100% social rent.

Conserving Walsall's Natural Environment (SPD) (April 2008)

Expands on the policies contained within the environment chapter of the UDP. The document provides criteria for when a bat survey is required and the requirements of the survey.

Regional Spatial Strategy

The Regional Spatial Strategy for the West Midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance.

National Policy

PPS1: Delivering sustainable development emphasis the need to reject poor design and the need for sustainable development.

PPS3: Housing, the objective of the revised guidance is to:

- Support further increased housing needed across the country
- Bring additional brownfield land back into use
- Increase the design and environment standards of new homes and neighbourhoods in order to move towards zero carbon development

PPG13: Transport, promotes more sustainable patterns of development for housing development and encourages assessment of the location and accessibility of jobs, services and transport choices and to reduce travel, especially by car.

Consultations

Transportation – No objections subject to conditions regarding visibility splays layout and parking.

Policy T13 would require 30 parking spaces and the proposals provide 27 spaces (including 3 disabled spaces). This was considered acceptable on the previous approval in 2006, in view of the site location on part of the SHN with easy access to good public transport.

Whilst a residential scheme of this size would not require the submission of a Transport Assessment, the report submitted with the previous application in 2006 has been resubmitted. Whilst the report has not been updated it is considered that it is unlikely that the situation would have changed so significantly in the last 4 years in terms of existing traffic on the network that would lead to the requirement of a further assessment. The report concluded that the proposals would result in no significant impact on the highway network as the development would generate fewer trips during peak hours than the extant use.

Pollution Control –Scientific Team – no objections subject to safeguarding conditions to ensure a noise survey is carried out and any remediation works required implemented.

Contaminated Land Team – No objections subject to safeguarding conditions to ensure site investigations and remediation for any localised ground contamination and ground gas issues associated with the previous use of the site.

Fire Officer – Satisfactory access for fire appliance.

Strategic Housing – 25% affordable housing required at 100% social rent.

Walsall Children’s Service (Serco)– The level of surplus places in both local secondary and primary schools is below 10%, therefore a contribution towards both primary and secondary school provision is required. £48,098.88.

West Midlands Police – no objections however the applicant should be encouraged to achieve Secure By Design accreditation.

Centro – None of Centro’s existing infrastructure is adversely affected by the proposals. A frequent bus service operates along Walsall Rd during the daytime Monday – Saturday with a reduced service during the evenings and Sunday.

Environmental Health – the proposed dwellings may be affected by noise from the surrounding commercial uses and road traffic noise.

Drainage – Satisfactory

British Waterways – no objections subject to safeguarding conditions regarding the towpath, lighting, boundary treatment, landscaping, canal wall integrity and drainage details.

Inland Waterways – no objections. The site is adjacent to the Daw End Branch Canal. This is an important canalside site and residential development is an opportunity to enhance the canalside. The height difference between the site and the canal means that the proposed 3 storey building will not be over dominant and the block has a reasonably attractive appearance facing the canal and will enhance its amenity, recreation and tourism value.

Natural Environment – No objections subject to conditions to ensure the provision of bat roosting features and to prevent any external lighting adversely impacting on foraging bats using the canal corridor and to secure a hedgerow along the rear boundary. Bat boxes should be built into the structure of the building rather than hung on the side. The submitted bat report recommends retaining the existing hedge to the rear boundary of the site along the canal frontage or a replacement hedge. The reserved matter application for landscaping should include a hedge broadened out to the full width of the available space with the turfed area confined to the area adjacent to the top of the steps and close to the path. The hedge should be under-planted with a native woodland ground flora.

Landscape Officer – no objections. Although landscape is a reserved matter a landscape scheme has been submitted which was agreed under the previous approval.

Public Participation Responses

None.

Determining Issues

- The principle of residential development.
- The design and layout of the proposals

- Impact on the street scene, the canal and natural environment
- Access and parking arrangements
- Demand on Urban Open Space, Education, Affordable Housing and Public Art provision

Observations

Principle of residential development

The site is situated in a mixed use area with commercial premises adjoining and opposite. Planning consent has already been granted for residential development on the site in 2006 (now expired) and a new residential scheme of 24 x 2 bed apartments backing onto the canal off Boatman's Lane (Binary Mews) has recently been completed. In addition residential properties exist to the east on the opposite side of the canal and the site is situated within walking distance of the Walsall Wood local centre facilities. Whilst the site was previously a commercial/residential use it is not situated within a Core Employment Area. Whilst the site sits between existing commercial uses, permission has previously been granted for residential development of the site to the north east (now expired) and it is considered that if any other adjacent sites become available residential uses would be considered. It is considered that the existing commercial uses to the north east and south west of the site would have no adverse impact on the amenities of the future occupiers of the development. UDP policy H3 encourages the provision of additional housing through the reuse of previously developed windfall sites and the development of derelict and previously developed sites is also encouraged in policy ENV14. PPS 3 – Housing encourages development of brownfield sites for residential purposes.

UDP policy H9 encourages residential densities exceeding 50 dwellings per hectare on sites along good quality transport corridors. Walsall Road forms part of the SHN and provides good public transport links both into and out of Walsall. The site is therefore considered a sustainable location and the principle of residential development on the site is considered appropriate.

Design and Layout.

The proposals would provide a single three storey building set back from the pavement, inline with the building line of the adjoining warehouse building to the south. This allows for some parking on the frontage but the majority of parking would be set to the rear, accessed via a secured driveway through the building. This would provide a clear definition between the public and private realm, with each unit having pedestrian access from the frontage and to the rear private area. Refuse storage facilities have been provided within the frontage to maintain the clear definition between public and private realm.

The design of the block has references to the history of the canal and the area, providing a simple rectangular building with three storey windows reducing in height as the building rises. The ground floor height has been increased from the standard domestic scale to relate more to a commercial

grain warehouse that would have traditionally been on the site, the windows would also mimic the Georgian steel frames associated with a grain warehouse. The roof design would comprise two, front to back gables with a valley in between, which would allow for the provision of similar elevations to both the front and rear to address the street as well as the canal.

Amenity space would be provided immediately outside the rear of the block, with car parking beyond, steps and a ramped access have been included to deal with the change in levels. The applicants have negotiated with British Waterways to incorporate the land adjacent to the canal towpath into the site boundary, to create a landscaped area for use by residents and improve the natural environment along the canal frontage. This area would be at the level of the canal raised above the car park with retaining wall and stepped access for residents. The site would be secured via railings and gates onto the canal towpath.

The density of 97 dwellings per hectare, is considered to be appropriate in such a sustainable location on a strategic route through the Borough, within walking distance of the local facilities in the Walsall Wood local centre and good public transport links. It is considered that a flat development is appropriate in this location and the mix of accommodation required by Policy H10 of the UDP is not appropriate or achievable in this particular location.

Impact on the Street Scene, Canal and Natural Environment.

The proposed building would be sited along the existing building line of the adjoining premises and although three storey in height would not dominate the street scene. The surrounding buildings vary considerably in both height and design and include the large mass of the Barons Court hotel to the south and three storey flats immediately at the back of the canal off Boatman's Lane.

The building would be set at a lower level than the canal and a minimum of 22m from the towpath with a raised landscaped area immediately at back of towpath. The existing canal embankment is steep and very overgrown. The proposals would not only provide a pleasant environment for the future residents but would also improve and enhance the canal corridor and natural environment.

Although landscaping is a reserved matter an indicative landscaping scheme has been submitted which includes a dense hedge of Hawthorn and Blackthorn to the canal boundary. The Natural Environment team recommend further work to the landscaping details and in particular the hedge, to be submitted with the reserved matter application. The site is currently vacant and derelict with unsightly hoardings along the canal towpath and the existing landscaping is overgrown and provides little visual value to the canal environment. The Natural Environment team recommend a condition to ensure bat roosting features are included in the building and appropriate lighting not to adversely impact on foraging bats using the canal corridor.

Access and Parking Arrangements

The proposals include 27 parking spaces (135%) which fall slightly below the 150% requirement within Policy T13 of the UDP. This however is a maximum provision and transportation consider that on balance this would provide a satisfactory level of parking in view of the site's sustainable location, situated on part of the SHN, close to local facilities with good public transport links both into and out of Walsall.

Transportation are also satisfied with the conclusions of the Transport Assessment, as the proposals would not have any significant impact on the operation of the surrounding highway network, generating fewer trips and fewer goods vehicles to the site.

Demand on Urban Open Space, Education, Affordable Housing and Public Art provision.

Urban Open Space

An Urban Open Space contribution of £33,520.00 is required to comply with the Urban Open Space SPD and LC1(d) of the UDP

Education

The level of surplus places in both local secondary and primary schools schools are below 10%, therefore a contribution of £48,098.88 is required towards both primary and secondary school provision within the local area, in line with Policy 8.8 of the UDP and Education SPD.

Affordable Housing

The proposals are above the 15 dwelling threshold for affordable housing, therefore 25% affordable housing is required within the development at 100% social rent, in line with Policy H4 of the UDP and Affordable Housing SPD.

Public Art

The proposals are above the 15 dwelling threshold for a contribution towards public art therefore a contribution of £7,000 is required in line with Policy ENV34 of the UDP and Appendix D of Designing Walsall SPD.

The total contribution payable to comply with policy would be £88,618.88 plus affordable housing and costs. The applicants have put forward a financial appraisal for independent assessment by the District Valuer, in support of their claim for a reduction in financial contributions.

The District Valuer has assessed the financial viability of the scheme based on the amount the applicant paid for the site and the costs involved in the construction and has concluded that the proposed development scheme is not viable if the affordable housing requirement is implemented. However the District Valuer has also undertaken a sensitivity analysis and re-appraised the proposed scheme on the basis of all open market flats with no affordable housing but including the proposed Section 106 costs and concluded that the scheme would be viable taking into account the proposed Section 106 costs of £88,618.88.

Therefore based on the District Valuer recommendations the scheme would not be viable if the affordable housing requirement was implemented, I would recommend that the proposals be granted subject to conditions and a S106 Agreement to secure contributions towards Urban Open Space, Education and Public Art, totalling £88,618.88.

Summary of Reasons for Granting Planning Permission

The principle of residential development on the site is considered acceptable despite the commercial uses situated adjacent. Existing residential sits on the opposite side of the canal and a new apartment development sits to the south adjacent to the canal. The proposed density is considered acceptable as the site is within a sustainable location, within walking distance of Walsall Wood local centre and with frequent bus services along Walsall Road, which forms part of the Strategic Highway Network.

The building sits towards the centre of the site providing parking to the frontage and rear and creating a clear definition between public and private realm. The building has been designed with reference to the history of the canal, a rectangular three storey building with windows reducing in height as the building rises, relating to a commercial grain warehouse, which historically would have sat adjacent to the canal. The front and rear elevations are similar, addressing both the street and the canal to the rear.

Included in the site is land adjacent to the canal towpath, which would create a landscaped area for residents (with secure access to the canal) and improve the natural environment of the canal. Landscaping is a reserved matter and will need to include appropriate planting for the local environment including a broadened hedge to the canal frontage at the rear of the site. Bat roosting features will be incorporated within the building and appropriate external lighting to ensure no adverse impact on the foraging bats along the canal corridor.

The level of parking falls slightly below the 150% required by policy T13, but this is a maximum provision and transportation consider this level of parking is acceptable due to the sustainable location of the site.

The applicant has indicated that they are willing to enter into an agreement to ensure financial contributions towards Urban Open Space, Education and Public Art.

The proposals would accord with the aims and objectives of the development plan, in particular policies 2.1, 2.2, GP2, 3.6, 3.16, GP7, H3, H9, H10, ENV14, ENV23, ENV32, ENV34, LC1(d), LC9, 8.8, T7 and T13 of Walsall's Unitary Development Plan (2005), Supplementary Planning Document: Designing Walsall (2008), Supplementary Planning Document: Urban Open Space (2006) and Supplementary Planning Document: Education (2007).

Recommendation: Grant Permission Subject to Conditions and a Planning Obligation

1. Application for the approval of the reserved matter must be made not later than the expiration of three years beginning with the date of this permission.

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

2. The development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matter application, or the last reserved matter approval.

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

3. This development shall not be commenced until details of the Landscaping Reserved Matter has been submitted to and approved by the Local Planning Authority. This should include details of a native hedge along the canal frontage to the rear of the site, broadened out to the full width of the available space and under-planted with a native woodland ground flora.

Reason: Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995

4. No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

5. No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

6. No development shall be carried out until full details of existing and proposed levels of the site, access way and floor levels for the proposed dwellings, have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site and any drainage or other works

necessary to facilitate this development. The development shall be carried out and retained in accordance with these approved details.

Reason: In the interests of the amenity of the area and to ensure satisfactory development of the site.

7. Prior to the commencement of any development on site and notwithstanding the plans submitted, details of the proposed connection to the towpath shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to first occupation of the development hereby approved and thereafter retained

Reason: In order that the integrity of the waterway infrastructure is not compromised by the development.

8. Notwithstanding the plans submitted, prior to the commencement of development details of the proposed lighting for the development including details of foundations, luminance in candelas, hours of operation etc. shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the agreed details unless otherwise agreed in writing.

Reason: The lighting at waterside developments should be designed to minimise the problems of glare, show consideration for bats and unnecessary light pollution should be avoided by ensuring that the level of luminance is appropriate for the location, is sustainable and efficient, and protect the integrity of the waterway infrastructure.

9. Notwithstanding the plans submitted, details to demonstrate that the development shall not prevent inspections of the embankment nor result in a detrimental impact on the embankment including further slope failure shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to first occupation of the development hereby approved and thereafter retained

Reason: In order that the integrity of the waterway infrastructure is not compromised by the development.

10. Notwithstanding the plans submitted, details of the proposed connection to the towpath shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to first occupation of the development hereby approved and thereafter retained

Reason: In order that the integrity of the waterway infrastructure is not compromised by the development.

11. No consent is given to the landscaping scheme shown on drawing number JMD1777-06 Rev B submitted on 5th February 2010.

Reason: In order to secure a satisfactory landscaping scheme for the development.

12. No development shall commence on site until details of all boundary treatment, including railings to the canal towpath and the frontage of the site have been submitted to and approved by the Local Planning Authority. The approved details shall be fully implemented prior to first occupation of the development hereby approved and thereafter retained

Reason: In the interests of securing the development.

13. No development shall take place until details of the access gates and control system for the vehicle access and canal access have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to first occupation of the development hereby approved and thereafter retained

Reason: In the interests of securing the site.

14. Prior to the development first coming into use, all access ways, parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and drained and the parking bays shall be clearly demarcated on the ground. These areas shall thereafter be retained for this purpose only.

Reason: In order to secure the satisfactory development of the site.

15. No development shall be carried out until details of the design of a refuse storage area are submitted to and approved by the Local Planning Authority. The approved details shall be fully implemented prior to first occupation of the development hereby approved and thereafter retained

Reason: In order to secure the satisfactory development of the application site.

16. The side facing windows shown on drawing number JMD177-05A submitted on 2nd December 2010 shall be fitted with obscure glazing and thereafter retained as obscure glazing.

Reason: In order to safeguard the amenities of the occupiers of premises/dwellings in the vicinity.

17. The visibility splays at the access point shown on drawing number JMD177-06 Rev B submitted on 5th February 2010, shall at all times be kept clear of structures or planting exceeding 600mm in height above ground level, and the areas shall thereafter be retained for this purpose only.

Reason: In the interests of Highway Safety.

18. The gradient of the pedestrian access ramp to the rear car parking area shown on drawing number JMD177-06 Rev B submitted on 5th February 2010 shall be not less than 1 in 20.

Reason: In accordance with 'Inclusive Mobility' guidelines.

19. Prior to the first occupation of any unit within the development, the proposed new vehicular footway crossing at the access point onto Walsall Road shall be constructed and the existing redundant vehicular footway crossing shall be reinstated with full kerb height, to a specification to be approved and agreed in writing by the Local Planning Authority.

Reason: In the interests of pedestrian and highway safety.

20. No development shall commence until a scheme to incorporate bat roosting features into the fabric of the proposed buildings has been received and approved in writing by the Local Planning Authority. The approved scheme shall be incorporated into the development before any part is brought into use and retained thereafter.

Reason: In order to conserve local bat populations.

21. Prior to development commencing, a noise survey shall be undertaken to the written requirements of the local planning authority. The results of this survey, including details of all instrumentation used, prevailing weather conditions and traceable calibration tests shall be submitted to the local planning authority within 2 months of completion.

Reason: In the interests of the amenity of the residents of the proposed development.

22. No development shall take place until suitable noise mitigation measures to protect internal areas have been agreed in writing with the local planning authority, and the development shall not be occupied until such measures have been fully implemented.

Reason: In the interests of the amenity of the residents of the proposed development.

23. In order to address potential impact from land contamination the following matters shall be addressed:

- i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

- ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- iv) The remedial measures as set out in the “Remediation Statement” required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the “Remediation Statement” required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site and to protect human health and the environment.

24. The works hereby approved shall only be carried out in accordance with details contained within drawing Nos 3831a submitted on 7th December 2009, JMD177-03 submitted on 23rd December 2009, JMD177-04 and JMD177-05 Rev A and JMD177-06 Rev B submitted on 5th February 2010, Design and Access Statement, Bat Survey (Land Care Associates) and Transport Assessment (Phil Jones Associates) submitted on 7th December 2009.

Reason: In order to define the permission.

Notes to Applicant

1. Noise

With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

- a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(8 hours), of 30 dB together with a maximum instantaneous level of 45 dB LAFmax, between the hours 23.00 to 07.00;
- b). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(16 hour), of 40 dB between the hours 07.00 to 23.00;

Unless otherwise specified in a relevant standard, code or guidance, sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 1 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications which shall have been verified in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' or British Standard BS 61672 Electroacoustics- Sound Level Meters - Part 3: Periodic tests, within a preceding 2 year period.

Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:

Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994; Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005 British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise".
British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures; British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits.
British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas
Calculation of Road Traffic Noise, 1988
Calculation of Railway Noise, 1995
This is not an exhaustive list.

Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.

Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British Standard BS 7580 Part 1: 1997 Specification for The verification of sound level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.

2. Contaminated Land

CL1

Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings (Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 "Model Procedures for the Management of Land Contamination", The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 "Updated technical background to the CLEA model" and Science Report – SC050021/SR2 "Human health toxicological assessment of contaminants in soil" or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3

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

This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

3. British Waterways

i. The applicant/developer is advised to contact Mr Des Harris, Principle Works Engineer on 07710 175227 in order to ensure that any necessary consents are obtained and that the works comply with British Waterways’ “Code of Practice for Works affecting British Waterways”.

ii. British Waterways offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal infrastructure at this location.

iii. The applicant is advised that an access agreement with BW shall be required for any new accesses to the towpath and all works must comply with the “Code of Practice for Works Affecting British Waterways” a copy of which is available on our website.



ITEM NO: 5.

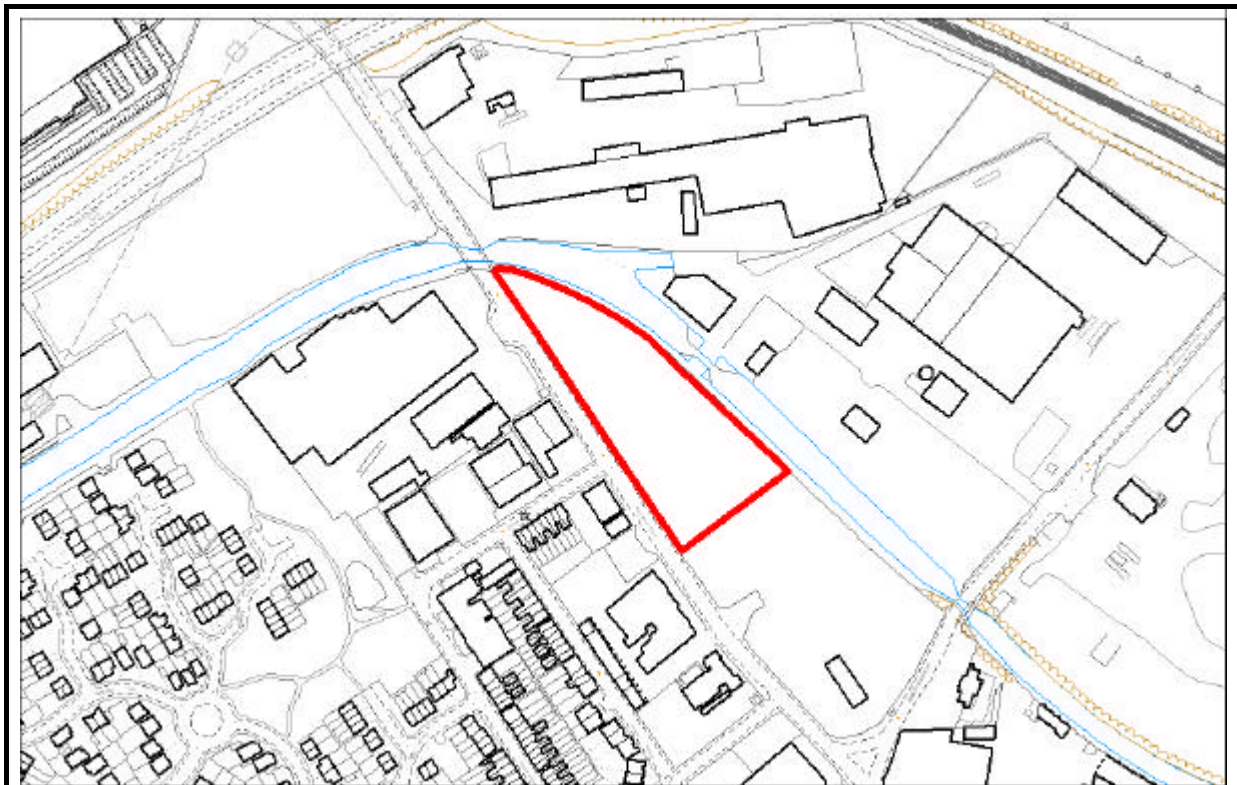
To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 09/1772/FL
Application Type: Full application
Applicant: Western Trading Ltd
Proposal: Proposed Power Access
and Hire Equipment Depot
Ward: Bentley & Darlaston North
Recommendation Summary: Grant Permission, unless additional
information is received which raises material planning issues.

