



# Walsall Council

Development Management

## PLANNING COMMITTEE

Report to the Head of Planning and Building Control

05<sup>th</sup> October 2023

### Plans List Supplementary Paper

Since preparation of the planning committee agenda, the following supplemental information has been received. Officer comments are provided in response to the supplemental information along with any necessary amendments to the recommendation.

<b>Plans list Item number: 1 Application site address: MORRIS CAR AND COMMERCIAL VEHICLE REPAIRS, ROLLINGMILL STREET, WALSALL, WS2 9EG.</b>	
<b>Supplemental Information</b>	<b>Officer Comments</b>
Received an email from the Agent on 02/10/2023 at 18:07 stating the following: <i>I have managed to access your report via below link and held a lengthy discussion with applicant.</i>	Noted and actioned.

*With this email, I am hereby withdrawing this application as applicant looks to consider alternatives including site disposal.*

**Recommendation: Application Withdrawn**

**Plans list Item number: 2**

**Application site address: 1, FREER STREET & 28 BRIDGE STREET, WALSALL, WS1 1QD**

<b>Supplemental Information</b>	<b>Officer Comments</b>
<p>In initial email circulation of the committee document pack, sent Thu 28/09/2023 at 10:00, contained the previous committee report rather than the committee update report for this item.</p> <p>The recommendation for this item on the contents page and at the bottom of page 37 of the second document pack is not correct and is inconsistent with the body of the report.</p>	<p>The correct report was re-circulated via email. The update report section was properly included in second circulation of the document pack. Postal copies were sent with the correct report.</p> <p>Recommendation a previous committee was to approve, due to the updated situation this has been amended to one of refusal. The error was due to the internal computer system pulling through the original recommendation. The corrected text is: 'that the application be delegated to the Head of Planning and Building Control to refuse and finalise reasons for refusal.</p>

**Recommendation: There is no change to the recommendation**

<p>Further objection received by email 28 September 2023 highlighting that there appears to be a dispute between the applicant and their neighbour regarding a right of way and property boundaries:</p> <p>No Right of Way Claimed by Neighbour: The neighbour asserts that the applicant does not have any legal right of way from Freer Street to Bridge Street. This means that, according to the neighbour, the applicant does not possess a legal entitlement to access or pass through their neighbour's property to get from Freer Street to Bridge Street.</p>	<p>In response to the concerns raised by the neighbour, the applicant has submitted an amended location plan. This revised plan excludes the gulley that was previously claimed as part of the applicant's property. This updated plan will be included within the officer's presentation to the Committee. No change to the recommendation.</p>
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<p>Disagreement About Ownership Certificate: The neighbour also disputes the validity of the red outline and ownership certificate provided by the applicant in that it is said that the applicant does not own the gully to Bridge Street. The neighbour alleges that the information on this certificate is incorrect.</p> <p>Total Denial of Access: The neighbour is making it clear that they are refusing to grant any form of access through their land. This means that they are not willing to allow the applicant to pass through or use any part of their property to get to Bridge Street from Freer Street.</p>	
<p><b>Recommendation: There is no change to the recommendation</b></p>	
<p>A letter has been received from the applicants' solicitors dated 4 October 2023 regarding the planning application for Freer Street/Bridge Street in Walsall. In summary, the applicant's solicitor states:</p> <ol style="list-style-type: none"> <li>1. The original site plan has been revised to exclude the use of a gully behind the building on Bridge Street for transporting euro bins. This gully was originally considered as an appropriate route for the transportation of euro bins located in the open-air bin store of the development. The owner of the gully declined to participate in the Section 106 Agreement required by the Council.</li> <li>2. It has been argued by the Applicant's solicitors that the third party's obligations in the draft Section 106 Agreement don't impact upon the Waste Management Strategy as originally drafted, relating to the use of the originally proposed external passageway, because the location of the open-air bin store is on land controlled by the applicant. The Legal Department declined the amended Section 106 Agreement relating to the original external passageway proposed by</li> </ol>	<p>Taking each of the points in turn:</p> <ol style="list-style-type: none"> <li>1. Facts as stated and agreed.</li> <li>2. In relation to the original, external route for the bins through the external passageway, the Council's legal Team do not agree with the applicant's solicitor that the neighbours' rights are unaffected by the use of the sharded external passageway to move the bins to the road as originally proposed and declined to amend the agreement because of this.</li> <li>3. The applicant now suggests keeping the open-air bin store in the sunken garden and using an internal passageway for bin collection. This differs from the latest revised plan in that whilst the same internal corridor is proposed, the proposed storage area is changed from internal space (immediately off the internal corridor) to the use of the external sunken garden. It is agreed that in both scenarios the land is in the control of the applicant.</li> </ol>

