



## Planning Committee

Thursday 9 March 2023 at 5.30 pm

Council Chamber, Walsall Council House

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### MEMBERSHIP:

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

### QUORUM:

Seven Members

# AGENDA

## Part I – Public Session

1. Apologies.
2. Declarations of interest.
3. Deputations and petitions.
4. Minutes of the previous meetings – 9 February 2023 – **enclosed** (pp. 5 - 10)
5. **Local Government (Access to Information) Act 1985 (as amended)**:  

To agree that, where applicable, the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
6. Response to Sandwell Local Plan Consultation – **enclosed** (pp. 11 - 40)
7. Application list for permission to develop:
  - a) Items subject to public speaking;
  - b) Items 'called-in' by members
  - c) Items not subject to 'call-in'

- Copy **enclosed** (pp. 41- 143)

## The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

### Specified pecuniary interests

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

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

## **Schedule 12A to the Local Government Act, 1972 (as amended)**

### **Access to information: Exempt information**

#### **Part 1**

#### **Descriptions of exempt information: England**

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

## **Planning Committee**

**Thursday 9 February 2023 at 5.30 pm**

**Council Chamber, Council House, Walsall**

### **Present:**

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

### **In attendance:**

A. Ives	Head of Planning
N. Ball	Principal Planning Policy Officer
M. Brereton	Group Manager – Planning
E. Cook	Assistant Democratic Services Officer
M. Dale	Senior Planning Officer
K. Gannon	Developmental Control and Public Rights of Way Manager
N. Gough	Democratic Services Officer
J. Grant	Environmental Protection Officer
S. Hollands	Principal Planning Officer
A. Sargent	Principal Solicitor
D. Smith	Senior Legal Executive

### 163/22 **Apologies**

Apologies for absence were submitted on behalf of Councillor Allen and Councillor Martin.

### 164/22 **Declarations of Interest**

There were declarations of interest submitted.

165/22 **Deputations and Petitions**

There were no deputations introduced or petitions submitted.

166/22 **Minutes of previous meeting**

The Committee considered the minutes of the previous meeting.

**Resolved:**

That the minutes of the meeting held on 1 December 2022, a copy having been previously circulated to each member of the Committee, be approved and signed as a true record.

167/22 **Local Government (Access to Information) Act 1985 (as amended)**

**Resolved:**

That there were no items for consideration in private session.

168/22 **Section 106 Customer Guide and Householder Validation Checklist**

The Group Manager (Planning) presented a report, which informed Members of the outcome of public consultation and the subsequent implementation of an updated Section 106 (S106) Customer Guide and a new Household Local Validation Checklist.

(annexed)

The documents were guides which had been produced to help customers and to speed up the processing of S106 contributions. Amendments made following consultation had been set out in the report. Members were made aware of minor formatting amendments, as set out in the supplementary paper (annexed).

Responding to questions, the Group Manager (Planning) explained that developments falling within the Cannock Chase Special Area of Conservation (SAC) would still be required to pay the SAC contribution if a S106 was deemed unviable for the development. All developers who had used the existing frameworks within the previous 12 months had been contacted and all regular developers had the opportunity to respond to the consultation.

**Resolved** (by assent)

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

169/22      **Application list for permission to develop**

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

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

170/22      **Plans List 1 – 22/0587 – 9-11 Park Street, Walsall, WS1 1LY**

The Senior Planning Officer introduced the report of Head of Planning and Building Control.

(annexed)

An overview of the existing site was provided and it was explained that there had been no objections received from Environmental Health, Highways or Conservation consultations. The proposed development would increase vitality by bringing a vacant site into use and increasing footfall with no significant external alterations proposed. Comments were received from the Chief Superintendent of West Midlands Police, which raised concerns about the number of premises operating and closing at the same time in Walsall Town Centre and recommended that restrictions on hours of operation be considered, as set out in the Supplementary Paper (annexed).

There were two speakers on the item, both in support of the application. Ms Janet Rowley (agent) explained that no objections had been received from statutory consultees and that the comment received from West Midlands Police had been received two hours prior to the meeting and so a formal response had not been possible. Ms Rowley highlighted that the applicant's existing operation in Walsall operated on a 24-hour licence with no restrictions. Mr James Sturgess (Regional Operations Director, Luxury Leisure) explained that 11 of the applicant's 32 existing operations in the West Midlands operated under a 24-hour license including the existing one in Walsall on Bradford Street, and no incidents had been reported to the police related to that venue. Alcohol was not allowed to be consumed on the premises and those under the influence of alcohol were not permitted entrance.

Responding to questions, Mr Sturgess explained that intention was for the proposed site to be a relocation from the existing premises on Bradford Street, with a short transition period where both sites would operate, after which the licence for the Bradford Street site would be

rescinded. The relocation would enable expansion to a larger site with better facilities in a more central location. Staff were trained appropriately including in age-verification and dealing with vulnerable customers. A wide range of security measures were employed including remote monitoring and door control, a three safe system with staff permanently on the shop floor, it was noted that there was not a plan for a dedicated security officer.

The number of customers varied but was not necessarily directly proportional to the profitability of the business. Night-time operations were an important part of the business and also made it accessible to people who could not use the site at other times of the day. The Bradford Street site had operated under a 24-hour license since September 2022 with no security or crime issues.

There followed a period of debate by Members. Some Members expressed that it was their opinion that the clientele using the facility did not reflect those involved in negative events in the town and that it would be wrong to associate the proposed operations with those such as nightclubs and late-night bars. Other members felt that it would be irresponsible to ignore the rare intervention by the Chief Superintendent of West Midlands Police and that the Committee had a duty to support the prevention of crime and disorder and to reassure the community, concluding that the proposed conditions on opening hours were important.

It was **Moved** by Councillor Samra and **Seconded** by Councillor Statham and upon being put to the vote it was;

**Resolved** (10 in favour, 3 against)

**That Planning Committee delegates to the Head of Planning and Building Control to grant planning permission for application 22/0587 subject to conditions as set out in the Officer's report and supplementary paper to include the following condition:**

- 1. That the hours of operation be restricted to between 10:00am and 02:00am.**

171/22

**Plans List 2 – 22/0588 – 9-11 Park Street, Walsall, WS1 1LY**

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 grant advertisement consent for application 22/0588 subject to conditions as set out in the Officer's report.**



**Plans List 3 – 22/1232 – 13 Aldridge Road, Walsall, WS4 2JN**

The Group Manager (Planning) introduced the report of the Head of Planning and Building Control.

(annexed)

An overview of the existing site and proposed development was provided and it was explained that the proposed scheme was very similar to that previously refused, with some minor amendments. Whilst one of the previous reasons for refusal had been addressed, the other had not.

There were two speakers on the item, Mr H. Parmar (agent) and Mr M. Khan (applicant) both in support of the application. Mr Parmar explained that amendments had been made which had resolved one of the previous reasons for refusal, namely the detrimental effect of the rear-extension on the light in the neighbouring property, and that side-facing dormer windows had been removed. Mr Khan added that the remaining concern appeared to be the overall size of the proposal, but that this size was necessary to house the family and the applicant's relative with a debilitating illness and significant care needs.

There followed questions to the speakers. Mr Khan explained that he felt most of the previous objections had now been overcome and that suggestions by Officers had been accommodated. The street scene had greatly changed in recent years and was now greatly varied with many properties having large extensions, examples were given of such properties. Mr Khan explained that there was already an existing side-extension to the property, so it was not increasing the width of the property, but rather only building upwards and forwards. Expanding the property was necessary for the applicant to provide care for his ill relative and to provide space for his family.

Responding to questions, Officers confirmed that despite the varied street scene, the principal objection to the development was the overall scale of the proposal and the extension roof not being subservient to the existing property.

There followed a period of debate. It was **Moved** by Councillor Nawaz and **Seconded** by Councillor K. Hussain and upon being put to the vote it was;

**Resolved** (unanimously)

**That Planning Committee delegates to the Head of Planning and Building Control to grant planning permission for application 22/1232 subject to conditions and contrary to the Officer's recommendations, for the following reasons:**

- The previous reason for refusal had been overcome through the works done to alter the scheme from that previously submitted, by setting back from the front; removing side-facing dormer windows and reducing the rear extension,
- The proposed development was not out of keeping with the street scene and would not unbalance the position with the adjoining semi-detached property.

**Termination of meeting**

There being no further business, the meeting terminated at 6:59 pm.

Signed .....

Date .....



# Walsall Council

## PLANNING COMMITTEE

9<sup>th</sup> March 2023

### REPORT OF HEAD OF PLANNING & BUILDING CONTROL

#### Response to Sandwell Local Plan Consultation

#### 1. PURPOSE OF REPORT

To consider the Sandwell Local Plan Issues and Options Review, and to make appropriate recommendations to Cabinet.

#### 2. RECOMMENDATION

a) Agree the response as set out in the appendix, and refer it to Cabinet for endorsement:

b) Authorise the Head of Planning and Building Control to add additional comments to the response as necessary, and to submit an initial officer response to the authorities in advance of endorsement by Cabinet.

#### 3. FINANCIAL IMPLICATIONS

None arising directly from this report.

#### 4. POLICY IMPLICATIONS

Following the decisions of the four local authorities to cease work on the Black Country Plan (BCP), each authority is now beginning work on their own local plans. The nature of the Black Country is that the supply of land for housing, employment and other land use requirements overlap between the authorities. Sandwell is physically constrained with very little land available to meet its own needs. As a result, the BCP envisaged some of its supply being provided in neighbouring authority areas, notably Walsall and Dudley. The extent to which the proposed Sandwell Local Plan meets Sandwell's needs will therefore have implications for the need expected to be met in the Walsall Local Plan.

#### 5. LEGAL IMPLICATIONS

Walsall Council is under a legal Duty to Cooperate with neighbouring planning authorities with regards to strategic cross boundary planning matters. The extent of engagement with neighbouring authorities will be tested as part of the examination of both Walsall's and Sandwell's local plans.

**6. EQUAL OPPORTUNITY IMPLICATIONS**

The Sandwell Local Plan will be required to ensure the needs of all sections of the community are met.

**7. ENVIRONMENTAL IMPACT**

The issues and options review is accompanied by a sustainability appraisal and Habitat Regulations assessment which will be updated as the plan is progressed.

**8. WARD(S) AFFECTED**

All.

**9. CONSULTEES**

Officers in Planning and Building Control have been consulted in the preparation of this report.

**10. CONTACT OFFICER**

Neville Ball – Principal Planning Policy Officer

[neville.ball@walsall.gov.uk](mailto:neville.ball@walsall.gov.uk)

**11. BACKGROUND PAPERS**

All published. Documents for the Sandwell Local Plan can be viewed at:  
[https://www.sandwell.gov.uk/info/200317/planning\\_policy/4990/sandwell\\_local\\_plan](https://www.sandwell.gov.uk/info/200317/planning_policy/4990/sandwell_local_plan)

# Response to Sandwell Council Local Plan Consultation

## 1 Background

- 1.1 The council is frequently consulted about local plans that are being prepared by neighbouring authorities. In recent years, formal responses have been agreed jointly by the leaders of the four Black Country authorities meeting as the Association of Black Country Authorities (ABCA). The decision to end work on the Black Country Plan however means that there is no longer a joint planning framework in which to consider responses to such plans. It is therefore now necessary for each authority to provide its own response. Under the Council's scheme of delegations, Planning Committee is authorised to consider development plans prepared by neighbouring authorities, and other consultations on planning policies and proposals by outside bodies and persons to make appropriate recommendations thereon to the Executive (i.e. Cabinet).
- 1.2 Responses to consultations on development plans have to meet strict deadlines. It is therefore sometimes necessary for officers to submit draft responses prior to authorisation by Planning Committee and/or Cabinet, but these are subject to agreement by the two bodies.
- 1.3 It is becoming increasingly important that Walsall plays an active role in the production of plans by neighbouring authorities. Both Walsall and the other Black Country authorities, as well as Birmingham City Council, have large needs for homes and employment land. However, much of our area is already developed and we are heavily constrained by Green Belt. We are therefore reliant on neighbouring authorities, in particular those in Staffordshire and Shropshire, to help meet some of these needs.
- 1.4 Currently the legal mechanism for discussing local plans with neighbouring authorities is the Duty to Cooperate (DtC). Regular discussions take place at officer level between the authorities in the Greater Birmingham and Black Country Housing Market Area (GBBCHMA) as well as those further afield such as Shropshire. Authorities are expected to agree and sign Statements of Common Ground with their neighbours when plans are submitted for examination. The Levelling-up and Regeneration Bill that is currently being considered by Parliament proposes to abolish the DtC and replace it with a more flexible alignment test that is yet to be defined.
- 1.5 The end of the Black Country Plan (BCP) means that each of the four Black Country authorities now have to produce their own local plans. The nature of the issues facing each authority, and the status of their existing plans, means that each authority is approaching their new plans differently. In Sandwell's case, the Black Country Core Strategy (BCCS) is supported by the Sandwell Site Allocations and Delivery Development Plan Document (SAD), the West Bromwich Area Action Plan (WBAAP), the Tipton Area Action Plan and the Smethwick Area Action Plan. The SAD only provides detailed land use allocations and designations up to 2021 so there is an urgent need for review.
- 1.6 The Sandwell Local Plan (SLP) will combine the strategic policies (such as the overall housing land requirement) which are currently contained in the BCCS with

detailed policies such as site allocations. Rather than carrying forward the Sandwell elements that were proposed to be in the BCP therefore, the current consultation goes back to the starting point by asking what the plan should contain and what issues it should address. This is known as the Regulation 18 stage. The consultation document does not contain any specific proposed policies but instead asks a series of questions. These questions and Walsall's recommended responses are set out below.

- 1.7 The consultation contains a total of 52 questions but policies in the future Sandwell plan that respond to many of these will not be directly relevant to Walsall (for example policies about particular areas in Sandwell), although similar issues will need to be addressed by the Walsall Local Plan. Suggested responses have therefore only provided in response to questions that could impact on Walsall.
- 1.8 The main issues for which a response is recommended concern housing and employment land. Detailed comments are also recommended in relation to transport and renewable energy, green/ blue infrastructure (open space and water), biodiversity, waste and the historic environment.
- 1.9 The Issues and Options Review can be seen in full on Sandwell's web site at [https://www.sandwell.gov.uk/info/200317/planning\\_policy/4990/sandwell\\_local\\_plan](https://www.sandwell.gov.uk/info/200317/planning_policy/4990/sandwell_local_plan)

## Appendix

### Sandwell Local Plan – Proposed Walsall Response to Issues and Options Consultation

*Part A, questions where a response from Walsall is recommended.*

#### 1) Questions – Vision and Objectives

#### **What do you think are the main issues that the new SLP should address in Sandwell?**

*Walsall Response:* The plan should aim to ensure that Sandwell is able to accommodate as much housing and employment (classes E(g)(ii)/(iii), B2 and B8 and related uses) as possible to meet its own needs and contribute to meeting the needs of neighbouring areas in Birmingham and the Black Country. This should be achieved by making effective use of land, including land that may be surplus to requirements for other purposes, and maximising densities.

#### **Please indicate which option you think should be used as the basis for preparing the SLP Vision:**

- **Option A: The Sandwell Vision 2030 should be used as the basis of preparing the Local Plan, bearing in mind that it will be for the Local Plan to establish a sustainable strategy for the scale and location for future growth and development.**
- **Option B: Create a new vision specifically for the Local Plan and the plan period it will cover along the lines of the suggested wording included above.**

**If you think the SLP should include a new Vision (along the lines of the suggested wording above), do you think the Vision should cover any other issues?**

**Once you have had a look at the issues raised in this document, please let us know your thoughts on the following overall matters:**

- **Are the topic areas and issues being covered the rights ones for Sandwell?**
- **Is there anything else we should be covering?**
- **Do you have any thoughts on the evidence base needed to support the Local Plan Review?**

#### **Should the Sandwell Local Plan:**

- **promote higher levels of development to support economic growth; or**
- **plan for the minimum necessary to help meet the needs of our population?**

*Walsall Response:* The plan should promote higher levels where this will contribute to

meeting identified needs in the Black Country and Birmingham that cannot be accommodated in the neighbouring authority areas.

**Do you think the SLP should be valid until 2041 or should it run for longer?**

- **If you think the Plan should run for longer, what would be your reason for this?**

**What are your thoughts on the draft objectives?**

- **Do you think they are appropriate?**
- **Are there any other objectives we should be including?**
- **Do you disagree with them - if so, can you explain which ones and why?**

*No Walsall response is required to this part of question 1.*

2) Questions – Strategic Policies

**Do you agree with the Council's decision to incorporate some of the former BCP policies into the SLP, to benefit from the work already done on them and to make it potentially easier for the four Black Country councils to address certain wider-than-local matters in a joined-up manner?**

*Walsall Response: Agree, as they deal with strategic cross-boundary issues*

**If so: -**

- **Are there any of the BCP policies listed in the appendix that you think the Council should definitely include?**
- **Are there any of the BCP policies in the appendix that you think the Council does not need to include?**

*No Walsall response is required to this part of question 2.*

3) Questions – Climate Change

**How should we address the climate crisis in the Local Plan Review – what should be our priority or priorities?**

**The following are examples only and you are invited to identify as many other ways as you feel are necessary:**

- **Reducing the need to travel through promoting accessibility or traveling by more sustainable modes of transport than the car**
- **Promoting alternative and low-carbon means of travel**



- **Protecting open space**
- **Planting more trees**
- **Promoting climate change-focussed ways of building homes and businesses**
- **Requiring development to be carbon-neutral or low carbon**
- **Any other priorities**

*Walsall Response:* All these examples should be addressed in the plan, but from Walsall's perspective we would recommend giving priority to sustainable transport, as this would have the most obvious cross-boundary impact.

**How else can new development reduce greenhouse gas emissions and respond to the climate crisis?**

**Should the new plan leave the issue of carbon reduction in new buildings to other relevant legislation rather than making its own provision – i.e., should the plan not include policies on carbon reduction but instead wait for emerging Building Regulations legislation to become law?**

**How would you feel about building extensions and alterations to your property that were more climate-change adapted and low carbon? For example;**

- **choosing a design that maintained a more constant indoor temperature during extremes of both heat and cold;**
- **using a heat pump instead of a normal central heating boiler;**
- **only using certain building materials developed to be lower in carbon; or**
- **planting trees and other vegetation to shade parts of your property that would otherwise get too hot?**

**What potential sources of renewable energy should the Council be looking at supporting in its local plan policies – examples include, but are not limited to, the following: -**

- **heat pumps (ground, air, water)**
- **battery farms**
- **energy from waste**
- **solar photovoltaic panels / solar water heating**
- **energy from wind / water**

- **biomass crops**
- **other renewable sources**

*Walsall Response:* 'Battery Storage Facilities' is a more accurate and appropriate term than 'battery farms', the latter is traditionally associated with intensive poultry farming and may create confusion or a negative connotation with the policy's wider aims. It is important to refer to such facilities directly in policy dealing with renewables, to ensure that renewable power sources and their related infrastructure, are subject to consistent policy approaches.4) Questions - Heat Networks

**Do you agree that Sandwell Council should support the development and delivery of heat networks as part of its own building proposals, to help deliver Net Zero construction?**

*Walsall Response:* Yes, as well as recognising that district heating systems can transcend borough boundaries and so potentially require policy alignment with neighbouring local authorities.

**Do you think the Council should require private sector and other developers to make provision for heat networks, particularly on larger sites?**

7) Questions – Future Development in Sandwell

**What do you think are the main challenges we face in planning for housing and employment in Sandwell between now and 2041?**

**What are your views on the overall amount of new housing and employment that is needed in Sandwell?**

*Walsall Response:* An appropriate balance between both land uses is required to ensure that an adequate supply of employment land is provided to meet the needs of the growing number of households and minimise the need for residents to travel outside the authority's area for employment, or for people working in the area to have to live outside it. At the same time, we recognise that the supply of land in Sandwell both for housing and employment is constrained.

**What types of homes are needed in Sandwell?**

**Examples may include, but not be limited to:**

- **Detached or semi-detached family housing**
- **Bungalows**
- **Smaller houses such as maisonettes or terraced housing**
- **Higher density development such as flats and town houses**
- **Co-housing**

- Self- and custom-build homes

Where do you think this new housing should be built?

- On brownfield or underused land
- On previously undeveloped or greenfield sites
- On underused or derelict open space
- On the sites of older or derelict / vacant buildings, including areas of older housing, flats, factories or other unused buildings?

What sort of new development (homes, workplaces, shops, leisure facilities etc) do you think would help make Sandwell a better place to live by 2041?

- Where do you think it should be built?

Do you think there are any sorts of new development that would make Sandwell a worse place to live by 2041?

- What harm do you think that sort of development might do to Sandwell?

Do you think we should be asking for higher density developments in centres and on sites near public transport hubs / links?

- If so, do you think we should use the densities identified in the draft BCP (Policy HOU2) and set out above?
- Should we ask for higher densities than this?
- Should we ask for lower densities than this?

What do you think a sustainable urban land use and an unsustainable urban land use would be, from a transport point of view?

Tell us about some modern developments or buildings that you know and like.

- Why do you like them?

Tell us about some modern developments or buildings that you know and don't like.

- Why don't you like them?
- How might they have been done better?

Which of the following issues are most important to you (they are not listed in any order)?

**Please identify your preferred options in order if you can, as this will help us address what is most important to Sandwell's occupants.**

- i. Building affordable housing.**
- ii. Increasing the number of well-paid jobs in the area.**
- iii. Creating new green spaces and nature networks**
- iv. Protecting and improving existing green spaces and wildlife habitats.**
- v. Attracting investment and new businesses to the area.**
- vi. Reducing greenhouse gas emissions and tackling the climate crisis.**
- vii. Making it easier to travel by bus, tram, train, walking and cycling.**
- viii. Providing houses of a good size, with gardens and associated open spaces.**
- ix. Developing a well-designed and attractive built environment, with new buildings and areas that make a positive contribution to their surroundings.**
- x. Maintaining a safe and welcoming environment that minimises the likelihood of crime / antisocial behaviour taking place.**
- xi. Promoting pleasant, clean and lively town centres that people want to visit and use.**

**Should there be a greater emphasis on: -**

- allocating land for mixed-use development (where housing, employment / business development, community facilities etc. sit next to each other);**
- allocating land for single end uses, such as just housing or just employment?**

**Do you have any other comments to make about what development options for housing, employment or other land uses you think we should consider as we draft the Sandwell Local Plan?**

*No other Walsall response to question 7 is required*

15) Question – Gypsies, Travellers and Travelling Showpeople

**Do you agree with the proposal to adapt the draft BCP policy on the needs of travelling communities for use in Sandwell?**

*Walsall Response: Agree. Whilst the nature of these communities is such that they may regularly move between local authority areas, current evidence indicates that the need from groups requiring accommodation in Sandwell is very low.*

## 16) Questions – Houses in Multiple Occupation

**We think that the Sandwell Plan could have a policy on HMOs that seeks to define areas where HMOs would be inappropriate / discouraged, e.g. where there are already a number of existing HMOs.**

- **Do you agree and if so what criteria do you think should be used to evidence why they are inappropriate?**
- **If you do not think a policy would be appropriate, can you explain why you think that?**
- **Are there any alternative options we might look to use instead of or alongside a planning policy for HMOs?**

**We think that the policy could look to identify aspects of HMO provision that have the potential to adversely affect the amenities of adjoining or neighbouring properties (e.g. noise, overlooking, general disturbance, or impact on visual amenity) and provide criteria to manage those issues;**

- **Do you agree and if so, what sort of realistic criteria should we be looking to include?**

**We think that the policy could introduce percentage thresholds and clustering criteria to ensure that HMOs are not concentrated in an area above a certain level and to control their numbers across a wider area;**

- **Do you agree and if so what evidence is needed to identify and justify these criteria?**

**To enable us to further control changes of use to small HMOs, the Council will need to impose an Article 4 direction, which, once adopted, will make such changes of use subject to the planning application process.**

- **Do you agree with this approach?**
- **Do you disagree? If so, can you explain why?**

**Do you think the Council should:**

- **introduce a Sandwell-wide Article 4 Direction for HMOs (requires every proposal to develop an HMO to be subject to planning permission and will involve additional time and resources to manage)?**
- **impose an Article 4 Direction only on those parts of Sandwell where there are already a large number of HMOs and where there is robust evidence of the sorts of issues mentioned previously?**

*Walsall Response:* Any additional restrictions on HMO's in Sandwell should seek to ensure that they do not result in potential occupiers being displaced to neighbouring local authority

areas.

## 20) Questions – Green and Blue Infrastructure

**Should the SLP take a more positive approach to ensuring green and blue infrastructure and their benefits are maximised in new development?**

- Should new green / blue infrastructure always be required on sites?
- Should it be required even if it would mean losing the opportunity to provide more housing or employment development?

*Walsall Response:* Given the limited supply of land in Sandwell to meet identified needs, and the consequential pressure on land in surrounding areas, including Walsall's Green Belt, we would not support the use of land in Sandwell to accommodate new green/blue infrastructure except where it is strictly necessary to support and mitigate the impact of development, for example SuDS to address off-site flood risks or to meet emerging legal requirements for biodiversity net gain.

The types of development that might be required to provide for green/ blue infrastructure would need to be defined. It is assumed that any requirement would only apply to major development.

We would however support the protection and enhancement of existing green/ blue infrastructure such as the canal network and existing areas of open space.

## 33) Questions – Alternative Uses in Industrial Areas

**Do you agree that local employment estates / land / sites should be retained exclusively for local and small-scale employment uses?**

*Walsall Response:* Yes, given the current shortfall in the supply of land for industry and the contribution that employment land in Sandwell makes to the wider needs of Birmingham and the Black Country. It is recognised however that some isolated and poor quality sites may no longer be suited to the needs of modern industry, and may conflict with existing nearby uses such as housing. It is also recognised that recent changes in permitted development rights and the Use Classes Order make it difficult to restrict changes from certain employment uses to other uses such as retail or residential.

**Are there any circumstances where you feel non-employment uses would be appropriate in such areas?**

**If so, what sort of uses do you think would be appropriate?**

- Housing?
- Non-industrial employment uses (e.g. gyms, vets, children's play spaces, dog day-care)?
- Community spaces?
- Banqueting suites and venues?

- Any other use?

Please identify which ones you think would be acceptable and why.

Where else do you think larger community and commercial activities like the examples given above should be located? The preference is for town centre locations in the first instance, as the most sustainable locations, but depending on circumstances this may not be achievable:

- In vacant units on business parks or industrial estates (this would mean the loss of those units to potential occupiers with larger workforces / more job opportunities)
- In large buildings elsewhere in Sandwell (potential for noise, fumes, disturbance etc. may be greater)
- On new development sites in purpose-built premises (costs may be prohibitive for operators)

How do we ensure that if such uses are allowed in employment locations, they do not proliferate / draw trade and activity away from town centres?