Case Officer: Karon Hulse
Telephone Number: 01922 652492
Agent: John Edwards RIBA
Location: WILLENHALL
ROAD, DARLASTON, WS10 8JG
Expired: 09/04/2010



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Application and Site Details

This application seeks consent for storage and hire of power access platforms and associated equipment. The site was previously granted planning permission to be used for car storage by the nearby car auction company Manheim Auctions.

The proposals include the construction of a new building to accommodate a workshop for the repair and servicing of hire access equipment together with office and administration facilities. The site will employ 10 to 15 persons and access will be through an existing unused entrance which will be modified.

The existing brick wall boundary along Willenhall Road will be retained and will form the outer wall of the new workshop.

Relevant Planning History

This site was historically a major industrial complex but has now been cleared.

BC54912P – Change of Use for car storage. Grant Subject to Conditions 9th February, 2000

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Unitary Development Plan (UDP)

GP1: Supports the sustainable location of development.

2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP4 and ENV14...The Council will encourage the reclamation and development of derelict and previously developed land to help local area regeneration

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV10 – deals with pollution effects from developments including ground contamination and noise.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

JP1: The Unitary Development Plan identifies the site as being a 'new employment site' as defined by policies JP5 and JP7: land allocated or safeguarded for industrial development, accessible by a choice of means of

transport, good freight and local environment, a range of opportunities in terms of location, size and market sector.

7.1: Seeks to promote an efficient highway network;

T7: All development should satisfy the car parking standards set out in Policy

T13: sets maximum car parking standards, account should be taken of the location of development in relation to local facilities and public transport and unless demonstrated

Local Development Framework (LDF)

The Black Country Joint Core Strategy (JCS) whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land and high quality design are further advanced in the document taking account of recent national and regional planning guidance

Supplementary Planning Documents (SPD)

Designing Walsall SPD

DW1- Sustainability - new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2 - Safe and Welcoming places - all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 - Character - design to respect and enhance local identity;

DW4 - Continuity - attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW5 Ease of movement - create places that are easily connected, safe to move through;

DW6 - Legibility - new development should contribute to creating a place that has a clear identity;

DW9 - High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DW 10 - new development should make a positive contribution to creating a sustainable environment.

Regional Spatial Strategy for the West Midlands (RSS 11)

The Regional Spatial Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country to the overall performance of the West Midlands Region.

The focus for the Black Country policies are to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

National Policy

Planning Policy Statement (PPS) 1: aims to deliver sustainable development through the planning system, promote high quality inclusive design in the layout of new developments and individual buildings.

PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development.

Consultations

Transportation – no objections.

Walsall Regeneration Company – supports the proposals regeneration effects on the basis that:-

1. Within the DSDA – a regeneration priority for WRC
2. Brings a vacant site into use
3. New access helps to animate the austere street scene of the high old wall
4. Occupier led – that is most important – it is an expansion of the business consolidating it in Darlaston
5. Safeguards jobs and creates new employment in Darlaston
6. Includes a regional training centre for the occupier providing access to increased skills for the local workforce
7. Investment boosts confidence in Darlaston
8. Contract with land owner calls for early completion which should be supported

Environment Agency – objects that there is insufficient information available on the risk of pollution to controlled waters.

Pollution Control (Scientific Team) – no objections

Pollution Control (Contaminated Land) – no objections

Severn Trent Water – no objection

Inland Waterways – no objections

Local Authority Drainage – no objections

British Waterways – no objections

Regeneration (Development Team) – no objections

Public Participation Responses

None

Determining Issues

- Principle of the use
- Traffic/car parking
- Environment Agency

Observations

Principle of the use

The site is identified in the Unitary Development Plan as being employment land therefore the proposed use complies with policies of the Plan.

Furthermore, the emerging Darlaston Strategic Regeneration Framework, Also identifies this site as a new employment opportunity within the WRC Strategic Development Area. This site has been vacant for some considerable time and allowing a use providing employment opportunity and economic activity is to be supported in this area.

Traffic/car parking

An existing access, which is currently not in use will be reopened and redesigned. New gates will be set back into the site by approximately 15 metres, this will allow vehicles to pull off the highway. The new bell mouth will be created with a 1.2 metre high brick wall topped with a 1.8 metre high palisade fence, this will also provide satisfactory visibility splays from the site.

A car park will be situated within the site providing 10 spaces.

Environment Agency Objection

The Environment Agency has objected to the proposed development on the grounds that there is insufficient information to demonstrate that the risk of pollution to controlled waters is acceptable in accordance with Planning Policy Statement 23 : Planning and Pollution Control

The site is located in a predominantly industrial area consequently the site is likely to have previous industrial usage(s).

Walsall Canal is located adjacent to the eastern site boundary and Darlaston Brook is located approximately 190m north of the site.

However, whilst the proposals currently fail to provide assurance that the risks of pollution are understood, if a preliminary risk assessment (including a desk study, conceptual model and initial assessment of risk) is carried out, this objection could be satisfactorily overcome (probably involving the use of conditions, but these can not be developed until this exercise has been completed). Therefore the application is recommended to be supported subject to further details being submitted in respect of the Preliminary Risk Assessment which meet the requirements of PPS25, and any necessary revisions.

Summary of Reasons for Granting Planning Permission

The use of this currently vacant site for the proposed development will provide employment opportunities and economic activity in this area.

Conditions are embodied in the decision to control the potential for pollution to migrate from the site.

The site is also identified by the emerging Darlaston Strategic Regeneration Framework as a new employment opportunity within the WRC Strategic Development Area.

On balance, having taken into account all material planning considerations, the proposal is acceptable and in accordance with policies GP1, 2.2, 3.6, 3.7, GP2, GP3, GP4, 3.16, ENV10, ENV14, 3.117, ENV33, ENV40, JP1, 7.1, T7 and T13 of the Unitary Development Plan, national policies PPS1 and PPG13.

Recommendation: Grant Permission, unless additional information is received which raises material planning issues.

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

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

2. Before any works hereby approved are commenced, the construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority, a gradient not steeper than 1 in 12 shall be included into the design of the approved access.

Reason: In the interest of Highway safety.

3. Before this development is brought into use, the accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be hard surfaced (or alternative impervious hardwearing material to be agreed in writing by the Local Planning Authority). The areas shall thereafter be retained and used for no other purpose. The parking spaces have been clearly marked out.

Reason: To ensure the satisfactory provision of off-street parking, appearance and functioning of the development and in the interests of highway safety.

4. The development hereby permitted shall not be brought into use until the existing vehicular access onto Willenhall Road has been modified in accordance with the approved details as shown on plan drawing number 1265/3c dated 17th December, 2009. The details shall thereafter be retained.

Reason: To ensure the safety and free flow of traffic using Willenhall Road.

5. No industrial process shall take place in the open on any part of the site.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to ensure the satisfactory appearance of the development.

6. No open storage shall take place above the height of the boundary wall fronting onto Willenhall Road.

Reason: To ensure the satisfactory appearance of the development.

Note for Applicant.

The area of this proposed development was formerly utilised as a factory / works and for sawmilling that may have resulted in localised ground contamination that may present Health and Safety implications for persons undertaking ground works. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.

The developer is advised to contact Des Harris, British Waterways, Third Party Works Engineer, to ensure that any necessary consents are obtained and that the works comply with their current Code of Practice”.



To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 09/0756/FL
Application Type: Full application

Case Officer: Andrew Thompson
Telephone Number: 01922
652403

Applicant: Walsall Housing Group

Agent: The Tyler Parkes
Partnership

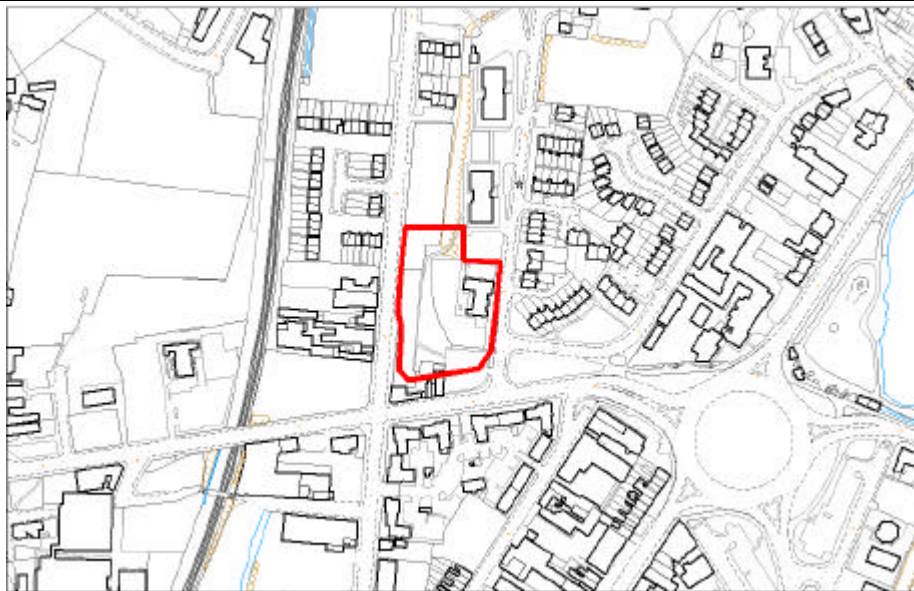
Proposal: Erection of 4,018 square
metre office building together with
associated public realm, landscaping
and car parking. Access from
Hatherton Street and Teddesley Street
(Part of Walsall Gigaport).

Location: LAND AT LITTLETON
STREET EAST/HATHERTON
STREET/TEDESLEY
STREET, WALSALL

Ward: St. Matthews

Expired: 03/09/2009

Recommendation Summary: Grant Permission Subject to Conditions and a
Planning Obligation



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Status

You considered this application at your meeting of 13/8/2009. You resolved to approve it subject to a section 106 agreement, providing for

- a contribution towards public transport, arising from the traffic impact of Gigaport - the contribution sought by Centro was £75,000
- a public art contribution of £12,054

Since that time, negotiations over the section 106 agreement have been progressing. However, the applicants have now advised that

“Since planning approval, we have had numerous meetings with Centro about better public transport to the site which has culminated in improved transport arrangements as the attached press article explains.”

(The article is not attached to this report. It records that a bus service has been arranged to ferry passengers between the town's landmark buildings including this one. Centro state in the press report “We are in talks with operators at the moment to see who will do it. It will involve a diversion of existing routes.”)

WHG go on to say:-

“No contribution to Centro was required to achieve this improvement. In the light of this and the difficulty WHG is having in approving the project funding, in particular the gap between its value and cost, we would ask you to consider the release of the section 106 obligation on the grounds of the scheme's uneconomic position.”

They have submitted information on costings etc.

Finally, they have indicated that they only have until the end of March 2010 to accept the building contract, so an early answer is called for.

The August 2009 report on this application is set out below, unchanged. It will be apparent from this that the provision of public transport was a crucial step in supporting both Gigaport and the WHG proposal as set out in the report below.

Planning officers have little information on the proposed bus service. It is therefore hard to advise on the value of this provision in relation to the objectives of Gigaport. Clearly it has a useful role to play in controlling the generation of traffic to the site. However, as it can be delivered at no cost, there is scope to spend the section 106 transport contribution on further improvements, if that contribution could be secured.

Whether it can be secured turns on the financial position. The financial information submitted needs to be assessed. It is normal in such cases to seek the advice of the District Valuer Service.

As there is considerable urgency in the case, if the developers contract limitation is to be met, this report has been brought as a matter of urgency.

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The assessment of the financial submission is being put in hand at the time of drafting this report.

The DVS will conclude that either there is a contribution to be secured, or that there is not. It is normally the case that this Council follows the advice of the DVS in such cases. It is therefore recommended that the application should be approved, subject to the delivery of the conclusions of the DVS, when they are available.

Without prejudging those conclusions, if the DVS conclude no contribution can be secured, a planning permission can be issued immediately after.

Members are invited to subscribe to these conclusions.

COPY OF REPORT TO AUGUST 2009 COMMITTEE MEETING

Application and Site Details

The application is the development of the new Town Centre office headquarters for Walsall Housing Group. The application encompasses some 4,018 square meters of floorspace, landscaping and public realm and 72 car parking spaces (including 7 disabled car parking spaces).

The proposed 4 storey building would sit on the Littleton Street West frontage. The ground rises across the site so the building is lower on its eastern end. The southern elevation uses a stylised tree graphic to build links to the Arboretum and is accessed via a central atrium feature that will allow views into the building.

The proposed office building would be capable of being accessed from both sides and is surrounded by pedestrian routes that would provide the initial element of the east-west link which forms an important part of the Gigaport framework.

The proposals are supported by the following key documentation

Design and Access Statement

This shows the evolution of the design of the proposals from the Gigaport indicative plan, taking into account the site's constraints and how the development has built public realm into the scheme, e.g. the east-west link. The proposals also show how access into the site will be considered and how sustainability is incorporated into the design. The Statement also details how the stylised graphic will deliver a tenable link to the Arboretum.

Planning Statement

This shows the compliance of the scheme to Development Plan policy building upon the outline planning permission and the need for strong and vital town centres. The proposals are considered by the applicant to meet many of the regional and local policy requirements.

Other technical reports include a transport statement and associated green travel plan, an ecological appraisal, a noise assessment, a sustainability statement, landscape proposals and ground contamination reports.

Relevant Planning History

Although there have been numerous applications and other events within the application site, none are considered relevant other than the following to the consideration of this application.

Cabinet Resolution 18th April 2007

Discussed further below but agreed the boundary of the office corridor (now Gigaport), to support a statement of intent that will seek to deliver office developments over other uses on land that is identified within the office corridor. The Cabinet also agreed to a programme of strategic acquisition of land within the office corridor.

Walsall Gigaport

08/0951/OL – Outline planning permission for the area establishing the quantum of development capable on the site with an emphasis towards high quality offices, live work and associated commercial development. Granted 18th December 2008.

Relevant Planning Policy Summary

The overall aim of the UDP is to regenerate and change the direction of Walsall Town Centre into a vibrant and economically successful town centre. The policies encourage offices in appropriate locations.

The UDP indicates the need to secure appropriately designed solutions, high quality environments, preserving and enhancing the historic environment, and ensure that the developments are comprehensive in manner. The need to consider appropriate measures for flooding, highway improvement, and car parking are also considered.

The UDP seeks good quality development, appropriate to its area, reflecting a wide range of ecological, traffic (both vehicular and non-vehicular), environmental, and economic aims embodied in Policies GP1, GP2, GP3, GP4, GP5, GP6, GP7, T1, T2, T3, T4, T5, T6, T7, T8, T9, T10, T11, T12, T13, ENV9, ENV10, ENV11, ENV13, ENV14, ENV17, ENV18, ENV19, ENV21, ENV22, ENV23, ENV25, ENV26, ENV27, ENV29, ENV31, ENV32, ENV33, ENV34, ENV35, ENV39, ENV40, JP2, JP3, JP7(d), S1, S2, S3, S4, S5, S7, LC1, LC2, LC6, LC7, LC8, WM1, WM4, WA3, WA4, WA3, WA5, WA6, WA13, WA15, WA16, WA17, WA18, WA19, and paragraphs 4.6, 4.13 and 4.14 of Walsall Unitary Development Plan, March 2005.

Walsall Local Development Framework

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. It allocates this area of the town for office led development and being part of Walsall Town Centre Inset Boundary as shown

on its Key Diagram. The JCS advances the regional requirements and within its own plan period of 2006 to 2026 aims to deliver 220,000 square metres of offices in Walsall Town Centre. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. Further consultation is anticipated in early 2009.

Supplementary Planning Documents (SPD) Designing Walsall SPD

Designing Walsall (February 2008) is considered relevant as it is adopted. Its role is to promote high quality design through established urban design principles and promotes innovation and respect of the character of an area. The adopted SPD also seeks a level of contribution towards public art.

DW1- Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

DW4- Continuity - attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW5 Ease of movement - create places that are easily connected, safe to move through;

DW6 – Legibility - new development should contribute to creating a place that has a clear identity;

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DBW 10 – new development should make a positive contribution to creating a sustainable environment.

The Natural Environment SPD is also relevant in assessing the implications of the proposals on the natural environment, ensuring that protection, mitigation and improvements to the natural environment are safeguarded through the application process.

Regional Planning Policy

The Regional Spatial Strategy has been revised and republished on 15th January 2008 to reflect the first Phase of Review. The 2nd Phase of review is nearing the completion of its Examination in Public. The Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country in the overall performance of the West Midlands Region.

The focus for the Black Country policies is to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

a) to reverse out-migration accommodating within the Black Country all of the generated household growth from 2011 and meeting at least the identified levels of housing provision;

b) to raise income levels raising demand and household incomes (average earnings, GDP per head and reducing unemployment) to the UK average by 2033;

c) to create an inclusive and cohesive society within the Black Country removing barriers to opportunity and changing the socio economic mix by increasing the proportion of social grades A and B to match the national profile by 2033 or earlier; and

d) to transform the Black Country Environment by protecting and enhancing the sub-region's environmental and heritage assets and biodiversity.

The four strategic centres of the Black Country (including Walsall) are to be the main locations for major office (B1(a)) development. The Policy considers that each centre has both potential and capacity to absorb an equal proportion of proposed growth and each to accommodate up to 186,000sqm of office development from 2004 to 2021 This figure should be regarded as indicative and will be subject to review in the light of monitoring of the actual level of development and progress in implementing the Joint Core Strategy.

Overall in the Black Country growth totalling up to 845,000sqm gross of B1(a) office floorspace (including commitments) will be provided in the Black Country in the period 2004 to 2021.

As part of the ongoing review of the RSS to produce regional targets to 2026, the RSS Phase Two Revision Preferred Option that has recently completed its Examination in Public and indicates that between 2006 and 2026, Walsall should be looking to accommodate some 220,000sqm of office development within or on the edge of its strategic centre. This application clearly makes a contribution towards this.

For the record, the relevant policy references supporting these propositions are: Policies PA1, PA2, PA3, PA4, PA5, PA6, PA10, PA11, UR1, UR1A, UR1B, UR1C, UR3, UR4, QE1, QE2, QE3, QE4, QE5, QE7, CC1, EN1, EN2, T1, T2, T3, T4, T5, T7, T8, T9, CF1, CF4, and CF6 of the Regional Spatial Strategy for the West Midlands (RSS11).

National Policy

PPS1 seeks to encourage a high quality environment with design and sustainability at the heart of all proposals. The guidance seeks to reduce the use of the private car and by creating 24 hour environments will promote alternative modes of transport. The guidance also seeks to ensure that the requirements of climate change are addressed.

PPG4 seeks to encourage a modern working environment and to encourage enterprise and innovation. Recognition of the role of IT and new technologies are important considerations.

PPS6 seeks to strengthen and promote town centres. Paragraph 2.39 is the most relevant to this application. It considers that the need for new office floorspace over the development plan document period should be defined as part of the plan preparation and review process, and updated regularly. At regional level this should involve the forecasting of future employment levels and the identification in regional spatial strategies of suitable broad locations where regionally significant office development should be located. The physical capacity of centres to accommodate new office development and the town centre's role in the hierarchy should also be relevant to planning for new office development.

PPS9 seeks to ensure that biodiversity is considered as part of the application.

PPG13 guides that the reliance on the private should be reduced and that developments should accommodate opportunities for walking, cycling and use of public transport. The level of car parking in town centres should be managed and wherever possible reduced.

PPG14 seeks to ensure that development takes account of unstable land, while PPG15 and PPG16 seek to ensure that appropriate action is taken to ensure that the historic environment and archaeology are preserved and/or enhanced.

PPS22 encourages the use of renewable energy and seeks to reduce the energy requirements of new developments.

PPS23 and PPS24 consider the requirements of development to take account of pollution, contamination and noise.

PPS25 seeks to ensure that appropriate safeguards from flooding are incorporated into new development. The use of Sustainable Drainage Systems and other methods to reduce rainwater runoff are encouraged.

Circular 02/99 (Environmental Impact Assessments) and 05/2005 (Planning Obligations) are considered to be relevant.

Consultations

Transportation – No objection subject to conditions.