<p>the Applicant, which would have bound the Applicant to Council requirements.</p> <ol style="list-style-type: none"> <li>3. As an alternative, the Applicant suggests keeping the open-air bin store in the sunken garden and using an internal passageway for bin collection. This passageway is wholly owned and controlled by the Applicant, and they can ensure its cleanliness and maintenance.</li> <li>4. The Legal Department expressed concerns about enforcing a condition to promptly remove bins from the pavement after collection, which wasn't raised previously. The Applicant believes this can be addressed within the existing covenants in the S106 Agreement.</li> <li>5. The original draft of the Section 106 Agreement contained an obligation for the Owner to submit a Waste Management Strategy to the Council before Implementation Works, which the Legal Department found acceptable.</li> <li>6. The Applicant is willing to enter an appropriate S106 Agreement and make the required Open Space Contribution as originally proposed.</li> </ol>	<ol style="list-style-type: none"> <li>4. The Council maintains there would be a lack of control over the management of waste between the proposed units and the street which is very likely to result in the waste bins being stored on the street between collections.</li> <li>5. Agreed, in relation to the use of the external passageway shared by the neighbour, but subject to their agreement.</li> <li>6. Despite the current proposal for the use of the internal passageway which is wholly in the control of the applicant, the use of this corridor is considered fundamentally unacceptable as a means of transporting the waste to the street. Therefore, an acceptable waste strategy has not been provided. The applicant's agreement to provide the necessary open space agreement is noted.</li> </ol>
<p><b>Recommendation: There is no change to the recommendation</b></p>	

Plans list Item number: 3	
Application site address: 4, CALTHORPE CLOSE, WALSALL, WS5 3LT	
Supplemental Information	Officer Comments
The officer's report refers to the use of the property by 4 children and 3 children. The amended planning statement confirms that there will be up to 3 children on the application site.	A condition is recommended to limit the number of children to 3.
<b>Recommendation: There is no change to the recommendation.</b>	
A further objection was received on the 3 <sup>rd</sup> of October requested description should be changed to include behavioural issues.	A change in description is unnecessary as it adequately describes the proposed development.
<b>Recommendation: There is no change to the recommendation.</b>	
<p>A further objection was received on the 3<sup>rd</sup> of October from a resident who has included three appeal decisions and states; the planning committee report doesn't fully consider the impact on residential amenity and in particular the impact of increased activity including frequency of regular car movements in and out of the site.</p> <p>The objector refers to 3 appeal decisions they have included in their objection explaining they are for similar scale children's homes where the inspectors have dismissed appeals due to the resultant impact on residential amenity.</p> <p>The objector comments on the intensification of the use of the house with staff being present, plus the potential of social workers, psychologists and tutors being able to visit the site. The shift patterns of 07:30 and 22:30 change overs are outside reasonable standard trips associated with a family dwelling, resulting in an intensification of activity, with additional noise of voices, car engines, car doors, headlight glare and vehicle manoeuvring, all having a harmful effect on the living conditions of neighbours.</p>	<p>The planning authority has fully assessed the current proposal to change the dwelling from a C3 planning land use to a C2 planning land use, both of which are residential uses. The council's local highway authority has been consulted and have no objections to the proposal as submitted.</p> <p>The LPA has considered the 3 appeal decisions as follows.</p> <ol style="list-style-type: none"> <li>1. In Essex, at a modern detached house on a modern estate, with modest area off road parking and limited on road parking available. Notably this appeal decision, is in a different planning authority area with different planning policies and guidance. The site constraints of the appeal site are notably different to what planning committee are considering. Consequently, the appeal decision cannot be used as a direct comparison with the current application site, where your local highway authority has no objections to the proposal.</li> <li>2. A small interwar semi-detached house in a suburb of Preston with limited off-road parking accessed from a narrow street, recognised by the planning inspector. In this appeal, the appellant was suggesting staff parking would be</li> </ol>

The objector is also concerned about there being limited economic benefits from the proposal and there is no local need for the children's home.

at a nearby public house although the inspector noted there was no mechanism to require this to happen.

3. The third appeal was against the refusal of a certificate of lawful use with the appellant arguing a children's home fell within planning use class C3 residential. The inspector refers to case law *North Devon DC v FSS & Sothern Childcare Ltd* which confirms children with carers cannot form a household on their own, plus the planning land use class C2 does specifically refer to personal care of children, consequently a children's home would not fall within planning class land use C3. Given this particular appeal is essentially considering which planning land use a small children's home would fall within and the current applicant has submitted an application for a C2 children's home, other than to reaffirm the council is processing the correct planning use for this particular application, this certificate of lawful use appeal decision cannot be used in the consideration of the current planning application before planning committee. r

In all three cases the appeals are in a different planning authority area with different planning policies and guidance. The appeal site constraints are notably different to what planning committee are currently considering. Consequently, the appeal decisions cannot be used in the determination of the current planning application, particularly where your local highway authority has no objections to proposal before you.

The planning authority recommends that members discount these appeal decisions put forward by the objector as they are not a direct comparison to the current planning application or planning policies before you to consider.

The application site is a large, detached house in a street of similarly sized dwellings. The LPA has considered the potential impacts of the proposed use of the dwelling and considers the use of the dwelling as a C2 use (a residential use) in a street of dwellings would not materially increase impacts to neighbours over what may be expected from any other large family residential dwelling. The council's environmental protection team have no objections to the current proposal regarding noise and disturbance to substantiate the planning authority in recommending the refusal of the proposed C2 use.

This is a relatively small children's home aimed at offering children a family setting in a location of other families to give the children access to local schools and facilities, so there are likely to be limited economic benefits in the short term. This application for a small children's home is one a number the planning authority has been processing in the recent past, which we understand from council's children's services is to offer Walsall children who require this level of support, a location in Walsall rather than them being shipped out of the borough to a similar style of home.

It is considered that no additional material planning considerations have been presented that would suggest the recommendation to approve be changed to anything else, given the council's strategic planning policy team, local highway authority and environmental protection team have no objections to the proposal before planning committee.

Consequently, the LPA recommendation remains as set out in the report, grant planning permission subject to conditions

**Recommendation: There is no change to the recommendation.**