- Sequential test (e.g. clear demonstration that no suitable site can be found within an existing centre or be more sustainably located)?
- Proliferation considerations (e.g. no more than X number of similar venues within a set radius)?
- Both?
- Any other criteria?

*No Walsall response is required to the above parts of question 33.*

36) Question – Strategic Waste Management

**Do you think that a Strategic Waste policy is still required for Sandwell, to help identify suitable locations for new waste sites?**

*Walsall Response* Yes, waste management is a key land use in the Black Country, with waste imported and processed from many parts of the country.

The Black Country is a net importer of waste and is therefore essential to the wider function of the linear, and increasingly circular, resource economy. The Black Country Waste Study (2019) identified additional waste management capacity will need to be delivered in the Black Country between up to 2038 to maintain net self-sufficiency. Any updated waste evidence base is likely to identify greater requirements capacity up until 2041.

Any policies for waste site allocation should also give consideration toward locations for non-hazardous landfill sites, drawing upon the latest available evidence and any landfill

constraints studies undertaken at the West Midlands level by regional stakeholder groups.

Waste policy should also include targets for the off-setting of waste to landfill in-line with the National Planning Policy for Waste's (2014) Waste Hierarchy and in support of the principles of the Circular Economy, taking account of the West Midlands Circular Economy Route Map (2022). Waste policy should carry forward policy aims and targets in former Black Country Plan, in particular Policy EMP1, Policy W1, and waste management scenarios in Table 8 and capacity requirements in Table 9.

- **If you do, what do you think it should cover?**

37) Question – Protection and Location of Waste Facilities

**Do you agree that the SLP should contain a policy protecting Waste Sites from non-conforming development such as residential development?**

**Should employment areas be identified as suitable locations for the location of new waste facilities?**

*Walsall Response:* Yes, given our response to question 36, facilities that process waste from outside Sandwell should be protected against development on nearby land that might act as a constraint on continuing operations, as well as against development that might result in the loss of the facilities themselves. Some, but not all, existing employment areas will be suitable for new waste facilities: it will be helpful if these are identified and, if necessary, safeguarded for such use. It should however be noted that many modern forms of waste processing that operate inside a building will be suitable for almost any type of employment area.

38) Question – General Infrastructure

**Are you aware of any other forms of infrastructure that you think may be required?**

*Walsall Response:* Existing capacity and future provision for Electric Vehicle Charging Points (EVCPs) is becoming regionally important, both in the emerging strategies of partner transport and infrastructure agencies as well as the subject of planning applications for dedicated facilities. A bespoke policy underpinned by relevant evidence would strengthen the LPAs ability to forecast, manage and so ensure appropriate provision and support wider aims toward pollution control, as well as climate and regional energy resilience.

46) Questions – Biodiversity Net Gain

**Do you think the SLP should contain a policy on retaining offsite biodiversity net gain in Sandwell?**

*Walsall Response:*

The emerging legal requirement for biodiversity net gain will result in developments potentially requiring off-site provision. In some cases it may be appropriate to make provision outside the local authority area, especially where development sites lie close to the border. At this time, Walsall Council has yet to confirm its practices and process for biodiversity net gain and are awaiting government guidelines, due to be released shortly. We would welcome discussions with Sandwell to discuss offsite Biodiversity Net Gain and any cross boundaries issues that may arise. This should also address related issues such



as the Nature Recovery Network.

**If so, how do you think the Council should achieve this?**

**Please identify which of the following options you prefer; you can pick as many as you like or suggest something different.**

1. Identify privately-owned sites as receptors for BNG credits and allocate them in the SLP?
2. Identify Council-owned sites as receptors for BNG credits and allocate them in the SLP?
3. Support wider landscape-scale schemes such as the Natural England Purple Horizons project (restoring and connecting fragmented heathlands to create a mosaic of heathlands, wetlands, woodlands and grasslands between Cannock Chase and Sutton Park) that are nearby but not necessarily in Sandwell itself?
4. A combination of private and public approaches?
5. Something else (please specify)?

**Are you the owner of any sites or land within Sandwell that you think may be suitable for allocation as a potential receptor site for biodiversity net gain (bearing in mind it would then be protected from further development or change for at least 30 years, through a covenant agreement)?**

- **If so, would you be willing to have your site allocated for this purpose in the SLP (assuming it was considered suitable after an ecological assessment)?**

**Do you think we should explore a requirement for additional biodiversity net gain credits (e.g. more than 10% minimum) should developers be proposing to purchase them for schemes outside Sandwell?**

*No Walsall response is recommended to this part of question 46.*

49) Questions – Heritage Assets

**Do we need to prepare a policy to support the adoption of a Sandwell Local List of buildings of historic / architectural merit?**

*Walsall Response:* The four Black Country Authorities (Sandwell, Wolverhampton, Dudley and Walsall) were awarded funding for the Black Country Local List project by the then Ministry of Housing, Communities & Local Government.

The aim of the project was to update and enhance the local heritage lists for each of the authorities, to help protect and promote the historic buildings, structures and other heritage assets that do not fulfil the criteria for inclusion on the National Heritage List for England, but nonetheless play a significant role in the local character and distinctiveness of our areas.

The four authorities have been working together along with TDR Heritage to update and review the current local lists in each authority (Sandwell, Wolverhampton, Dudley and Walsall). The 'working criteria' for assessing potential local list nominations were agreed by all four BC Local Authorities.

A policy to support the adoption of local buildings of historic and architectural merit should be considered to support this local list project work.

**Do we need to prepare a new policy to address the safeguarding of heritage assets when mitigating against and adapting to the climate change emergency?**

**Do we need to consider the introduction of special controls that prevent the demolition of non-designated, locally important heritage assets<sup>[43]</sup>?**

*Walsall Response:* Agree, if there are current issues with retaining non designated locally important heritage assets. It could include a preference for the retention and re-use of non-designated heritage assets or locally important heritage assets, as opposed to demolition.

No question has been asked about designated heritage assets other than conservation areas. Whilst these are primarily a matter for Sandwell and Historic England, the Great Barr Hall Registered Park and Garden, and Great Barr Hall Estate, lies partly within Sandwell and partly within Walsall. Walsall will need to understand how Sandwell will be safeguarding the parts of these heritage assets that sit within the Sandwell boundary.

Page 85 of the Sandwell Consultation Plan document should state Great Barr Hall rather than Great Barr Park.

50) Questions - Conservation Areas

**Some of the conservation areas in Sandwell are in centres where there is or has been a lot of pressure for development and growth. As a result, any previous appraisals (undertaken when they were first designated) are likely to be out of date.**

**Other conservation areas are unlikely to have changed much since they were first adopted.**

**Do you think the Council should: -**

- **undertake a review of all conservation areas whether they have been subject to any development pressure or not;**

*Walsall Response:* Whilst this is primarily a matter for Sandwell, it is understood that the area of Great Barr Hall Registered Park and Garden in Sandwell is a conservation area. Local planning authorities have a duty to review under Part II (sections 69 and 70) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, and Historic England Advice Note 1: Conservation Area Appraisal, Designation and Appraisal (and other relevant HE guidance).

- **undertake comprehensive appraisals of those conservation areas where there**

**has been a significant amount of development or other physical changes (such as new infrastructure or changes to road layouts, etc.), to ensure the appraisals remain relevant and up to date for use in making decisions on planning applications;**

- **leave the current conservation area appraisals as they are and accept that the contribution the appraisals can make to the determination of planning applications and appeals will be limited?**

**Do you think the Council should also be exploring: -**

- **whether there are any new conservation areas that could be designated; or**
- **whether any current conservation areas no longer carry sufficient interest and importance to be retained as a conservation area?**
- **Do you know of any areas of historic interest in your local area that you think could be made into a conservation area?**

- *Part B, questions where no response from Walsall is recommended.*

#### 5) Questions – Resilient Landscapes

**How should we ensure new development is able to withstand climate change and provide a comfortable living and working environment for people?**

**What should be our priorities when considering new design and landscaping to help us cope with climate change?**

**Apart from not building on or near them, how should we protect the open spaces, parks, countryside and ecology of Sandwell?**

#### 6) Questions – Sustainable Drainage

**How should the Local Plan Review best manage flood risk whilst still achieving the growth that is needed to make Sandwell successful?**

**Do you think the SLP needs a policy to identify an acceptable rate of run-off for new developments, or is this covered in sufficient detail in the Black Country Local Standards for SuDS (BCP evidence base)?**

**Do you think the SLP: -**

- **should include details of the type of SuDS that the Council would prefer to see delivered;**
- **should require SuDS schemes but leave details to developers to propose;**
- **should not require SuDS but allow for alternative drainage schemes to be implemented?**

#### 8) Questions – Housing Windfall Sites

**We think that a local windfall policy is needed to ensure that any proposals for residential development on sites that are not allocated are in the right place and do not have adverse impacts on current and neighbouring uses.**

- **Do you agree?**
- **If so, what should it contain?**

**Are there any specific local considerations that we should include when we are making decisions on windfall sites?**

**For example:**

- **should housing development be allowed on current employment land?**

#### 9) Questions – Sustainable Locations

**Should most new development:**

- be concentrated in locations with the best levels of sustainable access to jobs, transport, services and facilities?
- be spread out between different towns and centres, to help support new growth and investment in those locations currently without a good supply of jobs, transport, services and facilities?

**Are there any locations in Sandwell you think we should look at in particular to find land for new development?**

**What else can the SLP do to support the sustainability of local communities?**

**How can the SLP help to increase the number of journeys made on foot, bicycle and public transport by people who want to access services and facilities?**

10) Questions - Masterplanning

**What sort of development do you think would benefit from having a masterplan?  
e.g.**

- housing developments over a certain number of dwellings;
- employment development over a certain area of floorspace / size of site;
- mixed use development (housing and other uses such as employment on the same site);
- regeneration schemes in centres?

**Please identify what sort of schemes you think would benefit or whether you think they should all have masterplans.**

**Should there be a type / size of proposal that would automatically require a masterplan to be produced?**

- If so, what would that be?

11) Questions – Good Design

**Do you think we should:**

- provide a local design policy / design guidance specifically for Sandwell; or
- use the national code and guidance instead?

**Instead of producing a new design code for Sandwell, should we review and update the existing guidance we already have instead?**

**We intend to reuse elements of the draft BCP design policies to support the local plan. Do you agree with this approach?**

**Do you agree with our intention to adopt the Nationally Described Space Standards for new houses?**

- If not, can you explain why?

**Do you think we should:**

- **Incorporate current supplementary planning guidance into the draft Local Plan (with review and updates as necessary);**
- **Consider including some aspects of supplementary guidance in the SLP that can be used to shape policies and proposals;**
- **Retain supplementary planning guidance as separate documents under the SLP and undertake a programme of reviews and updates to them (accepting that this will also require separate examinations) at a later stage; or**
- **Use another approach?**

12) Question - Shopfront Design

**Do you agree with this approach?**

13) Questions – Self- and Custom-Build Housing

**Do you think Sandwell's new local plan should include a policy on self- and custom-build?**

**If you do, how do you think the Council should deal with issues around self-build proposals on commercial housing sites?**

- **A design policy requiring self-build homes to reflect the design elements of the site on which they are located (e.g. height, scale, mass, materials, type and design of features such as doors, windows, etc.?)**
- **Requiring developers to allocate sections of commercial housing sites where people undertaking self-build can have a freer hand in the design of their house?**

**Do you think self-build should be supported in another way in Sandwell (e.g. not provided on commercial housing development sites; subject to a different policy approach)?**

14) Questions – Specific Housing Requirements

**Do you agree that the new SLP should contain a policy on housing suitable to meet the needs of people who have special needs or who require additional support?**

**What types of housing suitable to meet special needs do you think should be encouraged and delivered in Sandwell? E.g.**

- **bungalows;**
- **houses capable of easy adaptation for users of assistive technology such as**

wheelchairs;

- houses that can be easily altered as people age or their medical or physical condition changes;
- other types of dwellings.

The Council intends to incorporate the national minimum space standards for new housing as set out in the optional Building Regulations Requirement M4(2): Accessible and Adaptable Dwellings<sup>[21]</sup>.

- Do you agree with this approach?

17) Questions – Development for Health

**What do you think are the key public health issues facing Sandwell?**

**How should we plan for our ageing population?**

**Do we need to include specific development allocations such as sites for retirement facilities or assisted living?**

**Where should such allocations be located?**

**What should the plan contain that would help you change your travel habits to more active modes of travel (such as cycling and walking)?**

18) Question – Active Recreation

**Should we require masterplans and new developments to refer to the Sport England Active Design Principles<sup>[28]</sup>?**

**How best can we support the protection and enhancement of current sporting provision?**

19) Questions – Community Facilities and Services

**Which community facilities and services do you think we need more of in Sandwell as a whole?**

**Setting aside health-related uses (surgeries, health centres, dentists etc.), schools and shops for a moment, are there any other public facilities and services you would like to see more of in Sandwell?**

**Is there a shortage of community facilities and services in your area?**

- Which ones are lacking, in your view?

**(If you can give us an idea of what part of Sandwell you are referring to, that would be helpful)**

**If you think your area needs more community facilities and services, how and where would you want to see these uses provided?**

- We would be especially interested in locations where services can be easily

accessed without people having to use a car.

Where new community facilities are proposed, such as churches, mosques, community centres and other uses generating additional footfall / car journeys, should the SLP require those uses to be sited in town centres in most cases?

- If you disagree with this, can you explain why?

If so, do you have any suggestions how this might be done?

21) Questions – Open Space

How should new developments support the provision of high quality open space?

Do you think development proposals, especially big housing schemes, should always include dedicated open space for recreation and leisure on site?

- If not, can you explain why?

Do you think a combined approach (provision of open space on-site / new off-site provision / financial contributions for improvements to existing open space nearby) would be more appropriate?

- Can you explain why?

What scale of housing site do you think should be required to contribute towards providing open space? For example, should we be asking for new open space on

- sites above ten houses in size
- sites above 20 houses in size
- sites above 40 houses in size?

Would you rather:

- see improvements to existing areas of open space in your area, or
- see new open spaces be created when development happens nearby?

Can you explain a bit more about why you think this?

What amount of open space should be provided? For example, should new open space be provided covering: -

- 10%
- 15%
- 20%



- another percentage (please say how much)

of the area of a housing site?

**Should the amount of open space instead be calculated based on the number of bedrooms per property being provided?**

- For example, developments delivering larger accommodation (properties with three, four or more bedrooms) should provide more open space than those for one or two bedroomed properties.

**Should open space requirement be relaxed for types of housing that are less likely to generate high levels of active demand, such as accommodation for older people?**

**If large areas of open space are required, this might affect how many houses can be built on a site and / or the viability of development on the site – what is your view on that?**

**Should we: -**

- consider releasing existing open space sites for development that are demonstrated to be of poor quality and low value and that have no significant environmental benefits?
- consider releasing existing open space sites for development that are demonstrated to be of poor quality and low value and that have no significant environmental benefits but only where replacement open space of a higher quality / quantity can be provided nearby?
- protect all current open space notwithstanding its condition or accessibility (on the basis that it has value in its own right and could be improved in future)?

**What type of open space should be provided? For example, informal open space such as fields for walking, dog walking etc., playgrounds / play areas for children, formal parks, allotments etc.?**

**Would you like to see more allotments / opportunities for growing food in your community provided as part of housing developments or in the wider area?**

22) Questions – Hot Food Takeaways and Gambling Establishments

**Do you think the Council should look more closely at where businesses such as hot food takeaways and gambling establishments are located?**

**Do you have a view on where they should be allowed in relation to sensitive uses such as schools, etc.?**

**Do you think that the SLP should try to control / regulate hot food takeaways or not (bearing in mind that there is no legislation that allows councils to refuse planning**

permission for these uses solely on the basis that people find them undesirable)?

This could be addressed by having a policy that looked at:

- **Clustering (only granting permission for a given number / percentage of similar uses within a certain radius, limiting the maximum number of consecutive takeaway food outlets, or capping the proportion of all retail space occupied by this use in an area)**
- **Location (refusing consent for new proposals within a given distance of a sensitive use e.g. schools, parks, leisure facilities including sport centres and youth clubs)**
- **The implementation of community infrastructure levies with funds allocated to obesity prevention initiatives;**
- **Mandatory sign-up to a healthy catering commitment scheme and requirements for submission of health impact assessments alongside planning applications.**
- **Impacts on the amenity of residential and other sensitive uses e.g. by creating excessive noise, litter, odours, traffic problems**

**Do you think that the SLP should try to control / regulate betting shops, adult gaming centres, amusement arcades, pawnbrokers, pay day loan shops and shisha bars (bearing in mind that there is no legislation that allows councils to refuse planning permission for these uses solely on the basis that some people find them undesirable)?**

This could be addressed by having a policy that looked at:

- **Clustering (as for hot food takeaways);**
- **Location relative to sensitive uses (as for hot food takeaways);**
- **Providing an active frontage creating a positive visual impact on the street scene;**
- **Impacts on local community and residential amenity.**

### 23) Questions – Retailing in Town Centres

**What are the main issues you think our town centres and high streets are facing? What can the SLP do to help them adapt to changing shopping trends – for example, by managing or promoting certain sorts of development within them? Do you think more people should be encouraged to live in centres? How can we identify sites in our town centres for future shopping, leisure and commercial / employment needs?**

- **Do you know of any suitable sites or premises in your local area that you think could be developed to provide modern town centre uses?**

**Should Sandwell maintain a policy for controlling the balance of retail and non-retail uses in main town centre core frontages?**

24) Question – Gateway Sites

**Do we need to retain a policy referring to gateway sites?**

- **If so, do we need to revise or update it in accordance with other potential policy areas of the SLP, such as those dealing with climate change mitigation or opportunities for increasing biodiversity and ecological value?**

25) Questions – Town Centres

**Looking at the town centre boundary plans (Appendix B to this document), especially for the centre(s) you know best, do you think their current boundary:**

- **Is about right (all the main areas of the centre are included and there is no need to expand or reduce it)**
- **Is too big (i.e. the centre in reality is more tightly focussed around certain roads or areas and / or the current boundary covers places that aren't really in the town centre)**
- **Should be expanded (the town centre as you know and use it covers a wider area than shown and additional streets or locations could be included)?**

**Are there any additional centres that you think should be "upgraded" to a similar status as the major centres identified above, because of their degree of activity or size?**

- **If so, which ones and why?**

**Thinking about the centre(s) you know best (maybe because you live in them or close by, or work in them), what do you think their good points are – for example, they have a safe and pleasant environment, a good range of shops and services, are attractive or contain historic buildings etc.?**

- **Please indicate which centres you are referring to**
- **What aspects would you want to see kept and made even more of, if possible?**

**Thinking about the centre(s) you know best (maybe because you live in them or close by, or work in them), what do you think their bad points are – for example, they have too many empty shops, they are poorly laid out, they are not easy to get to, there isn't suitable car parking etc?**

- **Please indicate which centres you are referring to**
- **What would you like to see done to improve them?**

- **Do you think areas of denser residential development (e.g. flats above shops and office building conversions) in town centres should be located close to rail / metro links / public transport opportunities? Should the boundary of a town centre be altered to enable such changes to take place?**

#### 26) Questions – West Bromwich

**Thinking about West Bromwich Town Centre, do you think the issues listed above are the right ones for the Council to consider in the SLP?**

- **Are there any additional issues in West Bromwich you think should be included for consideration?**

**Of the issues for West Bromwich listed above, which ones do you think the SLP should deal with first or more urgently? Please identify a "top three" if you can.**

- **Why do you think the issues you have identified are the most urgent ones?**

#### 27) Questions – West Bromwich Future Uses

**What would you like to see vacant shops used for in West Bromwich? Please let us know what your preferred uses are in order, if you can.**

- Retail (retain as shop units)
- Houses / residential accommodation
- Other employment uses e.g. offices, businesses, live / work units etc.
- Public facilities / services e.g. educational uses, healthcare facilities, community hubs / meeting places etc.
- Leisure uses e.g. gyms, fitness and wellbeing studios, amusement arcades etc.
- Cafes / restaurants / entertainment venues
- Other uses (please let us know what these uses are, in your view)

**What other sorts of development or activity do you think West Bromwich lacks? If you don't visit West Bromwich often, or as often as you might previously have done, what would encourage / attract you to start going there again?**

#### 28) Questions – Employment Land Need

**How do you think the shortfall in the supply of employment land should be addressed?**

#### 29) Questions – Sandwell's Economy

**Do you think that a local Economic Development Strategy policy is still required for Sandwell?**

- **If you do, what do you think it should cover?**

**Are there any sorts of new / emerging industries that we should be trying to attract**

**into Sandwell?**

30) Question - Regeneration

**Do you think that the SLP needs a specific policy in relation to the regeneration of parts of Sandwell?**

- **If so, what should the policy contain?**
- **Do you know of any areas in particular that should be included?**

**Thinking about areas that need to be improved, what do you think would make Sandwell a more attractive prospect for potential homeowners, inward investment and new business occupiers?**

- **Improved infrastructure (e.g. roads, drainage, accessibility to public transport)?**
- **Areas of mixed use (i.e. where housing and employment uses are situated next to or near each other, for example in town centres or industrial areas)?**
- **The inclusion of more open space and landscaping (e.g. pocket parks, tree planting, open space and informal sitting areas)?**
- **Anything else?**

31) Question – Demand for employment sites

**Do you think we should focus on supporting the growth of existing smaller businesses and companies on sub-divided former industrial sites?**

**There is evidence of demand for large sites for new inward investment in Sandwell from big companies, but the sites available for new business tends to be smaller ones and very few large vacant sites are available.**

**Do you have any ideas or suggestions on how we might address this issue?**

**Options might include (but not be limited to): -**

- **Concentrating on attracting smaller businesses into Sandwell until larger sites become available through natural churn (where businesses move into / out of an area as they grow or change);**
- **Identifying existing larger areas of current employment activity and explore opportunities for improving their attractiveness to the market (e.g. through renewing and improving infrastructure such as parking and access, supporting the improvement of existing buildings and premises, introducing new or additional landscaping);**
- **Identifying opportunities as a Council to actively create sites for large companies or industrial occupiers (e.g. through the council using compulsory purchase powers / buying sites on the open market, or using land they own), even if that means displacing / relocating smaller companies to do so;**
- **Any other suggestion?**

32) Questions – Non-conforming Employment Uses

**Do you agree that these non-conforming employment uses should be addressed in the SLP?**

**If so, do you think the SLP should contain a policy addressing what ancillary uses might be appropriate and in what locations (e.g. where there are no suitable facilities within a short walk or where the ancillary use is not one that needs to be in a town centre)?**

34) Question – Training and Recruitment

**We intend to update the existing SAD policy on training and recruitment. Do you agree?**

35) Questions – Industrial Legacy

**Are you aware of any additional policy areas relating to Sandwell's industrial legacy that in your view should be addressed in a new land use policy?**

**If so, what are the main areas of concern for you, and if you can, how would you advise that the council should tackle them?**

39) Question – Transport Infrastructure

**Are you aware of any locations where you think new or improved transport infrastructure may be required?**

- **This may include public transport, cycle facilities, pedestrian upgrades or highway alterations.**

40) Question – Greener Travel Networks

**Given the constraints imposed by Sandwell's current highway network, how do you think we should address the need to reduce congestion and encourage a change in travel behaviour towards sustainable and active modes of travel by: -**

- **prioritising public transport, ensuring sites have access to reliable public transport infrastructure which may require road space reallocation; or**
- **prioritising active travel (cycling and walking), ensuring sites have access to high quality and safe pedestrian and cycle links and infrastructure which may require road space reallocation; or**
- **a combination of the above; or**
- **investigating opportunities for reallocating road space for all forms of sustainable transport where reasonable on a location by location basis with minimum impact to the current operation of the highway?**

41) Question – safe access and addressing transport impacts

**Do you think we should explore the concept of 15-minute neighbourhoods in the SLP?**

**Should new developments focus on new innovative infrastructure and emerging technologies such as electric vehicle charging infrastructure, use of low emission vehicle technology and provision for cycles, micro-mobility and motorcycles as part of smart mobility and mobility as a service solution (such as Mobility Hubs for example) in supporting modal choice?**

42) Question – Communications and Digital Infrastructure

**Do you agree with this approach?**

43) Question – Telephone Kiosks

**Do you agree with this approach?**

44) Question - Broadband

**Do you agree with this approach?**

45) Question – Taxis and Private Hire Vehicles

**Do you agree with this approach?**

47) Question – Green spaces (a green space hierarchy is proposed)

**Do you agree with this proposal?**

48) Questions - The Rowley Hills

**The Rowley Hills have been protected to date from development that might have affected its visual, historic and ecological amenity. They are subject to a variety of policies / allocations that have prevented most inappropriate development from taking place.**

- **Do you think the current level of protection is sufficient to continue safeguarding the distinctive character, environment and visual amenity of the Hills?**
- **Do you think the level of protection needs to be increased?**
- **Do you think there is scope for any residential or economic development in the area, assuming it did not have an impact on the Hills' ecology, historic character, geological importance<sup>[42]</sup> or skyline?**
- **If so, what sort / level of development would be appropriate in your view and why?**

**Do you think the Rowley Hills should be allocated as Local Green Space in the SLP?**

- **Can you explain why you think it should be?**
- **If you disagree, can you explain why you think it doesn't need this designation?**

**Do you think the Rowley Hills should be designated as green belt?**

- **Can you explain why you think it should be?**
- **If you disagree, can you explain why you think it doesn't need this designation?**

51) Question - Archaeology

**Do you agree with the proposal to update the existing SAD policy on archaeology?**

52) Questions – Black Country Geopark

**Do you agree with the proposal to include a policy on the Black Country Global Geopark?**

**Are you aware of any features of geological interest in your area that you want to bring to our attention?**





## Development Management Planning Committee

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

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## Economy, Environment and Communities, Development Management

### Planning Committee

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

Plans List Item Number: 1

#### Reason for bringing to committee

Major Application

#### Application Details

**Location:** FORMER GALA BINGO, PARK LANE, WALSALL, WS10 9SB

**Proposal:** ERECTION OF A NEW DISCOUNT FOODSTORE (USE CLASS E) WITH ACCESS, CAR PARKING, LANDSCAPING AND OTHER ASSOCIATED WORKS

**Application Number:** 22/0212

**Case Officer:** Sally Wagstaff

**Applicant:** Lidl Great Britain Limited

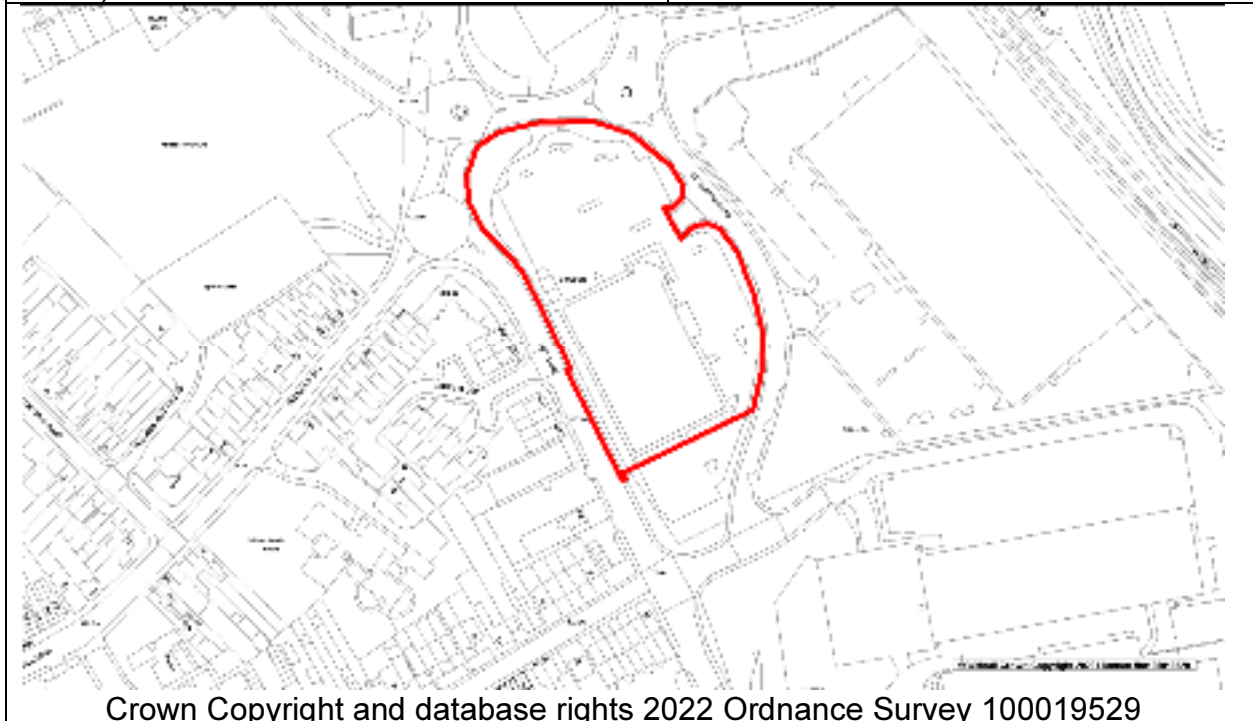
**Ward:** Bentley And Darlaston North

**Agent:** Rapleys

**Expired Date:** 20-Jun-2022

**Application Type:** Full Application: Major Use Class E(a) (Display or Retail Sale of Goods)

**Time Extension Expiry:**



#### Recommendation

Refuse

## Proposal

The proposal relates to the erection of a foodstore (Use Class E) with access, car parking, landscaping and other associated works.

The proposal includes a new vehicular access from Park Lane, 126 car parking spaces including 7 disabled spaces, 9 parent and child spaces, 2 Electric Vehicle Charging spaces and 12 secure cycle parking spaces

Pedestrian access would be provided from Park Lane via steps and a pedestrian ramp which would take customers through the store car park to the store entrance which is on the south western corner of the building. Also there is a pedestrian access to the North West from Steelmans Road.

The proposal also includes an area of servicing to the south east of the site which is also accessed from Park Lane. The existing access on Steelmans Road is proposed to be decommissioned.

Landscaping is proposed around the car parking areas to include a mixture of trees and shrubs.

The proposed development includes the demolition of the existing building which was previously occupied by Gala Bingo. The existing building is a two storey rectangular shaped building of brick and cladding with front elevation facing Steelmans Road. It is understood the building has been vacant since circa mid-2020.

The proposed site area is 1.08ha with the total store being 2,275 sqm gross external floor space.

The proposed building is single storey and includes a sloping mono pitched roof. The height being approx.7 metres at the highest point. The building is approx. 77 metres in width and approx. 33 metres in depth. The proposed design is modern with cladding and glazing as primary materials.

The proposed store opening times are 09:00-22:00 Monday to Saturday and 10:00-16:00 Sundays and bank holidays.

This application is supported by a number of documents which has informed the LPAs assessment of this application and forms the basis of this report content.

## Site and Surroundings

The site is located on the corner of Steelmans Road and Park Lane, approximately 1.2 km from Darlaston District Centre in an 'out of centre' retail park.

The site hosts a former bingo centre with associated car parking and landscaping.

To the north of the site is 'Blakemore Food Services' distribution centre, to the east is 'Lonestar Fasteners Europe' which is an industrial use, 'Ikea' retail and warehouse to the south east and residential to the west.

The site is located in proximity to M6 Junction 9. Park Lane (B4200) to the south west of the site is a Classified District Distributor. The site is served by an existing access from Steelmans Road.

## Relevant Planning History

22/0392 – EIA screening opinion for the erection of a discount foodstore with access, parking, landscaping and other associated work. Not yet determined.

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/national-planning-policy-framework)

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

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 56) says:

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

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

### National Planning Policy Guidance

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

## **Reducing Inequalities**

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

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

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

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

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

## **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- 5.4 to 5.8. The sequential approach
- Policy S7. Out-of-centre and edge-of-centre developments
- Policy GP2. Environmental Protection
- Policy GP6. Disabled People
- Policy ENV11. Light pollution
- Policy ENV32. Design and Development Proposals
- Policy ENV33. Landscape Design
- Policy ENV35. Appearance of Commercial Buildings
- Policy T1. Helping People to Get Around

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- Policy T7. Car Parking
- Policy T13. Parking Provision

### **Black Country Core Strategy**

- CEN5: District and Local Centres
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality
- EMP5: Improving Access to the Labour Market

### **Walsall Site Allocation Document 2019**

- Policy RC1: The Regeneration Corridors
- T4: The Highway Network

### **Supplementary Planning Document**

#### **Conserving Walsall's Natural Environment**

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

#### **Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability



- DW10 Well Designed Sustainable Buildings

### **Air Quality SPD**

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

### **Shop Front SPD**

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

## **Consultation Replies**

### **Coal Authority**

No objection - concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

### **Community Safety**

No objection- barrier to the car park system should be considered to secure car park when store is not open.

### **Fire Officer**

No objection subject to meeting the requirements of approved document B.

### **Lead Local Flood Authority**

Concerns raised regarding proposed drainage strategy, permeable paving necessary for car parking areas.

### **Local Highways Authority**

Objection due to the introduction of a new access off a District Distributor road which would create an unacceptable impact on highway safety and is contrary to the adopted Development Plan. Specific consideration has not been given to the needs of each of the different users of the network, including pedestrians, cyclists, public transport, cars, and service vehicles and insufficient parking to serve the proposed development, insufficient land to deliver a sustainable level of parking.

### **Police Architectural Liaison Officer**

No objection – secured by design principles recommended.

## **Environmental Protection**

No objection subject to conditions within any permission to address Construction and Demolition management, construction and Demolition Management, contaminated land investigation and meeting requirements of the Air Quality SPD.

## **Sandwell Council**

No objection – it is advised the applicant consider any mitigation measures necessary to ensure that the impact of the development offers a nil detriment to congestion/queue lights.

## **Severn Trent Water**

No objection subject to a drainage scheme to address the disposal of foul and surface water run-off.

## **Strategic Planning Policy**

No objection

## **Representations**

One comment of support received in relation to:

- New store in close proximity to home which is convenient for a non-driver

## **Determining Issues**

- Principle of Development
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Flood Risk / Drainage
- Ground Conditions and Environment

## **Assessment of the Proposal**

### **Principle of Development**

The site is 1.2km outside the district centre of Darlaston and 2.18km from the strategic centre of Walsall, with high quality employment allocations adjacent as indicated in the Walsall Local Plan Policies Map (2019) of the SAD and within the regeneration for High Quality Employment uses under Black Country Regeneration Corridors (BCCP Annex 2) BCCS Policy CSP1.

The current preferred use of the site is for E(g)(iii), B2 and/or B8 use (research and development, general industrial, storage or distribution), rather than retail due to the location adjacent to employment allocations, the shortfall of employment land and wider employment-promoting regeneration.

While the existing use was acceptable and long established the vacant unit belies a falling in demand for such uses in this location, which perform better within or on the edge of centres.

A retail use on this site would only be acceptable where a fully justified sequential test is presented ruling out alternative sites within centres; the current test presents a 5-minute catchment in what is agreed to be a predominantly urban area. At the request of the LPA, the applicant provided further evidence to justify the 5-minute isochrone

catchment area for the proposed store in relation to existing discount retail stores in the borough. As such, the findings of the sequential test can be supported having ruled out potentially available sites in the borough (within nearby centres).

On balance the principle of development is considered acceptable in this location.

### **Design, Layout and Character**

The application site comprises the Lidl Store set towards Steelmans Road with car parking to the southwest of the site fronting Park Lane. A new vehicle access is proposed via Park Lane.

The pedestrian entrance to the store is located on the corner of the building fronting Park Lane with pedestrian entrance to the site from Park Lane and Steelmans Road.

The proposed store sits in an area of industrial style single and double storey buildings. The proposed store is low level to reflect the height of surroundings units. The palette of materials shown in elevation plans indicate a modern approach which fit with the 'Lidl' design brief. The proposed facing materials to construct the proposed development are considered acceptable, however further details regarding these materials and finishes will be sought by way of planning condition.

The glazing in the elevations provides an active frontage around the site as well as providing visual surveillance of the site and adjacent surrounding areas.

Submitted drawings include details of boundary treatments as part of the proposed development. Further details regarding the boundary treatments, heights and finishes will be sought by condition.

The landscape Strategy provided gives details of soft and hard landscaping including planting proposals. The strategy is considered acceptable in relation to the design of the site.

### **Amenity of Neighbours and Amenity of Future Occupiers**

There are residential properties located opposite the site accessed from Park Lane. The properties are located approximately 28 metres from the application site.

A Noise Impact Assessment has been submitted in support of the application. The report provides an assessment of activities associated with the foodstore, specifically plant and delivery noise in relation to the residential properties around the site. The report concludes the plant and deliveries are acceptable during the day and night.

Environmental Protection concur with the findings of the Noise Assessment. It is considered noise impacts are unlikely to be significant however, details of external plant equipment will be required through condition to protect the amenity of local residents.

The development would be seen in context of the existing industrial development in the area. It is considered the scale, mass and design would have a limited impact upon neighbouring amenity.

If members are minded to approve the application the resolution could allow for a condition to secure the hours of operation to ensure minimal impacts on neighbouring amenity in relation to noise and disturbance.

On balance, it is considered the proposed development would not unduly harm the amenities of the neighbouring occupiers.

## Highways

The principle of development is supported by Highways for the store building location, having existing safe and accessible highway links which serves the existing Former Gala Bingo Site. Lidl have not raised any concerns to the operation and use of these junctions.

Highways have been consistent, and provided Pre Application advice, and commented in relation to the proposed development and advised Lidl on the Planning Application requirement for firstly the removal of the proposal for direct access onto Park Lane, B4200 District Distributor and secondly dealing with highways concerns associated with the operation and safe use of the proposed Lidl Car Park where currently there are issues with the conflict with the proposed access and the level of parking proposed.

## Access

The introduction of a new access onto the B4200 Park Lane Classified District Distributor is contrary to the Councils SAD Policy T4 (b):

The Council classifies the highway network as follows–

*(b) "District Distributors, which are important routes connecting the main residential and employment areas of the Borough."*

*"Street parking and direct frontage access will be strictly regulated".*

The proposed access would be contrary to National Planning Policy Framework (NPPF); where it states applications for development should:

NPPF Considering Development Proposals

NPPF Paragraph 112:

- a) *"Give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas."* The current proposal looks to introduce unnecessary conflict and safety concerns, with pedestrian and cycle movements across Park Lane with car and articulated HGV delivery vehicles.
- b) The application fails to address the *"needs of people with disabilities and reduced mobility in relation to all modes of transport."*
- c) The Application fails to *"Create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles."*
- d) The application would be contrary for the need to *"allow for the efficient delivery of goods, and access by service vehicles."*

The site is served by an existing safe access from the A4038 Classified Walsall Road and Darlaston Road, along with its own service road Steelmans Road. The applicant proposes a new access onto Park Lane which would be contrary to NPPF Para 112 where the proposal would create an unacceptable impact on highway safety.

The Applicant has raised no concerns in any respect to the existing access of the site along Steelmans Road. There is no Planning, Highway or Road Safety requirement to introduce a new access onto Park Lane, and in fact the development could be built and brought into safe operation without the need for any new access. The proposed access is purely to gain commercial advantage where no alterations are required, and its introduction would create conflict, with likely queuing on the highway which would be contrary to Highway Safety, and contrary to the safe use of the highway by others.

The justification for frontal and main road access is to “enhance the customer environment this is not a material consideration in Highway terms and should not be given any weight when determining the application as the criteria from a Highway perspective should be policy, guidance, sustainability, inclusive design, and safety related.

### Car Parking Provision

All development within Walsall should comply with Walsall Local policies including Planning Standards. The applicant states in their submission UDP standards are based on GFA Gross Floor Area (GFA). The applicant has then calculated the parking provision on Retail Floor Area (RFA) which only requires half of the parking Provision. The Application requires 176 spaces, the applicant is providing 126 which is 71% provision with no justification. This cannot be supported in terms of safe use and adequate provision.

Car parking is not calculated to any formal standard and is based on how much space is once the store is introduced on the site and a route for the articulated delivery HGV.

It is understood from the submitted plans that the applicant owns the land to the south of the site outlined in blue which is currently used as parking as part of the bingo site. If the land was made available for this development, the policy required level of car parking could be accommodated.

UDP Policy T7 - Car Parking states:

*All development should satisfy the car parking standards set out in Policy T13. This will involve providing an adequate level of car parking to meet operational needs whilst not exceeding any maximum parking standards that are specified. Appropriate provision of parking for people with special needs must be included.*

UDP Policy T13 - Parking Provision for Cars, Cycles and Taxis states:

*C. Retail Development Food and convenience goods shops 1 car park space per 14m gross floorspace. At least 1 bike stand for every 20 car park spaces, and absolute minimum of 2 bike stands Taxi facilities*

The site does not meet the required levels or meet Walsall Council's adopted Local Transport Policy T13. The applicant states that the parking is within a range so there is no acceptable. Highways do not support this position.

There is insufficient parking to serve the proposed development.

## Highway Status

Park Lane is a Classified Road and District Distributor in the Walsall Highway Hierarchy where SAD Policy T4 applies to the restriction of new accesses. It is the opinion of the applicant that the road is a Local Distributor, which is incorrect.

## Statement of Community Involvement (SCI)

In the submitted SCI it states that 12,100 four-page colour Lidl Advertising brochures and questionnaires were sent out to surrounding residential areas. 4550 responded and were looking forward to a new store. That is not to say that those residents who did not respond would not also choose Lidl to do their weekly shop and weekly top up shop. Highways has stated this could have an impact on the available under-provision of parking within the area and movement on the highway network. Lidl have dismissed this and stated the potential extra trips from the promotion are already on the network and will not impact on trip generation, car park capacity, and when the store is built customers will already be travelling to other shops and will call to Lidl on their way. It is considered the proposal could result in increased trips to the new store, the applicant has not sufficiently demonstrated what impact new trips would have on the highway network.

## Travel Plan

The proposed Travel Plan would be contrary to National Planning Policy Framework (NPPF); where it states applications for development should:

### NPPF Considering Development Proposals

#### NPPF Paragraph 113:

Para 113 states: *“All developments that will generate significant amounts of movement should be required to provide a Travel Plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed”.*

The Travel Plan is not currently fit for purpose. The applicant considers food retail does not generate new retail traffic. They further state that if the car park becomes full, the Travel Plan Coordinator will force all staff cars out of the car park onto the highway network. This approach cannot be supported. This is not promoting sustainable travel or having due care for staff and other users of the highway. The Travel Plan needs to be secured by legal obligation due to the need for ongoing monitoring, however the applicant has advised they do not intend to make any further amendment to the document, and therefore it cannot be considered to support the application.

A Transport Assessment (TA) has been submitted but it fails to address and identify the likely impacts on the local and wider network, impacts on parking and providing sufficient parking to meet the needs of the development.

The proposal is contrary to the Council's Black Country Core Strategy policy TRAN2- Managing Transport Impacts of New Development.

The application has failed to meet the definition of the National Design Code for Movement. Development should create linked routes and connections for people and vehicles to go and move through places and spaces.

Specific consideration has not been given to the needs of each of the different users of the network, including pedestrians, cyclists, public transport, cars, and service vehicles.

The applicant provided, 'SCP Technical Note dated 1st September 2022' in response to concerns raised by the Local Highway Authority. Highways do not consider that this has addressed the above concerns therefore an objection to the granting of planning permission is maintained.

### Sandwell Council

Sandwell Council were consulted on the application due to the sites proximity to the boundary with the authority. They have not raised an objection to the proposal however advise no junction analysis has been completed at the Axeltree Way/ Park Lane traffic Island therefore they cannot confirm if the proposals would have a significant impact on its highway. Sandwell Council advise the applicant consider any mitigation measures necessary to ensure that the impact of the development offers a nil detriment to congestion/queue lights.

### **Flood Risk / Drainage**

The site is located within Flood Zone 1. A Flood Risk Assessment and Drainage Strategy has been submitted in support of the application. Overall the flood Risk Assessment concludes there is no significant risk of flooding to the development itself. Mitigation measures are considered necessary to ensure surface water run-off from the development will not adversely impact areas downstream. There is a low surface water risk at the south and the north of the existing building which will be mitigated by *'providing a new levels drainage strategy which ensures that there is no flooding during the critical storm events and if any flooding should occur during the exceedance events, that it is contained on site with no risk to neighbouring properties'*.

The Lead Local Flood Authority provided comments of concern regarding insufficient detail to fully demonstrate that an acceptable drainage strategy is proposed therefore they recommend that planning permission is not granted until this has been resolved. Subsequently the applicant's engineer has been in liaison directly with the Lead Local Flood Authority negotiating an acceptable drainage scheme. At the time of writing this has not been concluded however the officer is aware the LLFA have requested permeable paving for the car parking areas. If members are minded to approve the application the resolution could allow for resolve of flood risk matters with the LLFA.

Severn Trent Water advise no objection to the proposals subject to the inclusion of a condition relating to drainage plans for disposal of foul and surface water flows. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

### **Ground Conditions and Environment**

The application site falls within the defined Development High Risk Coal Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The Coal Authority records indicate that a thick coal seam outcrops at or close to the surface of the site which may have been worked in the past and historic unrecorded underground coal mining is likely to have taken place beneath the site at shallow depth. Voids and broken ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases. The site also lies within a Surface Coal Resource Zone.

In addition, a mine entry is located to the south east of the application site with its zone of influence encroaching the site boundary. However, this mine entry was used to extract ironstone and is therefore not under the responsibility of the Coal Authority.

The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site. This information has been used to inform a Coal Mining Risk Assessment (or equivalent) (February 2022, prepared by Obsidian Geo-Consulting) to accompany the planning application.

The report identifies the potential for shallow, unrecorded, worked coal seams to be present beneath the site. It indicates that this will need to be further assessed by exploratory holes advance to a sufficient depth within the bedrock. If worked seams are confirmed, then a programme of proof drilling and grouting will likely be required in order to prevent collapse within the worked seams and the overlying strata, which may compromise the integrity of the proposed building.

The intrusive site investigations should be designed and undertaken by competent persons and should be appropriate to assess the ground conditions on the site in order to establish the coal-mining legacy present and the risks it may pose to the development and inform any remedial works and/or mitigation measures that may be necessary.

The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. This can be secured via condition.

Although parts of the existing Bingo building appear to be relatively new, it is recommended that prior to demolition, an asbestos survey be undertaken and any identified removed. A Demolition and Construction Environmental Management Plan to prevent or minimise local environmental impacts during the course of said works needs to be implemented from the start of works through to their completion.

The Applicant has undertaken an intrusive ground investigation to inform about geo-technical issues and contaminated land, 'Geo-Environmental Investigation Report', by Obsidian Geo-Consulting Limited, April 2022, ref. 21-1557-P-R2.

The report identifies that all the site has not been investigated due to the presence of the Bingo Building and advises the Applicant that they should consider further investigation once it has been demolished and the site cleared. For completeness, Environmental Protection are of the opinion that this should be considered by the Applicant.

The investigation has determined the presence of made ground, of varying depth, throughout the site. Within the made ground the contamination levels of heavy metals and solvents does not appear to be that significant, given the intention is for



redevelopment into a commercial building. However, the investigation has determined asbestos within the made ground and the Consultant is advising the Applicant that it is likely to be present across the site within the made ground, we would agree with these deductions.

The Construction Management Plan and any engineering works will need to consider the presence of asbestos within made grounds and any additional precautions that will be required.

The investigation has determined elevated levels of ground gas and based on these levels the consultant is advising that gas ingress protection measures will need to be incorporated into the building foundation design. This will need to be included into the Remediation Statement.

Given that additional ground investigations have been recommended, relevant conditions in related to contaminated land and should be incorporated into any permission.

The Applicant has submitted an air quality survey, 'Air Quality Assessment', by NALO, Tetra Tech, Ref. 784-B031433. The Assessment predicts that the overall air quality impacts from the proposed will not have any significant increases against current background levels. Environmental Protection have reviewed the assessment and tend to agree with the contents, based on the Consultants/Applicants predictions for traffic movements to the proposed store.

The Air Quality Supplementary Planning Document (SPD) remains relevant. The SPD sets out guidance on minimising air quality impacts, in particular the requirements for promotion of alternative travel choices.

Section 5.6 of the SPD advises 5% of parking provision will be sought with charging points to comply with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw. Appropriate cable provision shall be in place for a further 5% to meet any future increase in demand. From the application, the Site Plan indicates that the proposed car park will include 2 charging points. This falls short of the SPD requirements of 5%, for the proposed 126 spaces, i.e. a minimum of 6 Charging Points will be required. Environmental Protection are of the opinion that the Applicant needs to increase the number of Charging Points and provide provision (infrastructure) for further Charging Points if demand requires it in the future.

The Applicant has submitted a Travel Plan with their Application, 'Travel Plan' Proposed Lidl Food Store Park Lane, Darlaston, by SCP, Doc Ref: SCP/210094/TP/01, which includes an Action Plan that meets the requirements of the Air Quality SPD. The 'Travel Plan Action Plan' needs to be implemented at least 1 month prior to commencement of store activities.

The applicant has included a 'Noise Impact Statement', by Acoustic Consultants Ltd, Reference: 9524/JL. This indicates that based on the current locality, there should not be any significant noise impacts. Environmental Protection agrees with the assessment and do not require any further assessment or restrictions.

## Conclusions and Reasons for Decision

On balance weighing up the merits of the scheme the proposal cannot be supported in relation to highway safety due to the introduction of an unacceptable new vehicle access via Park Lane, inadequate car parking to serve the development and an insufficient Travel Plan in support of the application. It is concluded that this application is contrary to the adopted Development Plan and NPPF.

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

## Positive and Proactive Working with the Applicant

### Refuse

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal.

## Recommendation

Refuse

## Reasons for Refusal

1. The introduction of a new vehicle access onto the B4200 Park Lane Classified District Distributor would create conflict between Lidl HGV delivery vehicles, customer vehicles, pedestrian movements and cyclists, and would lead to subsequent likely queuing on the highway which would be contrary to highway safety, and contrary to the safe use of the highway by others. The creation of a new vehicle access is contrary to the Council's adopted Development Plan, in particular Site Allocation Document Policy T4 (The Highway Network) and NPPF Paragraphs 111 and 112 (a,b,c and d) (Considering Development Proposals).
2. The proposal fails to provide an acceptable level of car parking which is insufficient to serve the proposed development. As stated in the 'Statement of Community Involvement' 12,100 promotional brochures were sent out to local residents, 4,450 responded in support of the store. The Local Highway Authority requested additional information on the impact of new vehicle trips, the applicant claims this will have no impact as those customers are already on the highway network. The applicant has failed to demonstrate there is sufficient parking to meet its own need. The proposal is therefore contrary to the Council's Saved Unitary Development Plan Policy T13 (Parking Provision for Cars, Cycles and Taxis) and NPPF Paragraph 113 (Considering Development Proposals).

3. The submitted Travel Plan is insufficient and fails to promote sustainable travel and fails to have due care for intended employees of the proposed discount foodstore, and other users of the highway. The Travel Plan Transport Assessment also fails to address and identify the likely impacts on the local and wider network, impacts on parking and fails to provide sufficient parking to meet the needs of the development. This application also fails to secure the necessary ongoing monitoring of the required Travel Plan. This application is contrary to the Council's Black Country Core Strategy policy TRAN2 (Managing Transport Impacts of New Development paragraph) and NPPF Paragraph 113 (Considering Development Proposals).

**END OF OFFICERS REPORT**



## Planning Committee

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

Plans List Item Number: 2

### Reason for bringing to committee

Major Application

### Application Details

**Location:** HORSE AND JOCKEY, 146, WALSALL ROAD, WALSALL WOOD, WALSALL, WS9 9AJ

**Proposal:** ERECTION OF A NEW DISCOUNT FOOD STORE (USE CLASS E) WITH ACCESS, CAR PARKING, LANDSCAPING, BIODIVERSITY IMPROVEMENTS AND OTHER ASSOCIATED WORKS

**Application Number:** 22/0548

**Case Officer:** Sally Wagstaff

**Applicant:** Lidl Great Britain Limited

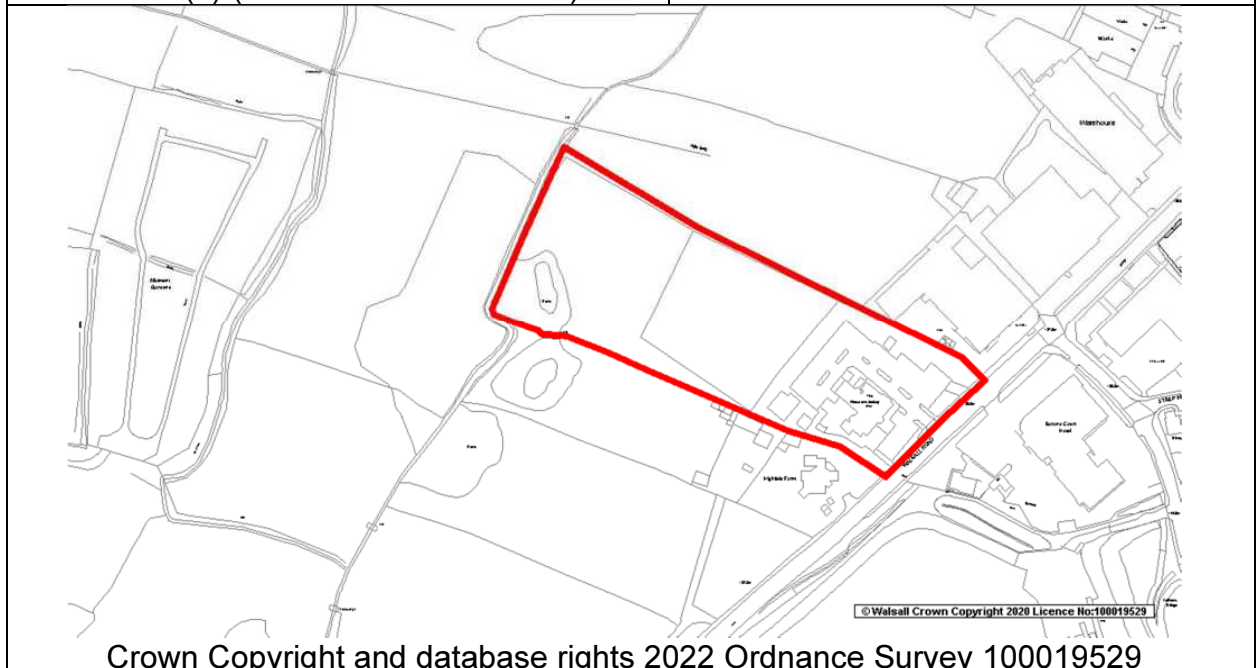
**Ward:** Aldridge North And Walsall Wood

**Agent:** Rapleys

**Expired Date:** 18-Aug-2022

**Application Type:** Full Application: Major Use Class E(b) (Sale of Food and Drink)

**Time Extension Expiry:**



### Recommendation

Refuse

## Proposal

The proposal relates to the erection of a foodstore (Use Class E) with access, car parking, landscaping and other associated works.

