

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

Thursday 25 April 2024 at 5:30pm

Committee Members present:

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

Officers Present:

D. Brown	Executive Director – Economy, Environment & Communities
R. Ark	Principal Environmental Protection Officer
M. Brereton	Group Manager – Planning
M. Crowton	Group Manager – Transportation & Strategy
K. Gannon	Development Control and Public Rights of Way Manager
O. Horne	Senior Planning Officer
N. Howell	Principal Planning Officer
K. Knight	Senior Transport Planner
G. Meaton	Team Leader Development Management
A. Sargent	Principal Solicitor
A. Scott	Senior Planning Officer
N. Picken	Principal Democratic Services Officer
E. Cook	Democratic Services Officer
L. Cook	Assistant Democratic Services Officer

Councillor Statham in the Chair

102 Apologies

There were no apologies received.

103 **Declarations of Interest and Party Whip**

Councillor Follows declared an interest in Plans List Item 4 – Bloxwich Post Office.

104 **Deputations and Petitions**

There were no deputations or petitions submitted.

105 **Minutes**

A copy of the Minutes of the meeting held on the 7 March 2024 was submitted.

[annexed]

Resolved

That the minutes of the meeting held on 7 March 2024, a copy having previously been circulated to each member of the Committee, be approved and signed by the Chair as a correct record.

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

Exclusion of the Public

Resolved

There were no items for consideration in the private session.

107 **Application List for Permission to Develop**

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

(annexed)

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

108 **Plans List Item 2 – 23/1600 – Land off Barracks Lane, Brownhills**

The Chair advised the Committee that a request had been received from the applicant for the item to be deferred to a future meeting. Members were invited by the Chair to debate the request to defer the application.

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

Resolved (unanimously)

That application 23/1600 be deferred to a future meeting to enable the applicant to submit an Environmental Impact Assessment in response to a screening opinion that found that the development fell under Schedule 2 of the EIA Regulations 2017.

Councillor Martin entered the meeting.

109 **Plans List Item 3 – 23/0120 – Sandown Quarry, Stubbers Green Road, Aldridge**

The Chair advised the Committee that a request had been received from the applicant for the item to be deferred to a future meeting. Members were invited by the Chair to debate the request to defer the application.

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

Resolved (unanimously)

That application 23/0120 be deferred to a future meeting to allow further time for all parties to consider and respond to final matters regarding highways, ecology, and amenity.

110 **Plans List Item 6 – 23/0446 – 74 Mellish Road, Walsall**

The Chair advised the Committee that a request had been received from the applicant for the item to be deferred to a future meeting. Members were invited by the Chair to debate the request to defer the application.

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

Resolved (unanimously)

That application 23/0446 be deferred to a future meeting, to enable the applicant's agent to attend.

111 Plans List 1 – 23/0613 – 25 and 27 Little Aston Road

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

(annexed)

The Group Manager (Planning) provided an overview of the application and highlighted changes made since the application was previously considered. These included the expansion of the 'red line boundary'; an amended site-plan including the relocation of proposed dwellings; the relocation of the vehicular access enabling refuse vehicles to access the site; the reduction in height of the rear-located bungalows; and the addition of acoustic boundary treatments. Images of the proposed development and vehicle tracking plans were provided.

At this juncture Councillor Garcha entered the meeting.

The Group Manager (Planning) advised that the dwelling at number 29 Little Aston Road had been demolished for an approved replacement dwelling of similar elevations to the street-facing dwellings included in the application. Five petitions had been received against the application since being registered, with thirty-four individual objections. The Group Manager (Planning) explained that several of the previous reasons for refusal had been addressed but two remained. The officer explained that reason 2, the inappropriate siting of the bin storage, could likely be resolved through conditions as refuse collection vehicles could use the proposed access. Officers recommended that the application represented 'on balance' an inappropriate backland development with a cramped layout and did not reflect the character of the local area.

There were two speakers against the application, Ms Allen and Mr Kalam, and one in support of the application, Mr Brearley, who were attending in person.

Ms Allen explained that she was a barrister instructed to speak on behalf of several objectors regarding apparent conflicts of interest which they believed arose in relation to several members sitting on the Committee. Ms Allen stated that the applicants were Mr and Mrs Brindley, founders of the James Brindley Foundation, and there were concerns regarding the nature and appropriateness of the relationships between the applicants and several members of the Committee through their associations with the Charity. Ms Allen stated that Councillors Bird, Statham, Murray and Waters had engaged with the charity on numerous occasions since 2018, including supporting organising fundraising events, promoting petitions and working to support grant funding. Ms Allen added that the finding of bias or the appearance of bias would be sufficient for the rendering of any decision as unlawful and expressed the opinion that a fully informed fair-minded observer would note the obvious relationship between some Committee members and the beneficiaries of the decision. Ms Allen asserted that should the application be granted planning permission by a Committee comprising one or more of the

aforementioned members, there would be a risk of a potentially successful judicial review into the matter. Ms Allen suggested that to ensure any decision would be taken lawfully, the aforementioned members should recuse themselves from taking any further part in determining the application.