Pollution Control

Scientific Team – No objection to this application in principle. An acoustic survey has been carried out by Acoustic Associates, reference AAL/BS09021 that indicates areas where minor noise concerns may arise when the building

becomes operational. In view of this and to ensure that noise does not affect nearby residential accommodation during the construction phase, please attach conditions to any permission granted

Contaminated Land – No objection subject to additional site investigation work being carried (as required by the Phase I and Phase II Geo-Environmental and Geotechnical Report reference 36588-01) and remedial measures installed to deal with any contaminated land/ground gas identified. Conditions to address these concerns have been provided.

Midlands Architecture for the Designed Environment (MADE) – The scheme has been presented to the Design Review Panel. The Panel was impressed with the logical arrangement of the building on the site and the rational planning, with the 'atrium slice' dividing it into two sections. The Panel suggested a slight increase in the atrium width, enlarging the bridges in order to enhance their potential as social spaces.

The Panel found much to admire in the simple, bold treatment of the elevations and the choice of cladding materials to address the building's environmental performance. It was most impressed with the client's unreserved commitment to commission a sustainable building, and to see this as an example for the company's staff and customers to aspire to. Every aspect of a sustainable approach appears to have been considered, for example its longevity through flexibility in the plan form, a green roof with solar thermal water heating, rainwater harvesting, an air source heat pump, and the pre-eminence of the staircase.

The open areas around the building are thoughtfully designed, including a generous and well-landscaped garden to the north separating two parking areas.

The Panel suggests that, if this garden were a little narrower, it might become possible to widen the pavements on Hatherton Street and Teddesley Street to afford more safety and comfort to pedestrians. It was also suggested that the car park entrance did not require a bellmouth, but could be a continuation of the pavement, with dropped kerbs (for ease of pedestrian movement). The Panel also recommend the use of benches in preference to bollards wherever appropriate for controlling traffic movements.

Strategic Policy - The proposal is partly edge of centre/partly out of centre. It is within the terms of the Gigaport scheme. The use is therefore supportable in principle, as it will help to meet the capacity need identified in the emerging RSS Preferred Option for Walsall Town Centre. We would emphasise the need for the development to be integrated, in functional and visual terms, with the town centre.

Walsall Regeneration Company – Support the proposals as the first step in the delivery of the Gigaport proposals. Suggest that the applicant and developer consider future proofing the development, providing for high speed broadband technology.

Fire Service – No objection – Satisfactory for fire access

Landscape Team - Overall good quality design but some elements (e.g additional species and planting details to bin stores) need review/improvement. Recommend conditions.

National Grid – No objection – risk is negligible.

Conservation – No objection

Environment Agency – No objection

Centro – No objection and welcome the Gigaport development for the benefits we expect it will bring to Walsall and the regeneration of the town centre. Centro want the developments to be served by excellent public transport services supported by good and legible cycling and walking access provision, and in line with this, we have identified the relevant matters which will need to be accommodated in the development. A contribution of £75,000 be sought towards:

1. Pedestrian links from the proposed development to surrounding bus stops, rail station and bus station in order to promote the use of public transport
2. The delivery of Public Transport improvement measures emerging as a result of the forthcoming Walsall Bus Network Review scheduled for 2010
3. General improvements to Bus and Rail stations.

Further involvement in the development of the Green Travel Plan would also be welcomed.

Public Participation Responses

One letter from a local resident not against the proposal in principle but objects due to concerns about the additional road traffic it will bring to the Butts area in general. The objector commends the sustainable travel initiatives but no consideration has been given to overspill parking and where these vehicles will go. The resultant congestion and continuous movement of traffic makes the roads in the area unsafe for crossing - Butts Primary School lies close to the new development and children from the surrounding area walking to and from school already have to 'run the gauntlet' of busy side roads blocked with parked cars on a daily basis. The objector also notes that parking has also become increasingly difficult for local residents and that the increase in traffic will also add to both noise and air pollution levels in the area.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Relationship to the Walsall Gigaport project

- Impact upon the Ford Brook and Limestone Consideration Zone (LCZ)
- Car parking and access into the site
- Design and layout of the building and public realm
- Sustainability credentials of the proposals
- Contributions towards public art and public transport.

Observations

Relationship to the Walsall Gigaport project

The application falls within the boundary of the outline planning permission for office-led development. The proposals are clearly in accordance with this project and will promote the objective that the regeneration aims and objectives are being delivered.

The project meets many of the aspirations in terms of the quality of the building and the support of MADE and the WRC is noted.

The proposals are in the area of the first phases of the development as shown on the indicative layout plan and are therefore compliant with the aims and objectives of the Gigaport development.

Whilst Gigaport did not propose large surface car parks as part of the proposals, in order to maximise the developable area and potential of the land, the inclusion of a surface car park in this development as an interim measure until further development takes place would not be inappropriate and would meet the needs of the development until a more comprehensive parking strategy is developed / delivered.

Impact upon the Ford Brook and Limestone Consideration Zone (LCZ)

Some of the site lies within the LCZ and the Ford Brook crosses the site. Whereas the underlying limestone was mined in the past, the cavities so formed (7m high max, and between 34 and 60 m below surface) have since been backfilled with rock paste and now the depth to groundwater could be significant in determining the impact of development on this structure. However, the Environment Agency and Pollution Control Officers both raise no objection and are satisfied that further investigation and assessment can be safeguarded through conditions added.

The Ford Brook runs in culvert beneath the site, not surfacing until 70 m west. The risk of pollution of controlled waters is considered low. Any works within 8m of the line of this structure would be carried out in liaison with the Environment Agency under separate legislation. Officers are aware that the design of this building has evolved from liaison with the Environment Agency and therefore the layout should not cause an adverse impact on the Ford Brook.

Car parking and access into the site

As previously stated in this report the Gigaport proposals do not include large proportions of surface car parking, instead proposing to deliver strong and coordinated public realm with centralised parking. As an interim measure, with

more parking delivered as part of further phases and developments other car parking solutions should be progressed and delivered, as proposed on this site.

The proposals provide 72 car parking spaces including 7 disabled car parking spaces (9.7%). The proposals would deliver 1 space per 55 square metres which is slightly higher than the Gigaport approval (1 space per 60 square metres or 66 spaces). The application site is well situated for the town centre, public transport, the local community and other town centre car parking.

It is noted that WHG, the end tenant will be relocating from 14 sites into this site and therefore there will be a reduced level of travel between offices and colleagues. It is considered that although the amount of car parking is therefore considered to be appropriate.

The vehicular access to the site would be split equally between Teddesley Street and Hatherton Street with pedestrians able to access the site from both sides of the development. It is considered therefore that the level of traffic movement will not be significant to cause harm to the amenities of neighbouring residents and, considering the advice of Transportation Officers, the proposals would not result in significant harm to highway safety in the area.

It has been suggested by highway engineers on the M.A.D.E. Design Review Panel that the car park entrance did not require a bellmouth, but could be a continuation of the pavement, with dropped kerbs (for ease of pedestrian movement). Considering the sustainable location of the application site and the need to promote pedestrian movement to the surrounding area, Officers concur with this view.

Officers note the comments of neighbouring residents however for the reasons stated above the proposals are considered acceptable.

Design and layout of the building and public realm

Officers note the comments of M.A.D.E. and concur with the sentiments on the simple, bold treatment of the elevations and the choice of cladding materials to address the building's environmental performance.

The open areas around the building are thoughtfully designed, including a generous and well-landscaped garden to the north separating the two proposed parking areas. This will allow for members of public and staff to enjoy an outdoor space and would also promote a greener feel to the development.

Officers note that M.A.D.E. suggests that, if this garden were a little narrower, it might become possible to widen the pavements on Hatherton Street and Teddesley Street to afford more safety and comfort to pedestrians. This is balanced against the longer term aspirations for the development of the car parking areas and the remainder of the site. The need to promote qualitative

spaces is noted and in this instance it is considered that improvements suggested, on balance, could be either accommodated through later phases or would result in a reduction in the quality of the central landscaped area.

M.A.D.E. also recommended the use of benches in preference to bollards wherever appropriate for controlling traffic movements. Officers agree with this comment and have proposed a condition to address this.

Overall, the development is an excellent start to the Gigaport project demonstrating high quality, sustainable development incorporating public realm and a clear thought out design process. It also provides statement architecture and shows that this can be done without the need to develop unnecessarily tall in scale.

Sustainability credentials of the proposals

Officers welcome the sustainable approach to the building's longevity through flexibility in the plan form, a green roof with solar thermal water heating, rainwater harvesting, sustainable heating system, and the pre-eminence of the staircase.

The building will seek to meet the British Research Establishment Environment Assessment Method (BREEAM) Excellent Standard and will aim also to produce around 20% of its own energy through photovoltaic panels and solar gain on the roof.

The site is also located within the town centre inset boundary and is well positioned to take advantage of public transport and will be easy for staff and customers (i.e. WHG tenants) to easily access the building.

The other aspect to consider is that the building will consolidate 14 existing WHG offices into this building. This will reduce the need to travel between offices and make public transport and other more sustainable modes of transport more viable, particularly for members of staff.

Officers welcome and support the sustainability of the proposed building and consider it to be an exemplar for the Gigaport project to build upon.

Contributions towards public art and public transport

A contribution towards public transport, generated from the additional impact of the Gigaport project and the relationship to the 5W scheme. The contribution sought by Centro would be £75,000. This contribution and level of public transport provision was part of the agreed Gigaport project and would allow for a reduced impact on the highway network. In addition a public art (£12,054) are sought in this instance. The applicant has been informed of this offer and is in discussion with Officers.

Conclusion

Overall the scheme is an excellent start to the Gigaport project and will show excellence in sustainability and design ethos needed from the initial stage to set the standard for the rest of the regeneration ethos.

Summary of Reasons for Granting Planning Permission

The proposals are the first development in the Gigaport regeneration initiative and propose a high quality, modern, sustainable building within its own setting, including public realm linkages which take into account the wider objectives of the regeneration initiatives.

The scheme has considered the relationship to Littleton Street West and puts forward a strong frontage and encourages movement throughout the site and access from Hatherton Street and Teddesley Street.

The “tree graphic” built into the Littleton Street elevation will also visually link the building to the Arborteam.

The proposed car parking level is considered to be appropriate and the long term development plans for the remainder of the land are noted.

It is not considered that the proposals would compromise highway safety nor result in undue levels of on-street parking.

For these reasons, having carefully considered consultation responses and public participation responses, it is considered that the proposals are compliant with Policies GP1, GP2, GP3, GP4, GP5, GP6, GP7, T1, T2, T3, T4, T5, T6, T7, T8, T9, T10, T11, T12, T13, ENV9, ENV10, ENV11, ENV13, ENV14, ENV17, ENV18, ENV19, ENV21, ENV22, ENV23, ENV25, ENV26, ENV27, ENV29, ENV31, ENV32, ENV33, ENV34, ENV35, ENV39, ENV40, JP2, JP3, JP7(d), S1, S2, S3, S4, S5, S7, LC1, LC2, LC6, LC7, LC8, WM1, WM4, WA3, WA4, WA3, WA5, WA6, WA13, WA15, WA16, WA17, WA18, WA19, and paragraphs 4.6, 4.13 and 4.14 of Walsall Unitary Development Plan, March 2005; Designing Walsall Supplementary Planning Document; the aims and objectives of the Regional Spatial Strategy and Planning Policy Statements 1 and 6 (in particular).

Recommendation: Grant Permission Subject to Conditions and a Planning Obligation

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

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

2. Prior to the first occupation of the proposed development, the existing access arrangements shall be permanently closed, and be constructed to a specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements.

Reason: In the interests of highway safety.

3.a) Unless otherwise agreed in writing the parking areas shown on the approved plan shall be brought forward as part of a co-ordinated development for the area outlined in blue on the location plan and any additional areas of land that may be appropriate to development.

b) As part of future development proposals identified above a co-ordinated car parking strategy for the land shall be progressed including, where appropriate, multi-storey car parking and reducing the levels of surface car parking.

c) Until such time as development identified in parts a) and b) of this condition is brought forward the parking areas shall not be used for any other purpose than the parking of vehicles.

Reasons:

a) To ensure that future development proposals are delivered in a co-ordinated and comprehensive manner as identified in the outline planning permission for the Gigaport (08/0951/OL) and to meet the wider aspirations for regeneration of this area of Walsall Town Centre.

b) To ensure that future development proposals are delivered in a comprehensive manner with an appropriate level of car parking.

c) To ensure that appropriate car parking is safeguarded for the office building and to ensure that a satisfactory appearance to the development is maintained.

4. Unless otherwise agreed in writing by the Local Planning Authority, the materials used shall be those indicated on the approved plans.

Reason: To ensure the satisfactory appearance of the development.

5. a) Prior to built development commencing a copy of the findings of the additional site investigation and ground gas assessment (as required by the Phase I and Phase II Geo-Environmental and Geotechnical Report reference 36588-01), together with an assessment of the hazards arising from any contamination/ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant C2).

b) Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant C2)

c) The remedial measures as set out in the “Remediation Statement” required by part b) of this condition shall be implemented in accordance with the agreed timetable.

d) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation is encountered development shall cease until the “Remediation Statement” required by part b) of this condition has been

amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

e) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant C3)

Reason: To ensure safe development of the site and to protect human health and the environment.

6. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall otherwise only take place between the hours of 07.00 to 19.00 weekdays and 08.00 to 13.00 on Saturdays, unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To safeguard the amenities of nearby residents.

7. Prior to commencement of development details (including location and external appearance) of all plant and equipment used for the purpose of heating, ventilation and/or air conditioning shall be submitted to and approved in writing by the local planning authority. Any such structures situated within buildings or in acoustically designed enclosures, and thereafter retained in accordance with any approval for the period of their use.

Reason: To ensure satisfactory appearance of the application site and to ensure that the amenities of nearby residents are safeguarded.

8. a) Prior to the first occupation of development an improved Travel Plan shall be approved in writing by the Local Planning Authority.
- b) That Plan shall be developed in consultation with this Council's Travel Wise co-ordinator, the Highways Agency and Centro and include a mechanism for delivery of the Travel Plan.
- c) The Travel Plan will identify a package of measures consistent with the aim of reducing reliance on the car, and should include (but not be limited to) providing information on/promoting the use of alternative modes of transport, by:-
- i) The appointment of a travel plan co-ordinator,
 - ii) The establishment of targets for modal shift,
 - iii) The details of measures to be employed to achieve the identified targets,
 - iv) Mechanisms for ongoing monitoring and review of targets and travel plan measures,
 - v) Details of penalties and/or additional measures to be investigated /

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- implemented in the event that the identified targets are not met.
- vi) Public transport information and ticket details;
 - vii) Cycle provision, showers and lockers and associated infrastructure; and
 - viii) Walking initiatives.
 - ix) Improving overall links to the main public transport infrastructure of St Paul's Bus Station and Walsall Railway Station and the primary retail core.
 - x) Car park allocation strategy.
- d) The approved Travel Plan shall be implemented during the six months following the first occupation of the premises. Following the expiry of this period of time or such other period of time as may be agreed under part c)iv) of this condition, a review of the Plan shall be carried out, and submitted to the Local Planning Authority for approval. The review will identify any refinements and clarifications deemed necessary to the Plan.
- f) The occupation and use of the development shall comply with the requirements of the revised plan approved under part (e) of this condition, at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory functioning of the development, to promote the use of a range of modes of transport, and minimise the use of the car.

9. Prior to the commencement of development details of street furniture (including proposed signage, bollards, benches and timing of installation) shall be submitted to and approved in writing by the Local Planning Authority. The approved details will be implemented prior to occupation of any part of the site.

Reason: To ensure the satisfactory appearance and functioning of the development.

10. Prior to the first occupation of the development the design of window cleaning arrangements for the development shall be submitted to and approved in writing by the Local Planning Authority. The building will be implemented in accordance with the approved details.

Reason: To ensure a satisfactory design for such works, in keeping with the building.

11. A scheme for external lighting (including a timetable for installation) will be submitted for the approval of the Local Planning Authority and the lights shall be installed and thereafter retained in accordance with the approved details.

Reason: To safeguard the amenities of the occupiers of adjoining premises and highway safety.

12 Prior to the commencement of development the details of the cycle stores shall be submitted for the approval of the Local Planning Authority. The approved details shall be implemented prior to the first occupation.

Reason: To ensure the satisfactory appearance of the development, and to promote use of the bike, and minimise use of the car.

13. All trees and hedgerows to be retained in or immediately adjacent to the boundary of the application site shall be protected in accordance with BS 5837: 2005 'Trees in relation to construction'. Any tree works shall be carried out by a tree surgeon approved by the Head of Environmental Regeneration, or a person who is appropriately insured and competent in such operations.

Reason: To protect trees on the site, and to ensure the satisfactory appearance of the finished development.

14. Unless otherwise agreed in writing by the Local Planning Authority The development will be designed, constructed and operated to meet the 2005 Building Research Establishment Environmental Assessment Method 'excellent' standard.

Reason: In order to meet the aims and objectives of sustainable development and efficient use of natural resources.

15. All windows and areas of glazing within the building, including any atrium or entrance area, shall be kept free of applied signage or other significant screening which would hinder views into an atrium or entrance area and/ or the passive surveillance of public areas, unless details have been previously submitted to and agreed in writing with the Local Planning Authority.

Reason: To aid the security of users of the site, to create and retain attractive entrance areas, and control the proliferation of advertisements on the site.

16. Unless otherwise agreed in writing by the Local Planning Authority, at all times the internal arrangements of the ground floor of the development will ensure that no

- non-transparent partitions (other than those positioned at 90 degrees to the external wall)
- storage areas,
- refuse areas
- or toilet facilities

shall be located within 2 metres of any glazed external wall .

Reason: To ensure active frontages and a satisfactory appearance on all faces of the buildings, to ensure a permanently satisfactory urban design solution to the circulation of pedestrians around all faces of the buildings.

NOTES FOR APPLICANT:

A) The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

B) Drainage arrangements shall be provided to ensure that surface water from the development does not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

C1) Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

C2) When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land Contamination”, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 “Updated technical background to the CLEA model” and Science Report – SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

C3) Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

C4) The desk study and site reconnaissance shall have regard to the previous unknown filled ground and materials used and processes carried on. Further details on the matters to be addressed is available in “PPS 23 : Planning and

Pollution Control”, Annex 2, Development on Land Affected by Contamination”, paragraphs 2.42 to 2.44. and “Model Procedures for the Management of Contamination” (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

D) Bank Holidays and Public holidays for this purpose may be taken to include: Christmas Day; Boxing Day; New Year’s Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday, and August Bank Holiday Monday.

E) All plant and equipment used for the purpose of heating, ventilation and/or air conditioning shall be maintained and serviced in accordance with manufacturer’s and/or supplier’s recommendations, instructions and schedules.

F) In developing your Travel Plan, your attention is drawn to the Travel Plan Framework submitted with application 08/0951/OL.

G) You have been provided with a copy of the Environment Agency’s letter of 7th July 2009 and these comments should be noted. Under the terms of the Water Resources Act 1991, and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the culverted Ford Brook, designated a ‘main river’.



ITEM NO: 7.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest.

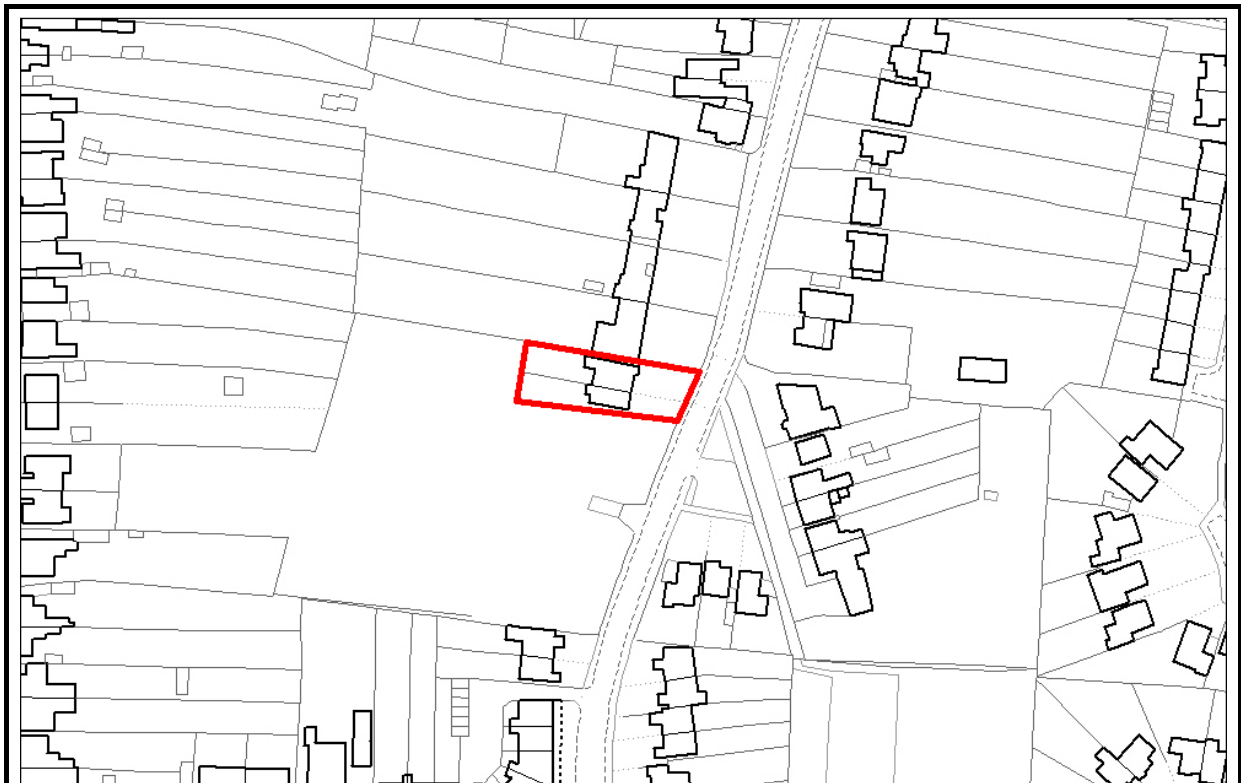
Application Number: 09/1171/FL
Application Type: Full application
Applicant: Ms Tara Portman
Proposal: Demolition of bungalow
and construction of new house.