The proposal includes a new vehicular access from Walsall Road, 125 car parking spaces including 7 disabled spaces, 9 parent and child spaces, 2 Electric Vehicle Charging spaces and 12 secure cycle parking spaces.

Pedestrian access would be provided from Walsall Road, it would take customers through the store car park to the store entrance which is on the eastern corner of the building.

The proposal also includes an area of servicing to the west of the site which is also accessed from Walsall Road. The existing Walsall Road access to the front of the site serving the current public house will be decommissioned.

Around 50 trees are to be removed on site with a new landscaping scheme proposed to the northern, eastern, southern and western boundaries of the store including a mixture of turf, shrubs, trees and hedge planting. A buffer mix of native trees are proposed to the north west of the site.

The proposed development includes the demolition of the Horse and Jockey Public House which is currently in use.

The proposed site area is approximately 2.06 ha with the total store being 2,275 sqm gross internal floor space.

The proposed building is single storey and includes a sloping mono pitched roof. The height being approx. 7 metres at the highest point. The building is approx. 77 metres in width and approx. 33 metres in depth. The proposed design is modern with cladding and glazing as primary materials.

The proposed store opening times are 08:00-22:00 Monday to Saturday and 10:00-16:00 Sundays and bank holidays.

## Site and Surroundings

The site is located on Walsall Road in Walsall Wood approximately 350 from Walsall Wood District Centre. Most of the site has no allocation in the Site Allocations Document however the northern half of the site is within the Green Belt.

The site hosts a public house known as 'Horse and Jockey' with associated car parking and landscaping.

The land to the western side of the site is a 'Site of Local Importance for Nature Conservation' – Jockey Fields SLINC. The adjoining land to the north and south west of the site is a 'Site of Importance for Nature Conservation' – Jockey Fields SINC and the land adjoining the site to the west is Jockey Fields Site of Special Scientific interest SSSI.

The area to the north, west and south is Green Belt as well being designated as a mineral extraction site in the Site Allocations Document.

Immediately adjacent to the south of the site is a single storey residential property with ancillary storage yard to the rear. To the north are three industrial units and to the east is Baron's Court hotel which is a 'non-designated' heritage asset.

## Relevant Planning History

22/0484 – Environmental Impact Assessment (EIA) screening opinion for proposed discount foodstore. Not yet determined.

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/national-planning-policy-framework)

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

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 56) says:

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

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

## **National Planning Policy Guidance**

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

## **Reducing Inequalities**

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

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

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

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

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

## **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Saved Policies of Walsall Unitary Development Plan**

- 3.2 to 3.5 The Countryside and Green Belt
- 3.6 to 3.8 Environmental Improvement
- 3.11 Forestry and Trees
- 3.13 to 3.15 Building Conservation & Archaeology

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- GP2: Environmental Protection
- GP6: Disabled People
- ENV10: Pollution
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV25: Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- Policy ENV35. Appearance of Commercial Buildings
- Policy T1. Helping People to Get Around
- Policy T7. Car Parking
- Policy T13. Parking Provision
- S7: Out-of-Centre and Edge-of-Centre Developments
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis
- 

### **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- CEN7: Controlling out-of-Centre Development
- TRAN2 Managing Transport Implications of New Development
- TRAN4 Creating Coherent Networks for Cycling and for Walking
- ENV3 Design Quality
- ENV7 Renewable Energy
- EMP5 Improving Access to the Labour Market

### **Walsall Site Allocation Document 2019**

GB1: Green Belt Boundary and Control of Development in the Green Belt  
 EN1: Natural Environment Protection, Management and Enhancement  
 EN3: Flood Risk  
 M8: Brick and Clay Extraction- Other Areas  
 T4: The Highway Network  
 T5: Highway Improvements

### **Supplementary Planning Document**

#### **Conserving Walsall's Natural Environment**

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

- NE1 – Impact Assessment
- NE2 – Protected and Important Species

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- NE3 – Long Term Management of Mitigation and Compensatory Measures

#### Survey standards

- NE4 – Survey Standards

#### The natural environment and new development

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

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

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

#### Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

#### Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

### Consultation Replies

#### Archaeology

No objection subject to the imposition of a condition relating to a watching brief to ensure any remains impacted by the development are identified and recorded.

#### Canal and River Trust

No objection – suggestion for the Travel Plan to be amended to include the canal tow path as an optional travel method for customers and staff

#### Coal Authority

No comment – site is within a low risk coal area.

**Conservation Officer**

No objection – recommend the original building should be retained and not demolished.

**Ecology Officer**

Objection to grant of planning permission in respect to the impact on SSSI from drainage and the need to retain more existing trees on site

**Environment Agency**

No objection subject to a condition relating to a remediation strategy being required if contaminants not previously identified are discovered during development.

**Environmental Protection**

No objection subject to conditions within any permission to address Construction and Demolition management, construction and Demolition Management, contaminated land investigation and meeting requirements of the Air Quality SPD.

**Fire Officer**

No objection subject to meeting the requirements of approved document B.

**Local Highways Authority**

No objection subject to a revised travel plan to address the Transportation Emissions Mitigation Plan within the Travel Plan, or any mitigation proposed. This is to be secured by a S106 for Travel Plan monitoring.

**Local Lead Flood Authority**

Objection – Insufficient detail to fully demonstrate an acceptable drainage strategy

**Natural England**

Initial objection due to insufficient information enable Natural England to provide a substantive response. No further comments received in relation to additional information submitted in response to this concern.

**Police Architectural Liaison Officer**

No objection – secured by design principles recommended.

**Public Lighting**

No objection – noted no street lighting implications on the main road as an existing access is being utilised. Condition recommended in relation to details of the car parking lighting.

**Severn Trent Water**

No objection subject to a drainage scheme to address the disposal of foul and surface water run-off.

**Strategic Planning Policy**

Objection - It is considered the proposal would amount to inappropriate development in the Green Belt. The very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

**Tree Preservation Officer**

Objection due to the significant loss of existing trees which offer a high amount of amenity value to the locality and contribute significantly to the verdant character of the area.

## Representations

One comment of concern has been received by a local resident with concerns regarding:

- Lack of a pedestrian crossing for pedestrians to access the site. Lack of a crossing facility will be safety hazard to those wishing to catch public transport into Walsall after visiting the store.
- The existing pedestrian crossing is located on High Street which would result in local residents having to walk to this crossing to safely cross the A461 Lichfield Road

One comment of support has been received by a local resident. They advise the new store would be good for the area.

## Determining Issues

- Principle of Development
- Green Belt Assessment
- Heritage Assessment
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Ecology
- Flood Risk / Drainage
- Trees / Protected Trees
- Ground Conditions and Environment

## Assessment of the Proposal

### Principle of Development

The proposal relates to the demolition of the existing public house in order for the erection of the food store. The loss of the public house is resisted in local UDP policy LC8.

The applicant advises in paragraphs 11.4-6 of the Planning and Retail Statement that this loss is not permitted under Policy LC8, unless certain conditions are satisfied including other facilities which could accommodate community activity displaced by the proposed development in an equally or more convenient location.

The applicant is of the understanding the horse and jockey pub are seeking to vacate the premises due to financial pressures and completion in the local area. A list of local pubs has been provided within 1.5 km radius of the site.

The Planning and Retail Statement concludes that the applicant considers the policy requirement of LC8 are satisfied due to the number of other facilities which could accommodate community facilities in equally or more convenient location.

It is considered the applicant addresses this requirement and presents a satisfactory justification to accord with policy LC8 of UDP.

The site is located approximately 350 metres from Walsall Wood local Centre therefore a sequential test is required to accord with BCCS CEN7 (Controlling Out-of-Centre Development) and National Policy for an out-of-centre location. It is noted in

section 7 of the Planning and Retail Statement the applicant has applied a wider catchment of a 7-minute drive time from the site, taking in a number of local centres and Aldridge District Centre. This is in-line with Strategic Policy earlier recommendations and appears to be a satisfactory extent that recognises the semi-rural location of the proposal site and the limited existing provision of discounter stores in some parts of the borough, making a wider customer trade draw more likely from these areas, expanding the catchment.

The test shows sufficient flexibility and considers candidate sites, as such the applicant appears to have considered available sites and presents what we consider a satisfactory sequential test.

On balance, satisfactory justification has been presented regarding the loss of the public house in accordance with policy LC8 of UDP. A satisfactory the sequential test has been presented with an appropriate extent and scope displaying flexibility on behalf of the applicant in considering alternative sites. This is accompanied by a Retail Impact study showing no adverse economic impact and the potential wider economic benefit of the proposal is accepted. The principle of development is therefore acceptable subject notwithstanding the Green Belt Assessment which is detailed below.

Paragraphs 11.22-28 of the Planning and Retail Statement address the economic benefits of the proposal and intention to satisfy EMP5 through the recruitment and training of local people. The proposal does represent an opportunity to improve the economic activity of the area, while such a store may be expected to encourage linked trips to nearby centres and leisure uses.

### **Green Belt Assessment**

*As stated in the Planning and Retail Statement, 'Approximately one quarter (0.21 hectares) of the total discount food store development site area (0.84 hectares) will be located within the Green Belt. This element will compromise 26 car parking spaces in addition to approximately one fifth of the proposed foodstore building floorspace'.*

As the application site is located within the Green Belt and therefore the main considerations are:

- Whether the proposal would be inappropriate development in the Green Belt;
- The effect of the proposal on the openness of the Green Belt and,
- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal

The revised National Planning Policy Framework in section 13 and paragraphs 147 to 150 states inappropriate development is harmful to the Green Belt and would not be approved except in very special circumstances. These very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Subject to a number of exceptions, as listed in Paragraphs 149 and 150, the Framework makes it clear that the construction of new buildings should be regarded

as inappropriate in the Green Belt. These paragraphs also list development types that are regarded as exceptions and are appropriate in the Green Belt.

The Green Belt loss and harm is addressed in paragraphs 11.7-13 within the Planning and Retail Statement. The applicant advises the proposal would include a landscape buffer to the west of the site to include native trees and mixed shrubs. The applicant considers this will create a *'clear defensible boundary between the remaining Green Belt and the development site helping shield the foodstore when viewed from the west'*. The applicant's considered that due to the small loss of Green Belt land and the landscape measures proposed the development would result in negligible harm to the openness and purpose of the Green Belt.

To add to this, the applicant considers that's the loss of the Green Belt is outweighed by the benefits from the proposed development including (as summarised):

- Enhancement of the shopping experience and choice for shoppers in Walsall Wood
- Design compliments to the visual character of the area
- Landscaping on site will provide a high level of visual amenity
- Employment opportunities – 40 (FTE) jobs
- Positive economic impact due to new jobs in local area

In response to this justification the Council advised that this was not a satisfactory justification for very special circumstances therefore the concern remains the proposal is inappropriate in the Green Belt.

The applicant has reiterated they consider the proposal would result in a small loss of Green Belt and biodiversity and ecology enhancements including the benefits above outweigh the harm to the Green Belt.

It should be noted that Paragraph 149 refers to loss of green belt in terms of inappropriateness of proposals *and* any other harm resulting from the proposal being clearly outweighed by other considerations. The applicants claim related to the 'other' harm being outweighed, which leaves the matter of inappropriateness unaddressed. Paragraph 149 explicitly states that the LA should consider new buildings in the green belt as inappropriate unless the proposal represents one of the exceptions presented. Around a ¼ of the store building and car park area will be built in the green belt. This proposal does not present very special circumstances, and so the issue of inappropriate use is unresolved. The policy does not make a distinction between a 'fraction' of green belt versus a larger portion, all is considered the same.

While impact on Green Belt openness is factored into satisfactory landscaping design and layout, the primary concern is specifically the lack of appropriateness and very special circumstances to justify the proposal on this portion of Green Belt land, which has not been satisfactorily addressed.

National policy in the NPPF sets out the five purposes of Green Belt and states that inappropriate development should not be approved except in very special circumstances. Nature conservation is not one of the five purposes. Provision of biodiversity gain, whilst welcome, could be provided on almost any site whether in the Green Belt or elsewhere. As such, it does not represent very special circumstances so cannot be used to justify the current proposal. If this was not the case, nearly all Green Belt would be at risk of encroachment from development on

The applicants also refer to the proposal enhancing the shopping experience in Walsall Wood, and providing additional employment. However, as with other food retail proposals, there is only a limited spending power available in any given area. The effect of new food retail development is to abstract trade from existing stores and potentially affect job levels. This is not a consideration for Green Belt purposes.

A revised proposal that could fit within a reduced site plan that makes better use of the existing previously developed land (or neighbouring sites) and does not encroach on the neighbouring green belt could be supported. The applicant has been made aware of this; however amended plans have not been received.

Overall is considered the proposal would amount to inappropriate development in the Green Belt. The very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. The proposal conflicts with Policies 3.2-3.5 and GP2 of the UDP and Policy GB1 of the SAD - limit development within the Green Belt. The proposal would also conflict with the Green Belt aims of Section 13 of the Framework, and in particular Paragraphs 147 to 149.

### **Heritage Assessment**

The site housed the original Horse and Jockey public house, which was demolished, and a replicated public house built further into the site.

There are no listed buildings within the immediate or intermediate boundaries of the site. Barons Court Hotel, opposite the site on Lichfield Road is a non-designated heritage asset, however, it has been previously extended extensively and the ground floor flat roof extension detracts from its overall historic character and architectural design.

A Heritage Statement has been submitted with the application, which concludes 'the natural screening to the south of Barons Court Hotel, combined with its setback from the road, will limit inter-visibility between the new build and the non-designated heritage asset. Barons Court is more evident from the north western corner of the application site, the placement of the new build in the south western part of the site will lessen its prominence in this context. The siting and restrained scale of the new build will not adversely impact upon the setting of the non-designated heritage asset located to the northeast'.

It is considered on balance the proposed development would not have a detrimental impact upon Baron's Court non-designated heritage asset.

The existing development along this section of Lichfield Road/Walsall Road is characterised by a mixture of low level and two storey flat roof and pitched roof buildings.

The proposal seeks to demolish this existing building on site and to erect a large retail unit that would extend the whole length of the south and south eastern boundary of the site.

The Conservation officer does not object to the development however is of the opinion that the original building should be retained, its architectural interest adds to the character of the area and along the street scene. Whilst it is acknowledged that the existing building adds to character to this area of Lichfield Road it is considered on

balance that the loss of the existing building would not be unduly harmful to the character of the area as to warrant refusal for this reason.

There is potential for archaeological remains relating to the former Horse and Jockey public house, and unknown archaeological remains dating from the medieval period to be present within the site.

The former pub is adjacent to the road on the Walsall Tithe map (1843), and there are buildings shown in less detail on maps of 1775 and 1816. The site is immediately to the southwest of the historic medieval settlement of Walsall Wood as mapped on the Walsall Historic Environment Record.

In the area of the current building there is likely to be truncation, and the ground investigation report notes depths of more than 1m made-ground here, however landscaping and service trenches may impact remains closer to the road, should they be present. Any archaeology would likely be of local significance and would not form a constraint on development.

It is recommend a condition requiring a programme of archaeological monitoring (watching brief) on groundworks, landscaping and services, to ensure any remains impacted by the development are identified and recorded.

### **Design, Layout and Character**

The application site comprises the Lidl Store set towards the west of the site and parking to the north and east of the site.

The pedestrian entrance to the store is located on the corner of the building fronting Walsall Road with pedestrian entrance to the site from Walsall Road.

The proposed store sits in a mixed area with an industrial style single storey brick building to the north and single storey residential building to the south. The proposed store is low level however at approx. 7 metres it will be higher than the immediately adjacent buildings and the current pub building on site. The palette of materials shown in elevation plans indicate a modern approach which fit with the 'Lidl' design brief. It is acknowledged that the proposed design is not in keeping with the immediate vicinity however it is considered on balance due to the varied general street scene the proposal would not be significantly detrimental to the character of the area to warrant a refusal on design grounds in accordance with the UDP Policy ENV32.

The proposed facing materials to construct the proposed development are considered acceptable in context of the development however further details regarding these materials and finishes will be sought by way of planning condition.

The glazing in the elevations provides an active frontage around the site as well as providing visual surveillance of the site and adjacent surrounding areas.

Submitted drawings include details of boundary treatments as part of the proposed development. Further details regarding the boundary treatments, ground levels, heights and finishes will be sought by condition.

## **Amenity of Neighbours and Amenity of Future Occupiers**

The nearest property no. 158 Walsall Road is located approximately 19 metres from the application site.

A Noise Impact Assessment has been submitted in support of the application. The report provides an assessment of activities associated with the foodstore, specifically plant and delivery noise in relation to the residential properties around the site. The report concludes the plant noise will be acceptable and of no impact during both day and night. The report considers the noise impact of the proposed plant to fall in the 'low observed adverse effect level of the NPSE and NPPG and achieves the 4 aims of the NPPF.

After assessment of the proposed deliveries to the store, the report concludes they are acceptable both day and night in terms of noise and achieve the aims of the NPPF.

Environmental Protection have not provided comments in relation to the findings of the noise assessment however it is considered noise impacts are unlikely to be significant however, details of external plant equipment will be required through condition to protect the amenity of local residents.

It is considered the scale, mass and design would have a limited impact upon neighbouring amenity due to the distance between the development and the immediately adjacent property no. 158 Walsall Road.

If members are minded to approve the application the resolution could allow for a condition to secure the hours of operation to ensure minimal impacts on neighbouring amenity in relation to noise and disturbance.

On balance, it is considered the proposed development would not unduly harm the amenities of the neighbouring occupiers.

## **Highways**

Following the submission of the application and subsequent revised drawings of the carriageway arrangements, the Highway Authority provides the following substantive response that supports the principle of the application but would require clarification of some elements of the scheme and submitted documents.

### Vehicle Access

The proposed development was likely to result in significant queuing on the main A461 Lichfield Road southbound as vehicles looked to enter the store. The Highway Authority was concerned that no ghost right turn lane was proposed to mitigate so that right turning vehicles could sit clear of the main southbound running lane.

The submitted traffic flow data showed consistently around 800 vehicles southbound and the same northbound on Lichfield Road during peak traffic periods which equated to 13 per minute or 2 about every 10 seconds. Consequently, it was considered that right turning store traffic was likely to cause queuing to southbound traffic.

The Applicant has provided a revised drawing to address this, including a right turn lane, and this will need to be supported by a Road Safety Audit.



The location of the store is fairly isolated from the main residential built-up areas. Para.4.2 to 4.4 of the TA shows that the majority of local residents are over 1600m to 2000m walking distance from the store. The UDP T11 Walking/Cycling Accessibility policy sets the maximum walking distance at 1000m. This is likely to result in customers and staff using other modes of transport, including the motor car, which, in turn will impact on predicted trip rates.

The applicant has included some measures to improve access to the store for walking, but it is likely, due to the location of the site that trips will be car based.

### Travel Plan

NPPF Paragraph 113:

Para 113 states: *“All developments that will generate significant amounts of movement should be required to provide a Travel Plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed”.*

A Travel Plan (TP) has been submitted but it is not considered to be acceptable and will require review and amendment.

As part of the application submission there is a “Transportation Emissions Mitigation Plan” which deals with the impact of Air Quality as a result of the new development. It states that the Damage Cost of the Air Quality associated with the development will be £30,865 and this is mitigated against by the Travel Plan, but there is no mention of the Transportation Emissions Mitigation Plan within the Travel Plan, or any mitigation proposed. This will need to be addressed by amendment of the Travel Plan, to reflect the information in both documents, and also be presented within a suitable format for it to be appended to a legal obligation as part of a S106 agreement for Travel Plan Monitoring.

### Parking

The applicant has stated within the submission that the parking levels should accord with Walsall Council UDP standards using Gross Floor Area. From careful study of the submission, they have used their own calculation for parking on Retail Floor Area, increasing the perceived parking from 64% to 103%.

Lidl Store GFA 2277sqm - UDP = 162 spaces + 16 disabled = 178 Spaces equates to 64%

Lidl Proposed Retail Floor Area = 1414sqm = Proposed 115 Spaces which equates to 103%

Walsall Councils Unitary Development Plan states in UDP Policy T7 - Car Parking:

*All development should satisfy the car parking standards set out in Policy T13. This will involve providing an adequate level of car parking to meet operational needs whilst not exceeding any maximum parking standards that are specified. Appropriate provision of parking for people with special needs must be included, as set out in Policy T13.*

## UDP Policy T13 - Parking Provision for Cars, Cycles and Taxis:

*C. Retail Development Food and convenience goods shops 1 car park space per 14m<sup>2</sup> of gross floorspace. At least 1 bike stand for every 20 car park spaces, and absolute minimum of 2 bike stands Taxi facilities.*

### Car Parking Provision

All development within Walsall should comply with Walsall Local policies including Parking Standards. The applicant states in their submission, UDP standards are based on Car Gross Floor Area (GFA). The applicant has then calculated the parking provision on Retail Floor Area (RFA) which only requires half of the parking.

The car parking provision is not calculated to any formal standard and appears to be based on how much space is left once the store is introduced on the site and a route for articulated delivery HGV.

Although the parking levels are lower than the UDP Standards on this particular site, taking into account the isolated location in terms of sustainability, and accessibility, the nature of the passing traffic which is to a large degree commercial, it is considered in this particular location acceptable.

A local resident has expressed concern regarding the distance to the existing pedestrian crossing on High Street, Walsall Wood. The access plan submitted indicates a pedestrian crossing will be installed across Walsall Road adjacent to the site which will alleviate the need for pedestrians to walk a significant distance to the crossing on High Street.

On balance it is considered that the proposal would not result in an unacceptable impact upon the highway network in accordance with SAD policy T4. It is considered car parking provision is adequate to serve the development in accordance with UDP policy T7 and T8. If members were minded to approve the application the resolution could include receiving a revised Travel Plan which would then be tied into a Section 106 for travel plan monitoring.

## **Ecology**

### Jockey Fields Site of Special Scientific Interest (SSSI)

Jockey Fields SSSI, which lies adjacent to the proposed development, encompasses an area of low-lying fields in a stream valley consisting of well grazed damp pasture, neglected grassland, fen, mire and a network of well vegetated ditches. The site is of local interest for its wetland birds and rare plant species. Due to a previous water pollution incident, it is currently in unfavourable – declining condition as such it is at high risk from further water pollution.

The proposed development lies within the SSSI impact risk zone, which, should the rural non-residential development's footprint exceeds 0.2ha, there is potential for the development to result in a negative impact to the designated site. From a rough measurement, the development footprint is around 0.6ha putting the development within this threshold.

It is also highly likely the ditches and ponds within the biodiversity improvement zone of the proposed development will be directly linked to the SSSI, increasing the risk of a negative impact on the SSSI.

### Jockey Fields Site of Local Importance to Nature Conservation (SLINC)

As the Preliminary Ecological Appraisal did not undertake a data search with EcoRecord for this application, the initial report has missed Jockey Fields SLINC, which covers the northern portion of the development, and as such was not evaluated, it should be noted that the onsite SLINC was identified by Walsall Council during the pre-application process undertaken previously by the developer.

The Jockey Fields SLINC is protected under Local Planning policy ENV1 of the Black Country Plan which states;

*'Development within the Black Country will safeguard nature conservation, inside and outside its boundaries by ensuring that: Local designated nature conservation sites (Sites of Local Importance for Nature Conservation), important habitats and geological features are protected from development proposals which could negatively impact upon them; Adequate information must be submitted with planning applications for proposals which may affect any designated site or any important habitat, species or geological feature to ensure that the likely impacts of the proposal can be fully assessed. Without this there will be a presumption against granting permission.'*

As such a full assessment and details of the impact to the SLINC and provision of mitigation to ensure no negative impact on the designated site is necessary, prior to any approval of the development.

The Jockey Fields SLINC was last surveyed in 2005, where it was endorsed to hold its current status, however, since this time significant changes have occurred including the area to north within Jockey fields being designated as Site of Importance to Nature Conservation (SINC) in 2019. Due to land use changes, the age of the previous survey and the SLINC site being located between a SSSI and SINC ,making it part of important corridor, it was recommended that alongside a revision of the ecological report to include an assessment of the impact on the SLINC and mitigation outlined, a full Local Site assessment should be undertaken to assess whether the site still meets the criteria of the Local Site status as per the Birmingham and the Black Country Local Site Assessment criteria.

### Habitats

From the Preliminary ecological appraisal, it was unclear what habitat creation and enhancement would be put in place to mitigate for the proposed development. The report identifies that the northern portion of the site will be a biodiversity improvement area and further opportunities could be used on site. However, no details were provided. It was considered necessary to ask for further information on the mitigation to be provided as part of the development is required to ensure that habitat loss / degradation is fully mitigated for as per Para 180 in the National Planning Policy Framework prior to determination. This could take the form of an Ecological Assessment report and a detailed landscape strategy.

### Great Crested Newt Survey

From a review of data records, provided by EcoRecord, two records of Great Crested Newts (GCN) can be found to the north and south of the proposed development within the Jockey Fields habitat belt, respectively. As the development lies centrally within this section, there is a likelihood of GCN to be present within the development site.

The Ecologist advised If the aquatic habitat, either ponds or wet ditches, or suitable terrestrial habitat are to be directly or indirectly impacted, GCN surveys of the onsite

ponds and wet ditches should be undertaken to determine whether GCN will be impacted by the development and detailed mitigation provided, if necessary.

The applicant submitted the following documents in response to concerns raised by the Ecologist in relation to insufficient detail to support the application:

- Operational Ecological Management Plan – September 2022
- Habitat Management Plan – September 2022
- Designated Sites Impact Assessment – September 2022
- Construction and Environmental Management Plan – September 2022
- Biodiversity Net Gain Report – July 2022
- Appendix A Biodiversity Metric – July 2022
- Flood Risk Assessment and Drainage Strategy Report – October 2022

The Ecologist was consulted on this information and provided an additional response on assessment of the above documents.

#### Jockey Fields Site of Special Scientific Interest (SSSI)

From a review of the drainage strategy, the Ecologist has expressed concern in relation to the potential risk of water pollution from the development impacting the SSSI. These concerns relate to the drainage strategy making little reference to the SSSI, while the proposed surface runoff will drain into the ditch adjacent to the SSSI. While it is understood from the reports, the existing quality of the water that will result from runoff is proposed to be raised. No specifics to the SSSI are mentioned. Further details are required to satisfy concerns raised.

#### Habitats:

Additional information has now been provided on the habitat creation and enhancement that will be put in place to mitigate for the proposed development. The Ecologist is supportive of the level of native species used within the main proposal site and achieving the biodiversity net gain. Although, greater retention of the existing onsite trees is sought.

In relation to the management within the biodiversity improvement zone, the Ecologist recommends a condition to ensure that the 30-year management plan is taken forward for the duration and each action is undertaken.

#### Great Crested Newt (GCN) Survey:

In the comments above in relation to GCN it is noted the presence of GCN within the locality and the presence of suitable aquatic and terrestrial habitat within the application site. As such it is considered necessary for GCN surveys of the onsite ponds and wet ditches to be undertaken, If the aquatic habitat, either ponds or wet ditches, or suitable terrestrial habitat are to be directly or indirectly impacted.

From review of the proposal, it has stated through works and the loss of 30m of wet ditch, there is potential for GCN to be impacted. As such GCN surveys would be required for the development.

At the time of previous comments, no surveys for GCN have been undertaken of the waterbody on site. However, within the Construction and Environmental Method Statement dated September 2022, it states that eDNA surveys were undertaken which came back with a negative result.

On the 23rd January 2023, the applicant submitted eDNA survey summary letter detailing that a GCN eDNA survey was undertaken on the onsite pond on the 12th April 2022. This alleviates concerns raised regarding this GCN surveys and no further GCN Surveys are considered necessary.

Further information was submitted by the applicant on 22nd Feb 2023 in relation to the outstanding issue with the potential for drainage pollutants in the SSSI as raised in the Ecologist's previous responses. The applicant considers it can be concluded the proposed water quality systems will mitigate and further reduce the anticipated pollutants from the development. They consider with the mitigation measures there will be no impact on the SSSI. This information has been sent to the Ecologist for review, at the time of writing the report a response has not been received therefore there is an outstanding objection to the grant of planning permission in respect to the impact on SSSI from drainage and the need to retain more existing trees on site. The Ecologist's final comments will be added into the supplementary paper once received.

Natural England have been consulted on the application. Natural England advised in their initial response of 22nd June 2022 that there was insufficient information submitted to make a substantive response. They requested further information be submitted in relation to the potential impacts the proposal will have on the Jockey Fields SSSI, this included a Flood Risk Assessment and Drainage Strategy which takes into account the adjacent SSSI and includes a drainage strategy which is designed to prevent damage/ destruction of the SSSI, a Habitat Management Plan, a Construction Environmental Management Plan and Operational Environmental Management Plan.

Natural England were consulted on the additional information submitted by the applicant however they considered that their previous advice was still relevant to the development. After contacting Natural England, they advised they had not seen this information when making this comment. The Council sent the documents directly to Natural England and are waiting for a response at the time of writing. Any additional comments received by Natural England will be added into the supplementary paper.

### **Flood Risk / Drainage**

The site is located within Flood Zone one.

A Flood Risk Assessment and Drainage Strategy has been submitted in support of the application. Overall, the flood Risk Assessment concludes there is no risk of flooding to the development itself. Mitigation measures are considered necessary to ensure surface water run-off from the development will not adversely impact areas downstream.

The Local Lead Flood Authority have been consulted on a number of occasions in relation to drainage information submitted and amendments to this information. The LLFA's latest comments advice that the drainage strategy produced dated October '22 is not satisfactory therefore planning permission should not be granted. The Lead Local Flood Authority are a statutory consultee consequently due to an insufficient drainage strategy being submitted to ensure that the proposed development would minimise flood risk, their objection is a reason for refusal of the application.

If members are minded to recommend the application for approval, it would be necessary for the resolution to allow for overcoming the LLFA objection.

Severn Trent Water state no objection to the proposals subject to the inclusion of a condition relating to drainage plans for disposal of foul and surface water flows. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

### **Trees / Protected Trees**

The Tree Report submitted in support of the application indicates that 47 individual trees and 5 groups of trees (mostly 'C' class with ref to BS5837) will be removed to make way for the development. At least 11 of the trees proposed for removal are category 'B' trees, which are trees of moderate quality with an estimated life expectancy of at least 20 years.

There are also 12 individual trees identified as 'U' class (trees that have a serious, irremediable, structural defect, such that their loss is expected due to collapse/ trees that are dead/ trees infected with pathogens of significance to health and/or safety). The Tree Data Tables submitted indicate most of these trees do not fit into this category so should be categorised as 'C' class at the very least.

The Tree Report, in the Tree Data Tables, has assessed the trees as individuals. This appears to contradict the comments at section 3.2 where it states "trees have been surveyed as groups where they can be considered as forming a group as they form cohesive features either aerodynamically/culturally or visually. It is clear the trees form a cohesive visual feature and should therefore be assessed as groups.

The Tree Officer considers classifying groups/woodland trees individually unfairly downgrade the trees due to their unusual shape and form, which is only as a result of the trees having grown so close to each other. The British Standard classification allows for trees grown in groups and it is estimated the vast majority of the trees should have been classified as B2 not C2.

The 5 groups of trees to be removed amount to at least 50 trees. Therefore, the total amount of trees to be removed is at least 97. However, the Report states that "... *some replacement planting will be undertaken ...*". Whilst the Landscape details (drawing R/2591/1B) show some tree and scrub planting along the south and west boundaries, this is considered insufficient to account for the loss of the existing trees and the detriment to the amenity and landscape value of the locality.

With reference to the 'Rebuttal to Tree Comments' dated 5 January 2023 submitted by Rapleys, the Tree officer advises:

The Rebuttal states a total of 2581 plants, trees and hedgerows will be planted as part of the proposal. Of this, 34 are individual trees, the remainder being hedge and shrub material. It claims this will provide significant enhancements to the landscape and ecological value of the site.

The 34 trees will be located to the west and south of the site, in the area that is currently a Site of Local Importance for Nature Conservation (SLINC). Aside from the impact on the SLINC through planting trees in a marshy grassland area (with the prospect of the trees drying out the land and altering the marshy character), the trees will not have any visual amenity due to being located behind the proposed building. It is disagreed that this provides significant enhancements to the landscape due to the hidden location.

The Rebuttal indicates the proposed development will result in significant biodiversity net gain. Whilst the information submitted appears to show this, it is considered the BNG figures are slightly skewed due to the amount of hedgerow planting proposed. Whilst the planting of hedgerows is welcomed, they do not act as sufficient replacements for the existing trees either in terms of biodiversity, amenity value or landscape character.

“New ornamental shrub planting and trees along the front will create a visually appealing soft boundary between the site and Walsall Road ...” It is agreed that the Landscape Details indicate this will be an improvement on the current situation, although it is expected additional tree planting along the frontage to add to the verdant character of the locality.

There are no details of existing and proposed level changes, which can have a greater impact on the amount of tree to be removed and suitable space for replanting.

On balance it is considered that the proposed planting is insufficient to justify the removal of virtually all trees on site. The trees on the south and west boundaries will be largely hidden from general view so offer no visual amenity at all. There is also no space either within the site or around the site boundary for tree planting of any note. Therefore, the application should be recommended for refusal on the grounds above.

To summarise, it is considered that the loss of these trees would be of detriment to the landscape character of the area. Consequently, in its current form it would be difficult to support the proposals due to significant loss of what are moderate quality trees.

## **Ground Conditions and Environment**

The proposal is within 150 metres of the Queen Street access point to the Daw End Branch Canal. Whilst this is principally outside the Canal and River Trust consultation buffer zone the Canal and River Trust advise it is recommended the Travel Plan is amended to include the tow path as an off road active transport route as an option for staff and customers travelling to and from the proposed store.

The Environment Agency state, ‘*Reference to the 1:50,000 scale geological map indicates the site is located on the Alveley Member Formation (mudstone and sandstone), designated as a Secondary A Aquifer by the Environment Agency. Superficial deposits in the form of Glacial till, designated as a Secondary Undifferentiated Aquifer are also indicated to be present. The site is not within a groundwater Source Protection Zone. The site is located in proximity to an authorised landfill (Highfields South)*’.

The Environment Agency have reviewed the ‘Report on Ground Investigation at Horse and Jockey Walsall Road, Walsall Wood’ *Applied Geology* (April 2022).

The above referenced report summarizes a site investigation involving sampling and analysis of soils against an appropriate contamination suite. It is noted that the investigation was limited in its assessment of risk to controlled waters as whilst groundwater was identified during the investigation, assessment of contamination was not conducted. Significant contamination was not identified during the investigation and the risk posed to controlled waters from this re-development appears to be low.

Based on the information presented to the Environment Agency, it is agreed that further investigation or remediation works do not currently appear warranted for controlled waters receptors. However, given the potential for contamination to be present due to the active landfill in proximity to the site and the limited investigation in respect to controlled waters a condition is recommended to be included on any planning permission granted in order to deal with any unsuspected contamination subsequently identified during the re-development of this site. This is to ensure that any contamination identified to represent a risk to controlled waters is appropriately dealt with.

The applicant should note that in accordance with Government policy detailed in the National Planning Policy Framework (paragraph 183), 'where a site is affected by contamination or land stability issues, and responsibility for securing a safe development rests with the developer and/or landowner'. Therefore, should any significant contamination subsequently become apparent then responsibility will remain with these parties.

The Applicant has undertaken a ground investigation, (Report on Ground Investigation at Horse & Jockey, Walsall Road, Walsall Wood. Report Number: AG3344-21-AN68 Date: April 2022) that includes recommendations for the safe development of the site. Conditions are recommended in relation to remediation of ground contamination to ensure safe development of the site and to protect human health and the environment. In addition, to meet the requirements of the National Planning Policy Framework (2019) 170 and 178.

The Construction Management Plan and any engineering works will need to consider the presence of asbestos within made grounds and any additional precautions that will be required.

The proposed development has the potential to increase concentrations of pollutants from road transport emissions. Consequently, due to the recently published (September 2021) revision to the World Health Organisation's Global Air Quality Guidelines it is now necessary for the applicant to conduct an air quality appraisal with respect to nitrogen dioxide, and particulate matter (PM2.5 and PM10) to determine if the proposal will adversely impact local neighbouring residents, and to inform of any mitigation that may be required.

An air quality report (Tetra Tech Report784-B031433 has been submitted in support of the application. The assessment entails a detailed dispersion model of pollutants associated with the additional road traffic generated by the proposal with an operational year of 2023. The long-term (annual) concentrations of nitrogen dioxide, PM10, and PM2.5 have been determined with and without the scheme, and the effect of the proposed development is determined to be 'negligible' as described in EPUK and IAQM guidance at all identified existing sensitive receptor locations.

Environmental Protection has no adverse comments regarding the assessment but requested for completeness, no. 158 Walsall Road (Highfield Farm), Walsall Wood was also included as a relevant receptor as this is a residential property directly adjacent to the development site. The Air Quality Assessment was updated to include no. 158 Walsall Road as a receptor. The inclusion of this additional receptor has not changed the conclusion of the assessment, and therefore Environmental Protection has no adverse comments to make regarding the report.



A roof plan shows solar panels proposed to be fitted along the roof. This alongside other in-store methods accord with the requirements to incorporate renewable energy under BCC Policy ENV7.

The adjacent land is identified as a dormant mineral site under MP9 Highfields North within SAD Policy M8 with the potential to be used for brick clay extraction, the development on this site does not appear to surpass the site boundary, which forms the edge of this identified land, and much of the north west portion of the site is otherwise proposed to be left to 1.22 hectares of biodiversity improvement area'. While this surrounding area is safeguarded for the potential of future extraction the risk of mineral sterilisation from this adjacent proposal appears to be low

## **Conclusions and Reasons for Decision**

On balance weighing up the merits of the scheme the proposal cannot be supported in relation to the development being inappropriate within the Green Belt in addition to the loss of a significant amount of trees which add amenity value to the locality and contribute to the character of the area. It is concluded that this application is contrary to the adopted Development Plan and NPPF.

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

## **Recommendation**

**Refuse**

## **Reasons for Refusal**

1. The proposal for the erection of a foodstore (Use Class E) with access, car parking, landscaping and other associated works and associated landscaping and parking in the Green Belt is inappropriate development for which there are no very special circumstances to outweigh Green Belt Policy. The proposal is contrary to The National Planning Policy Framework, policy ENV1 of the Black Country Core Strategy, Saved Policies 3.2 to 3.5, GP2, and ENV7 of the Walsall UDP, Policies GB1 and EN1 of the Walsall Site Allocation Document.
2. The proposal will result in the loss of a significant number of existing trees that offer a high amount of amenity value to the locality and contribute significantly to the verdant character of the area. The trees are easily seen from the main A461 Walsall Road from the properties on both the north and south sides, and from the limited users of Jockey Fields. The proposal does not accord with NPPF Chapter 12 (Achieving well designed spaces): paragraphs 130 (design), 131 (tree lined streets), and Chapter 15 (Conserving and Enhancing the Natural Environment), paragraph 174 (character of area, BNG). The proposal does not accord with Saved policy ENV18 of the Walsall UDP (Existing Trees, Woodlands and Hedgerows), and policies NE8 and NE9 of the Supplementary Planning Document, Conserving Walsall's Natural Environment.

**END OF OFFICERS REPORT**

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## Planning Committee

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

Plans List Item Number: 3

### Reason for bringing to committee

Called in by Councillor Mehmi on the grounds that re-development offers an improvement to the character/amenities of the surrounding area to outweigh any potential harm.

### Application Details

**Location:** MORRIS CAR AND COMMERCIAL VEHICLE REPAIRS, ROLLINGMILL STREET, WALSALL, WS2 9EG.

**Proposal:** OUTLINE APPLICATION ALL MATTERS RESERVED FOR THE DEMOLITION OF EXISTING CAR GARAGE AND FRONT BOUNDARY WALL AND ERECTION OF A THREE STOREY BLOCK OF 16 X 1 AND 2 BEDROOM FLATS. CAR PARKING AND ASSOCIATED WORKS. (AFFECTS PROW WAL87).

**Application Number:** 21/1686

**Case Officer:** Stephanie Hollands

**Applicant:** Mr Prem Sundaru

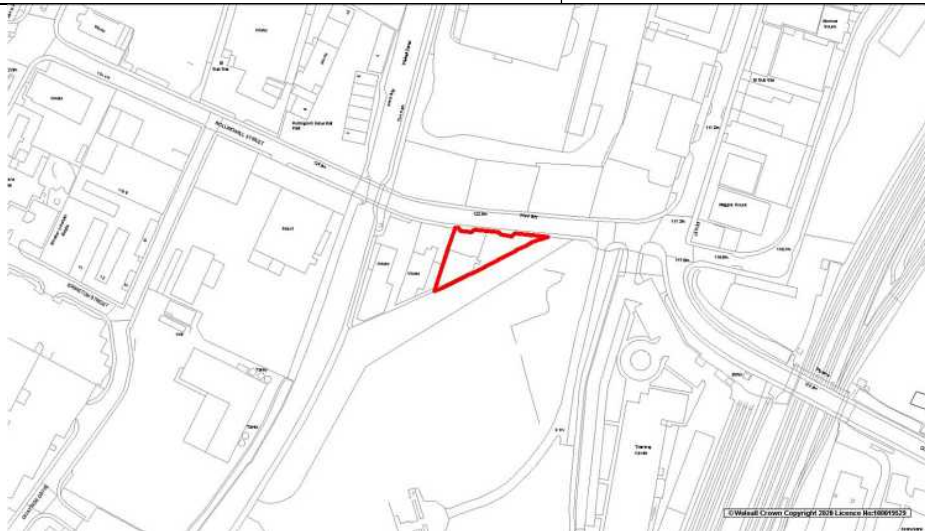
**Ward:** Pleck

**Agent:** Mr Oswell Dhilwayo

**Expired Date:** 24-Feb-2022

**Application Type:** Outline Permission: Major Application

**Time Extension Expiry:** 17-Mar-2023



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### Recommendation

Refuse

## Proposal

Outline application all matters reserved for the demolition of existing car garage and front boundary wall and erection of a three-storey block of 16 x 1 and 2 bedroom flats. Car parking and associated works. (Affects PROW Wa187).

The application forms indicate 10 x 1 bed and 6 x 2 bed flats and the indicative plans submitted indicate a two to three storey building with 4 flats on the ground floor, 8 flats on the first floor and 4 flats on the second floor. The building would be an irregular shape and would sit across the southern boundary of this triangular shaped site.

It does not appear that any private shared amenity space would be provided.

The development would utilise one of the existing vehicle access to Morris Motors off Rollingmill Street and the layout indicates 17 off street parking spaces along the western part of the site.

It is proposed that the proposal shall support the Walsall Access to Housing by allocating the development apartments into 60% ownership, 25% social renting and 15% private renting.

A Design and Access Statement has been submitted in support of this application.

## Site and Surroundings

The application site is currently occupied by Morris Car and Commercial vehicle repairs. It is occupied by a large single storey brick-built building with profiled sheeting roof and large roller shutter to the front set back from Rollingmill Street by approx. 15 mts. The forecourt area is used as customer car parking and car storage.

The frontage consists of a white painted 1.5m high brick wall with iron railings above and a wrought iron access gate from Rollingmill Street.

To the west of the application site is Queen Street Cemetery and Sister Dora Gardens.

To the east of the site there are two other similar size commercial buildings occupied by Kulaz Motors and MOT testing.

Rollingmill Street rises from east to west with the other two commercial units being on higher level to the application site.

The area is predominantly commercial in character (with the exception of the cemetery and gardens adjacent). Opposite is the Premier Business Park which is core employment land as identified by the Unitary Development Plan.

## Relevant Planning History

21/1032 - Outline application including access, appearance, landscaping, layout and scale of the demolition of existing car garage and front boundary wall and erection of a three-storey block of 17x 1- and 2-bedroom flats. Car parking and associated works. (Affects PROW Wal87) – Withdrawn – 07/10/2021.

18/1240 - Change of use from vehicle repairs workshop (B2 General Industry) to vehicle repair workshop and MOT testing station (Sui Generis Use) - Grant subject to conditions – 06/11/2018

P18157 – Erection of factory for chain making. Grant permission subject to conditions 1955

P37072 – Extension to the chain making factory. Grant subject to conditions 1965

BC6582 – Display of motor vehicles from forecourt. Grant subject to conditions 1977

## Relevant Policies

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/national-planning-policy-framework)

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

**Key provisions** of the NPPF relevant in this case:

- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 56) says:

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

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

## **National Planning Policy Guidance**

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

## **Reducing Inequalities**

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

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

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

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

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

## **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- GP3: Planning Obligations

- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV23: Nature Conservation and New Development
- ENV26: Industrial Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- JP7: Use of Land and Buildings in Other Employment Areas
- JP8: Bad Neighbour Industrial Uses
- LC1: Urban Open Spaces
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H4: Affordable Housing
- T1: Helping People to Get Around
- T8: Walking
- T9: Cycling
- T7: Car Parking
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- EMP3: Local Quality Employment Areas
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

### **Walsall Site Allocation Document 2019**

RC1: The Regeneration Corridors  
 HC2: Development of Other Land for Housing  
 IND3: Retained Local Quality Industry  
 M1: Safeguarding of Mineral Resources

## **Supplementary Planning Document**

### **Conserving Walsall's Natural Environment**

- Development with the potential to affect species, habitats or earth heritage features:
  - NE1 – Impact Assessment
  - NE2 – Protected and Important Species
  - NE3 – Long Term Management of Mitigation and Compensatory Measures
- Survey standards:
  - NE4 – Survey Standards
- The natural environment and new development:
  - NE5 – Habitat Creation and Enhancement Measures
  - NE6 – Compensatory Provision

### **Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings
- Appendix D

### **Open space, sport and recreation**

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

### **Affordable Housing**

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH3: Abnormal Development Costs
- AH4: Provision Location
- AH5: Off Site Provision



## **Air Quality SPD**

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

## **Consultation Replies**

**Canal and River Trust:** Advise that suitably worded conditions and/or a legal agreement are necessary.

**Community Safety Team:** No comments received.

**Drainage:** No comments received.

**Ecology Officer:** No comments received.

**Housing Strategy:** Policy HOU3 of the Black Country Core Strategy seeks to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable. I note that the applicant is proposing 25% of the development as social rented housing. This would be acceptable as long as secured by way of S106 agreement.

**Housing Standards:** No comments received.

**Inland Waterways Association:** No comments received.

**Local Access Forum/ Ramblers Association:** Concerns raised.

**Local Highways Authority:** Support in principle subject to revisions and conditions.

**Public Health:** Ask that a % of maisonettes are available at affordable rent or purchase. That opportunities for active travel are made so that this proposed development provides cycle parking with electric charging points is good.

**Environmental Protection:** The development is unsuitable for the location and Pollution Control do not support the application.

**Severn Trent Water:** No objections to the proposals subject to the inclusion of a condition.

**Public Rights of Way:** Objection at this time as the application proposes to build upon a PROW, the applicant will need to confirm their proposals for a stopping up.

**Strategic Planning Policy:** The application is almost identical to previous application 21/1032 and our comments remain the same. The design and access statement refers to the superseded UDP proposals map rather than the current policies map. The site is allocated for retained local quality industry under SAD policy IND3, not policy IND4. The

site is currently occupied by a functioning employment use and lies in the middle of an industrial area. The application should therefore be refused.

**Tree Preservation Officer:** No comments received.

**Waste Management (Clean and Green):** No comments received.

**West Midlands Police:** Observations and recommendations, no objection.

## Representations

The application was advertised by way of site and press notices displayed and notification letters sent to 11 surrounding properties. The public consultation time expired 27th May 2022. Two objections have been received with the following comments provided below:

- This is highly commercial area of Walsall, any residential use will have a dramatic impact on businesses in the surrounding area around operating hours, noise, and light pollution, some of these are long standing businesses and this situation is often seen where permission to build properties is given and then businesses or entertainment facilities are forced out due to noise etc. It is not practical to build this type of property in this area.
- Our position with regards the proposed planning application 21/1686 is identical to what was submitted last year for 21/1032, please refer to the comments below. Our position is unchanged which is you cannot put a residential block of flats directly in the middle of an industrial estate; we are a 24-hour police recovery contractor, and the proposed site is opposite to our main salvage yard that is in use all day and night. The proposal will harm the estate with the change of use and also our business directly.

## Determining Issues

- Principle of development
- Design, layout and character
- Amenity of neighbours and amenity of future occupiers
- Highways
- Public right of way
- Ground conditions and environment
- Nature conservation
- Planning Obligations
- Urban Open Space Contribution
- Local Finance Considerations

## Assessment of the Proposal

### Principle of development

The site is allocated in the Walsall Site Allocation Document for retained local quality industry, site reference IN49.4 under policy IND3. Residential development is therefore contrary to this policy and to Black Country Core Strategy (BCCS) Policy EMP3. Evidence published for the Black Country Plan shows that we need a significant

increase in employment land and the retention of most existing employment land to support housing growth. This proposal would be contrary to that need and would cause a loss of employment land. In addition, whilst any new use of the site would be required to provide suitable mitigation against possible adverse effects from existing nearby uses under the 'agent of change' principle in NPPF paragraph 187, residential development is likely to constrain the remaining nearby industrial uses.

The Design and Access Statement has misinterpreted the development plan and the SHLAA. The statement includes an extract of the UDP proposals map (which showed no specific allocation for this site) but this has been superseded by the policies map that supports the SAD. It also refers to policy IND4 (which is in the SAD), however this policy relates to specific sites that are identified on the policies map and does not include the current site.

The SHLAA does not form part of the development plan, but in any case, the 'broad locations' it refers to do not include sites that are allocated for another use in the plan.

The Statement also refers to the previous planning permission for the change of use of the site from B2 to motor repairs. The motor trade is listed under BCCS policy EMP3 as an appropriate use for local quality industry areas.

Even if residential development was acceptable on the site, the type of development proposed would be inappropriate. The proposed density would equate to 112 dwellings per hectare. BCCS policy states that developments of 15 dwellings or more should provide a range of house types with reference to the standards in table 8. Table 8 indicates that densities in excess of 60 dwellings per hectare are only appropriate within a strategic centre or town centre.

Residential development would also be required to contribute to affordable housing and off-site open space.

The Applicant has not confirmed whether they would be willing to enter into a S106 agreement to provide these contributions.

Based on the above Strategic Planning Policy recommend that the application should therefore be refused.

### **Design, layout and character**

The character of the area is industrial/commercial. The indicative proposal seeks to erect a two and three storey residential development with a stepped and varied ridgeline due to the land levels within the existing site. The proposed two and three storey development will be out of character with the existing industrial/commercial uses in the area.

The proposed two and three storey development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area. The indicative plans show the proposed development would sit at the east of the site fronting Rollingmill Street, the proposed two and three storey development would be visually prominent and visually

obtrusive in the street scene, and especially given the gradient of the site and that the site slopes downwards towards the junction with Corporation Street West, Queen Street and Long Street. Furthermore, the elevations are of a poor design.

The proposed layout consists of built development with very little space for amenity and planting within the site. This is uncharacteristic of the surrounding pattern of development as such represents over development of the site.

The indicative plans do not appear to provide any private shared amenity space and limited space on site for this provision.

One of the bin stores and the cycle store have been located abutting the northern boundary of number within the car parking area. Whilst there are no elevation details of these structures, the cycle parking structures is isolated and set away from the proposed flats and the bin locations are on the site frontage to Rollingmill Street. These should be integral features or positioned closer to the flats.

The ground floor habitable room windows of flats 1-4 would be in very close proximity to the boundary treatment required to secure the site adjacent to the Queen Street Cemetery and Sister Dora Gardens. It is considered that these windows would have very limited light and outlook.

The West Midlands Police have no objections to the proposal subject to secure by design. If planning permission was to be granted then the recommendations regarding windows, doors etc would be attached as a note for applicant. The Design and Access Statement refers to community safety designing out crime. The undercroft hidden areas can create vulnerability. Security such as alarms and CCTV are sometimes forgotten and are more easily included during construction. These could be secured by way of conditions if the planning permission was to be granted.

### **Amenity of neighbours and amenity of future occupiers**

Environmental Protection previously submitted comments on planning application 21/1032 for a similar development on the same land. These comments remain relevant and have been copied below but would add that the Applicant will need to supply an Air Quality assessment prior to the application being considered.

Pollution Control has concerns about introducing a permanent sensitive receptor in the middle of what is effectively an industrial/commercial estate location, with the attendant consequences of potentially significant negative impacts both on the development itself and the extant industrial activities and businesses in the area. This amounts to consideration of the '*Agent of Change*' Principle, as the extant industry etc. could be subject to future constraints in the event that owners/occupiers of the residential premises have legitimate claims in respect of nuisance.

The application site is located in an industrial location at a point where there are notable vehicle movements passing the site, including Heavy Goods Vehicles which access the area. No noise impact assessment has been carried out and it is not known whether sufficient mitigation can be engineered into the design to off-set the impacts of traffic/vehciles movements and neighbouring industries. It stands to reason that this can

constraining and/or inhibit future expansion from existing industry, as well as deterring other businesses coming to the locality.

Approximately 100 meters from this site is a business, which due to their emissions to air, land and water (including noise) holds a Part A2 Environmental Permit. While the emissions are controlled by limits within the permit, any residential premise in such proximity may require them to re-evaluate said emissions and the regulator will be required to introduce tighter emission limits.

On balance, it is considered that the general amenity of residents would be poor at best, and if an acceptable internal amenity could be delivered it would necessitate sealed windows and other elements to reduce noise, poor air quality and potential odour impacts.

In conclusion, the development is unsuitable for the location and Environmental Protection do not support the application.

This application fails to demonstrate how the proposed development would mitigate against noise arising from nearby industrial uses in order to provide an acceptable level of amenity to intended occupiers. This application also fails to provide an assessment, along with any necessary mitigation, of potential ground contamination, hazardous materials and air quality to ensure the safety of occupiers.

Neighbouring occupiers have also raised concerns with regards to the impact on the operation of existing businesses introducing residential into an established industrial/commercial area.

### **Ground conditions and environment**

The application site lies within a Coal Development Low Risk Area.

No information regarding ground contamination on the site was supplied in support of the application and Environmental Protection holds no information on ground conditions at this site address other than that obtainable from previous land use data and historic mapping. This shows that the site has historically been occupied by an industrial/commercial use. On this basis it would be necessary for a ground condition survey to be submitted in order to identify any potential ground contamination and mitigation requirements.

### **Highways**

Rollingmill Street is an unclassified road on the periphery of the town centre in a predominantly commercial area. There is an existing uncontrolled pedestrian crossing point on Rollingmill Street approximately 30m to the south of the site. It is believed a Definitive public right way crosses the site. The site is well connected to the footway and canal towpath network and is approximately 1000m from the town centre. It is therefore considered a reasonably sustainable location.

The site is currently served by two commercial vehicle accesses. The proposal looks to utilise the western-most access with modification. The redundant access shall be permanently removed and reinstated back to full kerb height.

17 parking spaces for the 16 flats is provided. Notwithstanding the site is reasonably sustainable, being approximately 1000m from the town centre, there are parking restrictions on both sides of Rollingmill Mill Street so cannot accommodate any over-spill parking, say for visitors of residents with more than one car. Adequate reversing aisle widths are provided on the indicative layout.

The level of on-site parking should therefore be increased to 150%.

The Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2021 paragraph 111.

Therefore, in light of the comments above, the Highway Authority supports, in principle, the residential redevelopment of the site subject to the following:

- The level of parking provision shall increased in line with T13 parking policy in order to minimise potential over-spill parking onto Rollingmill Street which carries a high percentage of commercial traffic.
- There appears to be level difference between the car park and the building entrance required flights of steps. A ramped access will be required also to ensure the car park is fully accessible.
- Covered, secure cycle shelter provision will be required.
- A suitably sized and accessible Refuse Bin Storage facility will be required.
- A construction traffic management plan (CEMP) will be required.

### **Public right of way**

A definitive public right of way, known as footpath 87 Walsall falls within the red planning boundary outline, within the sites southern boundary. This footpath is obstructed and has not been open to public use for some years but remains present as no stopping up or diversion order has ever been completed despite the path being closed off within the former Morris Cars site.

Public rights of way object to the application on the grounds of insufficient information. At present, the application fails to acknowledge the presence of public footpath 87 Walsall and does not set out details for a stopping up order, or alternative proposals for this footpath.

The indicative proposed planning layout shows that new dwellings, parking areas and amenity space would be built on the line of Public Footpath 87 Walsall. The public rights of way team would support an order to stop up Footpath 87 between Rolling Mill Street and Footpath. Based upon the current proposed layout, the footpath would be built upon and the statutory requirements for an order would therefore be met.

Stopping up of the footpath is the preferred approach, as should the path be re-opened across the site it would remain obstructed elsewhere. Creating a cul-de-sac

would allow opportunities for crime and ASB and would compromise safety and security of the proposed development.

A stopping up order must be made under either:

- Section 257 of the Town and Country Planning Act 1980, upon application to the Public Rights of Way Team at Walsall Council. I enclose a copy of our application form for background information;
- Or Section 247 of the Town and Country Planning Act 1990, upon application to the Department for Transport. For further information see <https://www.gov.uk/government/publications/stopping-up-and-diversion-of-highways>

It will however be necessary for the stopping up to be completed prior to commencement of the proposed development and pre-commencement planning conditions are required in respect of this.

### **Nature Conservation**

The application site is in close proximity to Queen Street Cemetery and Sister Dora Gardens which provides an opportunity for bats to be present within the application building. This application has not been supported by a bat survey and has failed to assess, or provide any necessary mitigation for, the potential for bat presence and is contrary to the NPPF, BCCS Policy ENV1, UDP Policy ENV23 and NE1-NE6 of the Natural Environment SPD.

### **Planning Obligations**

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the 3 following statutory tests to make the development acceptable in planning terms:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

These tests are set out in The Community Infrastructure Levy Regulations 2010 (as amended) Regulation 122 and National Planning Policy Framework.

The development triggers the Council's policies regarding contributions towards 25% Affordable Housing. Saved Policy H4 (Affordable Housing) of the Walsall Unitary Development Plan sets out that developers must ensure that affordable housing will be reserved for those that need it and will remain available at low costs of initial and successive tenants.

Policy HOU3 (Delivering Affordable Housing) of the Black Country Core Strategy sets out that local planning authorities will seek to secure 25% of affordable housing on all sites of 15 or more dwellings where it is financially viable. The tenure and type of affordable housing will be determined on a site by site basis based on the best available information regarding housing need. On sites where 25% affordable housing is proven not to be viable, the maximum provision will be sought that will not undermine the

viability of the scheme, subject to achieving optimum tenure mix and securing other planning obligations as necessary. Claw back and other flexible arrangements will be sought through planning agreements, wherever possible, to allow for changing market conditions.

The Council's Affordable Housing SPD (April 2008) sets out guidance affordable housing. This includes guidance on the mix of sizes and spatial location within the site.

It is proposed that the proposal shall support the Walsall Access to Housing by allocating the development apartments into 60% ownership, 25% social renting and 15% private renting.

The applicant would be required to enter into a S106 to secure 25% policy compliant affordable homes with affordable rent tenure.

No agreement has been provided by the applicant to the necessary S106 to secure the affordable housing provision, and this will form a refusal reason.

### **Urban Open Space Contribution**

Policy OS1 of the urban open space SPD and policies GP3 and LC1 of the UDP requires all types of residential development to provide a contribution towards public open space for all development with 10 or more units being proposed. In this case, the proposal for 16 flats would require a commuted sum of £ 14,366.00 to be made. The audit of green spaces around the Borough has identified a shortfall in provision for children and young people and the quality of some parks and other spaces. The aim of the contributions is to maintain and improve all parks and gardens and coping with increased pressure on existing provision and creating new open spaces to cope with additional pressure. The proposed development would result in an unacceptable demand on open space provision in the locality in the absence of alternative provision to be secured by a S106 Agreement.

No agreement has been provided by the applicant to the necessary S106 to secure the open space contribution, and this will form a refusal reason.

The proposed development would result in unacceptable demand on limited public open space provision in the locality in the absence of any provision to address these shortfalls. As such the proposal is contrary to policies HOU2 and HOU3 of the Black Country Core Strategy and saved policies GP3 and LC1 of the Walsall Unitary Development Plan, Policies OS1, OS2, OS3, OS4, OS5, OS6, OS7 and OS8 of the Urban Open Space Supplementary Planning Guidance.

### **Local Finance Considerations**

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes 16 new homes.



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

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

## **Conclusions and Reasons for Decision**

In weighing the key material considerations and consultee responses against the national and local planning policies and guidance, it is considered the proposal cannot be supported in its current form due to the loss of an existing employment site allocated for retained local quality industry and there are no benefits of the proposal that would outweigh the harm arising from this loss. The loss of this employment land would result in additional adverse impacts to the Council's existing shortage of employment land supply. In addition, the proposal fails to evidence how the development would mitigate against noise arising from nearby industrial uses to ensure their continued unhindered operation.

The proposed two and three storey development will be out of character with the existing developments in the area along Rollingmill Street.

The proposed two and three storey development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area. The indicative plans show the proposed development would sit at the east of the site fronting Rollingmill Street, the proposed two and three storey development would be visually prominent and visually obtrusive in the street scene, and especially given the gradient of the site and that the site slopes downwards towards the junction with Corporation Street West, Queen Street and Long Street.

The proposal fails to demonstrate how the proposed development would provide a satisfactory level of amenity for intended occupiers in terms of noise and disturbance, light, outlook and lack of private amenity space.

The proposed development would result in unacceptable demand on limited public open space provision in the locality in the absence of any alternative provision to address these shortfalls. As such the proposal is contrary to policies HOU2 and HOU3 of the Black Country Core Strategy and saved policies GP3 and LC1 of the Walsall Unitary Development Plan, Policies OS1, OS2, OS3, OS4, OS5, OS6, OS7 and OS8 of the Urban Open Space Supplementary Planning Guidance.

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

## Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal.

## Recommendation

Refuse

### Reasons for Refusal

1. This application would result in the loss of an existing employment site allocated for retained local quality industry and there are no benefits of the proposal that would outweigh the harm arising from this loss. The loss of this employment land would result in additional adverse impacts to the Council's existing shortage of employment land supply. This application is therefore contrary to Policy IND3 (Retained Local Quality Industry) of the Site Allocation Document, Black Country Core Strategy (BCCS) Policy EMP3 (Local Quality Employment Areas) and the NPPF paragraph 20.
2. This application fails to evidence how the development would mitigate against noise arising from nearby industrial uses to ensure their continued unhindered operation contrary to Saved UDP Policies GP2 (Environmental Protection), ENV10 (Pollution) and JP7 (Use of Land and Buildings in Other Employment Areas ) and has the potential to constrain adjoining and nearby employment uses to the detriment of the aims of IND3 (Retained Local Quality Industry) of the Site Allocation Document, and the NPPF paragraphs 174 and 185.
3. This application fails to demonstrate how the proposed development would provide a satisfactory level of amenity for intended occupiers for the following reasons:
  - i. Proposal fails to assess, and demonstrate, how the development would mitigate against noise arising from nearby industrial uses;
  - ii. Proposal fails to provide an assessment, along with any necessary mitigation, of potential ground contamination, hazardous materials and air quality to ensure the safety of occupiers; and
  - iii. Proposal fails to demonstrate provision of any usable private outdoor amenity space.
  - iv. Proposal fails to demonstrate that an acceptable level of light and outlook could be achieved to ground floor habitable room windows.

The proposal is contrary to NPPF paragraphs 130, 136, 174, 183 to 185, Saved UDP Policy GP2 (Environmental Protection) and Air Quality SPD.

4. The application fails to provide accurate up to date evidence about the possible presence of bats, or the impact on their roosts or habitats within the existing building or around the site. The submission is therefore contrary to saved Policy ENV23 (Nature Conservation and New Development) of Walsall's Unitary Development Plan and Conserving Walsall's Natural Environment SPD.

5. The proposed scale and indicative design of the proposed development would not integrate with the existing built development due to the high density which would be at odds with the surrounding built development along Rollingmill Street. For these reasons the proposal would be contrary to the aims and objectives of the National Planning Framework paragraph 125, The Black Country Core Strategy, policies CSP4 (Place Making), HOU2 (Housing Density, Type and Accessibility) and ENV3 (Design Quality), and Walsall's Saved Unitary Development Plan policies, in particular GP2 (Environmental Protection), and ENV32 (Design and Development Proposals).
6. The proposed development fails to provide the necessary supporting infrastructure for public open space provision. As such the proposal is contrary to policies HOU2 (Housing Density, Type and Accessibility) and HOU3 (Delivering Affordable Housing) of the Black Country Core Strategy and saved policies GP3 (Planning Obligations) and LC1 (Urban Open Spaces) of the Walsall Unitary Development Plan, Policies OS1 (Qualifying Development), OS2 (Planning Obligations), OS3 (Scale of Contribution), OS4 (Local Standards for New Homes), OS5 (Use of Contributions), OS6 (Quality and Value), OS7 (Minimum Specifications) and OS8 (Phasing of On-site Provision for Children and Young People) of the Urban Open Space Supplementary Planning Guidance.
7. The proposed development fails to secure the affordable housing provision and is contrary to Saved Policies GP3 (Planning Obligations) and H4 (Affordable Housing) of the Unitary Development Plan, Black Country Core Strategy Policy HOU3 (Delivering Affordable Housing), AH1 (Quality of Affordable Housing), AH2 (Tenure Type and Size), AH3 (Abnormal Development Costs), AH4 (Provision Location) and AH5 of the Affordable Housing Supplementary Planning Document and Paragraph 65 (Delivering a sufficient supply of homes) of the National Planning Policy Framework.
8. The application fails to acknowledge the presence of public footpath 87 Walsall and fails to demonstrate how the development would accommodate this footpath and fails to demonstrate any alternative proposals for this footpath. This proposal is therefore contrary to Saved Policies GP2 (Environmental Protection), T1 (Helping People to Get Around), T8 (Walking) and T9 (Cycling) of the Unitary Development Plan, TRAN4 (Creating Coherent Networks for Cycling and for Walking) of the Black Country Core Strategy and Paragraph 100 of the National Planning Policy Framework (Open space and recreation).

### **Notes for Applicant**

#### **West Midlands Police**

The applicant may consider the following:

Construction security.

[https://www.securedbydesign.com/images/CONSTRUCTION\\_SITE\\_SECURITY\\_GUIDE\\_A4\\_8pp.pdf](https://www.securedbydesign.com/images/CONSTRUCTION_SITE_SECURITY_GUIDE_A4_8pp.pdf)

Suitable lighting will provide some security.

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

Access control is important.

Restricted to residents and their permitted visitors.

For apartments consider card entry system or similar. With correct management and maintenance this should provide security.

Access control to the building see Secured By Design Homes 2019 page 41, 27.

To allow residents entry, to their floor area and apartment.

Alarm and cctv installers should be approved by NSI, SSAIB or both please see <https://www.nsi.org.uk/> and <https://ssaib.org/>

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

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

Please see :

[https://www.securedbydesign.com/images/downloads/HOMES\\_BROCHURE\\_2019\\_NE\\_W\\_version\\_2.pdf](https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NE_W_version_2.pdf)

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

PAS 24: 2016 standard doors for houses and apartments.

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

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

[https://www.securedbydesign.com/images/downloads/DOORSET\\_BROCHURE\\_200319.pdf](https://www.securedbydesign.com/images/downloads/DOORSET_BROCHURE_200319.pdf)

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

**END OF OFFICERS REPORT**



# Planning Committee

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

Plans List Item Number: 4

### Reason for bringing to committee

Petition received in support of the application.

### Application Details

**Location:** 32, HART STREET, WALSALL, WS1 3PE.

**Proposal:** TEMPORARY CHANGE OF USE OF RESIDENTIAL (C3) PROPERTY TO PLACE OF WORSHIP (F1) MOSQUE.

**Application Number:** 22/0729

**Case Officer:** Stephanie Hollands

**Applicant:** Shah Jalal Mosque

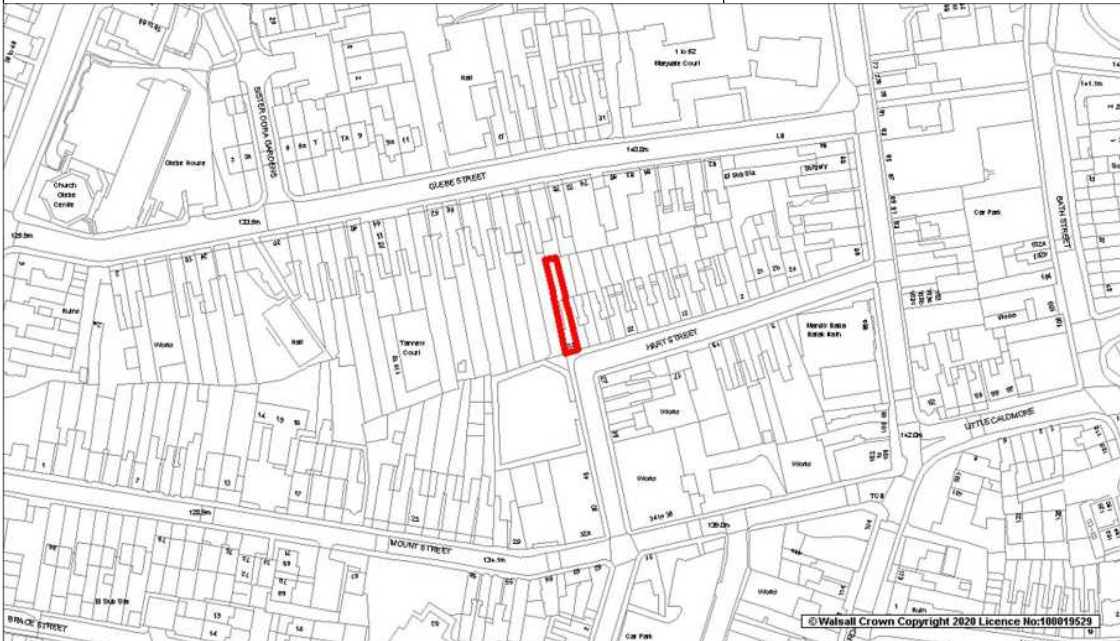
**Ward:** St Matthews

**Agent:**

**Expired Date:** 02-Sep-2022

**Application Type:** Full Application: Change of Use

**Time Extension Expiry:** 17-Mar-2023



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### Recommendation

Refuse

## Proposal

Temporary change of use of residential (C3) property to place of worship (F1) Mosque.

The proposed floor plans show there will be two prayer rooms, a kitchen and toilet on the ground floor with 3 overflow prayer rooms, wc and store on the first floor.

No external alterations or extensions are proposed.

No on-site parking provision is proposed.

The temporary length of time required has also not been specified.

A Planning Statement has been submitted in support of this application which states the following:

- The application site is to be used by the Shah Jalal Mosque as temporary accommodation whilst the current Mosque at 32-33 Mounts and 48 Hart St Walsall WS1 13PJ is being demolished and re-built. The site has been specifically chosen due to its close proximity to the old site which is approximately 30 metres distance.
- The site will be used to hold 5 times daily congregation prayers. Morning 6.00am, afternoon 1.30pm, late afternoon 6.30pm, dusk 7.45pm, evening 9.00pm. The times will change around the year as the daylight hours fluctuate. The congregational prayer durations are around 20 mins on average. The site will be managed by caretakers and the Priests who will open the site 15/20 mins before congregation prayer times and close shortly afterwards. It is estimated that 10-15 people will attend regular weekly prayers and 20/30 at the afternoon prayers on Friday.
- There will be no demand for additional parking as the old site users will use the temporary application site. As the old site is being demolished, therefore there will be no additional users. The numbers are expected to reduce during the rebuild process. Whilst most users are local and will walk to the site however some worshipers will use the public car parks on Mount Street and Hart Street as they are doing currently.

## Site and Surroundings

The application site is a three bedroom two-storey brick gable roof end terrace residential dwelling. There appears to be off street parking available for two cars to the side of the property, however this is not included in the application site boundary or detailed on the application form. Private amenity space is located to the rear of the property.

The surrounding area is primarily residential in nature consisting of terrace properties fronting directly on to the public footpaths with no onsite parking provision. On street parking is a common feature and in high demand within the street.

Residential dwellings adjoin the application site on all sides and opposite the application site is a public car park.

## Relevant Planning History

Land adjacent 32 Hart Street, Walsall, West Midlands:

APPLICATION No.	PROPOSAL	DECISION	DATE
05/1873/OL/W2	OUTLINE erection of one dwelling	Withdrawn	24/11/2005
06/1461/OL/W2	Erection of One New Dwelling	Refused	13/10/2006

## Relevant Policies

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/national-planning-policy-framework)

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

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions**, the NPPF (para 56) says:

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

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

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

### **National Planning Policy Guidance**

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

### **Reducing Inequalities**

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

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

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

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

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

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)



## **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously Developed Sites
- ENV32: Design and Development Proposals
- ENV40: Conservation, Protection and Use of Water Resources
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- S5: The Local Centres
- S6: Meeting Local Needs
- S7: Out-of-Centre and Edge-of-Centre Developments
- T7: Car Parking
- T8: Walking
- T9: Cycling
- T10: Accessibility Standards – General
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC8: Local Community Facilities
- 8.7: Education, Health and Community Facilities

## **Black Country Core Strategy**

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- CSP5: Transport Strategy
- EMP1: Providing for Economic Growth
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres
- CEN3: Growth in the Strategic Centres
- CEN4: Regeneration of Town Centres
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services
- CEN7: Controlling Out-of-Centre Development
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- ENV3: Design Quality
- ENV8: Air Quality

## **Walsall Site Allocation Document 2019**

RC1: The Regeneration Corridors

## M1: Safeguarding of Mineral Resources

### Supplementary Planning Document

#### Designing Walsall

- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW7 Diversity
- DW8 Adaptability

#### Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

### Consultation Replies

**Environmental Health:** No comments received.

**Environmental Protection:** Concerns raised.

**Local Highways Authority:** Concerns raised.

**Strategic Planning Policy:** Concerns raised.

**West Midlands Fire Service:** This proposal does not appear to have any detrimental impact on B5 Access & Facilities. No adverse comments. Comments on the internal layout will be made at the Building Regulation application stage.

**West Midlands Police:** No objection.

- Security and secured by design principles should be applied for both sites.
- A change of environment requires review of security and an opportunity for improvement.
- Any measures are more easily included during construction or alterations.

### Representations

The application was advertised by way of notification letters sent to 10 surrounding properties. The public consultation expired 27th September 2022. A petition received in support of the application with 30 signatures from residents in the Caldmore area, stating the use of this building is essential to the community.

## Determining Issues

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

## Assessment of the Proposal

### Principle of use

A place of worship is a main town centre use so should be directed to a centre in accordance with the NPPF. Provided the proposed use related to an existing place of worship nearby that is not in a centre, as in this case, the proposal could be justified. However, the use of a terraced house, even on a temporary basis, would give rise to disturbance to adjacent occupiers and cannot be supported.

The application site is located in an out of centre location. Policy CEN6 of the BCCS supports small scale local facilities up to 200 sqm provided they meet a specific day to day need, local investment could not be met by investment in a local centre, existing facilities that meet day to day needs are not undermined and access to facilities by means other than by car would be improved. CEN7 of the BCCS refers to out of centre development. If the principles of CEN6 cannot be met, then policy CEN7 would apply.

Policy S6 of the UDP refers to local facilities and states proposals that are for a local need where the need cannot be better met by investment in a nearby centre could be supported provided, they would have no adverse impact on the vitality and viability of any established centre, improve accessibility by means other than a car, reduce the need to travel and result in no significant loss of amenity for neighbouring homes. If the proposal cannot meet these requirements, then the tests of policy S7 would have to be addressed.

The applicant has submitted a planning statement that comments 'The application site is to be used by the Shah Jalal Mosque as temporary accommodation whilst the current Mosque at 32-33 Mounts and 48 Hart St Walsall WS1 13PJ is being demolished and re-built. The site has been specifically chosen due to its close proximity to the old site which is approximately 30 metres distance'. Despite these comments the applicant has failed to demonstrate where the demand has come from. Furthermore, there is no supporting evidence that there are no suitable alternative premises available within the nearest centre. The applicant has not provided any survey data from local residents who would utilise the place of worship.

The applicant has only provided a written statement choosing this property due to its close proximity to the current place of worship rather than demonstrated that there is a local need for the proposal under policy S6 of the UDP and CEN6 of the BCCS.

It is considered there is insufficient evidence to suggest this proposal is justified by a local need in an out of centre location that cannot be better met in an established centre location. It is considered that the proposed place of worship would have an adverse effect upon the vitality and viability of the nearest district and local centres.

Finally, the application for rebuilding the mosque (22/0519) has not yet been determined.

### **Impact upon visual amenity**

No external changes are proposed, therefore there would be no impact.

### **Impact upon residential amenity**

Environmental Protection raise concerns to the proposed development. The adjoining property is a residential premise. The proposal is likely to result in significant noise and disturbance to the premise next door and slightly less to other neighbouring residential premises from the use of the building, from persons socialising outside, and the general comings and goings of users.

Furthermore, is that it is unlikely that any noise generated will lead to it being considered a statutory nuisance/material planning consideration and therefore could be actionable under separate environmental legislation. While such noise may be considered an annoyance, it will only be actionable via communication with all parties involved and coming to a compromise i.e., it may not be legally enforceable under other legislation and hence unlikely to be able to control this type of noise issue.

### **Impact upon highway safety**

Due to a lack of information provided on the application the Local Highway Authority were unable to fully access the application. A better understanding of the proposed use is required to assess the potential impact in parking terms.

## **Conclusions and Reasons for Decision**

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, it is considered that the proposed used would be contrary to the policies of the development plan in that the proposed use would unduly harm the amenities of neighbouring occupiers from persons socialising outside, and the general comings and goings of users.

There is insufficient provided on the application for the Local Highway Authority to fully access the potential impact in parking terms.

There is insufficient evidence to suggest this proposal is justified by a local need in an out of centre location that cannot be better met in an established centre location. It is considered that the proposed place of worship would affect upon the vitality and viability of the nearest district and local centres.

Taking into account the above factors it is considered that the application should be recommended for refusal. The development is considered to be contrary to the aims and objectives of the National Planning Policy Framework, policies CEN6, CEN7, ENV3, CEN7, TRAN1 and TRAN2 of the Black Country Core Strategy and saved policies GP2, ENV32, S6, S7, T7, T10 and T13 of the Walsall Unitary Development Plan.

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

## Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal.

## Recommendation

Refuse

### Reasons for Refusal

1. The proposed place of worship would unduly harm the amenities of neighbouring occupiers from persons socialising outside, and the general comings and goings of users. Overall, the proposal would result in increased noise levels from the property over and above what would normally be expected of a residential dwelling. As such, the proposal would be contrary to the National Planning Policy Framework paragraphs 174 and 185, Policy ENV3 (Design Quality) of the Black Country Core Strategy and saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan.
2. The applicant has failed to provide sufficient information to demonstrate that the proposed place of worship would have no detrimental impact in parking terms. As such, the proposal would be contrary to the National Planning Policy Framework paragraphs 104, 107 and 108, policies CEN7 (Controlling Out-of-Centre Development), TRAN1 (Priorities for the Development of the Transport Network) and TRAN2 (Managing Transport Impacts of New Development ) of the Black Country Core Strategy and saved policies GP2 (Environmental Protection), S7 (Out-of-Centre and Edge-of-Centre Developments), T7 (Car Parking), T10 (Accessibility Standards – General) and T13 (Parking Provision for Cars, Cycles and Taxis) of the Walsall Unitary Development Plan.
3. The applicant has failed to provide sufficient evidence to demonstrate that the proposed place of worship serves a local need that could not be met within the nearest District or Local Centre. The proposed use as a result would impact upon the vitality and viability of the nearest District or Local Centre. As such, the proposal would be contrary to the National Planning Policy Framework paragraphs 86, 87, 90 and 91, Policies CEN6 (Meeting Local Needs for Shopping and Services) and CEN7 (Controlling Out-of-Centre Development) of the Black Country Core Strategy and saved policies S6 (Meeting Local Needs) and S7 (Out-of-Centre and Edge-of-Centre Developments) of the Walsall Unitary Development Plan.

## **Notes for Applicant**

### **West Midlands Police**

The applicant may consider the following:

Construction security.

[https://www.securedbydesign.com/images/CONSTRUCTION\\_SITE\\_SECURITY\\_GUIDE\\_A4\\_8pp.pdf](https://www.securedbydesign.com/images/CONSTRUCTION_SITE_SECURITY_GUIDE_A4_8pp.pdf)

Alarm and cctv installers should be approved by NSI, SSAIB or both please see <https://www.nsi.org.uk/> and <https://ssaib.org/>

A capture of all persons particularly entering and leaving.

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

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

[https://www.securedbydesign.com/images/downloads/SBD\\_Commercial\\_2015\\_V2.pdf](https://www.securedbydesign.com/images/downloads/SBD_Commercial_2015_V2.pdf)

Secured By Design security standards are explained.

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

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

To provide security for staff and customers.

**END OF OFFICERS REPORT**



## Economy, Environment and Communities, Development Management

### Planning Committee

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

Plans List Item Number: 5

#### Reason for bringing to committee

The applicant is related to Councillor Nick Gandham.

#### Application Details

**Location:** THE CROWN, 6, LEAMORE LANE, WALSALL, WS3 2BH

**Proposal:** CHANGE OF USE OF GROUND FLOOR PUBLIC HOUSE TO FOUR FLATS.

**Application Number:** 21/0278

**Case Officer:** Thomas Morris

**Applicant:** LITE-MART LIMITED

**Ward:** Birchills Leamore

**Agent:** Anthony Hope MCIAT

**Expired Date:** 18-Aug-2021

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

**Time Extension Expiry:**



#### Recommendation

Refuse Permission.

## Proposal

This application seeks full planning permission for the change of use of the ground floor of The Crown Public House (Sui Generis) on Leamore Lane, to four one-bedroom self-contained flats (Use Class C3).

The internal layout of the proposed development will comprise:

- **Flat 1** – Gross Internal Floor Area of approximately 50sqm, one double bedroom (14.8sqm), open plan lounge/kitchen/dining area and a bathroom.
- **Flat 2** – Gross Internal Floor Area of approximately 69sqm, one double bedroom (14.8sqm), open plan lounge/kitchen/dining area and a bathroom.
- **Flat 3** – Gross Internal Floor Area of approximately 59sqm, one double bedroom (11.1sqm), open plan lounge/kitchen/dining area and a bathroom.
- **Flat 4** – Gross Internal Floor Area of approximately 40sqm, one double bedroom (10.9sqm), open plan lounge/kitchen/dining area and a bathroom.

The application site will provide an external amenity space to the rear of the building measuring approximately 550sqm (highlighted in green on Drawing Title: Scheme C, Drawing No. 56.20.103). 18 car parking spaces will be provided, and a bin storage area will also be provided to the rear of the site. A resident bike store is proposed internally within the building. The site plan also shows another area included within the site's red line boundary, not marked as amenity space on the plan, which comprises approximately 330sqm. This section of the application site appears to be fenced off from the amenity space and car parking area.

## Site and Surroundings

The application site comprises The Crown Public House, located on Leamore Lane close to the junction with Bloxwich Road and Harden Road, in the Birchills Leamore Ward. The existing building is two-storey and is designed with a gable roof, with a two-storey rear wing and single storey side section with a flat roof. The building features facing brickwork at the ground floor level and grey render with timber struts at first floor level. The building features public house related signage and roller shutters at the ground floor which will be removed as part of the conversion. The site comprises a parking area and external amenity space to the rear, accessible from the existing gated access in between the public house and the neighbouring property at 8 Leamore Lane to the west.

The site is located within the Leamore Local Centre and the surrounding area is of a mixed-use character. The site is opposite a main group of shops within the local centre to the south. There are further commercial uses in the area included a Farmfoods store and parking area to the north-east, convenience store with parking area to the east, takeaways opposite to the south and residential uses to the west. To the immediate east of the site/adjoining the public house there is a two-storey building which includes a loading bay and service yard area accessed from an existing footway crossing off Leamore Lane. The site is located within 15km of the Cannock Chase Special Area of Conservation (SAC).



## Relevant Planning History

12/0593/FL - Prior Notification: Demolition of Former Public House - Demolition Approved – 15/06/2012.

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/national-planning-policy-framework)

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

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

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

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

### Reducing Inequalities

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

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

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

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

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

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV40: Conservation, Protection and Use of Water Resources
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- S6: Meeting Local Needs
- S8: Housing in Town Centres
- T1: Helping People to Get Around
- T6: Traffic Calming

- T7: Car Parking
- T8: Walking
- T9: Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres
- CEN3: Growth in the Strategic Centres
- CEN4: Regeneration of Town Centres
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems & Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality

### **Walsall Site Allocation Document 2019**

- RC1: The Regeneration Corridors
- HC2: Development of Other Land for Housing
- SLC1: Local Centres
- SLC2: Local Centres Development Opportunities
- EN1: Natural Environment Protection, Management and Enhancement
- EN3: Flood Risk
- EN4: Canals
- T2: Bus Services
- T3: The Rail Network
- T4: The Highway Network
- T5: Highway Improvements

## Supplementary Planning Documents

### Designing Walsall

- DW1: Sustainability
- DW2: Safe and Welcoming Places
- DW3: Character
- DW4: Continuity
- DW5: Ease of Movement
- DW6: Legibility
- DW7: Diversity
- DW8: Adaptability
- DW9: High Quality Public Realm
- DW9(a): Planning Obligations and Qualifying development
- DW10: Well Designed Sustainable Buildings

### Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1: Electric Vehicle Charging Points
- Type 2: Practical Mitigation Measures
- Type 3: Additional Measures
- 5.12: Emissions from Construction Sites
- 5.13: Use of Conditions, Obligations and CIL
- 5.22: Viability

## Consultation Replies

**Ecology Officer** – Completed the Habitat Regulation Assessment (HRA) Stage 1 Screening Assessment, advising that as the site is located within 15km of the Cannock Chase SAC, the proposal will likely result in significant harm to the SAC and should proceed to the Stage 2 Appropriate Assessment.

**Environmental Protection** – Requires the applicant to undertake a noise survey to inform of any required mitigation measures in order to ensure future occupiers of the proposed development will not be subject to excessive noise. Also advises that the external land was previously used as a works and may be subject of contamination. Recommends the following conditions:

- Applicant to undertake an acoustic assessment, agree to an acoustic mitigation scheme, implement the acoustic mitigation scheme and provide validation of the implementation of the acoustic mitigation scheme.
- Agree a scheme which achieves a suitable degree of noise insulation between the proposed dwellings and the adjoining commercial / industrial building
- Agree to an Air Quality Low Emission Scheme to install electric vehicle charging points.
- To incorporate low NOx boilers into the development.

**Local Highway Authority** – Supports the proposal, subject to the following conditions:

- Prior to the first occupation of any flat on the development, the parking spaces shall be made available including the clear demarcation of the parking bays.
- Prior to the first occupation of any flat on the development, full details of the proposed cycle shelter, which shall be covered and illuminated shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented in accordance with the approved details.

**Severn Trent Water** – No objections and no drainage conditions required.

**Strategic Planning Policy** – No objections and advise that the applicant has provide sufficient justification for the loss of the public house.

**Housing Standards** – Raised concerns that the exits from bedrooms through a kitchen and lounge is acceptable from a health and safety perspective. The internal layout needs to be revised or alternatively bedroom windows should have fire escape windows.

**West Midlands Fire Service** – No objections, advising that the proposal should be implemented in accordance with Approved Document B, Volume 1, Dwellings, 2019 edition incorporating 2020 amendments – for use in England

## Representations

No representations received.

## Determining Issues

- Principle of Development
- Residential Amenity
- Impact on Neighbour Amenity
- Visual Amenity
- Ground Conditions and Environment
- Flood Risk and Drainage
- Cannock Chase SAC and HRA
- Local Finance Considerations

## Assessment of the Proposal

### Principle of Development

This application proposes the change of use of the ground floor of The Crown Public House (Sui Generis), to four self-contained flats (Use Class C3). The site is located on Leamore Lane, near to the junction with Bloxwich Road and Harden Road and falls within the Leamore Local Centre. Saved Policy S8 (Housing in Town Centres) supports housing development in local centres, including the conversion of existing buildings, where proposals are able to achieve a satisfactory residential environment.

With regards to the loss of the public house, Saved Policy LC8 (Local Community Facilities) of the Walsall Unitary Development Plan states the loss of local community facilities (including public houses) will only be acceptable where:

- There are other existing facilities in an equally or more convenient location, which could accommodate any community activities displaced by the proposed development.
- A replacement facility could be provided in an equally or more convenient location.
- There is no longer a need for the facility, or for any other community use which could be appropriately provided on the site in accordance with other policies of this Plan.
- It would not be possible to retain the facility, or provide an alternative community facility because, despite all reasonable efforts, this would not be viable.

The applicant has stated the public house has seen fluctuations in sales since February 2019 and its costs escalated to the point where it was no longer sustainable or financially viable. The public house has been closed since March 2020 (around the beginning of the Covid-19 pandemic) and if it was to reopen now, it would be operating at a significant loss due to high energy prices. The applicant has also highlighted that there are several existing public houses in the local area to serve the community, including The Railway Inn (0.2 miles away), The Lamp (0.3 miles away) and The Gunners (0.4 miles away). In this regard, the information provided by the applicant to justify the loss of the public house is therefore considered to be acceptable and satisfied the requirements of Saved Policy LC8.

In addition, please note that the site is allocated within Policy SLC2 (Local Centre Development Opportunities) within the Walsall Site Allocation Document as development opportunity LC8B (The Crown Public House Leamore Lane), with the suitable uses identified as the *'redevelopment of the public house to bring it back into use, with residential possible with commercial units on the front of the site'*. Whilst it is accepted that this proposal omits any commercial element, it is accepted that the changing market for retail, especially with this building being on the opposite side of the road to the main group of shops in the local centre, means that it is preferable to bring the site fully into use rather than being left partly vacant. The proposal to convert the building to a residential use only rather than mixed-use is therefore considered to be acceptable on planning policy grounds.

In summary, the principle of the proposed development to convert the ground floor of the vacant public house to a residential use is considered to be acceptable, subject to other material planning considerations and site specific consideration.

### **Amenity of Future Occupiers**

As is previously noted, residential uses in local centres can be supported where they provide a good standard of residential amenity for future occupiers. Considering the internal layout of the proposed development, the ground floor would be converted to four one-bedroom self-contained flats, set out as follows:

- **Flat 1** – Gross Internal Floor Area of approximately 50sqm, one double bedroom (14.8sqm), open plan lounge/kitchen/dining area and a bathroom.

- **Flat 2** – Gross Internal Floor Area of approximately 69sqm, one double bedroom (14.8sqm), open plan lounge/kitchen/dining area and a bathroom.
- **Flat 3** – Gross Internal Floor Area of approximately 59sqm, one double bedroom (11.1sqm), open plan lounge/kitchen/dining area and a bathroom.
- **Flat 4** – Gross Internal Floor Area of approximately 40sqm, one double bedroom (10.9sqm), open plan lounge/kitchen/dining area and a bathroom.

All of the proposed flats meet the relevant gross internal floor standards for one-bedroom flats (39sqm for a one-bedroom, one-person flat and 50sqm for a one-bedroom, two-person flat), as are set out within the Technical Housing Standards – Nationally Described Space Standards (whilst the standards are not adopted as formal planning policy by Walsall Council, they provide useful guidance to judge the quality of residential accommodation).

However, whilst the flats would technically meet the internal floorspace standards as described above, there are concerns regarding the standard of amenity the flats would provide for future residents. Of particular concern is the site's location adjacent to a service yard area to the front of the neighbouring building on the east side of the site, which appears to include a loading bay on the front elevation. Bedroom 1 at Flat 3 would be located immediately adjacent to this loading bay area and the windows in Flat 3 will be immediate adjacent to and will face this area. This arrangement would result in a poor quality outlook for future residents of Flat 3, given that all the windows providing outlook to this flat are contained within this side elevation. Although a roof light is proposed over the lounge area at Flat 3, which will offer some natural light, the flat will still be solely reliant on the side facing windows for any overlook, but as they all face the neighbouring service yard, will result in poor quality outlook and poor standard of amenity.

Of further concern, due to the site's location within Leamore local centre, its proximity to the adjacent service yard area, as well as proximity to the various industrial and commercial activities taking place in the wider area and proximity of the site to road traffic, collectively these nearby uses have the potential to give rise to noise emissions which may have a harmful impact on the future occupiers of the proposed flats. For this reason, the applicant was requested to provide a noise survey to determine whether the site is suitable for the proposed residential development and to then identify any noise mitigation measures which may be required. However, the applicant has been unwilling to provide a noise survey to date.

As an alternative option, the applicant has suggested a solution whereby they install sound insulation to the wall adjacent to the neighbouring building, with the intention of improving the sound environment at Flat 3, protecting the flat from the noise and disturbance impacts emitted from the neighbouring use. No plans of any such insulation have been submitted and it therefore unclear how this will work in practice. If the insulation is external (it is not clear from the information submitted), the proposal may then result in insulation hanging over third party land and may result in a visual change to the building, which would require further consideration (again no plans have been submitted). In any case, this solution is not considered to be acceptable as it doesn't take account of all the potential sources of noise in the area as outlined above, including noise from industrial and commercial activities in the area, as well as road traffic noise due to the building's siting very close to Leamore Lane. Therefore, prior to agreeing any mitigation measures proposed by the applicant, the noise environment firstly needs to be fully assessed through the submission of the noise survey, then the necessary mitigation measures can be agreed and implemented. It is therefore considered that the application cannot proceed without a noise survey and

this issue needs to be resolved prior to the planning authority recommending approval of the application.

In summary, the internal layout of the proposed development would need to be revised in order to better consider neighbouring uses and to ensure that all of the proposed flats provide a good standard of residential amenity future occupiers. In addition, a noise survey is required in order to better understand the noise environment at the site and in order to secure any mitigation measures. In the absence of amendments and further information the application is considered to be harmful to the amenities of future occupiers.

### **Amenity of Neighbours**

The lounge and kitchen windows (habitable windows) at Flat 4 on the west side of the site will face towards the rear yard area of the neighbouring property at 8 Leamore Lane, with a separation distance of 4m between the habitable windows and the boundary to the neighbouring property. However, the ground floor of 8 Leamore Lane has a shopfront, and it is not therefore anticipated that their rear yard area is used as private amenity space. The proposal is not therefore considered to result in a loss of privacy at this neighbouring property and no other concerns regarding the impact of the proposal on neighbour amenity have been raised. The application is therefore considered to be acceptable with regards to the impact on neighbour amenity.

### **Visual Amenity**

The application relates primarily to the change of use of the ground floor of the building only and does not include any extensions to the building, with the only major physical change being the installation of a roof light on the existing single storey section of the building on the east side of the site (Flat 3). The proposal also requires minor external alterations including the removal of existing signage related to the public house, the removal of the roller shutters on the front elevation and the opening of the bricked up openings on the side elevation (east side). All of these proposals are of a minor scale and will have no significant impact on the appearance of the building and will have no significance impact on the character and appearance of the street scene. The application is therefore considered to be acceptable with regards to visual amenity.

### **Ground Conditions and Contamination**

Environmental Protection have advised that the land was previously utilised as a works, which may have resulted in contaminated soil, which could present health and safety implications. No specific details of ground conditions in the area are available other than those obtained from previous land use data and historic mapping and no information regarding ground conditions and contamination has been submitted in support of the application. Due to the absence of any such details submitted, there is insufficient information to address the potential impacts of land contamination which may or may not be present on the future occupiers of the flats and the onus is on the applicant to demonstrate that the site is suitable for the proposed development. The application is therefore considered to be unacceptable with regards to matters of ground conditions and contamination.



## **Access and Parking**

The site encompasses which provide 18 car parking spaces to the rear of the site using an existing hardstanding area, well in excess of the minimum requirement of 2 spaces per unit for flats with individual parking (8 spaces) and 1.5 spaces per unit with flats for flats with communal parking (6 spaces). No alterations are proposed to the site's existing access off Leamore Lane. The proposal is not considered to result in an increase in traffic generation to the extent it would have a negative impact on highways safety. The application is therefore considered to be acceptable with regards to access and parking matters.

## **Flood-risk and Drainage**

The site is located outside of flood zones 2 and 3 and is within an existing residential area, generally at a low risk of flooding. Severn Trent Water have raised no objections to the proposal and would not require a drainage condition to be included in the event of an approval. The application is therefore considered to be acceptable with regards to flood-risk and drainage matters.

## **Cannock Chase Special Area of Conservation (SAC)**

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

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

Walsall Council joined the Cannock Chase SAC Partnership on 17th October 2022 and has implemented Black Country Core Strategy Policy EQ2 which enables the collection of payments to mitigate against impacts arising from new relevant development falling within the 15km Zone of Influence of the Cannock Chase SAC. The mitigation payment of £290.58 per each net new dwelling is non-negotiable. Permission must be refused where appropriate mitigation is not provided pursuant to the Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations").

The applicant/agent did not submit any additional information. The Project has been screened to identify whether potential effect pathways between the Project and the SAC are present which are likely to result in significant effects upon the SAC. The screening exercise carried out on April 1st 2022 by the SAC Partnership authorities found likely significant effects on the SAC arising as a result of increased recreational activity from new residential development and related population growth that is likely to disturb the ground. A 21/12/12 Cannock Chase SAC Visitors Survey investigating visitor access patterns found that the majority (75%) of visitors originated from within

a 15km distance of the SAC (also supported by 2018 visitor survey data) and The Cannock Chase SAC Planning Evidence Base Report Stage 2 (12/07/21) determined that within this 15km 'zone of influence', measures to reduce recreational pressure would be most effective.

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

The proposed application is situated within 15km from Cannock Chase SAC and proposes a net increase of four dwellings. This development would result in an increase in recreational disturbance resulting in significant harm of the SAC and should progress directly to Stage 2 the undertaking of an Appropriate Assessment.

While Walsall Council, as the Competent Authority, will carry out HRA Stage 2: Appropriate Assessment, which will include the consultation of key stakeholders including Natural England, it will be the responsibility of the applicant to provide and secure suitable mitigation on which to base the Appropriate Assessment. Suitable mitigation should be in the form of the necessary mitigation payment of £290.58 per each net new dwelling which can be secured by a Unilateral Undertaking, or within a Section 106 Agreement when other obligations are required.

The applicant has not agreed to provide the SAC mitigation payment via Unilateral Undertaking / S106 which will need to be completed prior to planning approval being granted.

## **Local Finance Considerations**

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes four new homes. The Government has indicated that, for 2021-22, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

## **Five-Year Housing Land Supply**

Notwithstanding the previous concerns raised, it is acknowledged that the proposal will provide four one-bedroom dwellings at the site and will therefore contribute to Walsall's housing supply, in a situation where the Council is no longer able to demonstrate a five year housing land supply and has failed the housing delivery test published in January 2022, based on low levels of housing delivery over the last 3 years. For these reasons the presumption in favour of sustainable development as described in Paragraph 11d of the NPPE is in effect, meaning that planning

permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the proposal.

## Conclusions and Reasons for Decision

Whilst the principle of the conversion of the vacant public house to a residential use is considered to be acceptable in this location, the proposed residential use is required to provide a good standard of amenity for the future occupiers. However, in this case, due to the inadequate internal layout of the flats and the absence of a noise survey which addressed noise and disturbance impacts, it has not been demonstrated that a satisfactory standard of residential amenity can be achieved. In addition, the external area within the site's red line boundary has the potential for land contamination and no relevant information has been submitted to address this matter. Furthermore, the application site is located within 15km of the Cannock Chase Special Area of Conservation (SAC) and the applicant has not agreed to provide any mitigation measures or payments, despite all applicants impacted by the SAC being contacted by the Council in July 2022.

Collectively, the overall harm of the proposal as described above is considered to be significant and to outweigh the benefits of the scheme in providing a net gain of four one-bedroom dwellings at the site, in the context of the Council's lack of five-year housing land supply. For these reasons, given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

## Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal.

## Reasons for Refusal

1. The application fails to provide the necessary Cannock Chase Special Area of Conservation (SAC) mitigation. The proposed development falls within the 15km zone of influence relating to the Cannock Chase SAC and has failed to provide any information in relation to the likely impacts on the SAC arising from the proposed addition of one dwelling and has failed to provide any potential necessary mitigation measures or a mechanism for securing them. The application is therefore contrary to the Conservation of Habitats and Species Regulations 2017, Policies CSP3 (Environmental Infrastructure), CSP4 (Place-Making) and ENV1 (Nature Conservation) of the Black Country Core Strategy, Saved Policy ENV23 (Nature Conservation and new development) of the Walsall Unitary Development Plan, Policy EN1 (Natural Environment Protection, Management and Enhancement) of the Walsall Site Allocation Document and the National Planning Policy Framework.
2. The application site would provide a poor standard of residential amenity for future occupiers as a result of the internal layout and due to the absence of a noise survey to address noise and disturbance impacts to future occupiers. The application is therefore contrary to Saved Policy S8 (Housing in Town Centres), Policy HC2 (Development of Other Land for Housing) of the Walsall Site Allocation Document, Policy HOU2 (Housing Density, Type and

Accessibility) of the Black Country Core Strategy, the Designing Walsall SPD and National Planning Policy Framework.

3. Insufficient information has been submitted regarding the ground conditions at the site and the potential for ground contamination within the external areas of the site as a result of historic uses. It has not therefore been confirmed that the site is safe for development in order to protect human health and the environment. The application is therefore contrary to Saved Policies GP2 (Environmental Protection) and ENV14 (Development of Derelict and Previously-Developed Sites) of the Walsall Unitary Development Plan and the National Planning Policy Framework.

**Notes for Applicant**

None.

**END OF OFFICERS REPORT**



## Economy, Environment and Communities, Development Management

### Planning Committee

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

Plans List Item Number: 6

#### Reason for bringing to committee

Councillor Application

#### Application Details

**Location:** 124, GREAT CHARLES STREET, BROWNHILLS, WALSALL, WS8 6AF

**Proposal:** CHANGE OF USE FROM PLANNING USE CLASS C3 (DWELLING HOUSES) TO PLANNING USE CLASS C2 (RESIDENTIAL INSTITUTIONS) FOR USE AS A CHILDREN'S HOME

**Application Number:** 23/0036

**Case Officer:** Helen Smith

**Applicant:** Mr Tim Wilson

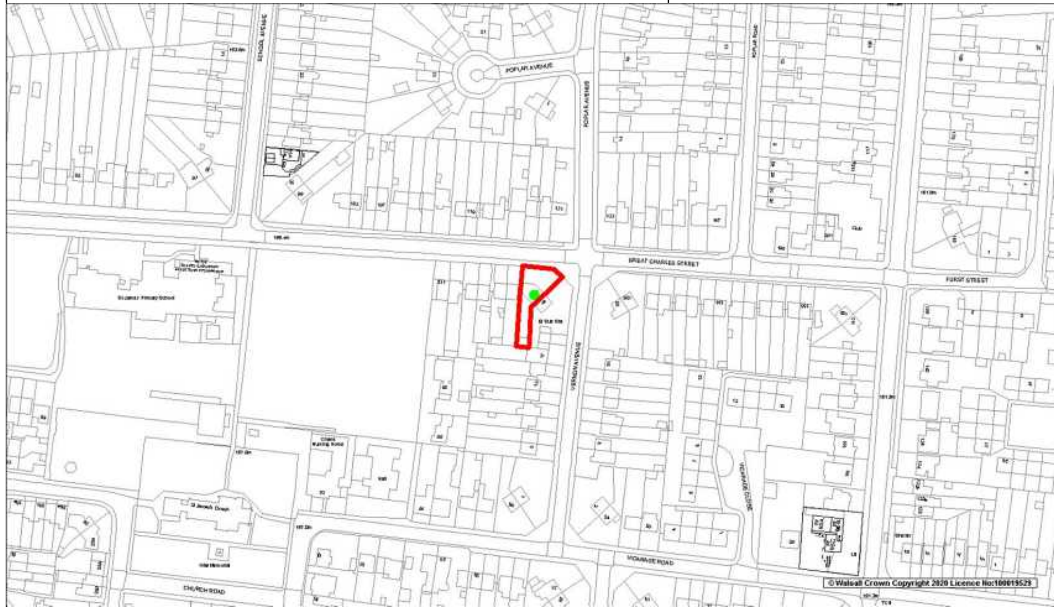
**Ward:** Brownhills

**Agent:** Mr Jason Brookes

**Expired Date:** 09-Mar-2023

**Application Type:** Full Application: Change of Use

**Time Extension Expiry:**



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#### Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to;
  - The amendment and finalising of conditions;
  - No further comments from a statutory consultee raising material planning considerations not previously addressed

## Proposal

This application seeks planning consent for a proposed change of use of an existing residential property (Planning Use Class C3 – dwellinghouse) to a children’s home (Planning Use Class C2 – residential institutions). Councillor Tim Wilson is the applicant, property owner and director of Hano Properties Ltd, as declared and named on the submitted application form.

The submission states that the proposal does not include any internal or external alterations to the application property. The application house has previous been extended in the past with a 2 storey side extension.

The ground floor area includes a kitchen/breakfast room, sitting room, hall, utility, WC and office. At first floor there are 4 bedrooms, shower room and bathroom along with a storage area.

The applicant has advised that the proposal is for a maximum of 3 school age children at any one time with school attendance during the school day and extra-curricular activities after school where appropriate.

There would be a manager, deputy manager and senior residential worker on site Mondays to Friday with a senior residential worker and residential worker providing care overnight Monday to Friday. At weekends there would be two staff at the home providing care, namely a senior residential worker and residential worker.