Mr Kalam stated that this was the third time the application had been before the Committee and that despite redesigns the applicant had failed to address the concerns of planning officers. Mr Kalam expressed the opinion that the application represented an unacceptable backland development with no street-frontages for plots 3, 4, 5 and 6. He stated that the development did not fit the pattern or density of development in the area; was contrary to the UDP, policies ENV 32 and ENV2; and plot sizes and density did not match the local context according to Designing Walsall. Mr Kalam added that separation distances were much less than existing arrangements and what would reasonably be expected in the locations and that the proposal inadequately responded to local character, with no existing design features included. Mr Kalam reminded members that an appeal to the Planning Inspector surrounding a previous application for a three-bedroom property on the site, had concluded the previous application would harm the amenities of the area, being intrusive to the character and overbearing on neighbouring properties. Whilst each application was determined on its merits, the current proposal was on the same site and a similar development. The current application had received significant local opposition which should be considered carefully.

Mr Brearley stated that the application had been significantly amended since it was previously considered with Plots 5 and 6 reduced in size to bungalows and Plots 1 and 2 relocated. The dwelling heights of Plots 1 and 2 had been reduced; access had been relocated further from neighbouring houses and the rear of 29 Little Aston Road would be shielded from the access by gardens. The refuse collection point was now optional as refuse collection vehicles could use the site and this could be removed via condition. Regarding harm to character, the applicant believed this form was not unusual in Walsall, with similar applications previously approved by the Inspector at Whetstone Lane, Erdington Road, Blackwood Lane and Lichfield Road, Bloxwich. Another application on the agenda for the meeting, 'Land Adjacent Haley Street', represented similar 'tandem' development and was recommended for approval, showing inconsistency on how applications were dealt with. The scheme was broadly reflective of neighbouring density and considered an effective use of land, with some compromise between local characteristics and the efficiency of the development.

Prior to questions being asked of speakers, the Principal Solicitor present clarified that declarations of interest were a matter for each individual member to consider and declare. The Chair had invited members to make any declarations of interest during item 2 of the agenda and no members declared an interest in the item. All members were aware of the requirement to declare an interest either during the agenda item calling for declarations or as soon as they become aware that an interest existed. Whilst the first speaker, Ms Allen, had referred to members' declarations of interests, this should form neither

part of questions to speakers nor the ensuing debate as this was a matter for each individual member to consider and declare accordingly.

A Member asked Mr Brearley for his view on whether the application represented backland development. Mr Brearley stated his opinion that while the application did represent backland development, the authority had no policy which prevented this in principle and the important issue was whether such development was harmful. Mr Brearley stated his opinion that this was not the case as the proposed development retained a linear frontage on Little Aston Road and the driveway presented a clear sense of arrival. The existing gardens were huge including in comparison to others in the area and the proposed gardens were not small. The density of plots was comparable to other approved developments and met all separation standards. In Mr Brearley's opinion there was a good balance between the area's existing character and practicalities of such a development. He added that the 2005 appeal decision had been made in a different planning policy landscape and in his opinion the present application was significantly different to that 2005 application, which was tandem rather than backland development. Mr Brearley stated his opinion that relying on the 2005 appeal decision was 'treading on thin ice' and the 2005 appeal should carry minimal weight in determining the application. Regarding presumption in favour of sustainable development, he added that in his view there was no demonstrable evidence that the development would cause significant harm.

A Member asked Mr Brearley, with regards to comments in the officer's report about the development being 'cramped', to confirm whether all the proposed gardens were compliant with Council policy. Mr Brearley stated this was the case, with the smallest proposed garden being 99sq.m. serving the bungalow at Plot 3. The other gardens were larger and on similar developments, such as application 'Land Adjacent 26 Haley Street', an item on the agenda for consideration later in the meeting, gardens were generally much smaller.

A Member enquired with the Principal Solicitor present whether they could ask questions in response to comments made by Ms Allen. The Principal Solicitor advised that Members could ask questions regarding the planning merits of the matter and that Ms Allen had not discussed the planning merits of the application. A Member stated that members of the Committee had received letters from objectors, architects and legal representatives regarding the application. The Principal Solicitor advised that Members should not ask questions regarding, nor consider the content of those letters, unless they were in the public domain.