Case Officer: Barbara Toy
Telephone Number: 01922 652429
Agent: DW2 Ltd
Location: 117 WHETSTONE
LANE, ALDRIDGE, WALSALL, WS9
0EZ

Ward: Aldridge/Central & South

Expired: 23/12/2009

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

The site is situated on the western side of Whetstone Lane and comprises a vacant detached dormer bungalow, immediately to the north of the playing fields of Whetstone Field primary School and forms the end of a row of residential properties.

The existing dormer bungalow (dormer to the side facing north) is set back from the road, with a front drive (with in and out access) and garden area situated at a slightly lower level than the road.

Whetstone Lane is predominantly residential in character, comprising a mix of ages and styles of properties, both single and two storey. Immediately to the north of the site is a row of four bungalows within wide plots and a modern bungalow and two storey houses situated on the opposite side of the road.

This application is an amended scheme following the refusal of a previous application for a two storey detached house.

This scheme proposes the demolition of the existing bungalow and erection of a two storey detached four bedroom house, with integral garage. The proposals would utilise the existing vehicle access points onto Whetstone Lane. The scheme has been further amended during the course of the application.

Relevant Planning History

08/0924/FL, demolition of existing bungalow and erection of two storey detached four bedroom house, refused 29-08-08.

Reasons for refusal:

1. The proposal due to its scale and massing would represent a cramped form of development which would be significantly higher than the adjacent dwelling. As a result the proposal would appear incongruous and unrelated to the surrounding development causing harm to the character and appearance of the area. The application fails to take account of the context that defines the character of the area, disrupting the street scene to the detriment of visual amenity.
2. The application fails to demonstrate that the proposed development would not have an adverse impact on protected species. The application site is in a location where a bat survey would be required and this has not been provided. The lack of information submitted with the application fails to confirm or deny the presence of roosting bats within the existing building.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

Walsall Unitary Development Plan March 2005

Page 86 of 155

2.1 and 2.2 state that creating, sustaining and enhancing a high quality natural and built environment, including a high standard of design is a key consideration.

GP1: The Sustainable Location of Development

The location of development will be guided by the principles of sustainable development.

GP2: Environmental Protection

The Council will not permit development which would have an unacceptable adverse impact on the environment.

3.6 seeks environmental improvement resulting from development.

3.16 considers development in relation to its setting with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

3.113, 3.114 & 3.115 building design and landscape design are important considerations and should contribute to the environment and respond to the context of the area.

GP7: Community Safety

Proposals would be expected to have regard for the objectives of 'designing out crime' which include maximising the surveillance of public areas from the living areas of homes and from other buildings.

6.3 new housing shall be provided through a sequential approach which maximises the re-use of previously developed land and buildings within the urban area before the use of Greenfield land.

H10: Layout, Design and Dwelling Mix

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

ENV14: Development of Derelict and Previously-Developed Land

Encourage the reclamation and development of derelict and previously developed land.

ENV23: Nature Conservation and New Development

Layout of all new development must take account of potential for enhancement of the natural environment through habitat creation. The Council will require habitat creation to encourage the conservation of wildlife in proximity of wildlife corridors.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Detailed criteria are listed for consideration when assessing the quality of design of any development proposal including:- the appearance, materials, height, proportion, scale and mass of the proposed buildings, the visual relationship of the proposal with

adjacent areas, the street and the character of the surrounding neighbourhood, the effect on the local character of the area.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

4 bed houses and above 3 spaces per unit

Designing Walsall SPD (February 2008)

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are relevant policies to this case;

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DW3 – Character - all new development must be designed to respect and enhance local identity

DW4- Continuity - Well defined streets with a continuity of built form are important.

DW6 – Legibility - new development should contribute to creating a place that has a clear identity

DW9- High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality

DW 10 – Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Conserving Walsall's Natural Environment SPD (April 2008)

Advises on the information requirements and survey standards for protected species to accompany planning applications.

Regional Spatial Strategy for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy QE1 - Environment

Overall, these seek improvements to the design and sustainability of the urban areas.

National Policy

PPS 1: Delivering Sustainable Development, emphasises need to reject poor design and the need for sustainable development.

PPS3: Housing, encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes.

Consultations

Transportation – No objections subject to a condition regarding the front boundary treatment. The proposals would utilise the existing access points and would provide sufficient off street parking for 3 cars.

Pollution Control – Scientific Team – No objections subject to a condition to restrict hours of working on site.

Contaminated Land Team – No objections, however the site is in an area historically utilised for the quarrying of sand and gravel and unknown filled ground that may have resulted in localised ground contamination that may present Health & Safety implications for persons undertaking ground works. Safeguarding conditions are therefore recommended.

Landscape Officer – No objections.

Fire Officer – Satisfactory access for fire appliance.

Environmental Health – No adverse comments.

Public Participation Responses

Five letters of objection received in relation to the submitted plans

Objections:

- Similar to the previous refusal
- An eyesore
- Scale of the building out of character with the area
- Excessive height
- Question whether due to the size the property will be a private house or a care home
- Difference in levels between the site and 115, site higher
- Dwarf and overshadow adjacent bungalows
- Block light
- Overlooking and loss of privacy
- Too large for the plot
- The bungalow should be replaced by a further bungalow or dormer bungalow.

A further 3 letters of objection have been received in relation to the amended plans

Objections:

- A bungalow would be more in keeping with the area
- Difference in levels between the site and 115, site higher
- Overlooking
- Too large and design out of character, it would stick out like a sore thumb
- Too large a house for the plot
- Dwarf adjacent bungalows

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

Whether the proposal overcomes the previous reason for refusal in terms of the:

- scale, massing and height of the proposals & respect for local character & context and
- potential impact on protected species.

Observations

Scale, massing and height of the proposals, and respect for local character & context.

The overall scale, massing and height of the proposed house have been reduced since the previous refusal.

The front to back depth has been reduced by 2.8m to 12.5m, the width reduced by 1.4m to 12m and the overall height reduced by 0.9m to 7.7m.

This reduces the overall impact of the building within the street scene and the impact of the side elevation on the adjacent school playing field. The reduced width provides a larger gap between the new house and the existing bungalow.

The roof design has been simplified, introducing an extended hip coming down over the single storey garage element to the right hand side adjacent to No 115, reducing significantly the massing and height adjacent to No 115, an existing bungalow.

The design amendments include the introduction of a chimney, a larger gable feature to the left hand side of the front elevation and a gable feature over the single storey garage element to the right hand side. This puts the mass of the roof to the left of the frontage, away from the bungalows to the north. The

windows on the front elevation now have better proportions and the front door is now more visible. The design therefore now includes key characteristics of the local area.

Whetstone Lane has a mix of styles and ages of property, single and two storey properties and differing distances set back from the road. Immediately to the north of the site is a row of four bungalows (115 – 109) set back from the road some distance, whilst 107 Whetstone Lane is a substantial traditional two storey house set well forward of 115-109, and creates an interruption in the general street scene. Opposite the site is an access drive to 146-154 Whetstone Lane. 146 is a bungalow on the corner and 146a-154 are two storey houses set higher than the road. This again provides a relationship between single storey and two storey development. Whetstone Lane therefore has a number of examples where single and two storey properties sit side by side. This contributes to the character of the general street scene and is reflected in the proposals.

The proposed house would sit at the same level as the existing bungalow on the site, approx 1m lower than the road. The bungalow at No 115 has a lower ground level than the site, which would result in the ridgeline of the proposed house being approx 4m higher than the bungalow at No 115, but this maximum height is set approx 7m away from the bungalow due to the new roof design and the increased separation distance between the properties. This amended design is therefore considered appropriate and the house a suitable size for the plot.

The proposals therefore overcome the previous reason for refusal in terms of the scale, massing and height of the house and its relationship with the character of the area.

Protected Species

The application site is located in an area of large mature gardens, in proximity to open land and mature trees; therefore in accordance with Conserving Walsall's Natural Environment SPD a bat survey is required. No bat survey was submitted with the previous application.

A detailed bat survey has been submitted with this application which concludes that there was no evidence that bats were using the building when the surveys were undertaken. Therefore no objections have been raised to the proposals from Natural Environment and the submission overcomes the previous reason for refusal in terms of protected species.

Other issues

The first floor rear balcony has been removed from the design and the proposals comply with the 45 degree code. The proposed house would therefore have adverse impact on the amenities of the occupiers of No 115 Whetstone Lane through overlooking or loss of privacy.

Residents have raised concerns about the use of the property as a care home due to its size, any alternative of use the property would require further planning consent.

Summary of Reasons for Granting Planning Permission

The scale, massing, height and design of the proposed house and it is an appropriate size of property for the plot and has an acceptable relationship to the bungalows adjacent, making a positive contribution to the street scene and compatible with the character of the area.

The reduced height and roof design provides an acceptable separation between the proposed house and the existing bungalow at 115 Whetstone Lane and a satisfactory interaction between the single storey and two storey development.

The proposals comply with the 45 degree code and would have no adverse impact on the amenities of the adjoining occupiers.

Any alternative use of the house would require further planning consent.

The submitted bat report finds no evidence of bats using the building, therefore the proposals would have no adverse impact on protected species.

The proposals would accord with the aims and objectives of the development plan, in particular policies 2.1, 2.2, GP1, GP2, 3.6, 3.16, 3.113, 3.114, 3.115, GP7, 6.3, ENV14, ENV32, H10, T7 and T13 of Walsall's Unitary Development Plan (2005), Supplementary Planning Document: Designing Walsall (2008) in particular policies DW3: Character, DW4: Continuity and DW10: Well Designed Sustainable Buildings and Supplementary Planning Document: Conserving Walsall's Natural Environment (2008).

Recommendation: Grant Subject to conditions

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

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

2. No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

3. No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

4. No development shall commence on site until details of a landscaping scheme, are submitted to and approved by the Local Planning Authority. The scheme shall be completed in accordance with the approved details before the development is occupied, unless otherwise agreed in writing with the local planning authority, and retained as such. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to safeguard the visual amenity and natural environment of the area.

5. Prior to commencement of any development on site, details of boundary treatment to the frontage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to first occupation of the dwelling hereby approved and thereafter retained.

Reason: In order to ensure the satisfactory appearance of the development and appropriate vehicle and pedestrian visibility.

6. No demolition, engineering or construction works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours Saturdays, unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To safeguard the amenity of occupiers of premises within the vicinity.

7. The works hereby approved shall only be carried out in accordance with details contained within drawing Nos 080109-A101 Rev b and 080109-A102 Rev a submitted on 23rd December 2009, 080109-A103, 080109-A104 and 080109-A105 submitted on 27th October 2009 and Design and Access Statement and Bat Survey submitted on 28th August 2009.

Reason: In order to define the permission.

Note for Applicant.

The area of this proposed development has historically been utilised for the quarrying of sand and gravel and unknown filled ground that may have resulted in localised ground contamination that may present Health and Safety implications for person undertaking ground works. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.



ITEM NO: 8.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 09/0289/FL
Application Type: Full application

Case Officer: Devinder Matharu
Telephone Number: 01922
652487

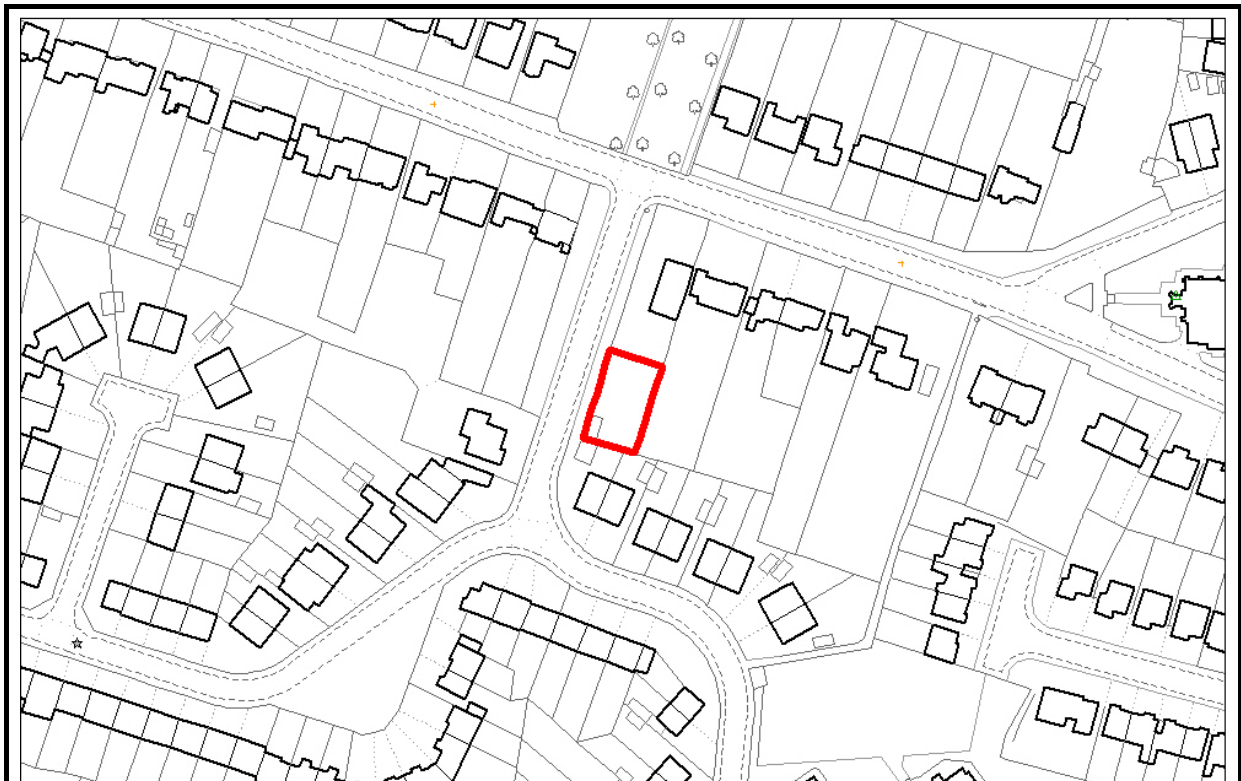
Applicant: Mr Thomas Anderson
Proposal: Proposed new dwelling rear
of 31 Hall Lane.

Agent: Aidan Paul Walker
Location: 31 HALL
LANE, PELSALL, WS3 4JQ

Ward: Pelsall

Expired: 22/05/2009

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

The application proposes the erection of a new dwelling within the lower part of the rear garden of 31 Hall Lane. The proposed dwelling would be positioned 1.5m away from the boundary with 29 Hall Lane 5 metres away from the boundary with 38 Maple Road. The dwelling would be two storey and 8.5m in width, 8.8m in length and 6.25m in height. Access to the site would be via the existing vehicular access off Hillside Crescent. The dwelling would have a rear garden length of 12m and which would be parallel to Hillside Crescent. The dwelling would be set back into the site 5.5m from the Hillside Crescent boundary. The distance from the rear of 38 Maple Road to the side elevation of the dwelling would be 13m.

The application site forms the rear part of the garden of 31 Hall Lane. Number 31 Hall Lane is a large detached property with a rear garden length of some 37m. Towards the rear boundary of the garden is a garage with an existing vehicular access onto Hillside Crescent. There are 9 trees within the rear garden along the Hillside Crescent boundary which can be seen above the fence line. Towards the rear boundary of the site, adjacent the rear garden of 38 Maple Road there are 6 leylandii trees which tower above the fence line and which provide a screen between the two sites. Within the site there are a further 9 trees, 7 of which are grouped together and provide a leylandii screen in this part of the garden from the very rear part of the garden.

To the rear of the site are bungalows that front onto Maple Road, number 38 being a bungalow and number 36 being a dormer bungalow with dormers on the rear elevation. There is a levels difference between the properties on Hall Lane and those on Maple Road, as the Hall Lane properties to the west of the application site, parallel to the rear garden is Hillside Crescent which leads into Maple Road from Hall Lane. The residential properties 23 -31 Hall Lane have longer rear gardens than numbers 24-38 Maple Road. Number 38 Maple Road has a large double garage abutting the rear boundary of 31 Hall Lane and facing the front of bungalow. There is a low boundary wall around the site.

The style and design of the properties along Hall Lane vary and detailed features include bay windows, chimneys, projecting gable features, hipped roofs, mock Tudor framing and decorative framing features. The types of houses vary from two storey, dormer bungalows and bungalows. The character of the area is residential, the properties on Hall Lane, in particular numbers 23 to 41 have long mature gardens with smaller gardens of properties on Maple Road and Hillside Crescent bordering them. In between the properties in the area there are pockets of open space that allow views around properties.

A Design and Access Statement has also been submitted which addresses the scheme.

Relevant Planning History

BC529 31 Hall Lane. Erection of a double garage. GSC 1974.

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Relevant Planning Policy Summary (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Unitary Development Plan (UDP)

Policies 2.2, 3.6, 3.7 and GP2 seek high quality design and access whilst protecting people from unacceptable noise, pollution and other environmental problems.

Policy GP7 proposals should have regard to designing out crime.

Policies ENV17, ENV33 and 3.117 encourages new planting as part of landscape design to create and enhance environmental quality

Policies ENV32, 3.16, 3.116 and H10- seek the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character and in accordance with the principles of good design. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted, particularly in locations such as visually prominent sites.

Policies 3.64 and ENV18 ensure the protection, positive management and enhancement of trees and hedgerows and that development will not be permitted if it would damage or destroy trees or woodlands protected by Tree Preservation Order unless:-

- I. the removal of the trees or hedgerows would be in the interests of good arboricultural practice and there would be no unacceptable adverse impact on wildlife; or
- II. the desirability of the proposed development significantly outweighs the ecological or amenity value of the woodland, trees or hedgerows.

(b) Where developments are permitted which involve the loss of trees or hedgerows developers will be required to minimise the loss and to provide appropriate planting of commensurate value; wherever possible, this should involve native species of local provenance.

Policies 6.3 and H3 – encourage the provision of additional housing through the re-use of previously developed windfall sites provided a satisfactory residential environment can be achieved.

Policy H9 – the net density of residential development should be at least 30 dwellings per hectare. Densities in the range of 30 – 50 dwellings per hectare net are likely to be suitable on most sites.

Policy 6.49 Policy seeks to raise densities to make the most efficient use of housing land.

Policy 7.36 refers to PPG13 states that Local Authorities should use parking policies to promote sustainable transport choices and reduce the reliance on the car.

Policy T4 (b) district distributors which are important routes connecting the main residential areas and employment areas. Street parking and direct frontage access will be strictly regulated.

Policy T7 (b) states that all development should satisfy the car parking standards set out in Policy T13.

Policy T13 car parking standards
3 bedroom houses 2 spaces per unit

Designing a Better Walsall SPD (2008)

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW3 – Character -design to respect and enhance local identity;

DW4- Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW6 – Legibility - new development should contribute to creating a place that has a clear identity;

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DBW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Conserving Walsall's Natural Environment

Policies NE7 and NE8 seeks an arboricultural survey demonstrating that the trees to remain will survive

Regional Spatial Strategy for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy CF1 - Scale and range of new housing development
Policy QE1 - Environment

Overall, these seek improvements the design and sustainability of the urban areas.

Safer Places - The Planning System and Crime Prevention (ODPM/Home Office 2004). states the following:

- It is desirable to restrict public access to the rear of buildings.
- Places are laid out so that crime is discouraged and different uses do not cause conflict.
- Places that could be vulnerable to crime should be overlooked by buildings
- Windows and doors should face onto the street

National Policy

PPS1 on delivering sustainable development and good design.

PPS 3: Encourages reuse of previously-developed land for housing. Paragraph 10 indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. Some of the specific outcomes that the planning system should deliver are:

1. High quality housing that is well-designed and built to a high standard.
2. Housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development.

Consultations

Transportation – No objections subject to a planning condition relating to car parking.

Pollution Control (Scientific Team) – No objection subject to planning condition relating to noise.

Pollution Control (Contaminated Land) – No objection

Arboricultural Officer – No objection subject to an arboricultural report being submitted to ensure the protection of the TPO trees during the construction period.

Landscape Officer – No objection

Drainage – No objection

Fire Officer- No objection

Environmental Health – No objection

Public Participation Responses

Five letters were received to the original plans objecting to the proposal on the following grounds:

- Congestion in close proximity to St Michael's school
- Overdevelopment
- Loss of privacy
- Overlooking
- Mass of bungalow visible over the boundary fence with 29 Hall Lane
- Loss of light
- minimum distances met
- Leylandii hedge trees would shade the proposed bungalow hence trees will be removed
- trees in rear garden of 29 Hall Lane will cause water and foundation damage to the bungalow
- Loss of greenery
- Existing tree in the rear corner of 31 causing damage to driveway at 38 Maple Road
- Disruption to habitat and wildlife in the area
- noise
- Exacerbate existing sewerage problems
- Devalue of property – *not a material planning consideration*

As well as the above letters, one letter has been received signed by 2 residents and attached to it is a petition with 52 signatures objecting to the proposal on the above grounds.

A further five letters were received to the amended plans objecting to the scheme on the following grounds:

- Traffic problems with construction work
- Mature gardens form the character of the area
- Loss of privacy
- Overlooking
- Eyesore – the bungalow would be seen over the boundary fence with 29 Hall Lane
- Boundary hedge with 29 Hall Lane would not attain much height result in overlooking of 29 Hall Lane
- Proposal does not meet minimum separation distance
- Concerns that trees in rear garden of 29 Hall Lane will cause structural damage to the bungalow and the occupiers will not be held responsible
- Loss of greenery
- Trees roots in rear garden of 31 would affect construction hence they will be removed
- Sewerage problems
- Set precedent for further overcrowding and over development

A letter has also been received that has been signed by two residents and attached to it is a petition with some 21 signatures.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- The impact on the character of the area
- Impact on the amenities of neighbouring amenities
- level of amenity for potential occupiers
- Protected trees
- Parking and Highway Safety

Observations

The impact on the character of the area

The character of the area is defined by long mature gardens with infill residential development having been created to form Maple Road and Hillside Crescent. The residential properties in the area all have active street frontages with a traditional pattern of development. The proposed dwelling would provide an active street frontage along Hillside Crescent and although the rear garden would be at the side running parallel with Hillside Crescent, this is no different to the existing pattern of development where the rear gardens of numbers 31 and 33 Hall Lane run parallel with Hillside Crescent. There is a strip of land fronting Hillside Crescent which provides a buffer between the rear gardens of 31 Hall Lane and the public highway.

The properties fronting Maple Road immediately to the rear of numbers 23 and 31 Hall Lane are bungalows. The residential properties on Hall Lane sit at a higher level than the bungalows on Maple Road. The proposed dormer bungalow would be positioned 0.5m lower into the ground so from the street it would only be 5.7m high and would be seen to sit comfortably between the 2 storey dwelling at 31 Hall Lane and the bungalow at 38 Maple Road. The proposed dormer bungalow being set off the boundaries with 38 Maple Road and 29 Hall Lane would still allow pockets of open space around dwellings, which is a characteristic of the pattern of development in the area.

The style and design of the proposed dormer bungalow reflects the design characteristics of the properties in the surrounding area.

The Landscape Officer has raised concerns that the proposed dormer bungalow would be incongruous within the street scene. This is not acceptable as the proposed dormer bungalow would be set back within the site and being set lower into the ground so the height differences of the property from Hall Lane to Maple Road with the application site in between sits comfortably along the street scene.

Impact on the amenities of neighbouring amenities

The rear elevation of 31 Hall Lane has a lounge window at ground floor and a bedroom window at first floor. The elevation of the proposed dormer bungalow facing 31 Hall Lane consists of a secondary kitchen and lounge window at ground floor and a habitable room window at first floor. The separation distance between these windows would be 24m and 26m respectively. It is considered that the proposed boundary treatment between the two properties would obscure any direct overlooking from the rear habitable room windows of 31 Hall Lane to the habitable room windows of the proposed dormer bungalow. With regards to the first floor, 31 Hall Lane is set at a higher level with the land levels being lower towards Maple Road and due to this difference in height and the proposed dwelling being set lower in the ground, it is considered that there would not be any direct overlooking between habitable room windows. The amenity of both occupiers can be protected through effective planting along the boundary between the application site and the proposed dwelling, which can be sought by way of a planning condition.

Number 38 Maple Road is a bungalow that is positioned at angle. The separation distance between the southern elevation of the proposed dormer bungalow and the rear elevation of 38 Maple Road is 13m. This 13m separation distance between the habitable room window and blank walls exceeding 3m high meets the minimum separation distance, as set out in annexe E of the Designing Walsall SPD. The occupier of 38 Maple Road has made comments that the proposal only meets the minimum distance and because the way the measurement is taken between the two properties the scheme does not meet the 13m separation distance. The separation distance from the rear elevation of this property to the side elevation of the proposed dormer bungalow varies from 12.6m to 13.6m. The development slightly falls below the 13m separation distance; however along the boundary between the application site and 38 Maple Road there is a leylandii hedge that would be retained. This would provide a screen between the proposed dwelling and number 38 Maple Road. Furthermore, the proposed dormer bungalow would be positioned 5m away from the boundary fence between the application site and 38 Maple Road and due to the shape of the roof of the proposed dormer bungalow near this boundary; the proposed dormer bungalow would not result in any loss of amenity for existing residential occupiers at this property, as the property and any potential impact would be screened by the boundary hedge and the roof shape would still allow light to penetrate around the site.

With the orientation of the sun it is unlikely that the proposal would result in loss of light to the rear of 38 Maple Road.

The occupiers of 23A Hall Lane have objected to the proposal on the grounds that the dwelling would result in loss of overlooking of their property. There are no habitable room windows on the on the eastern –rear elevation of the dormer bungalow, apart from sky lights. The proposal would not result in overlooking of this property because the sky light would be a fixture in the roof, it would be difficult for potential occupiers to look out of due to the positioning of the slope of the roof.

The occupier of 29 Hall Lane has objected to the habitable room windows on the proposed dormer bungalow stating they result in loss of amenity to the habitable room windows on the ground floor of 29. The proposed dormer bungalow would sit more in line with 31 Hall Lane than 29 Hall Lane and with the land differences and the bungalow being set lower into the ground it is unlikely that there would be any overlooking of the habitable room windows of number 29 Hall Lane from the proposed dormer bungalow. Furthermore the applicant looks to plant trees in the rear corner of the site adjacent 29 Hall Lane to provide further screening between the two sites. Details of this landscaping can be sought by way of a planning condition.

The proposed dormer bungalow would be set off the rear boundary with 29 Hall Lane by 1.5m and positioned towards the very lower part of the rear garden of 29 Hall Lane. With the orientation of the sun there will be some loss of light to the lower part of this garden during the evening. However it is the very lower part of the rear garden and not the main area immediately outside of the habitable room windows of the property. The proposed dormer bungalow would be visible over the boundary fence but only the roofline would be seen, it is considered that the dormer bungalow being set off boundary would not have a significant impact on loss of amenity for these adjoining residential occupiers. The occupier of 29 Hall Lane has also raised concerns over structural damage to the dormer bungalow from the trees along the boundary in his garden. The proposed property is set back 1.5m from the boundary and the structural stability of the bungalow would be dealt with at Building Regulations stage. The issue with any potential structural damage is a matter to be resolved outside of planning legislation.

Number 36 Maple Road has dormers on the rear elevation, but this bungalow sits in line with number 29 Hall Lane, as such the proposed dormer bungalow would not impact on this bungalow.

Objectors have raised concerns over sewerage problems in the area. The submitted plan shows a foul drain running across the site. Severn Trent Water have no objection to the scheme subject to drainage details being submitted and agreed in writing.

Level of amenity for potential occupiers

The proposed dormer bungalow provides an adequate level of amenity for potential occupiers as all habitable rooms are served with windows. The rear garden meets the 12m rear garden length and in total an amenity area of 67 square metres has been provided. Annex E of the Designing Walsall SPD requires one or the other of these measurements to be met, in this case, the scheme almost meets both requirements. The rear amenity area would be protected from the public highway, Hillside Crescent by a strip of open land between the boundary of 31 Hall Lane and Hillside Crescent.

Protected trees

The established rear garden contains numerous trees including prominent and mature Scots Pine. These trees form a line parallel to Hillside Crescent and form a visible skyline feature. In combination with other trees within this and other Hall Lane gardens both adjoining and opposite creates an attractive street scene characterised by trees and greenery.

Although the scheme seeks to remove some of the bushes and trees on site the majority of the trees along the Hillside Crescent boundary will be retained as would the leylandii hedge between the rear of number 31 Hall Lane and the rear of 38 Maple Road. The Arboricultural Officer has objected to the scheme on the grounds of lack of information.

Policies NE7 and NE8 of Conserving Walsall's Natural Environment SPD also refer for the need for an arboricultural survey to be submitted and that it should be demonstrated that the trees to be retained will survive without causing nuisance beyond the development stage. With the retention of the majority of the trees on site it is considered that the proposal would not significantly impact on loss of wildlife in the immediate area or loss of greenery.

The Arboricultural Officer has no objection to the construction of the dwelling, however an arboricultural report detailing tree measures to be implemented prior to and during the construction period to ensure their retention needs to be submitted.

One of the objectors has raised concerns over damage to the driveway of 38 Maple Road from the trees within the rear garden of 31 Hall Lane. This is a matter to be resolved by the two occupiers outside of the planning system.

Objectors have also raised concerns that the tree roots within the rear garden of 31 Hall Lane would affect the structural stability of the proposed dormer bungalow and as such would be removed. The leylandii hedge along the boundary with 38 Maple Road is shown to be retained as part of the development. These leylandii trees are not worthy of protection and therefore it is not possible to control their retention by a condition. The retention of these trees would be beneficial to retain to screen the proposed dwelling from the rear of 38 Maple Road.

Parking and Highway Safety

The proposal for a 3 bedroom property would require 2 car parking spaces under Policy T13 of the UDP. The submitted scheme illustrates 2 car parking spaces within the site boundary, which meets the requirements of Policy T13. The displaced car parking at this part of the site for 31 Hall Lane would be repositioned in front of 31 Hall Lane. Alterations to the front drive would have to be undertaken to accommodate adequate car parking space for 31 Hall Lane.

Objectors have raised concerns over congestion in close proximity to St Michael's School. The access to the site is off Hillside Crescent and although

it is in close proximity to the school, this is an existing access onto Hillside Crescent and on a regular basis vehicles are parked along this part of Hillside Crescent which obstruct the highway, it is considered that any construction vehicles visiting the premises would deliver the materials and then leave the site, which would not exacerbate any existing highway problems in the area.

Summary of Reasons for Granting Planning Permission

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

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

2) The development shall be carried out in accordance with the following drawing numbers 0813/02E and 0813/05E submitted on 22 December 2009.

Reason: To define the permission.

3) No development shall commence on site until facing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained at all times.

Reason: In the visual amenities of the area.

4) No development shall commence on site until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

5) No development shall commence on site until a detailed landscaping scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of all boundary treatments. The approved scheme shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

6) No development shall commence on site until an arboricultural survey to BS:5837 standards which includes details of a tree protection plan and an arboricultural method statement have been submitted to and approved in

writing by the Local Planning Authority. The development shall be completed with the approved details.

Reason: To ensure the protection of the pine trees protected by a preservation order during and after construction.

7) Prior to the commencement of construction of the new dwelling, the alterations to the driveway at the front of 31 Hall Lane as shown on plan number 0813/05E submitted on 22 December 2009 shall be completed and brought into use.

Reason: To reduce the potential for indiscriminate parking on the highway during the period of construction.

8) No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 16.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To protect the amenity of the adjoining residential occupiers.

Notes for Applicant

1. Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday
-



ITEM NO: 9.

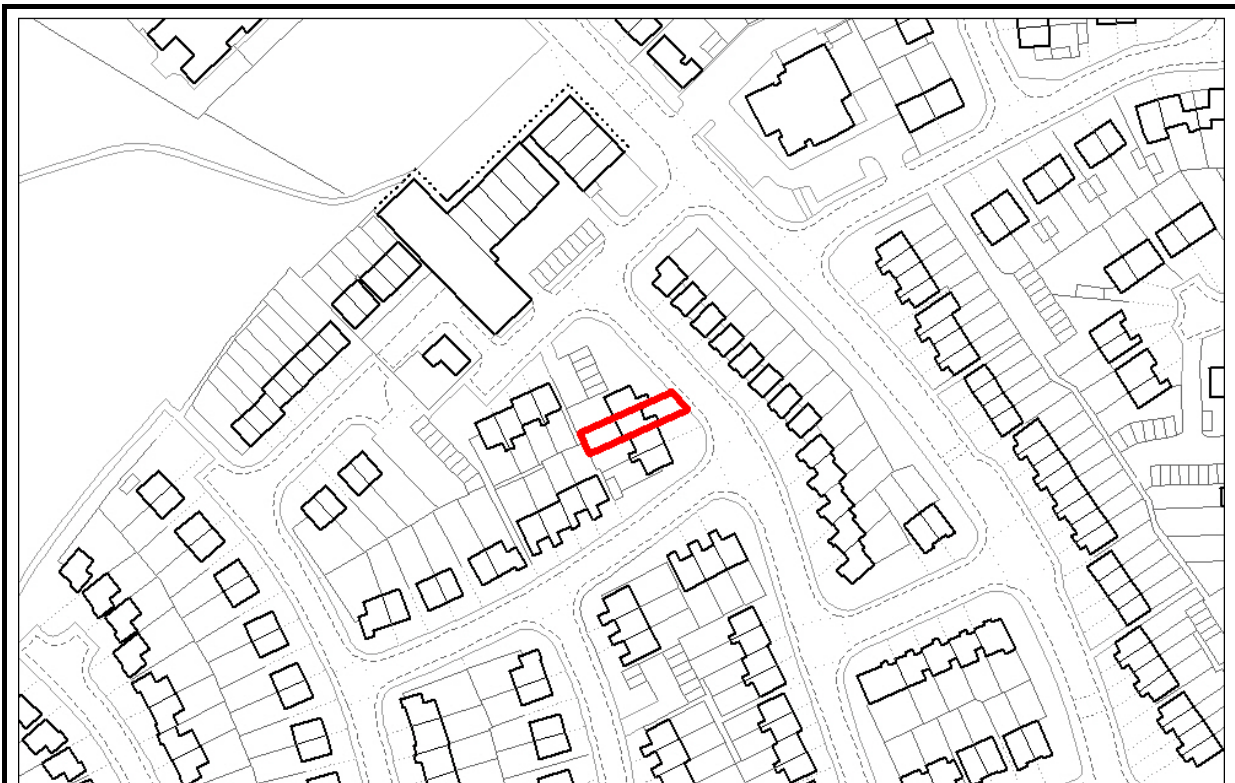
To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

**REASON FOR BRINGING TO COMMITTEE: Requires Delicate
Judgement**

Application Number: 09/1821/FL
Application Type: Full application
Applicant: Mr Martin Foster
Proposal: Conversion of existing
garage to habitable room and the
addition of a pitched roof to garage.
Ward: Short Heath
Recommendation Summary: Grant Subject to conditions

Case Officer: Helen Smith
Telephone Number: 01922 652486
Agent:
Location: 12 DARVEL
ROAD,WALSALL,WV124TR
Expired: 02/04/2010



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Application and Site Details

This application is for the conversion of an existing integral garage to provide a study at a 1970's mid-terraced house. The development has been partly implemented, in particular a hipped roof has been added to the original flat garage roof.

The garage projects 2.5 metres forwards of the original front elevation of the application house, such that the front is level with the front of a somewhat similar extension at No. 14. The roof is 2.5 metres high to the eaves and 3 metres high to the ridge. It is slightly off centre to accommodate a similar roof at 14 Darvel Road.

The proposal includes a bow window to replace the garage door which will project 0.2 metres forward of the original front elevation of the garage. This window will face across the road to habitable room windows in 9 and 11 Darvel Road at a separation distance of 24 and 26 metres respectively.

The application house lies 2 metres further back than the two storey part of the adjoining house number 14 which has a single storey extension to the front adjacent to the garage at the application house. The extension at 14 projects forwards of the original front elevation of 14 in line with the garage at 12 and has a front facing habitable room bow window.

The application house is in line with the original front elevation of house number 10 which also has a single storey front extension projecting 2 metres forward of the original two storey front elevation of 10. The frontage of the application house is already hard-surfaced for vehicle parking.

Relevant Planning History

The original planning permission for this development is subject to a condition which states that the use of any integral garage shall not be changed to residential use without a planning application being submitted to and approved by the Local Planning Authority.

In 1990 planning permission was granted for a front porch and front lounge extension to 14 Darvel Road which has been implemented.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

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- I. Visual appearance.
- VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.
- VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- 4) The appearance of the proposed development
- 5) The height, proportion, scale, and mass of proposed buildings/structures.
- 6) The materials proposed for buildings, external spaces and means of enclosure.
- 7) The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- 8) The effect on the local character of the area.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Documents relating to residential design.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

1, 2 and 3 bedroom houses	2 spaces per unit
4 bedroom houses and above	3 spaces per unit

Supplementary Planning Documents

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines

contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character. Appendix E includes;

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

National Policies

PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

Consultation Replies

Environmental Health – No objections to the proposal and they consider that the issues raised in connection with domestic noise disturbance from normal domestic activities would be a matter for Building Control. They have a record of a (historic) complaint about noise from domestic appliances.

Public Participation Responses

Councillor Peter Hughes who is a neighbour at 14 Darvel Road has objected to this application on the following grounds;

- There is a covenant in place preventing the garage being used in any other way. Number 12 and number 14 were built the opposite way around with the kitchen at 14 at the back and the kitchen at 12 to the front. The garage at 12 is the full length of 14's living room and was therefore never built or meant to be used for a habitable room.
- The party wall of the garage at 12 was never made to be sound-proof and it is totally inadequate in preventing any noise coming through to 14
- He could hear everything the builders at 12 were saying about the proposed change of use of the garage. The noise from the garage was impinging on their social life and they had to turn the TV volume up to enjoy their evening in. He is not prepared to live with the constant noise from the proposed change of garage use. Another layer of brick is needed.
- He understands that the applicants have put an opening into their garage from their hall and when children visit they can be heard in the living room at 14. This was not the case prior to this opening being made.
- 7 to 8 years ago the Councillor reported the applicants to Environmental Health due to noise from number 12 affecting both the occupiers of 14 and 16 and he does not want this to happen again as they previously had a tumble dryer in the garage and it could be heard when in use. There were also issues of loud music being played and this episode affected his family's health.

- Is there an ulterior motive why this is happening as there are only two people living in the house, why do they need another room?
- Another issue has arisen is that building works have been happening after 5pm and at weekends and he thought that there were times allocated to when building works should be undertaken for any jobs in the house.

The occupier of 5 Darvel Road has objected to this proposal on the following grounds;

- The planning application has been submitted a little late as building work has already been carried out and;
- Considers that the garage should not be allowed to change into a habitable room causing nuisance to the neighbours

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Parking.

Observations

Design of Extension and Impact on Character of Area

The submitted plans show the design of the roof to be off centre which is to include a drainage valley gutter between the new roof and the existing extension at number 14. The roof has already been built.

It is considered that this development, including the roof, is in keeping with the existing house and does not harm the character of the street. The off centre nature of the roof is not prominent in the street scene.

There are a number of houses in the area which have either incorporated their garages into front extensions or have added pitched roofs to existing flat roof garages. Number 10 has done both and number 14 has added an extension with a pitched roof to the front.

Impact on Amenity of Nearby Residents

The existing garage at 12 does not project forward of the existing front extension at number 14 and the proposed bay window will only project forwards by a further 200 millimetres. There is a bay window to the front of number 14 and as the application house lies to the north of 14 it is considered that this proposal will have little impact on the daylight and sunlight available to the occupiers of 14.

The application house lies to the south of house number 10. As the garage and the roof alteration do not project forward of the existing single storey front extension at 10, it is considered that this development has little impact on the

daylight and sunlight available to the occupiers of 10. The proposed front window will lie forwards of the existing front habitable windows of the house and will comply with the minimum recommended separation distance to facing habitable room windows in the houses opposite.

The objections raised by the occupier of number 14 mainly relate to noise issues and inadequate sound proofing between the garage at 12 and the front living room at 14. Sound insulation in Building Regulations was not such a relevant issue at the time that these houses were constructed as it is today. Sound protection is now a material consideration for Building Regulations as the use of the existing garage is to change to a habitable room. These issues regarding sound insulation are therefore a Building Regulations rather than a planning matter and the applicants have been advised to submit a Building Regulations application.

The original planning permission for the development requires that a planning application is submitted for any change of use of any integral garage (hence this application).

Any covenant is a private legal matter between the owners and the original developer.

No evidence has been provided to demonstrate that the garage is to be used as anything other than a study or have a similar residential use. The issue raised about why an additional room is needed by the two occupants is not a material planning matter.

It is not usual to attach planning conditions to a minor household planning approval to restrict the times that building works are undertaken (a matter of balancing speed of completion against impact during construction), and this does not form part of the recommendation.

The occupiers at number 5 Darvel Road has objected on the grounds that the works have already started and the application has only just been submitted. However work appears to have now ceased pending the determination of this application and, in any event, any works undertaken without planning permission are at the developer's risk. This objector is also concerned about this garage conversion causing nuisance to the neighbours but this is not explained any further. Number 5 Darvel Road is located on the opposite side of the Road and does not directly face the application house.

Parking

The frontage of the application property is already hard-surfaced. The width of the frontage is wide enough to accommodate the two parking spaces required by policy to serve this three bedroom dwelling.

Summary of Reasons for Granting Planning Permission

The design is in keeping with its surroundings. The position of this extension will have little impact on the privacy, daylight and sunlight received by nearby properties.

There are objections about nuisance and noise from the proposal, but this is an issue primarily controlled through the Building Regulations. Any issue in a covenant is between the owners, and the original developer. There is no evidence from the submitted application that the proposed garage use is to be anything other than a study or have a similar residential use. There are concerns over the potential for noise from the building works. It is not usual to apply restrictions of this sort on a domestic garage conversion as it is a matter of balancing speed of completion against impacts during construction. The application is partly retrospective, but this is not a determining issue, as it is legally possible to make such an application, although the developer is taking a risk.

There is sufficient space within the curtilage of the application property to provide two parking spaces required to serve this three bedroom house following the loss of the garage parking space. The existing parking provision is therefore acceptable in this instance.

The proposed development is considered to accord with the aims and objectives of Walsall's Unitary Development Plan, in particular policies GP2, ENV18, ENV32, H10, T7 and T13, and the Supplementary Planning Documents "Designing Walsall" and, and other material planning considerations, as follows:

Recommendation: Grant Subject to conditions

1: The exterior materials used in this conversion and roof extension shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the conversion and extension, unless otherwise previously agreed in writing by the local planning authority.

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

2: There shall be no alterations to the driveway that would prevent the use of the existing hard-surfaced area for the provision of two parking spaces each measuring at least 2.4 x 4.8 metres and with access from the highway without the prior approval of a planning application.

Reason: To ensure the satisfactory provision of off-street parking, and in accordance with policies T7 and T13 of Walsall's Unitary Development Plan.



ITEM NO: 10.

**To: DEVELOPMENT CONTROL
COMMITTEE**

**Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010**

REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Hughes as the proposed development could be detrimental to the character and/or visual amenities of the area.

Application Number: 09/1782/FL

Application Type: Full application

Applicant: Mrs L Dixon

Proposal: Two storey side extension and single storey rear extension to dwelling

Ward: Streetly

Recommendation Summary: Refuse

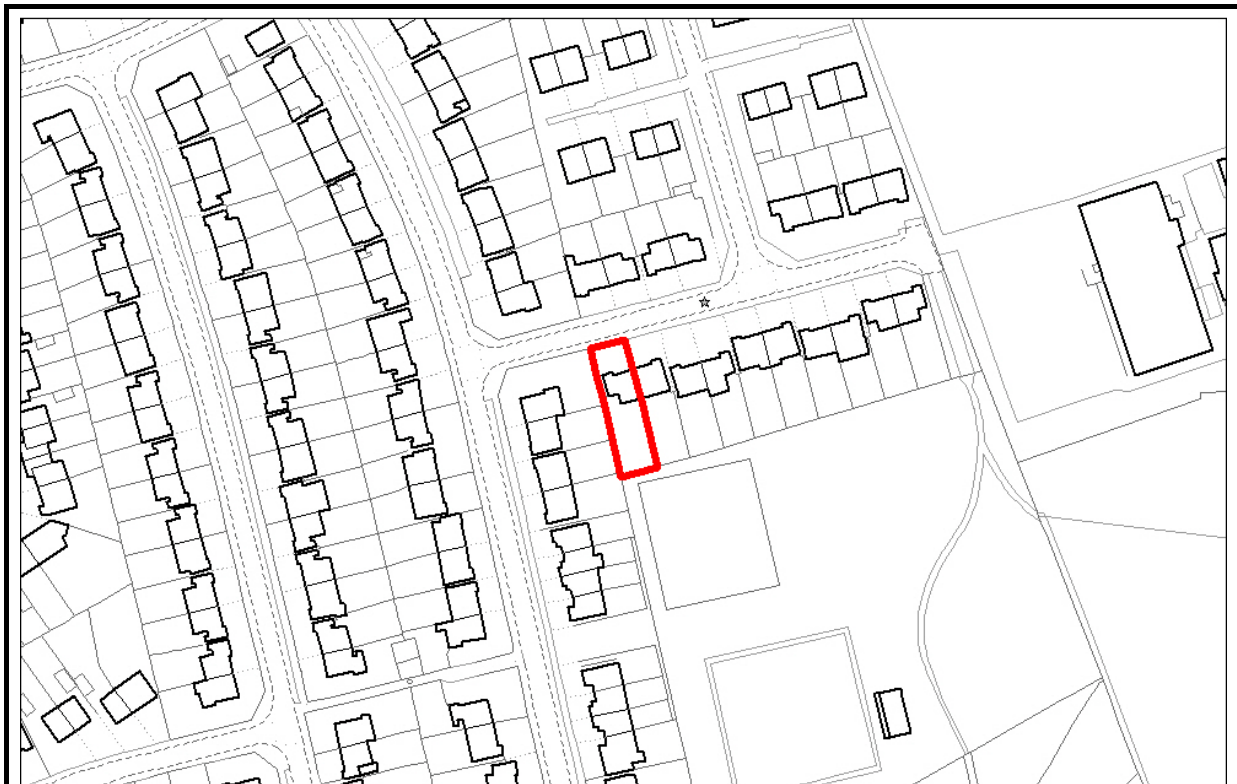
Case Officer: Jenny Townsend

Telephone Number: 01922 652485

Agent: Jesson Sewell & Swadkins

Location: 3 CEDAR DRIVE, STREETLY, WALSALL, B74 3RJ

Expired: 08/03/2010



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Application and Site Details

This application is for extensions to the side and rear of a semi detached house which would add a covered passage way and enlarged kitchen at ground floor with 2 new bedrooms above at first floor level.

Internal alterations are proposed so that an en-suite bathroom can be provided to the existing rear bedroom to meet the needs of the applicant's disabled son. A grant has been awarded to assist with this. The new bedrooms are needed as one of the existing bedrooms has to be converted to a bathroom.

The extension would be in line at the front and rear with the existing two storey part of the house and would fill the whole of the area between the side wall of the house and the boundary with numbers 1 Cedar Drive and 53 Hazelwood Road. The extension would follow the angle of the boundary and would be approximately 3.8 metres wide at the front and 4.1 metres wide at the rear. The gable roof would be a continuation of the existing roof.

The single storey part of the extension would project 1.2 metres from the existing rear wall and would be 5.1 metres wide and have a lean-to roof between 2.5 and 3.4 metres high. The side of the extension nearest to the boundary with number 5, the other half of the pair would be set in approximately 3.5 metres from the boundary whilst the other side would be set in approximately 1.3 metres from the side of the proposed first floor extension.

The application house is at the end of the line of houses with the side wall of the house at right angles to the rear of numbers 1 Cedar Drive and 53 Hazelwood Road. Currently the distance between the rear of the single storey part of number 1 (which has double doors serving the kitchen) and the boundary with the application house is approximately 11.5 metres. The first floor windows at number 1 are obscure glazed and serve non habitable rooms.

Numbers 1 and 53 are approximately 0.5 metres higher in level than the application house with the 1.8 metre high fence to the boundary stepped up in level to match this. The windows in the rear of number 53 would face the two storey part of the extension.

Number 5 is in line at the rear with the application house and has a lounge window adjacent the 1.8 metre high boundary fence.

The rear garden of the house backs onto recreational land at the rear and has trees and shrubs on the boundary which are approximately 3 metres high.

Relevant Planning History

None.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

Unitary Development Plan Policies

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

Policy ENV22: Protected Species

Development of sites used by species protected by European law and /or British legislation, or a species which is the subject of a national Biodiversity Action Plan, will not be permitted unless it can be demonstrated that the proposed development will not have an adverse impact on local populations of the species.

ENV23: Nature Conservation and New Development.

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

(b) Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

1, 2 and 3 bedroom houses	2 spaces per unit
4 bedroom houses and above	3 spaces per unit

Supplementary Planning Documents

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

13m separation between habitable windows and blank walls exceeding 3m in height.

Conserving Walsall's Natural Environment

Provides guidance on development which may adversely affect trees, important species and habitats.

Consultations

Natural Environment, Ecology Officer – The council's adopted SPD 'Conserving Walsall's Natural Environment' requires a detailed bat survey to be submitted if certain criteria are met. This application meets one and possibly two of the criteria (set out below):

- 9) If any part of the application site lies within 50 metres of open land. This includes parks, golf courses, cemeteries, agricultural land, Green Belt, river valley or other open land.

- If any part of the application site lies within 50 metres of the following habitats or features: woodland, **mature trees**, wetlands, water-courses, canals and all designated wildlife sites.

It is questionable whether the trees to the rear of the application site can be described as 'mature'. However, the line of vegetation to the rear may be used by foraging bats.

- Not all developments meeting the above criteria will necessarily have an adverse impact on bats. Householder applications which result in building works to places where bats may be roosting can be as damaging as much larger developments.

In this case the application involves extension works which would involve works to the existing gable and roof. It is likely that that disturbance or destruction to any bat roosts present could occur if bats were present in the building. A bat survey is required.

Public Participation Response

The occupier of number 4 Cedar Drive has considerable concerns that the proposal would:

- worsen the already chronic traffic and parking problems in the Drive which is very narrow and parents (dropping off and collecting children to the school at the end of the road) regularly park illegally, half on the pavements and across access driveways;
- the occupiers of number 3 already park half on the pavement opposite his drive causing him problems reversing off his driveway;
- the existing integral garage is not used and the plans include a floor mounted boiler which would reduce the space available inside for parking;
- he has mobility problems which mean his car has to be parked on his own driveway and the parking problems mean that doctors and visitors to his house have to park some distance away;
- these parking problems may one day claim the health or life of a small child;
- a better option maybe to find a house elsewhere which could better meet the space and parking requirements for the family.

Determining Issues

- Design of Extension and Impact on Character of Area
- Impact on Bats
- Impact on Amenity of Nearby Residents
- Parking

Observations

Design of Extension and Impact on Character of Area

The design of the extension is compatible with the existing house.

The area is characterised by pairs of semi detached houses with gaps between them. There is a flat roofed extension to the side of number 11 but this is the only one on this side of the road. Although the side extension would completely fill the space up to the boundary this would not harm the appearance of the house or the street because the application house lies at the end of the line of houses and the rear garden of 1 Cedar Drive would provide space to the side of the application house, which would be in keeping with the character of the area.

Impact on Bats

The Council's ecology officer considers that the open space to the rear with tree lines which could provide foraging links to Blackwood Park and Foley Wood means that a bat survey is required to establish whether bats may be present at the house. As the proposal involves works to the existing gable and roof, this would be likely to cause disturbance or destruction to bat roosts if bats were present in the building. In the absence of such a survey, the application must be refused.

Impact on Amenity of Nearby Residents

The new side gable wall of the extension would measure between 4.6 and 7.5 metres high and would be approximately 11.5 metres from the doors serving the kitchen of number 1 Cedar Drive. This would be 1.5 metres less than the minimum separation distance and would have an over-bearing impact on the kitchen of number 1 which would be detrimental to the amenity of the occupiers of number 1.

The impact of the extension would be worsened because it would lie to the east of the rear of number 1 and would cause shading and loss of light to the rear of number 1 which would be detrimental to the amenity of the occupiers of 1.

The new first floor window proposed at the rear would serve a bedroom and although it would be in line with the existing first floor bedroom windows, it would be closer to the boundary with numbers 1 and 53 Hazelwood Road. However the angle between the houses means that the window would not directly face towards any habitable room windows at these properties and although the window would overlook the rear gardens, this would not significantly worsen the existing situation sufficient to refuse the application for this reason alone.

Amendments to the proposal have been discussed which would involve setting the rear part of the extension in approximately 1 metre from the boundary (so that it would be built above the existing side kitchen wall of the house) and continuing the extension beyond the existing rear wall above part of the proposed single storey section to the rear. This would result in a room whose floor area would be very similar to that which has been proposed however the applicant did not consider that the resulting room at the rear

would be large enough and that the extension would look ugly. He wishes the proposal to be determined on the submitted plans.

The side extension would not project beyond the existing house at either the front or rear and would therefore have little impact on number 45, the other half of the pair. The single storey part of the extension would lie over 3 metres from the boundary with 45 and the modest length (1.2 metres) means that there would be little impact on the rear window of number 45 from the proposal.

The existing fence on the boundary with numbers 1 and 53 Hazelwood Road would screen the ground floor part of the extension from the rear of these houses and because there is no windows proposed in the side there would be no overlooking to the rear of these properties from the ground floor part of the extension.

The recreational land at the rear is screened from the rear of the house by the trees and shrubs on the boundary and this would continue to be the case for the single storey part of the extension. The first floor part of the extension would be in line with the existing house and would not worsen the existing situation.

Parking

The proposal would increase the number of bedrooms to 4 which means that 3 off-road parking spaces would be required. The internal dimensions of the existing garage do not meet Council's standards to accommodate a car and the installation of the boiler would further reduce this. However there is space within the front garden to enlarge the existing driveway to provide 3 spaces.

The neighbours concerns regarding the parking problems in the road caused by illegal parking are covered by separate legislation and are not material planning issues that can be taken into account when determining this application.

Recommendation: Refuse

1. The proposal would, because of the height and the lack of separation with the ground floor kitchen doors at number 1 Cedar Drive have an over-bearing impact which would be detrimental to the amenity of the occupiers of number 1. Also the orientation of the application site and the position of the extension and the nearness to the boundary would cause a loss of light to the rear of number 1 which would further erode the amenity of the occupiers of this property. As such the proposal would be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10 and the Supplementary Planning Document Designing Walsall.

2. The application has failed to include evidence about the possible presence of bats, or the impact on their roosts or habitats. The application is therefore contrary to Walsall's Unitary Development Plan, in particular policy ENV23, and the Supplementary Planning Document "Conserving Walsall's Natural Environment".



ITEM NO: 11.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

REASON FOR BRINGING TO COMMITTEE: Requires delicate judgement

Application Number: 09/1718/FL
Application Type: Full application

Case Officer: Jenny Townsend
Telephone Number: 01922
652485

Applicant: Mr Antonino Guisa
Proposal: Retrospective permission
for conservatory.

Agent:
Location: 83 FALLOWFIELD
ROAD, WALSALL, WS5 3DW
Expired: 22/03/2010

Ward: Pheasey Park Farm
Recommendation Summary: Grant



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Application and Site Details

This application seeks to retain an existing conservatory erected to the rear of a semi detached bungalow.

At the time the conservatory was erected, planning permission was required from the Council. More recently, in October last year, permitted development rights were extended. As a result, if the conservatory was built now, permission from the Council would not be required. It remains unauthorised and this application seeks to regularise the position.

The conservatory is across the whole of the rear elevation of the bungalow from the boundary with number 14, the other half of the pair, up to the side of the original garage belonging to number 83 which lies adjacent the boundary with number 1 Allington Close, the neighbour to the left. It projects approximately 2.9 metres from the original rear wall of the bungalow and has a very shallow sloping roof.

The original layout of the pair of bungalows meant that the rear of the application property was forward approximately 1.0 metre forward of the rear of number 14. The new side wall of the conservatory has been built in line with the original rear wall of number 14 and the 1.0 metre long section of the side wall of number 14 is now inside the conservatory at 83.

Part of the roof of the conservatory spans the approximate 100 mm gap between the bungalows with flashing affixed to the side wall of number 14.

The original plans did not accurately reflect the actual roof shape of the conservatory and an incorrect ownership certificate had been submitted. However the correct ownership certificate has now been completed, notice has been served on the neighbour (number 14 Bramley Close) and amended plans have been received showing a shallower pitched roof. There are still discrepancies between the plans and what has been built in respect of the height of the roof of the conservatory in relation to the garage next to the boundary with number 1 Allington Close as the plans show it in line but it is actually lower. But as this small discrepancy has been quantified it does not affect the assessment of the application..

Number 14 is approximately 0.5 metres higher in level and has a similar conservatory added to the rear which projects approximately 1.0 metre beyond the rear of the conservatory belonging to 83. High level windows in the side of 14 face across the roof of the conservatory at 83.

On the other side of the bungalow, the garage lies alongside a similar one belonging to number 1 Allington Close and these screen the rear of the properties from view of each other.

The rear garden slopes up in level so that number 12 Bramley Close is approximately 1.0 metre higher in level. Number 12 has a garage whose side

wall lies adjacent the boundary for almost the full width of the garden of the application property.

Relevant Planning History

None.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

Unitary Development Plan Policies

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

Designing Walsall – Supplementary Planning Document

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

Consultations

None.

Public Participation Response

The occupiers of number 14 object to the conservatory on the grounds that:

- 10) it has been attached to their building without permission (either verbal or written);
- 11) access to maintain their wall, clean the windows and maintain plastic work has been prevented;
- 12) bridging the damp course has caused considerable damp problems in their living room;
- 13) the conservatory as built doesn't conform with the plans;
- 14) the small boundary wall has been built without weep holes so there is no drain to take away surface water which is causing a build up in the garden.

The occupiers of number 14 have written in respect of the amended plans raising the following points in addition to their earlier objections which still stand;

- the building has not been erected as per the amended plans as there is no 4 inch gap between the properties, there is a window in their conservatory which is not shown on the plans and the sill touches the wall; the roof has not been built as shown as it falls to their property and is not fitted level; the roof is lower than the garage roof;
- the gable wall of the conservatory is joined to their property and their external wall has been plastered (not shown on the plan) without their permission;
- the plans do not show any drain to take rainwater from the patio/garden;
- the plans show that foundations should be dug 1 metre deep;
- there is a lot of debris left between the buildings;

- the lead flashing added along both buildings was done without their permission, despite Mr Fletcher having already advised that this would prevent air circulation which was needed to help with the damp problem.

They query whether the foundations should have been inspected by the building inspector.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Impact on Amenity of Nearby Residents

Observations

Impact on Amenity of Nearby Residents

The conservatory does not project beyond the rear of the neighbouring property at number 14 and the roof is below the high level windows in the side elevation of the conservatory belonging to number 14. There is therefore little impact on the amenity of the occupiers of 14 from the conservatory.

The existing garages either side of the boundary with number 1 Allington Close screen the rear gardens of the properties from each other so that there is no potential for overlooking the rear of number 1 from the conservatory.

The conservatory faces the blank side wall of the garage belonging to 12 Bramley Close. This garage screens the rear of number 12 from view from the conservatory and visa versa so there is no impact on the amenity of the occupiers of number 12 from the conservatory.

With respect to the neighbours concerns regarding the discrepancies between the submitted amended plans and the actual building, these are minor discrepancies that mean that the appearance of the building on site is not significantly different to the plans. The discrepancies do not affect the proper assessment of the application nor do they justify opposition to the proposal, or its refusal. Their objections regarding the connection of the conservatory to their building, access for maintenance, damp and build up of surface water are not material planning issues upon which determination of the application could hinge. These concerns are civil matters between the two property owners. Their rights in this respect are protected by other legislation which falls outside the jurisdiction of the planning authority.

Summary of Reasons for Granting Planning Permission

The proposal does not cause a significant increase in overlooking, a loss of privacy or a loss in the daylight or sunlight enjoyed by nearby properties.

With respect to the neighbours concerns regarding the discrepancies between the submitted amended plans and the actual building, these are minor discrepancies that mean that the appearance of the building on site is not significantly different to the plans which does not affect the proper assessment of the application nor do they justify opposition to the proposal, or its refusal. The objections regarding the connection of the conservatory to their building, access for maintenance, damp and build up of surface water are civil matters between the property owners whose rights are protected by other 'non planning' legislation.

The proposed development is considered to comply with Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10, and the Supplementary Planning Document "Designing Walsall" and other material planning considerations.



ITEM NO: 12.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

REASON FOR BRINGING TO COMMITTEE: Delicate judgment required

Application Number: 09/1734/FL
Application Type: Full application

Case Officer: Jenny Townsend
Telephone Number: 01922
652485

Applicant: Ms Heather Kilminster

Agent: Field Building Design
Partnership

Proposal: Garage conversion to study,
provide attached garage to side of
dwelling

Location: 14 LEAFY GLADE,
STREETLY, SUTTON
COLDFIELD, B74 3EG

Ward: Streetly

Expired: 08/02/2010

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

This application seeks to add a garage to the side of a modern detached house and convert the existing double garage to a study/playroom. The house has already been extended to the side and the existing garage extended forward.

The only change to the appearance of the house from the proposed garage conversion would be the replacement of the existing garage doors with walls and windows in the same position.

The new garage would be built on a grassed area to the side of the house. There is a 1.8 metre wide grassed strip next to this land which is highway land. There are restrictions which apply to the highway owned land to prevent it being built on and also restrict the type of planting that could be done.

The current application is almost identical to that which was refused in April 2009 and subsequently dismissed by the Planning Inspectorate following an appeal except, importantly, that the gap between the side of the proposed garage and the edge of the highway land has been increased from 0.4 metres to approximately 0.9 metres.