The applicant has advised that the child to staff ratio is required as there is a considerable amount of administrative work essential to this type of business and children will need to be escorted to and from school and extra-curricular activities. The 4th bedroom would be used by the sleeping member of staff whilst the other is working overnight and the shower room would be used by staff whilst the bathroom would be used by the children.

The submission states that the large room near to the entrance was chosen to be an office as it was considered to be the most suitable room in the existing layout. This room could be secured to ensure safe-keeping and confidentiality of records and would not involve the need to walk through the office area to access the kitchen.

The proposal states that 8 full time and 2 part-time jobs would be required by this proposal. Applicant states, parking for 6 cars on the frontage available for staff

Ownership Certificate B has been completed with the requisite notice served.

The application is supported by the following documents;

- Staff Rota Schedule
- Design and Access Statement
- Email dated 31/1/23 from Applicant with additional supporting information
- Flood Map

## Site and Surroundings

The application property is currently a two storey extended semi-detached, residential property with existing off-street parking on the frontage and a private rear garden area.

The house occupies a corner position in the street at the junction of Vernon Avenue, Brownhills. The surrounding area is predominantly residential in character consisting of similar pairs of semis and terraced dwellings.

St James Primary School is located 132 metres to the west of the application site

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

The site is located within walking distance of Brownhills District Centre.

The adjoining semi-detached house is 19 Vernon Avenue and is in residential use. To the west of the application property is 122 Great Charles Street, a semi-detached residential property.

The site is located within Flood Zone 1 and the submission of a Flood Risk Assessment is not required for this application.

## Relevant Planning History

BC40687P Two storey side extension GSC 02/02/1994

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/national-planning-policy-framework)

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

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

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

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

### **National Planning Policy Guidance**

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

### **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act') sets out 9 protected characteristics which should be taken into account in all decision making. Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV14: Development of Derelict and Previously-Developed Sites
- H6: Nursing Homes and Rest Homes for the Elderly
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- CSP4: Place Making
- DEL1: Infrastructure Provision
- TRAN2: Managing Transport Impacts of New Development
- ENV3: Design Quality
- ENV8: Air Quality

### **Walsall Site Allocation Document 2019**

HC2: Development of Other Land for Housing  
HC3: Affordable Housing and Housing for People with Special Needs  
T4: The Highway Network

### **Supplementary Planning Document**

#### **Designing Walsall**

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



- DW7 Diversity
- DW8 Adaptability

## Consultation Replies

**Ecology** – No objections and no mitigation requirements for the Cannock Chase SAC

**Strategic Planning Policy** – Concerns raised that this conversion relates to a semi-detached rather than a detached property in relation to saved UDP Policy H6 part (b) Nursing Homes and Rest Homes as explained in the body of the report.

**Fire Officer** – No objections

**Local Highway Authority** – No objections subject to the inclusion of a planning condition limiting the number of children at the property to a maximum of 3.

**Environmental Protection** – No objections and require the installation of an Electric Vehicle Charging Point.

**Environmental Health** – No adverse comments received

**Police** - No adverse comments received

## Representations

*(Local Planning Authority comments in italics and brackets)*

Two neighbours have objected on the following grounds;

- Loss of a 4 bedroom dwelling house in an area with limited housing stock
- Parking and number of staff vehicles
- Refuse will be greater than that for a family and may include clinical waste *(arrangements for the collection of clinical waste can be made separately with Waste Management if required and waste for 3 children and staff is not considered would be beyond that of a residential dwelling)*
- Will adults take overall responsibility and use the 4th bedroom?
- Increased deliveries affecting parking *(deliveries normally only require temporary parking for a short period of time similar to any other residential property)*
- Noise through party wall *(the principle use of the building remains as residential and it is considered that the impacts would be no greater than a large single family in this instance)*
- Councillor application and concerned there would be a conflict of interest *(the Councillor has declared their interest in this planning application which is why the proposal will be considered by Planning Committee)*
- Already 2 children's home in the area and objector suffered an assault and vandalism causing psychological flash-backs and this would be in the middle of a residential area *(not a material planning consideration in this instance as it relates to a separate property and use)*

## Determining Issues

- Principle of Development
- Character of the Area
- Amenity of Neighbours and Amenity of Future Occupiers
- Air Quality
- Cannock Chase Special Area of Conservation
- Parking

## Assessment of the Proposal

### Principle of Development

This existing house is in a sustainable location located within a well-established residential area close to amenities and services available within Brownhills District Centre.

The NPPF seeks to deliver a wide choice of quality homes to create sustainable, inclusive and mixed communities. The NPPF and SAD policy HC2 encourages the provision of residential accommodation through the conversion of existing buildings in sustainable locations.

The proposal makes no external visual changes, so from the street, the application property would continue to have the appearance as a dwelling house. In addition a safeguarding condition preventing any external advertisements to the property maybe imposed. SAD Policy HC3 encourages the provision of housing for people with special needs including groups that require specialist accommodation, in locations that would be acceptable for general housing. Such housing will be particularly encouraged in and close to centres particularly where there is good public transport access. Great Charles Street is served by the no. 24 bus route.

The Council's Strategic Planning Policy Team has raised concerns regarding the proposal. They have confirmed that there are currently no development plan policies specifically about children's homes. However, saved UDP policy H6 - Nursing Homes and Rest Homes for the Elderly refers to some relevant issues. Part (b) states that larger detached properties are the most obviously suitable for these uses. Permission will not normally be granted for the conversion of terraced or semi-detached dwellings capable of single family occupation.

The Planning Policy Team advise that as the application property is semi-detached, the proposal would appear to be contrary to this policy as there is the potential for disturbance to adjoining residents. This proposal related to care being provided to 3 school age children rather than as a nursing home or rest home and it is considered that this policy offers a useful general direction in the determination of this planning application, although has limited weight given as UDP H6 policy does not refer specifically to a children's home.

Whilst the applicant has suggested, the proposed use would appear to fall within class C3(b) of the Use Classes Order (use as a dwellinghouse by not more than six residents living together as a single household where care is provided for residents). In this instance, when assessing the proposal, the 24/7 care is required to look after school age children (who would not be expected to look after themselves), compared to adults, it is considered that Planning Use Class C3(b) is not appropriate in this instance.

Notwithstanding the Policy Team comments it is considered the evolving case law, along with the rotation of care staff and care required for children this proposal falls within a C2 Planning Use rather than a C3(b) use as applied for.

The number of looked after children can be conditioned.

The property would retain four good-sized bedrooms (including one staff bedroom), a kitchen/breakfast room, sitting room, bathroom facilities and a good-sized rear garden, providing sufficient amenity for future occupiers. The proposals aim is to ensure three school age children, requiring assistance are given 24 hour support to help them become a positive part of the community.

Taking into account the aforementioned it is considered that in this instance the principle of the change of use to a care home for 3 school age children is considered appropriate subject to having a minimal impact upon adjacent residential amenity.

### **Character of the Area**

The character of the area is defined by residential uses, dominated by detached houses. The change of use from a residential use, to another residential use, in a residential area is considered compatible with this character. No external alterations are proposed to the existing dwelling and a planning condition can be included to ensure that no external advertisements are added to the property in this instance.

### **Amenity of Neighbours and Amenity of Future Occupiers**

The neighbouring properties are residential. The existing building is a house and would continue to be used for residential living accommodation with the same level of amenity and similar relationship to neighbouring houses as is already the case.

### **Air Quality**

Environmental Protection Team have no objections to the proposal on the grounds of traffic noise, land contamination or air quality in this location.

It is noted however that the proposal includes arrangements for staff to be present at the premises and in this regard should be considered as a workplace. Treating this as a new workplace (the change of use) the Council's Environmental Protection Team recommend that the requirements of the Black Country Air Quality Supplementary Planning Document (SPD) September 2016 are implemented and that as a minimum the applicant is required to install provide facilities for charging of electric vehicles. The installation should be in accordance with the requirements of the Building Regulations Approved Document Part S and this can be included as an informative note for the applicant.

### **Cannock Chase Special Area of Conservation (SAC)**

The Council's Ecologist has advised that the dwelling house, although will become a care home with four bedrooms used for residential care, it will remain a single residential dwelling with no alteration to the rooms. As such the four bedrooms will not be considered as separate units within the dwelling which would result in an increase in residential units, but rather as a single dwelling house being used in a family setting.

While the development has the potential to result in recreational impacts to Cannock Chase SAC. From the above it is determined that the application will not result in a net increase in residential units or recreational impacts to the protected site from the current building and its residential usage.

Consequently, the Local Planning Authority concludes that the application will not have a significant effect on Cannock Chase SAC and therefore, no mitigation or further action is required in regard to this proposal in respect of the SAC requirements.

### **Parking**

The Local Highway Authority (LHA) has advised that in terms of T13 parking policy, there is no specific category for a Children's Care Home. There is a policy for general Residential Home's which equates to a requirement of one space which is clearly not appropriate in this instance. Therefore, the LHA advises that the parking requirement will be based on what the development actually needs.

The Highway Authority considers that the available six parking spaces on the property frontage is adequate to serve the development, being similar to that of a large family home with multiple cars.

Also, there are no parking restrictions to prevent on street parking if needs which is unlikely to have a significant impact on the operation of street or highway safety.

The Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2021 paragraph 111.

## **Conclusions and Reasons for Decision**

In weighing the key material considerations, consultee, and neighbour responses, against the national and local planning policies and guidance, it is considered that the proposal would be an acceptable use of this previously developed site within an existing residential area.

There is no evidence that the proposal would increase crime and anti-social behaviour in the area or give rise to an unacceptable level of noise and disturbance. The proposal would not result in a significant loss of amenity for adjoining neighbours. The application has demonstrated sufficient off-street parking to serve the needs of the development.

This proposal is therefore considered to be acceptable and in accordance with local and national planning policies and guidance set out in this report.

Taking into account the above factors it is considered that the application should be recommended for approval. The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment.

## **Positive and Proactive Working with the Applicant**

Officers have worked with the applicant securing additional information to enable support can be given.

## Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to ...
  - The amendment and finalising of conditions;
  - No further comments from a statutory consultee raising material planning considerations not previously addressed

## Conditions and Reasons

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

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

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

- Location/Block Plan, deposited 12/01/23
- Design and Access Statement, deposited 12/01/23
- Staff Rota, deposited 2/2/23
- Floor Plan, deposited 2/2/23
- Email from Applicant dated 31/1/23

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

3: Prior to first occupation of the development hereby permitted one electric vehicle charging points shall be installed and retained for the lifetime of the development.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 and DEL1 of the Black Country Core Strategy (*Please see Note 1 for Applicant*)

4: The development hereby permitted shall not be carried out otherwise than in accordance with the premises known as 124 Great Charles Street, Brownhills shall be used for the purposes of a residential care home for up to a maximum of three school age children and for no other purpose (including any other purpose in Schedule 1, Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification and thereafter be retained for the lifetime of the development.

5. The development hereby permitted shall not be carried out otherwise than in accordance with approved details and at no time be any advertisement(s) displayed to the frontage of the property thereafter be retained for the lifetime of the development.

Reason: In the interests of maintaining the character of the area.

**Notes for Applicant**

1. Electric vehicle charging points shall be in accordance with the requirements of the Building Regulations Approved Document Part S

**END OF OFFICERS REPORT**



## Economy, Environment and Communities, Development Management

### Planning Committee

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

Plans List Item Number:7

#### Reason for bringing to committee

Applicant is the brother of Councillor Ali

#### Application Details

**Location:** 58, REEDSWOOD LANE, WALSALL, WS2 8QP

**Proposal:** PROPOSED SINGLE STOREY REAR EXTENSION.

**Application Number:** 22/1376

**Case Officer:** Claire Woodcock

**Applicant:** Aamer Waheed

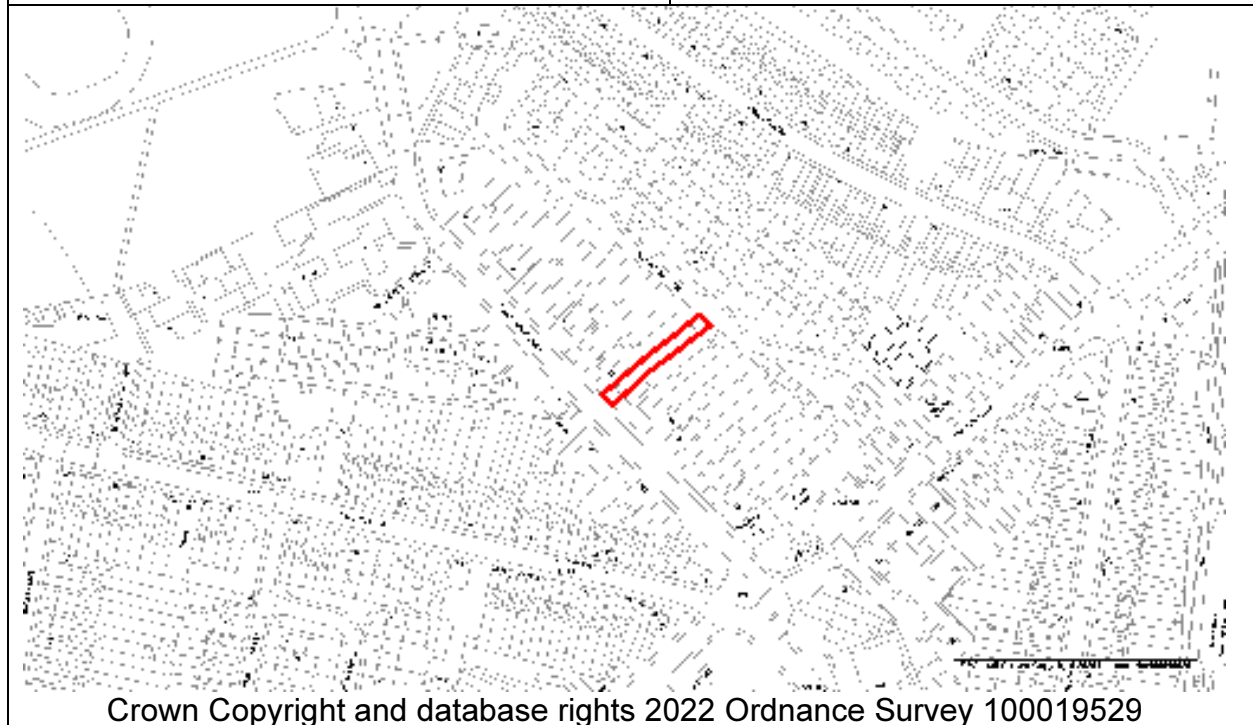
**Ward:** Birchills Leamore

**Agent:**

**Expired Date:** 30-Nov-2022

**Application Type:** Full Application:  
Householder

**Time Extension Expiry:**



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#### Recommendation

Refuse

## Proposal

The proposal is for a single storey rear extension. The proposed development will provide a larger rear kitchen and lounge.

The proposal includes four windows on the side elevation facing towards number 60 and patio doors with windows either side on the rear elevation facing towards the applicant rear garden.

The single storey rear extension dimensions are:

11 metres deep, measured from an existing two storey rear extension

5 metres wide

Having a tiled apex roof with four roof lights inset

2.2 metres high to the eaves

3.6 metres high overall

## Site and Surroundings

The applicant property is a two-storey semi-detached dwelling, with hipped roof and porch extension with canopy above the front bay window at ground floor and is located on a mainly residential area. The prevailing hipped roof design is a consistent character of the surrounding area, where the properties are of a variety of designs, although mainly hipped, and balanced semi-detached 1930's dwellings.

A number of the surrounding properties have rear extensions, with some being large, although to the only changes to the front elevations are modest front extensions.

Number 58 has an existing two storey rear extension plus a single storey rear conservatory, to which the proposed single storey extension will replace and extend the area of the present conservatory.

## Relevant Planning History

BC58658P 2-storey rear extension. GSC 25-Feb-2002

16/0711 Part double, part single storey rear extension. Refuse 26-Oct-2016  
Refused for the following reasons:

1. The proposed two and single storey extensions would have an overbearing and unacceptable impact upon the adjacent property, in particular to the habitable room windows on the rear elevation and the garden area of number 56 Reedswood Lane and would result in unacceptable shading and overshadowing of the principal amenity area outside the main rear habitable room windows of number 56. Furthermore, the proposal fails to meet the Council's 45 degree code guidance from the midpoint of the nearest habitable room window at first floor and the quarter point of the nearest habitable room window on the ground floor at number 56 Reedswood Lane. For these reasons the proposals are contrary to Black Country Core Strategy policy ENV3, Walsall Unitary Development Plan saved policies GP2 and ENV32 and to Supplementary Planning Guidance: Designing Walsall.



2. The proposed side facing first floor windows of the proposed extension would have their outlook towards the blank rear wall of the neighbouring dwelling at 60 Reedswood Lane, but would be unduly close to this, so that the outlook would have an oppressive quality and the occupiers of the house as extended would experience a low level of amenity. The extension would therefore conflict with policy ENV3 the Black Country Core Strategy; 'saved' policies GP2 and ENV32 in the Walsall Unitary Development Plan; and policy DW3, together with guidance on separation distances in Appendix D, of the supplementary planning guidance, Designing Walsall.

3. The proposal to increase the number of bedrooms whilst only having two parking spaces would not comply with policy as three parking spaces are required for a house with four or more bedrooms. The proposed development is considered contrary to the aims and objectives of the National Planning Policy Framework including paragraphs 56, 57, 58, and 64, Walsall's Saved Unitary Development Plan policies, in particular GP2, ENV32, T7 and T13, and the Supplementary Planning Document "Designing Walsall".

22/1388 Proposed loft conversion with rear dormer and hip to gable roof change.  
Refused 17-Feb-2023

Reasons for refusal:

1. The proposed design would not integrate with the original house and would unbalance the pair of semi-detached houses, creating an overbearing, bulky, incongruous feature within the street scene which is particularly prominent at first floor level and would be harmful to visual amenity and overall character of the area. The proposal is therefore contrary to policies ENV32 in Walsall's Unitary Development Plan and DW3 of the Designing Walsall SPD.
2. The application has failed to include conclusive evidence about the possible presence of bats, which are a protected species, or the impact on their roosts or habitats. The application is therefore contrary to Black Country Core Strategy Policy ENV1: Nature Conservation, Paragraphs 179-182 of the NPPF and the Supplementary Planning Document "Conserving Walsall's Natural Environment".
3. The proposed loft conversion with rear dormer and hip to gable roof alteration would have an overbearing and unacceptable impact on the light and outlook to the ground floor windows of number 60 Reedswood Lane due to its excessive height in relation to this neighbouring property and it is contrary to NPPF12 Para. 127, BCCS Policies CSP4, ENV2 & ENV3, Saved UDP Policy ENV32, and Appendix D of the Designing Walsall SPD.

## Relevant Policies

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](https://www.gov.uk/guidance/national-planning-policy-framework)

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

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*sustainable development”.*

**Key provisions** of the NPPF relevant in this case:

- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 56) says:

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

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

### **National Planning Policy Guidance**

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

### **Reducing Inequalities**

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

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

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

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

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not

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

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV3: Design Quality

### **Supplementary Planning Document**

#### **Designing Walsall**

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall and Conserving Walsall's Natural Environment SPD's are consistent with the NPPF.

### **Consultation Replies**

Coal Authority – No comments

Ecology Officer - Support

Environmental Protection – Concerns raised

Relating to addressing the installation of any solid fuel appliance, and a request for a note to the builder to ensure appropriate Health and Safety measures are implemented.

## Representations

None received

## Determining Issues

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

## Assessment of the Proposal

### Design, Layout and Character

A number of the surrounding properties have larger extensions at the rear, although the only changes to the front elevations are modest front extensions.

Whilst number 54 has a large single storey rear extension, there does not appear to have been a planning application for this development. However, from the LPA's historical maps, appears to have been present since 2013 and therefore is considered lawful with the passage of time, but does not create a precedence in this location. The design of the rear extension will not be prominent from the street scene of Reedswood Lane due to the narrow separation distances between adjoining properties. Although the extension would be visible from public vantage points of Reedswood Close.

Nevertheless, the proposal is not acceptable in terms of design and appearance due to the scale and mass and siting measuring of the extension measuring 11 metres deep and 5 metres wide is considered will significantly detract from the character of the host dwelling due to its scale.

### Amenity of Neighbours and Amenity of Future Occupiers

58 Reedswood Lane is a semi-detached dwelling paired with number 56, which has the benefit of a two-storey flat roof extension at the rear, which is in line with the applicants existing two storey rear elevation of number 58.

The existing conservatory of number 58 breaches the 45-degree guidelines by 2.9 metres in relation to number 56, however this is constructed of a glass roof and glass side elevations which allows light to pass through. Whilst the proposed extension will replace and extend the area of the existing conservatory the depth will be increased from 4.9 metres to 11 metres.

A previous application 16/0711, as detailed in the planning history was submitted, which included a single storey rear extension that measured 8.1 metres. This was refused for the following reason:

*'The proposed two and single storey extensions would have an overbearing and unacceptable impact upon the adjacent property, in particular to the habitable room windows on the rear elevation and the garden area of number 56 Reedswood Lane and would result in unacceptable shading and overshadowing of the principal amenity area outside the main rear habitable room windows of number 56. Furthermore, the proposal fails to meet the Council's 45 degree code guidance from the midpoint of the nearest habitable room window at first floor and the quarter point of the nearest habitable room window on the ground floor at number 56 Reedswood Lane.'*

Whilst the current proposal does not include a two storey rear extension, the proposed single storey extension would be joined onto an existing two storey extension and would be of a greater depth than the refused application 16/0711 and would breach the 45-degree guidelines. The current proposed extension breaches 45-degree code by 8.6 metres in relation to number 56 Reedswood Lane and 5.7 metres in relation to number 60.

It is considered the current proposal does not overcome the previous 2016 refusal reason. The current proposal would have an overbearing and unacceptable negative impact upon the amenities by way of shading, overshadowing and overbearing outlook of the habitable room windows on the rear elevation and the garden area of number 56, due to the scale and mass and siting of the extension measuring 11 metres deep by 5 metres wide. For clarity, should members wish to approve this application, scale and mass are material planning considerations with a genuine harm to the neighbour. Scale and mass cannot be set aside by saying they are subjective or by the personal circumstances of the applicant. Personal circumstances are not material planning considerations. Planning committee would need a planning land use reason to firstly explain why they disagree with the report's recommendation and then a planning land use reason for approving the application. Should members have a valid reason, it is suggested conditions are imposed, requiring the roof of the extension to be flat and the side facing windows be high level obscurely glazed and non-opening. Whilst the changes sought via condition would not be enough to outweigh the harm from the scale and mass, they will at least start to offer some mitigation to the level of harm. The correct mitigation would be to reduce the extension in depth to comply with the 45-degree code.

Number 60 Reedswood Lane has a single storey rear extension which is approximately 5.4 metres deep. The applicants existing conservatory complies with the 45-degree guidelines when measured against number 60's rear extension. The current proposed extension would breach the 45-degree code, when measured from the rear patio doors of number 60. Furthermore, there are a number of side facing windows on the single storey extension of number 60, which would face towards the windows of the proposed extension, the gap between the windows would be 3.5 metres, which would lead to unacceptable overlooking between the facing windows of number 58 and 60. However, the proposed windows in the new extension could be conditioned to be high level obscure glazing, which coupled with the existing boundary treatment between the two properties would mitigate some of the harm that would be created.

Number 60 is set to the north-west of number 58. The orientation of the houses and the position of the proposed extension means the sun rises in the east would move across to set in the west. This would result in the proposed extension creating significant shadowing to the nearest habitable windows of number 60 and the most sensitive part of the neighbours rear garden (nearest the house), from the early morning to the late afternoon due to the scale and mass of the extension. Reducing the extension to a low flat roofed extension, would start to mitigate some of the harm from the scale and mass of the extension, however, the proposed extension does need to be reduced in depth to comply with the 45 degree code.

The proposal does not comply with the 45-degree guidance, in relation to the nearest rear facing habitable windows of the neighbouring dwellings of number 56 and 60 due to the scale and mass of the proposed extension resulting in an unacceptable loss of light and outlook.

Concerns have been raised by Environmental Protection, relating to increasing air pollution from the installation of any solid fuel appliance. This could be conditioned and a request for a note to the builder to ensure appropriate Health and Safety measures are implemented due to ground conditions.

## Highways

The proposals would not increase the number of bedrooms to the property. Therefore, will not have a detrimental impact on highway safety.

## Conclusions and Reasons for Decision

The proposal does not comply with the 45-degree guidance, in relation to the nearest rear facing habitable windows of the neighbouring dwellings of number 56 and 60 and would result in an unacceptable loss of light and outlook. The proposal would therefore be contrary to the Black Country Core Strategy policies CSP4: Place Making and ENV3: Design Quality and Walsall's Unitary Development Plan, in particular policies GP2: Environmental Protection, ENV32: Design and Development Proposals and Appendix D of Designing Walsall SPD

The proposed single storey rear extension would give a separation distance of 3.5 metres to the side facing habitable windows of number 58 and 60. It is considered that this proposal would lead to an increased level of overlooking between the two dwellings, which would be detrimental to the existing amenity enjoyed at number 60. This application is thus contrary to the Black Country Core Strategy policies CSP4: Place Making and ENV3: Design Quality and Walsall's Unitary Development Plan, in particular policies GP2: Environmental Protection, ENV32: Design and Development Proposals and Appendix D of Designing Walsall SPD

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

## Positive and Proactive Working with the Applicant

Officers have sought amendments to address concerns in relation to the depth of the proposal but amended plans have not been forthcoming to address the concerns.

## Recommendation

Refuse

## Reasons for Refusal

1. The proposed single storey extensions would have an overbearing and unacceptable impact upon the adjacent properties, in particular to the habitable room windows on the rear elevation and the garden area of number 56 and 60 Reedswood Lane and would result in unacceptable shading and overshadowing of the principal amenity area outside the main rear habitable room windows of number 56 and 60. Furthermore, the proposal fails to meet the Council's 45 degree code guidance from the midpoint of the nearest habitable room window on the ground floor at number 56 and Reedswood Lane.

The proposal would therefore be contrary to the Black Country Core Strategy policies CSP4: Place Making and ENV3: Design Quality and Walsall's Unitary Development Plan, in particular policies GP2: Environmental Protection, ENV32: Design and Development Proposals and Appendix D of Designing Walsall SPD

2. The proposed single storey rear extension would give a separation distance of 3.5 metres to the side facing habitable windows of number 58 and number 60. It is considered that this proposal would lead to an increased level of overlooking between the two dwellings, which would be detrimental to the existing amenity enjoyed at number 60. This application is thus contrary to the Black Country Core Strategy policies CSP4: Place Making and ENV3: Design Quality and Walsall's Unitary Development Plan, in particular policies GP2: Environmental Protection, ENV32: Design and Development Proposals and Appendix D of Designing Walsall SPD

**END OF OFFICERS REPORT**