A Member asked Mr Brearley whether it was his position that the policy considerations contained within reason 1 for the recommendation should be disregarded. Mr Brearley responded that there were only two reasons for refusal: the inappropriate backland development and the inappropriate siting of the bin collection point. The latter could be removed through conditions. The Member further asked whether Mr Brearley's company's position was that the policies listed by the officer in reason 1 for the recommendation were not relevant. Mr Brearley stated that his company had observed and adhered to all required standards and policies, including separation standards. The

conflict of policy arose from different interpretations of subjective policies and his position was that the application did not represent an inappropriate backland development for the reasons he had already set out. He added that this was not disregarding officers' experience but that the applicant had perhaps placed greater weight on the presumption in favour of the contribution towards wider housing supply.

At 6:13 p.m., the meeting was adjourned with the consent of the Committee. The meeting recommenced at 6:17 p.m.

A Member asked Mr Kalam how much weight he put on the policy considerations included in reason 1 for the officer's recommendation. Mr Kalam stated that while there was an element of discretion it was clear this was unacceptable backland development. He asserted that the lack of street frontages for several properties was out of character with the area and emphasised that the officer's report described the development as cramped, incongruous and harmful to the character of the area. Mr Kalam asserted that the percentage increase in density provided by officers had shown the proposal was mathematically in excess of the local area and out of character with the surroundings. He added that the report stated the application was contrary to the aims and objectives of the National Planning Policy Framework (NPPF) and represented a poor design according to policies ENV2 and ENV3 Design Quality. Mr Kalam added that the application had been before committee on three occasions and had undergone five redesigns with the latest changes being forced upon the applicants yet was still of poor design. In his opinion, the second recommended reason for refusal related to the bin storage reflected this poor design and the claim it could be resolved through conditions was not important as the Committee were to determine the application before them.

A Member asked Mr Kalam to clarify his use of the terms 'poor design' and 'ill design' and whether these were used in the report. Mr Kalam stated that this was his interpretation of terms including 'cramped', 'incongruous', 'causing harm to the character' and 'fails to respond'.

There followed a period of questions to officers. Responding to a question seeking clarity regarding the term 'in the surrounding area', the Group Manager (Planning) clarified that 'surrounding area' referred to the immediate setting, including neighbours, properties to the rear and side and the linear pattern of the street. The Member asked whether this meant all backland developments would be considered unacceptable and out of character due to a linear street-frontage. The officer explained this was not the case with factors including density, space standards, plot sizes and harm all being considered. Appropriateness was determined on a case-by-case basis.

The Group Manager (Planning) was asked to explain some of the policies included in the recommended reasons for refusal. The Group Manager (Planning) clarified that the report provided was an update report, with the original report appended. The Council's Development Plan built upon multiple plans and policies which were required to be considered and balanced. While the NPPF included a presumption in favour of sustainable development, this

could not be given the same weight in this application as in some others as garden land was not considered previously developed land. Many national policies applied to character, amenity and local distinctiveness, which were reflected in local adopted plans such as the Black Country Core Strategy and CSP4 Place Making, and supplemental guidance.

A Member asked the Group Manager (Planning) to confirm if it was the case that since the application had last been before committee, officers had worked with the applicants to overcome issues with the application and that after this there remained two reasons for a recommendation to refuse planning permission. The officer confirmed this was the case and that some previous reasons for recommended refusal had been overcome. Officers retained the view that on-balance the remaining objections were sufficient to recommend refusal.

A Member asked whether the officer's recommendation hinged upon the principle of inappropriate backland development, given there were no objections from statutory consultees (except regarding planning policy) and the dwellings met required standards on amenity space. The Group Manager (Planning) stated that the recommendation hinged on a combination of the principle of backland development, compounded by the harm caused by the development being overly-dense and uncharacteristic of the surrounding area.

Responding to questions regarding vehicular access, the Group Manager (Planning) confirmed the applicant had demonstrated that a refuse collection vehicle could comfortably enter and exit the site in forward gear, including vehicles larger than those currently used by Walsall Council.

In response to a question as to when 'backland' applications became 'cul-de-sacs' rather than a 'back-land development', the Group Manager (Planning) explained that backland development was by its nature any development to the rear of existing dwellings. All applications were considered on a case-by-case basis. When considering such applications the next consideration was the scale of harm such a development would cause in relation to policies and whether this would outweigh the benefits. In this case the Group Manager (Planning) clarified that officers had not stated that there was 'significant harm' but there were found to be various elements of harm and officers recommended that the application remained unacceptable.

The Group Manager (Planning) confirmed that all plots met the legally required standards regarding the dwellings, amenities and garden sizes.

Debating the item, a Member expressed support for the development on the basis that no statutory consultees had raised objections; the gardens, though smaller than many neighbouring gardens, remained large; and the plots all met required minimum standards regarding dwellings and amenity space.

It was **moved** by Councillor Nawaz and **seconded** by Councillor K. Hussain that Planning Committee grant planning permission, contrary to officers' recommendations.