The front of the garage would be set back 0.5 metres from the front of the house with the rear in line with the two storey part of the house. The garage would be 8.7 metres long, 2.8 metres wide and have a hipped shaped roof measuring between 2.3 and 3.7 metres high. No windows are proposed in the side elevation facing towards numbers 15 and 17.

Numbers 15 and 17 Leafy Glade, which are on the opposite side of the road, are lower in level and face at right angles to the side of the application house. The distance between the front habitable room windows (both ground and first floor) of these houses and the side of the proposed garage would be approximately 17 metres for number 15 and 16.5 metres for number 17.

Relevant Planning History

Permitted Development rights were removed for extensions and alterations to fences when the original estate development was granted (planning permission BC17809P).

BC34346P Garage/workshop extension. Granted subject to Conditions 12/11/91.

BC65177P Single storey side/rear extensions. Refused 25/01/02 because of the unacceptable impact on the amenities of number 12 due to the length of the proposed extension.

02/0386/FL/H2 Single storey side extension (Amendment to BC65177P). Granted subject to conditions 28/03/02.

03/2321/FL/H4 Proposed garage extension. Granted subject to Conditions 17/02/04.

09/0297/FL Attached garage to side and convert existing garage to study. Refused 29/04/09 on the grounds that the loss of the existing space and planting to the side of the house and the narrowness of the remaining strip of land that would belong to the house alongside the proposed garage extension would harm the character of the street which comprises houses set well back away from the road. Insufficient space would remain between the side of the extension and the highway to provide replacement planting to compensate for this loss. As such the proposal would be out of keeping with the established character of the area.

An appeal against the Council's decision was dismissed by the Planning Inspectorate on 14 September 2009.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

Unitary Development Plan Policies

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

1, 2 and 3 bedroom houses	2 spaces per unit
4 bedroom houses and above	3 spaces per unit

Designing Walsall – Supplementary Planning Document

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

Consultations

Landscape Team - In her decision notice dismissing the last appeal, the Inspector was concerned at “the loss of a green space that currently makes an important visual contribution to the street scene...” and that “the construction of the new garage would significantly detract from the character and appearance of Leafy Glade”, which she had previously described as a cul-de-sac having a “distinctly green and open character”.

Although the proposed garage has been reduced in width by approx. 200mm, there will be no significant reduction in the visual impact. The corresponding increase in space available for planting is negligible. The visual impact on the street scene and the loss of green space of this modified scheme would remain the same as the previously rejected proposal. As with the earlier scheme, on landscape grounds I consider this application warrants refusal.

Public Participation Response

None.

Determining Issues

- Whether the proposal overcomes the reasons for refusal of the previous application in terms of the impact on the character of the area
- Impact on Amenity of Nearby Residents
- Parking.

Observations

Impact on Character of Area

The proposed garage extension would balance with the existing garage on the other side of the house and although the hipped roof shape would not be compatible with the main gable roof of the house, it would match with the hipped roof to the previous garage extension.

Leafy Glade is a short cul-de-sac on a modern housing estate approx. ten to fifteen years old. It is characterised by shared surfaces for pedestrians and cars so that, with the lack of pavements, front and side gardens extend to the edge of the carriageway. Houses are set back by approx. 6.0M and similar width side gardens occur on corner properties. These gardens now contain many well established trees and shrubs that together give an attractive and very "green" street scene.

The current application proposes to increase the width of the strip of land alongside the highway land to almost 1.0 metre so that overall the side of the garage would be approximately 2.7 metres from the edge of the road.

The Council's landscape officer feels that 1.0m gap is still insufficient. However, this increased width of the space to the side of the garage would be more in keeping with the area especially if planting is added to tie the proposal in with the green street scene. A condition is recommended for a planting scheme to be implemented within a short period of the completion of the building works to enhance the appearance of both the house and the extension.

Impact on Amenity of Nearby Residents

The new windows to the converted garage would face the side boundary fence of number 10 and would have little impact on the privacy of the nearby houses. There would be no impact with respect to number 12 as the front of the garage already projects forward of the front of number 12.

The proposed garage would be closer to the front of numbers 15 and 17 on the opposite side of the road than the existing side gable wall of number 14 however it would be single storey only and this would reduce any impact to the front windows of these houses. There is no specific policy regarding separation for single storey extensions however the gap which would remain would exceed the minimum separation for two storey extensions (13 metres).

The proposed planting to the side of the garage would soften the appearance of the side of the garage when viewed from the front windows of numbers 15 and 17 and would therefore not have an adverse impact on the amenity of the occupiers of these houses.

Parking

The conversion of the existing garage would reduce the current parking provision however the internal measurements of the proposed side garage would meet Council's requirements to accommodate a car which together with the large existing front driveway would provide sufficient off-road parking spaces to meet Councils requirements for a house with 4 or more bedrooms.

Summary of Reasons for Granting Planning Permission

The design is in keeping with its surroundings and the increase to the space to the side of the garage would be more in keeping with the character of the area. A planting scheme implemented soon after completion would enhance the appearance of the application house and the area.

The proposal will not cause a significant increase in overlooking, a loss of privacy or a loss in the daylight or sunlight enjoyed by nearby properties.

The proposed development is considered to comply with Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10, T7 and T13, and the Supplementary Planning Document "Designing Walsall" and other material planning considerations.

Recommendation: Grant Subject to conditions

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

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

2: The walls and roof of the extension and the front of the garage conversion shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

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

3: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing

windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

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

4: Notwithstanding the details submitted, prior to commencement of the development a landscaping scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of the species, sizes and densities at planting of any trees and shrubs. The approved scheme shall be implemented within 6 months of the completion of the side garage or such other period of time as may be previously agreed in writing by the local planning authority.

Reason: To protect the visual amenity of the area and in accordance with policies GP2 and ENV32 of Walsall's Unitary Development Plan.



ITEM NO: 13.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

REASON FOR BRINGING TO COMMITTEE: Contrary to policy

Application Number: 10/0023/FL

Application Type: Full application

Applicant: Mr Michael Aldridge

Proposal: Erection of single
storey side extension to replace
existing garage and utility area.

Ward: Aldridge/Central & South

Recommendation Summary: Grant Subject to conditions

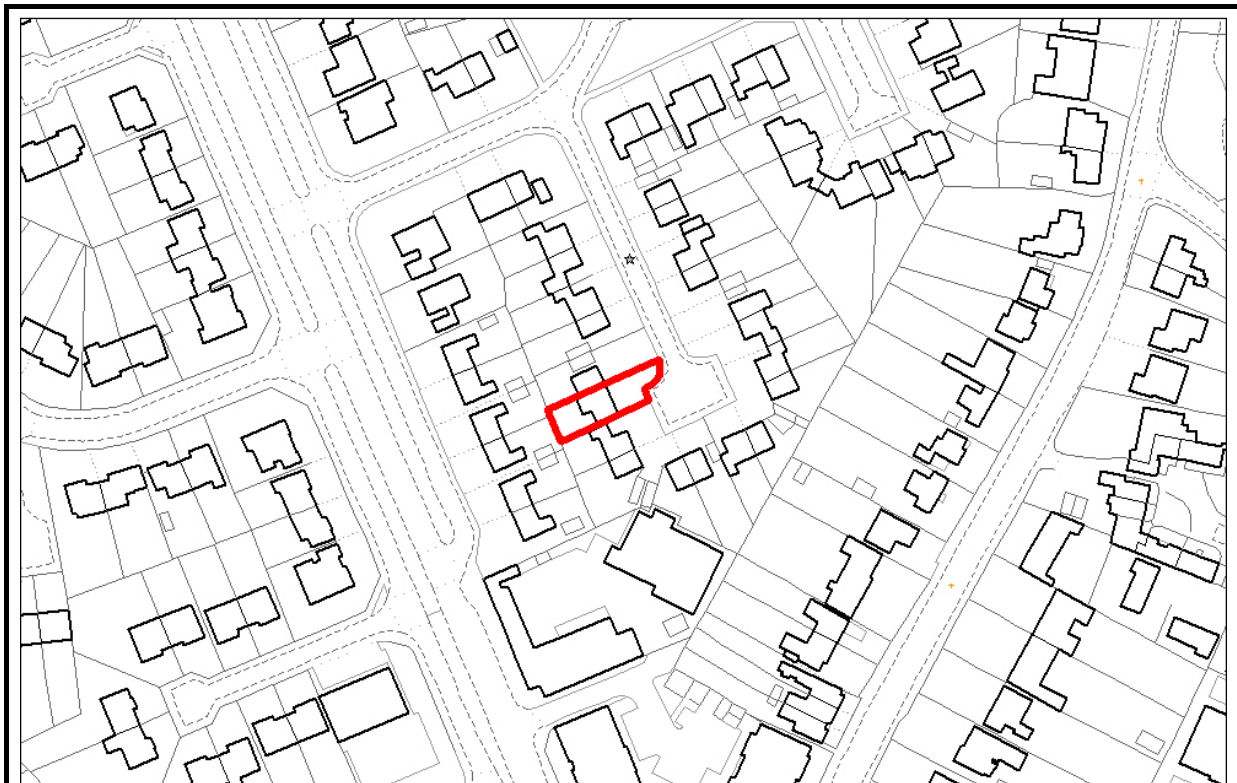
Case Officer: Jenny Townsend

Telephone Number: 01922 652485

Agent:

Location: 12 THE
WALMERS,ALDRIDGE,WALSALL,WS9
8QW

Expired: 09/03/2010



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Application and Site Details

This application seeks to replace the existing flat roofed garage and conservatory to the rear of the garage, which is to the side of the semi detached house, with an extension which would add a new bedroom, shower room, utility and store.

The extension would be in line with the two storey part of the house at both the front and rear and would be 4 metres wide and have a pitched roof measuring between 2.6 and 4.9 metres high.

A door with a window serving the utility room and a high level window to the shower room are proposed in the front elevation whilst on the rear there are double doors with windows each side, which would serve the new bedroom.

Number 14 Northgate lies to the rear of the application house and has added a single storey brick extension and conservatory which projects approximately 3 metres. Both properties have short gardens and there is a fence on the boundary between them approximately 2 metres high which screens the ground floor parts of the houses from each other. Number 14 is lower in level and has a small narrow bedroom window at first floor level on the rear facing the rear of the application house. The distance between the bedroom windows of the houses is approximately 23 metres.

Number 14 The Walmers lies to the left of the application house and has a garage to the side which is built up to the boundary with the application house. The front of the garage is set back approximately 4.5 metres from the front of the application house and there is a window in the side elevation of 14 which faces the side wall of the garage at the application house. This window serves the dining part of a combined kitchen/diner which also has a window on the front elevation to the kitchen section.

At the rear the garage at 14 projects approximately 1.5 metres beyond the two storey part of number 12.

Number 10 the Walmers, the other half of the pair has a conservatory on the rear which projects approximately 2.5 metres from the shared rear wall.

Relevant Planning History

None.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

Unitary Development Plan Policies

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

1, 2 and 3 bedroom houses	2 spaces per unit
4 bedroom houses and above	3 spaces per unit

Designing Walsall – Supplementary Planning Document

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines

state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

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

13m separation between habitable windows and blank walls exceeding 3m in height.

Consultations

None.

Public Participation Response

None.

Determining Issues

- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Parking

Observations

Design of Extension and Impact on Character of Area

The pitched gable roof proposed to the extension would be compatible with the roof shape of the existing house. The proposal would improve the appearance of the house and would be in keeping with the character of the area.

Impact on Amenity of Nearby Residents

The front of the extension would be in the same position as the front of the existing garage. At the rear the new extension would be shorter than the existing conservatory and would be in line with the two storey part of the application house.

The side of the proposed extension would be approximately 4.5 metres from the side window of number 14 and would be the same as the side wall of the existing garage. The new roof at 4.9 metres high to the ridge, would be higher than the existing flat roof of the garage. As the extension would lie to the north of number 14 and would be completely within the existing two storey outline of the house, there would be little change with regards to loss of light or shading to the side window of 14. The side window at 14 serves a combined kitchen diner which is also lit by the window on the front elevation of the house which would be completely unaffected by the proposal. Therefore the new extension would not significantly alter the existing situation with

regards to impact on the amenity of the occupiers of number 14 sufficient to refuse the application for this reason.

There would be no impact on the amenity of the occupiers of number 10 from the extension as it would not project beyond the existing house at either the front or rear.

At the rear the proposal would improve the separation between the rear of the application house and the rear of number 14 Northgate as it would be 1.5 metres shorter and further from the boundary with number 14 than the existing conservatory. The separation between the rear of the houses as built is approximately 23 metres and therefore does not meet policy (24 metres) but in any case the new rear bedroom window of the extension would only be in line with the existing first floor bedroom windows and would therefore cause little change to the existing situation with regards to impact on the amenity of the occupiers of number 14 Northgate. The existing boundary fence would continue to prevent overlooking between the ground floor windows of the houses.

Parking

The loss of the garage would reduce the existing parking provision at the house to one space and the addition of the new bedroom would increase the parking requirement. However there is sufficient space in the front garden of the house for the existing driveway to be enlarged to provide 3 off-road parking spaces to comply with policy.

Summary of Reasons for Granting Planning Permission

The design is in keeping with its surroundings.

The proposal will not cause a significant increase in overlooking, a loss of privacy or a loss in the daylight or sunlight beyond the existing situation enjoyed by nearby properties.

The proposed development is considered to comply sufficiently with Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10, T7 and T13, and the Supplementary Planning Document "Designing Walsall" and other material planning considerations.

Recommendation: Grant Subject to conditions

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

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

2: The walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

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

3: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

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

4. Before the development is brought into use, the front driveway shall be enlarged and hard-surfaced to provide a total of at least 3 car parking spaces, each measuring at least 2.4 by 4.8 metres. Drainage from the spaces shall be to a permeable or porous area or surface within the curtilage of the dwellinghouse, unless otherwise agreed in writing by the local planning authority. The parking spaces and drainage shall thereafter be retained as such.

Reason: To ensure the satisfactory provision of off street parking and in accordance with T 7 and T13 of Walsall's Unitary Development Plan.



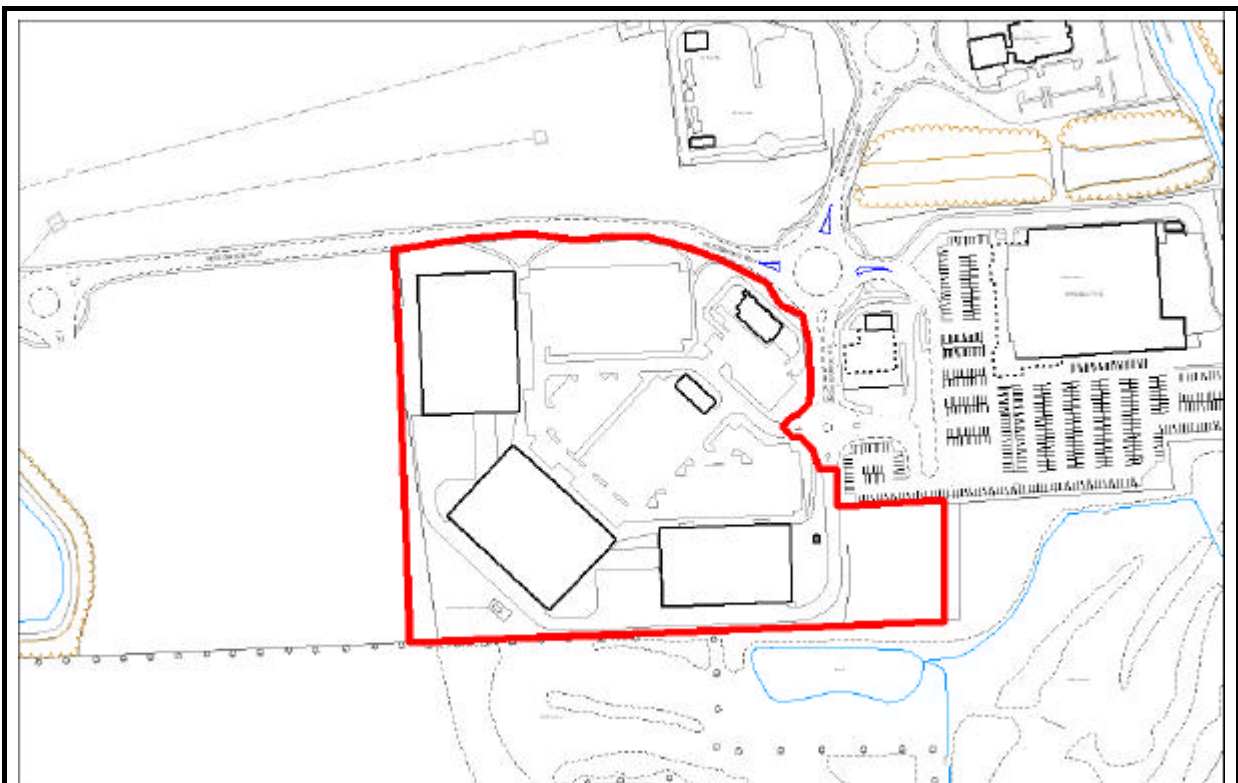
To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

REASON FOR BRINGING TO COMMITTEE: Requires delicate judgement

Application Number: 08/1864/LP
Application Type: Certificate:Lawful
Proposed Use / development
Applicant: Church Commissioners
Proposal: Certificate of Lawful
Proposed Use/Development: Use of
any building within the site for the sale
of clothing and footwear (fashion)
Ward: Birchills Leamore
Recommendation Summary: Refuse Proposed Use

Case Officer: Jan Scrivens
Telephone Number: 01922
652436
Agent: King Sturge
Location: REEDSWOOD RETAIL
PARK, REEDSWOOD
WAY, WALSALL,
Expired: 04/03/2009



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Application and Site Details

This application relates to Reedswood Retail Park, Reedswood Way, Walsall (excluding the Sainsbury's store and petrol filling station).

The application seeks a Certificate of Lawful Proposed Use for the use of any building within the site for the sale of clothing and fashion footwear.

The original planning permission for the site (BC 37150P) was granted subject to a condition which listed the goods that could be sold from the site. The list excluded clothing and fashion footwear.

A subsequent planning application (BC55332P) proposed the variation of the condition which restricted the goods that could be sold to allow clothing and fashion footwear from the site. The supporting documents indicated that the application was submitted to allow Matalan to trade from one of the units on the site; a particular unit was not however defined in the application.

This application was granted subject to the following conditions:

1. No goods shall be sold from any single unit within the redline boundary, as identified on the deposited plan, and having no more than a total floor area of 3,716 sq.mts (40,000 sq.ft.) without the prior approval of the Local Planning Authority except: (there follows a list of the goods which may be sold, including clothes and fashion footwear) and
2. At no time shall this unit be sub-divided without the prior approval of the Local Planning Authority.

This decision also contained a Note for Applicant which stated

“ This permission grants consent for the variation of condition B40 (D) of outline planning consent BC37150P dated 8th February, 1993, only which restricts the type of goods sold from a single unit, floor area 3,716 sq.mts. (40,000 sq.ft.) within the boundary of the Reedswood Retail Park development as identified on the deposited plan. At no time shall this condition permit the sale of similar or same goods allowable by this permission from any of the remaining units on the site.”

The current application for a Certificate puts forward the view, based on the wording of the conditions, that planning permission BC37150P grants consent for all of the units to be used for the sale of clothes and fashion footwear.

Counsel's opinion, sought by the applicant, has been supplied in support of the application. He concludes that the effect of BC55332P is to permit the sale of clothing and fashion footwear from any unit on the retail park provided that the particular unit does not exceed the size limitation in Condition 1. This conclusion is based upon the following considerations :

1. Planning permission can only be taken on face value, with regard being

had to the permission itself, its conditions and the reasons for the conditions

2. The contents of the planning application itself cannot be taken into account, unless this is specifically referred to in the decision notice
3. It is permissible to look at matters outside the decision notice, including the application, if there is any ambiguity in the wording of the permission or if the planning permission is challenged on the grounds of absence of authority or mistake.
4. A planning permission may grant consent, through its wording, for something which was not intended.
5. The views expressed by a Planning Inspector in an appeal relating to an application for a Certificate of Proposed Lawful Use, for the use of a unit for the sale of clothing and fashion footwear.

Relevant Planning History

BC37150P The reclamation of land, including the recovery and processing of minerals, and its use for residential, retail, B1 and B2 purposes (Industry), Restaurant, Public House, Training Centre for the blind and leisure uses including playing fields, fishing pool, nature conservation and golf course. Granted subject to conditions 8.2.93

BC55332P Variation of condition 40(D) of planning permission BC37150P to allow the sale of clothing and footwear (fashion). Granted subject to conditions on 22.9.00.

02/0637/CP/W3 Certificate of Lawful proposed Development for Brantano (footwear and sports/leisure goods) to occupy floorspace at Reedswood Retail Park. No decision made. An appeal lodged against non-determination of this application was dismissed on 31 July 05 and the application refused.

Relevant Planning Policy Summary

The merits of the proposed use are not considered as part of an application for a Certificate of Proposed Lawful Use; there are therefore no policy considerations.

Consultations

The usual consultations are not applicable to an application of this type. Counsel's opinion has been obtained on behalf of the Council.

Representations

None

Determining Issues

- 15) Whether planning permission BC55332P granted consent for the use of all of the units within the site for the sale of clothing and fashion footwear or only one unit.

Observations

Counsel's opinion has been sought on how the Council should respond to this application for a Certificate of Proposed Use or Development.

He considers that the question to answer (the determining issue of the application) is whether planning permission BC55332P, granted on 22.9.2000 allows for the sale of clothing and footwear (fashion) across all blocks of units within the retail park.

The answer to this question is to be found in the correct construction of the planning permission which is a matter of law. Whether or not the Council would be minded to grant a planning application for such a use is irrelevant.

Counsel sets out the description of the development proposed by application BC553322P, the conditions and reasons for them which were imposed on the permission and the contents of the note for applicant. He notes that the 2000 permission did not replace Condition B40 (D) on planning permission BC37150P, the original permission but rather expressly varies the condition. The 2000 permission therefore grants a fresh permission that is identical to the original except that it varies an original condition to allow the sale of clothing and footwear (fashion) and is itself subject to two further conditions.

Counsel sets out the law in relation to planning permission as follows:

- the proper interpretation/construction of a planning permission is a matter of law for the court, not fact and degree for an inspector/decision maker
- when construing a planning permission regard is only to be had to the permission itself (including the conditions and reasons for imposing them) and to any other document incorporated by reference on its face. Thus reference to the planning application itself (and any accompanying plans) is not permitted unless the application or plans are lawfully incorporated into the permission. A planning permission, which runs with the land, cannot mean one thing in the hands of one person and something else in the hands of another.
- extrinsic evidence cannot be used to qualify the meaning of ordinary words; it may exceptionally be had regard to if it is necessary to interpret what something in the document means, or if extrinsic evidence is necessary to resolve an ambiguity on the face of the permission document
- the legal question in construing a planning permission (or a condition to it) is not what the Local Planning Authority intended to grant but what it in fact granted.
- evidence of practice or custom in applying for or granting planning permission is an example of extrinsic evidence as are documents which

- either the applicants did submit or the planning authority required to be submitted with an application by virtue of a General Development Order or were considered at the time of the application or grant.
- in the absence of definition then words in a planning permission must be given their ordinary and natural meaning in their context. A Court or an Inspector will strive to overcome any difficulty in giving words in a planning permission some meaning. The Courts have held that there is no rule that planning permissions and conditions are to be construed narrowly or strictly.

Counsel advises that the planning application is not incorporated into the 2000 Planning permission so that it is extrinsic evidence which cannot be considered in the interpretation of the permission, unless it is lawful to do so under one of the recognised exceptions or under a new as yet unrecognised exception.

It is only in the circumstances permitted by the 2000 Permission that the sale of 'fashion clothing and footwear' be lawfully carried out on the park.

Condition 1 of that decision refers to 'any single unit within the redline boundary'. The applicant considers that this means any unit on the site (i.e. all of them) but 'any single unit' referred to in condition 1 of the 2000 Permission must be 'this unit' in condition 2. That is to say the 'single' unit benefiting from the additional class of goods (fashion clothing and footwear) is one of the units.

Counsel considers also that the 'Note for Applicant' which appears on the face of the permission is part of the permission document and can therefore be considered when construing the permission. The note for applicant makes it clear that the permission applies to 'a single unit' and not from 'any of the remaining units on the site'.

The difference between the two Counsels' opinions is whether the wording of the conditions of the 2000 Permission refer to one unit only, within the site, or all of them and whether the content of the note for applicant, which refers to one unit only, can be considered in interpreting the permission.

The wording of condition 1 of the 2000 Permission could in isolation be given two meanings. However this is clarified by condition 2 which refers to 'this unit'. Both conditions are part of the decision and can therefore be considered in interpreting the permission.

Recommendation: Refuse Proposed Use

1. Planning permission BC55332P, granted on 22 September 2000 ('the 2000 Permission') expressly incorporates only 'the plans accompanying the application, copies of which are attached ...'. There was only one plan (see condition 1) which was a 'red line' plan which surrounded the whole park and did not identify any particular building. The planning application is not incorporated, it is 'extrinsic' evidence or material which therefore cannot be

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referred to interpret the permission unless it is lawful to do so under one of the recognized exceptions (or a new as yet unrecognized exception).

2. It is only in circumstances permitted by the 2000 Permission can the sale of 'fashion clothing and footwear' be lawfully carried out on the park.

3. Condition 1 to the 2000 Permission refers to 'any single unit within the redline boundary'. The Applicant, relying on the opinion of Martin Edwards of Counsel, asserts that this means any unit on the site, i.e. all the units on the site. This is not accepted by the Local Planning Authority:

a. 'any single unit' referred to in condition 1, must be 'this unit' in condition 2. That is to say the 'single' unit benefiting from the additional class of goods (fashion clothing and footwear) is only one of the units on the site.

b. The 'Note for Applicant' which appears on the face of the permission, is part of the permission document, is not extrinsic evidence and must therefore be considered when construing the permission. It makes clear that the permission applies to 'a single unit' and not from 'any of the remaining units on the site'.

4. The 2000 Permission is clear and unambiguous. There is no need, nor as a matter of law is it permissible, to have regard to extrinsic evidence to interpret it correctly.

5. It follows that, pursuant to 2000 Permission, only from one unit on the site can fashion clothing and footwear be sold. The sale of clothing and footwear (fashion) across all blocks of units within the retail park is not permitted by the 2000 Permission.



To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
04 Mar 2010

**REASON FOR BRINGING TO COMMITTEE: Requires Delicate
Judgement**

Application Number: 10/0018/PT
Application Type: Prior approval of
siting & Appearance of
Telecommunications Apparatus

Applicant: T-Mobile

Proposal: Prior Notification for the
installation of 11.7m high
telecommunications monopole and 2 no.
equipment cabinets

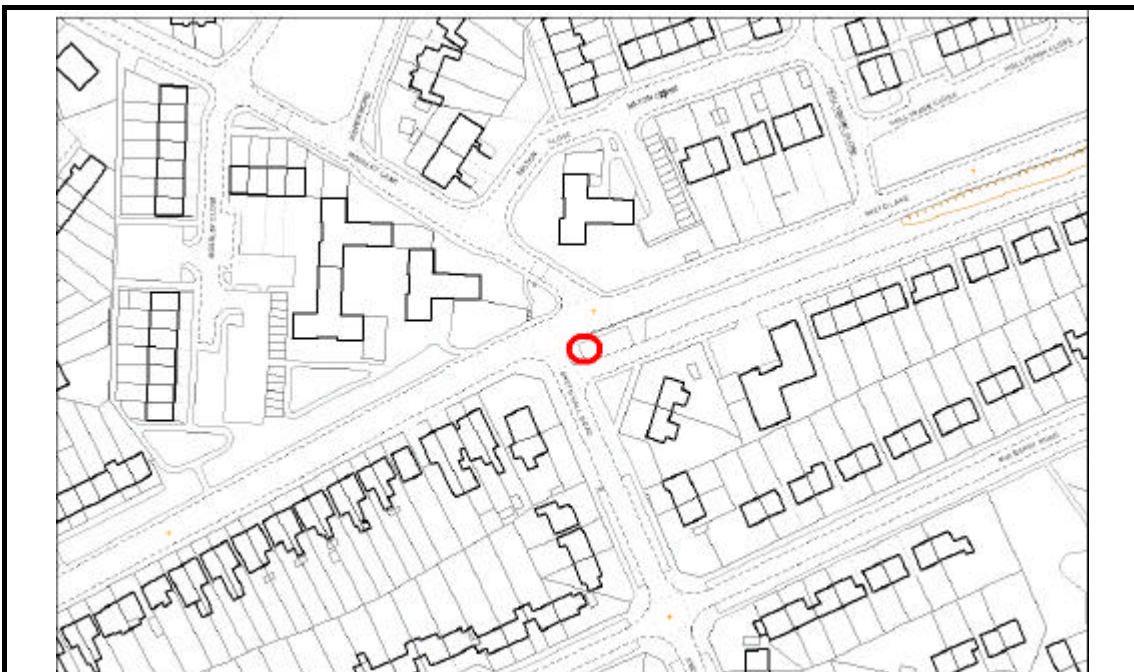
Ward: Bloxwich West

Recommendation Summary: Prior Notification Tel refuse details

Case Officer: Alison Deakin
Telephone Number: 01922
652487

Agent: Daly International
Location: Pavement at the
junction of Sneyd Lane with
Sneyd Hall Road, Bloxwich, WS3
2LW

Expired: 08/03/2010



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Application and Site Details

The application seeks prior approval of a proposed development by T-Mobile for the installation of 11.7m high telecommunications slimline monopole and 2 equipment cabinets at the junction of Sneyd Lane and Sneyd Hall Road. The proposed monopole is to be painted black and the cabinets painted green. One cabinet would measure 600 x 500 x 1260mm high and the other 900 x 800 x 1285mm high respectively.

The proposed monopole is located in the footway on Sneyd Lane and the cabinets at the edge of the grass verge and tactile paving between the footway on Sneyd Lane and access road serving housing on Sneyd Lane. There are safety railings along the edge of the footway, 7m high and 10m high lighting columns and several sets of traffic light signals (including pedestrian lights with tactile paving) and road signs in the vicinity of the site. The area is predominantly residential (two storey houses, a single storey clinic building to the east and three storey flats opposite).

The applicant states the construction of the new apartment building Fairview Court at the junction of Broad Lane and Sneyd Lane has blocked the existing T-Mobile installation located directly outside the apartment block on Sneyd Lane and that new telecommunications apparatus is therefore required to provide coverage in the area. Any replacement site must be for both T-Mobile and 3. The applicant details the extent of prior consultation carried out including the local planning authority, ward councillors and a local school. The proposed installation would deliver significant improvements to the coverage for T-Mobile and 3.

The applicant states that a slimline "streetworks" pole would not be inappropriate in this location as there are numerous items of street furniture in the vicinity including lighting columns, traffic lights, road signs and safety barriers and that there are a number of mature trees in the wider area. They consider that the pole if painted black would match the street lighting columns and the cabinets are coloured green to match the backdrop of the grass verge.

The technical information submitted includes a Declaration of Conformity with International Commission on Non Ionising Radiation Protection (ICNIRP) Public Exposure guidelines.

The applicants have provided details of 11 alternative sites in the area that have been considered, but discounted as unsuitable or unavailable.

Relevant Planning History

None.

Relevant Planning Policy Summary (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Unitary Development Plan (UDP)

GP2: Development should be sustainable and contribute to environmental improvement;

ENV32: States that poorly designed proposals which fail to take account of the context or surroundings will not be permitted.

ENV38: Telecommunications:

- a) Equipment including cabinets can have significant visual impact and are unlikely to be acceptable in visually sensitive locations that include Conservation Areas and low rise residential areas.
- b) Mast and site sharing and use of high buildings recommended
- c) Measures to reduce the impact of the equipment, such as screening and mast camouflage, will be required where necessary
- d) All proposals should comply with ICNIRP requirements.

3.125: The Council recognises that additional telecommunications apparatus is necessary to cater for the expansion of the communications systems but is concerned about proliferation of equipment which can have a significant impact upon amenity.

Designing Walsall Supplementary Planning Document

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

Regional Spatial Strategy for the West Midlands (RSS)

Promotes a high quality environment and sustainable development.

National Policy

PPS1: delivering sustainable development and good design.

PPG 8- Telecommunications: Government policy is to facilitate the growth of telecommunications systems. It sets out guidance for the siting and design of equipment and how local planning authorities should deal with matters relating to health. In particular paragraphs 19 to 23 refer to mast and site sharing and paragraphs 24 to 28 refer to design.

Consultations

Transportation – Objects in relation to the proposed layout and visibility. The position of the cabinets at the controlled pedestrian crossing point on Sneyd Hall Road would have a detrimental impact on the safety of visually impaired pedestrians and their position would impede pedestrian circulation at the locality. At controlled pedestrian crossing points ‘Inclusive Mobility’ guidelines require a 1200mm wide tactile paving area extending back from the push button control box. The position of the proposed cabinets, including an access door, encroaches into this area reducing its width to 800mm which is contrary to current guidance and is therefore unacceptable.

The position of the proposed cabinets within the existing five arm signalised junction is also likely to adversely affect vehicle and pedestrian intervisibility at the junction to the detriment of highway safety.

The junction of Sneyd Lane and Sneyd Hall Road is part of a complex five arm signalised junction with controlled pedestrian crossing facilities. The junction is presently of 'open' aspect with open grass verge areas and street furniture being mainly vertical in nature including lighting columns, traffic signals, guard railing. This allows good pedestrian and vehicle intervisibility across the arms of the junction which is particularly important as Sneyd Lane is part of the Strategic Highway Network and carries relatively high volumes of traffic. The positioning of the two cabinets within the pedestrian area at the junction would unnecessarily introduce 'solid' structures which are likely to have a detrimental impact on intervisibility across the junction and would therefore be unacceptable.

Pollution Control (Scientific Team) – No objections subject to confirmation that any future amendments to the apparatus complies with ICNIRP guidelines.

Pollution Control (Contaminated Land) – No objections.

Environmental Health – No objections.

Public Participation Responses

Forty three individual letters of objection and a petition with 133 signatures have been received. Objections are summarised as follows:

- 16) Mast will be an eyesore and inconvenience to nearby neighbours
- 17) Junction already cluttered with street lights and traffic lights
- 18) Adverse visual impact as mast is higher than other street furniture and will be dominant
- 19) Obstructs visibility at the junction
- 20) Monopole with shroud on top would distract drivers
- 21) Not appropriate in a low-rise residential area
- 22) Lack of consideration of visual impact upon residents
- 23) Significant numbers of people affected by the proposals
- 24) Cabinets will attract loitering of youths and potential vandalism
- 25) Noise and traffic disruptions during construction
- 26) Public opposition to proposals
- 27) Could the applicant consider alternative sites such as on pylons in Sneyd Reservoir/Sneyd Wharf area or Croxdene Avenue/Parker Street junction or upgrading the installation at Fairview Court
- 28) The applicant had the opportunity to comment on the Fairview Court development and should have realised problems it would cause for their signal
- 29) Health hazard concerns for residents and waiting traffic
- 30) A precautionary approach to mobile phone technologies should be adopted in considering health effects

- 31) The proposals are against Council policy
- 32) Loss of property value (*not a material planning consideration*)
- 33) Infringement of Human Rights
- 34) Lack of adequate local community consultation carried out by the developer

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- 35) Impact on the amenity of the area
- 36) The need to provide telecommunications coverage and consideration of alternative sites
- 37) Health risks and perception of health risks
- 38) Traffic and highway safety

Observations

The operators do not require full planning permission from the Council because permission in principle is granted under the provisions of the General Permitted Development Order. This permission is subject to the operator first notifying the Council of their intention to carry out the development and then submitting the detailed siting and design for approval. The development can only be carried out if the Council approves the detailed design and siting, or if a successful appeal is made against any refusal.

Impact on the amenity of the area

The proposed monopole is in a prominent position close to the edge of the footway and the equipment cabinets are within a verge area close to the pedestrian crossings where they will be visible to pedestrians, motorists and nearby residents. The monopole is taller than the surrounding lighting columns and for this reason will be more visually prominent. The design of the equipment is unremarkable and in this exposed position in an area where there is restricted space available, due to other services and street furniture; there is no opportunity to provide landscaping or to screen the equipment to reduce the visual impact of the clutter. Painting the monopole and equipment to match existing lighting columns as suggested will not reduce the visual impact to a sufficient extent to disguise its presence within the street scene. The cabinets in this position would also be obvious within the street scene as the verge is fairly open in character and all other street furniture has a vertical emphasis.

Objectors are concerned that the cabinets will encourage youths to loiter in the vicinity and potential vandalism. However, this is an exposed location next to a main highway where it is overlooked by many residential properties. It is considered that the perception of being overlooked would prevent this behaviour and therefore insufficient grounds for refusal.

Further neighbour concerns include potential for noise and traffic disruptions during construction of the installation. Despite the fact that the site is surrounded by residential properties it is adjacent a busy highway where there is already a significant amount of traffic noise in the background. The length of time it would take to erect the monopole and cabinets would be for a limited period only and on balance would not create excessive additional noise or disturbance for neighbouring properties.

The fact that there is a significant weight of public opposition to a proposal is not necessarily a sufficient reason for refusal. Objections need to be material planning considerations. In this instance however, for the reasons recommended, it is considered that the objections made are material. Despite objectors claiming an apparent lack of consultation by the developer it is clear that given the significant weight of objection to the proposals the local community was aware of the proposals, albeit following publicity carried out by the Council. One objector considers the installation would be an infringement of their Human Rights to enjoy their home peacefully. Human Rights issues relevant to the application have been taken into account in this Observations section and the recommendation below represents an appropriate balance between the interests and rights of the applicant and the interests and rights of those potentially affected by the proposal where the issue is respect for private life and the home and peaceful enjoyment of their property

The need to provide telecommunications coverage and consideration of alternative sites

PPG8 states Government policy as to facilitate the growth of new and existing telecommunications systems whilst keeping the environmental impact to a minimum and acknowledges responsibility for protecting public health. It also acknowledges the benefits that modern telecommunications offer businesses and contribute towards enriching home life, education, entertainment, shopping and banking. The appendix to PPG8 authorities should not seek to prevent competition between different operators and should not question the need for the telecommunications system which the proposed development is to support.

PPG 8 and policy ENV38 require a full investigation by the operator of alternative sites within the appropriate search area. To comply with this requirement the applicants have provided details of 11 alternative sites investigated within the search area. Each has been discounted by the operator because either the landowners were unwilling to allow the installation, the site provided unsuitable coverage for the target area or the installations would need to be taller and bulkier structures and therefore had an inappropriate impact upon visual amenity.

The objectors suggested alternative sites such as the pylons in Sneyd Reservoir/Sneyd Wharf area or Croxdene Avenue/Parker Street junction. The applicant has indicated that the first of these is outside the search area and would therefore provide unsuitable coverage and the second is one of the

alternative sites already considered and discounted (site 8). The potential to upgrade the existing apparatus adjacent Fairview Court has been considered by the applicant. However, the height of the existing pole would have to be significantly increased to a height greater than the adjacent building to ensure that the signal from the antennae would not be blocked. As such the pole would be significantly taller than other street furniture and would look inappropriate and incongruous. The alternative of putting apparatus on the roof of Fairview Court has also been considered (as referred to in the supporting statement) but the owners unwilling to allow the installation. Regarding the suggestion that the applicant had the opportunity to comment on proposals for Fairview Court development if they considered it affected their apparatus it is unlikely that this would have been sufficient reason to refuse the proposals for the flats.

Whilst it is recognised that there is a need for the installation to provide alternative coverage in the Bloxwich area the adverse impact the clutter of equipment creates within the street scene and visual amenities of the surrounding area at this site are considered to outweigh these requirements.

Health risks and perception of health risks

Whilst health concerns are a material consideration, they must be considered in the context of current government advice. Although objectors have highlighted that a precautionary approach to mobile phone technologies should be adopted in considering health effects, PPG 8 comments that if a proposed mobile phone base station meets International Commission for Non-Ionising Radiation Protection (ICNIRP) guidelines for exposure, it should not be necessary to consider further the health aspects and concerns about them. In this case, emission levels are within the ICNIRP requirements.

Traffic and Highway Safety

The Transportation officer objects to the proposals on the basis that the position of the proposed cabinets encroaches into the area of tactile paving at the controlled pedestrian crossing point on Sneyd Hall Road. This would have a detrimental impact upon the safety of visually impaired pedestrians and impede pedestrian circulation as it would narrow the space available. The cabinets also adversely affect the pedestrian and vehicle intervisibility across this complex five arm signalised junction with controlled pedestrian crossing facilities as they are solid structures. This is also one of the concerns from objectors. Despite concern from objectors that the monopole with shroud on top would distract drivers it is not at eye level, would be painted black, is similar to a street lighting column, will not be visible at night and is not illuminated and therefore considered to be insufficient distraction to cause any significant danger to highway safety.

Any potential noise and traffic disruptions during construction of the installation would be for a temporary period and are considered not sufficient grounds to warrant refusal of the application on this basis.

Recommendation: Prior Notification Tel refuse details

1. The proposed development by reason of the height and siting of the monopole and associated equipment cabinets would be detrimental to the visual amenity of the street scene and surrounding area because together they create a cluttered appearance when viewed in association with existing street furniture in the vicinity. As such the proposed development would be contrary to Policies GP2, ENV32 and ENV38 of Walsall's Unitary Development Plan and the advice contained within Planning Policy Guidance 8: Telecommunications.

2. The position of the proposed cabinets at the controlled pedestrian crossing point on Sneyd Hall Road would have a detrimental impact on the safety of visually impaired pedestrians and impede pedestrian circulation as they encroach upon the tactile paving area and narrow the space available. The position of the proposed cabinets within the five arm signalised junction would also adversely affect vehicle and pedestrian intervisibility at the junction. The proposals are therefore detrimental to pedestrian and highway safety contrary to policies GP2, ENV32, T1 and T8 of Walsall Unitary Development Plan.