The Chair noted that a motion had been moved and seconded and stated that debate would continue before the motion was discussed and put to the vote.

A Member expressed serious concerns that members were considering overlooking the large number of policies included in the officers' reasons for their recommendation, stating that it was not possible for all policies and guidelines to be so subjective they could be ignored. They added that if policies were that ambiguous, members should follow officers' recommendations and if necessary allow the application to go to an appeal. The Member also added concerns regarding the weight given to neighbours' objections.

One Member emphasised the importance of highways concerns in the matter. The Chair clarified that the objections from highways had been removed in the update report.

A Member expressed the opinion that while it was commendable that the applicant had successfully overcome many of the previously recommended reasons for refusal, the main reasons for refusal remained and throughout the process officers had held that the application was unacceptable. The Member added that there had already been unusual levels of leniency and discretion given to the applicants throughout the application process.

One Member expressed some confusion regarding the national policy on backland development and of 'significant harm' and questioned whether they felt they could determine the application before them, based on their understanding of the information available.

At the conclusion of the debate Councillor Nawaz confirmed that having listened to all representations, he still wished to move a resolution to grant planning permission contrary to officers' recommendations and expressed the opinion that the application would not cause significant harm to the character and amenities of the area. The Chair asked Councillor Nawaz to read the motion out in full before the vote was taken, which he duly read out as follows;

That Planning Committee grant planning permission for the application, contrary to officers' recommendations, subject to conditions on the grounds that:

- the application does not create significant harm and despite being a backland development, presents a good use of land, providing a mix of much needed housing and contributing to the demand for bungalows in the local area;
- and that all of the dwellings are policy compliant, meeting requirements for design standards and amenity space;

And that Planning Committee delegate authority to the Head of Planning and Building Control to agree samples of materials to be used in the development; to designate operating hours to be used in the development of the site during construction; and to finalise necessary planning conditions.

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

Resolved (9 in favour, 6 against)

That Planning Committee:

1. **Grant planning permission for application 23/0613, contrary to officers' recommendations, subject to conditions on the grounds that:**
 - **The application does not create significant harm and despite being a backland development, presents a good use of land, providing a mix of much needed housing and contributing to the demand for bungalows in the local area; and**
 - **All of the dwellings are policy compliant, meeting requirements for design standards and amenity space;**

2. **Delegate authority to the Head of Planning and Building Control;**
 - **To agree samples of materials to be used in the development and to designate operating hours to be used in the development of the site during construction; and**
 - **To finalise necessary planning conditions.**

Councillor Garcha, having entered the meeting after the item had commenced, did not vote.

At the conclusion of the item and with the consent of the Committee, the meeting adjourned at 6:52 p.m.

Councillors Bains, Bashir, Follows, Gandham, K. Hussain, Nawaz and Samra left the meeting and did not return.

Councillor Bird entered the meeting and took the Chair.

The meeting re-commenced at 7:02 p.m.

112 **Plans List 5 – 22/1715 – Land Adjacent 26 Haley Street**

The Team Leader Development Management introduced the report of the Head of Planning and Building Control, including information contained in the supplementary paper.

(annexed)

There was one speaker in support of the application, Councillor Whitehouse, who was attending in person.

Councillor Whitehouse stated that the site was currently derelict and overgrown and that the proposed development would provide much needed affordable housing for the local area.

Responding to a Member's question, the Team Leader Development Management explained that the number of dwellings which would be affordable housing did not form part of the application, but that the requirement for 25% of developments to be affordable housing only applied to developments including fifteen or more dwellings.

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

Resolved (unanimously)

That Planning Committee delegate to the Head of Planning and Building Control to grant planning permission for application 22/1715 subject to conditions and subject to:

- **the completion of a S111 agreement to secure the Cannock Chase SAC mitigation contribution; and**
- **the amendment and finalising of conditions**

113 **Plans List 4 – 24/0194 – Bloxwich Post Office**

The Chair clarified that the acquisition of the former Bloxwich Post Office and the proposed development of the Bloxwich Incubation Space & Digital Access Centre as part of the Bloxwich Town Deal, was done so under a delegation authorised by Cabinet on which he and Councillor Statham sat. Those were rightly Cabinet matters. What Planning Committee were to consider was a Planning Application to be determined based on its merits and the professional planning officer's report. The Chair stated that both he and Councillor Statham would consider the application solely on its merits and came to the meeting with an open mind.

The Committee received the report of the Head of Planning and Building Control, including information contained in the supplementary paper.

(annexed)

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

Resolved (8 in favour, 0 against)

That Planning Committee grant planning permission for application 24/0194 subject to conditions.

114 **Date of next meeting**

The date of the next meeting would be set at Annual Council.

There being no further business, the meeting terminated at 19:16pm.

Signed:

Date: