



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15th May 2014

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1	1	14/0191/WA	LAND AT, WINTERLEY LANE, WALSALL,	Infilling and capping of former limestone mine shafts using on site and imported inert fill processed using a crusher and screen to make engineered infill materials with a reduced scheme to protect the area of the former lime kilns and to restore the ground within 12 months to open space.	Grant Permission Subject to Conditions
2	27	14/0024/FL	ASPRAY24, PARK ROAD, WILLENHALL, WV13 1BU	Amendment to planning permission 12/0063/FL - (Demolition of existing derelict factory premises, roadway and ancillary buildings. Erection of new high bay warehouse with associated offices, fencing, landscaping, access	Grant Permission Subject to Conditions

				roads and vehicle parking provisions) - To add additional staff car parking and allow car access from Park Road.	
3	37	14/0332/FL	ZF LEMFORDER FACTORY, STATION STREET, DARLASTON	Demolition of building F3 and part of building F2; extension of building F2 to provide new industrial floor space of 3,533sqm; construction of canopy of 1,137sqm to cover a new loading area to the east of building F1; closure of gate 5 for delivery and dispatch of raw materials, finished goods, and waste products; re-opening of gate 6 for collection of waste product and for the parking of 20 cars; rationalisation of existing car parking to the north of building F1; and associated minor works including improvements to circulation and enclosure.	Grant Permission Subject to Conditions

4	49	14/0272/FL	UNITS 1 & 2 BLOXWICH LANE INDUSTRIAL ESTATE, BLOXWICH LANE, WALSALL	Change of use from Class B2 (general industry) to Classes B1 (light industry), B2 (general industry) and B8 (storage and distribution).	Grant Permission Subject to Conditions
5	59	13/1438/FL	BIRWAY GARAGE LTD, 90 NEWHALL STREET, WILLENHALL WV13 1LQ	Redevelopment to provide residential development comprising 5 x 2 bed houses, 5 x 3 bed houses & 18 x 2 bed flats in storey buildings, together with associated works, landscaping and access into Villiers Street Open Space.	Grant Permission Subject to Conditions
6	79	13/1050/FL	ST.MARKS CHURCH, GREEN LANE, WALSALL	Rear and side extensions to existing church and extension to annexe to provide meeting rooms, toilets, kitchen, increased worship area, improved parking provision, replacement of existing flat roof over annexe with pitched roof and ramps along the main frontage and side.	Grant Permission Subject to Conditions

7	91	14/0237/FL	ASDA STORES LTD, WOODALL STREET, WALSALL, WS3 3JR	Refurbishment and conversion of existing building within service yard to 'Home Shopping Pod', provision of external freezer and cold store and erection of two loading canopies.	Grant Permission Subject to Conditions
8	101	14/0323/OL	FORMER GARAGE SITE, CATSHILL ROAD, WALSALL, WS8 6BL	Outline application for erection of 2 dwellings (all matters reserved)	Grant Permission Subject to Conditions
9	113	14/0352/RM	The Rectory, 14 The Green, Aldridge, Walsall, WS9 8NH	Reserved matters proposals pursuant to outline permission 10/1544/FL for erection of 8 dwellings (appearance, landscaping and scale to be considered).	Grant Permission Subject to Conditions
10	125	14/0501/FL	Borneo Street Allotments, Borneo Street, Walsall	Proposed changed access arrangements to allotment, including provision of new vehicle access from Cartbridge Lane South and creation of a jointly accessible existing entrance with residents and provision of	Grant Permission Subject to Conditions

				boundary treatments.	
11	137	14/0296/FL	14 IDA ROAD, WALSALL, WS2 9SR	Change of use of ground floor from retail shop (A1) to hot food take-away (A5).	Grant Permission Subject to Conditions
12	149	13/1629/FL	230 Wednesbury Road, Walsall, WS2 9QN	Convert retail premises to hot food takeaway.	Grant Permission Subject to Conditions
13	159	14/0063/FL	20 KNIGHTS CLOSE, WALSALL, WV13 1NG	Two storey side/rear extension	Grant Permission Subject to Conditions
14	169	13/1563/FL	59 KINGSHAYES ROAD, WALSALL, WS9 8RT	Rear part two storey and part ground floor domestic dwelling extension.	Refuse
15	175	14/0418/FL	22 CRESSWELL CRESCENT, WALSALL, WS3 2UW	Change of use from A1 to A5 hot food takeaway	Grant Permission Subject to Conditions
16	185	14/0419/FL	14 CRESSWELL CRESCENT, WALSALL, WS3 2UW	Change of use from B1a to A5 Hot Food Takeaway	Grant Permission Subject to Conditions



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 1.

Reason for bringing to committee: Major application

Application Number: 14/0191/WA
Application Type: Waste Application

Case Officer: Alison Ives
Telephone Number: 01922 652604
Email: planningservices@walsall.gov.uk
Agent: Enviroarm Ltd

Applicant: M & A Doocey

Proposal: Infilling and capping of former limestone mine shafts using on site and imported inert fill processed using a crusher and screen to make engineered infill materials with a reduced scheme to protect the area of the former lime kilns and to restore the ground within 12 months to open space.

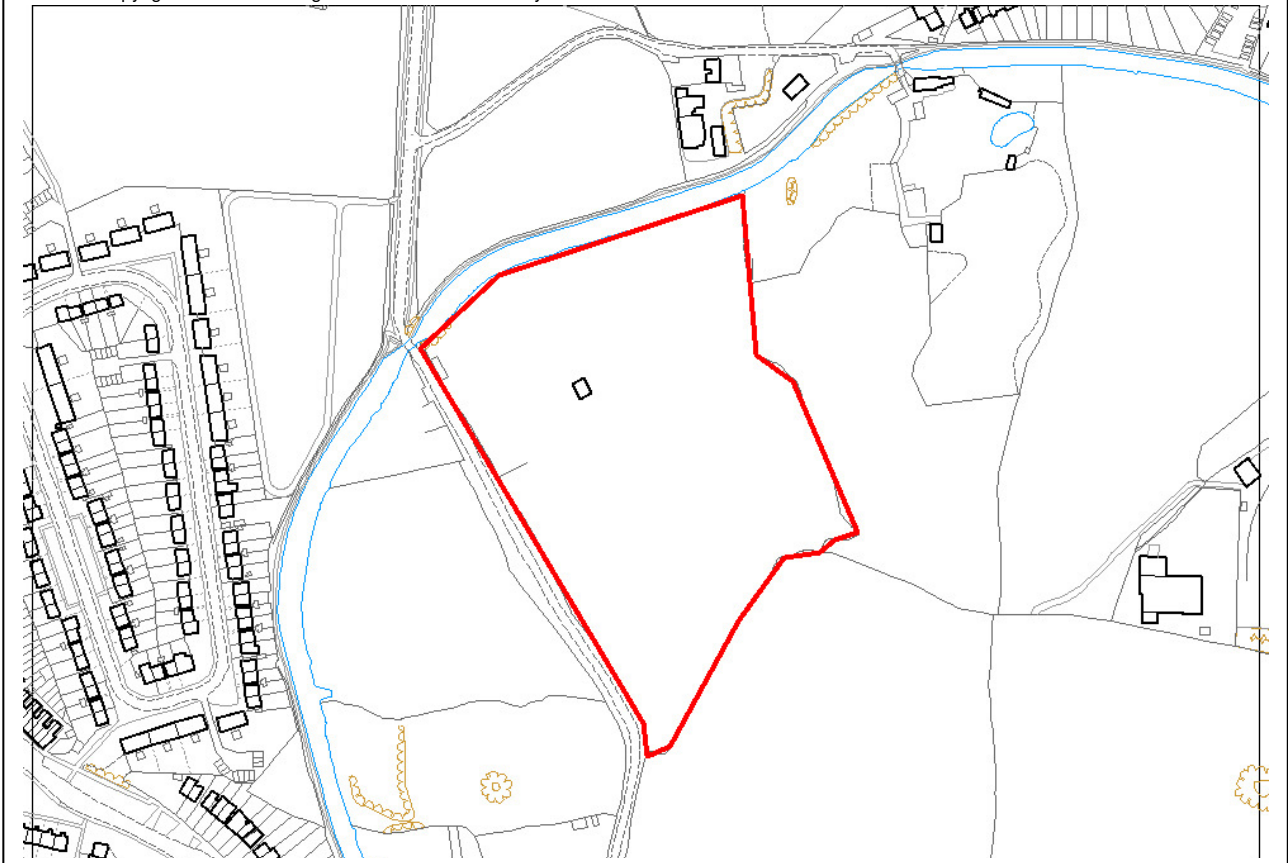
Location: LAND AT, WINTERLEY LANE, WALSALL,

Ward: Rushall-Shelfield

Expired Date: 12/05/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Current Status

The application was withdrawn from the Planning Committee Agenda on 10th April 2014 by the Chair to allow further protected species survey work to be undertaken and assessment of alleged harm to a European Protected Species which was raised by a third party. The ecological aspects of the development are updated in the following report.

This report requires Committee consideration of a Habitats Regulations Assessment (HRA) and the Planning Application. The HRA is set out in the body of the report and a second recommendation is incorporated in relation to this.

Application and Site Details

This is a revised application to fill and cap mine shafts on a former Limestone Works site. The site has also historically been used for inert landfill. The site comprises a stable block and large field previously used for grazing located to the south of Daw End Branch Canal just beyond Winterley Bridge on the east side of Winterley Lane. The proposal is to fill and cap the mineshafts and lime works. The proposal includes ancillary aggregate/waste recycling to produce materials suitable for the reclamation of the site and treatment of the shafts and voids. It is proposed that any existing buildings or foundations uncovered will be removed and remediated. The mine shafts will be capped with a concrete mineshaft cap.

A 3m high bund is proposed around the perimeter of the site with a 15m stand off from the canal. The land will be restored to original land levels to return the site for open space.

As previously approved under application 09/0695/FL construction of a new access and provision of temporary passing bays on Winterley Lane is also proposed. The access is 88m away from the existing access; the passing bays are 20m X 3.5m which increases the road width from 6.5m to 8m to allow two HGV's to pass. All vehicles will be required to turn left out of the site towards Daw End/Bosty Lane junction.

An area of 50m x 40m near the Winterley Lane frontage will be used to operate works on the site where there will be 1 temporary building/welfare unit and 2 concrete slabs for temporary storage bays and to store machinery. A screener/crusher will be located on this area. A road sweeper will be housed on site to control potential for drag out material.

The works are proposed in 8 phases to be carried out within 12 months of the granting of an Environmental Permit by the Environment Agency. Each phase will involve a 24m strip with 3 month schedule to allow or uncovering 3 shafts per strip which will run from north to south across the site. The surface area of the works has been reduced from 37,427m² to 34,601m² since the earlier application.

The requested hours of operation are 07.00–18.00 hours Mondays to Fridays, 07.00-13.00 hours on Saturdays and no Sunday or Bank Holiday working. The inert recycling operations are proposed to take place between 08.00-16.00 hours Mondays to Fridays and 08.00-12.00 midday on Saturdays only with no Sundays or bank holiday working.

There is 2m of fill across the site and the proposals involve excavating and processing of 1.5m of fill except where shafts are present where a 5m x 5m grid will be opened to allow for infilling and capping with a concrete cap. At least 50% of the required material is available on site so 25,000m³ of imported fill will be required as inert waste to bring ground levels back to original and some imported fines and sand to treat shafts and voids. It explains that materials will be treated on site through screening and crushing of excavated fill to produce suitable backfill and to remove unsuitable materials and secondary aggregates.

It explains the site has an upper limit of 25,000m³ or 37,500 tonnes. The phasing allows 12 months from the granting of an Environmental Permit (18 months from granting of any planning permission) which equates to 3,125 tonnes importation per month and removing 2000 tonnes per month which is 125 lorry movements per month, 25 per week as an average.

There would be 6 full-time employees at the site.

The works are partly retrospective as some operations began on site in January 2013. The applicant states that they originally began works to implement the permission to fill and cap one mine shaft but whilst constructing the access further voids appeared and investigations carried out have identified further structures, shafts and tunnels below ground. There are stockpiles of imported building materials around the site.

The site is in the Green Belt and there is a Tree Preservation Order on trees near the front of the site (AB2/1960).

The site area is 3.74 hectares.

The Design & Access Statement – Describes the proposed use and proposed layout and the impact this has on the landscaping and appearance of the area and access.

The Noise & Vibration Management Plan – Identifies that no fixed plant will be on site and that any plant and equipment will be operated in accordance with manufacturers guidelines and fitted with appropriate silencers and acoustic panels/insulation. Staff and site management procedures are proposed to monitor operations and noise. It is recommended that hours of operation for the screener and crusher are 08.00 – 16.00 weekdays and 08.00 – 12.00 midday on Saturdays. A temporary screen bund is also proposed around the crusher and screener to provide noise attenuation.

The Supporting Statement Volume 2 – Describes the current use of the site, the proposed development, screening process, prediction and evaluation of the impacts, phasing, operational procedures and restoration, ecology, dust, highways, hydrogeology, archaeology, flood risk, and socio economic considerations. It concludes that the likely impacts are acceptable and evidence based mitigation is proposed where required. The following Appendices form part of this document:

1: Method Statement & Working Plan – This covers infrastructure and operations, reception and control facilities, operational considerations, traffic movements, waste types and landscape and screening bunds.

2: Ecology & Nature Conservation Assessment – Identifies habitats on site and their potential to support protected species. It evaluates these records and potential habitats for reptiles, birds, bats, water vole, otter and badger are considered. The evaluation considers there will be a negligible impact on reptiles, birds or badgers. The stables and existing hedges may have value for bats and further survey work is recommended, the canal water's edge is valuable habitat for water vole but the remainder of the site is of negligible value for water vole or otter. As the stables and hedge boundaries are being maintained no mitigation/compensation is proposed for protected species. The stand off from the canal will protect water vole and otters. Restoration of the site to species rich grassland will be proposed as compensatory measures for their loss on site.

3: Dust and Odour Assessment – Identifies key sources of particulate and odour risk to be from bund construction and restoration works, land reclamation operations, stockpile and screening bunds and movement of haulage vehicles. Local receptors are identified as local settlements, wildlife, fluvial environment, highways and public rights of way. A particulate management plan is proposed.

4: Transport Assessment – Highlights existing conditions, and traffic movements, proposed vehicular access and road cleaning amongst other topics. It states the operation will result in 20 deliveries per weekday and 10 during Saturday the vast majority of deliveries by eight wheel 20 tonne tipper trucks but some smaller 10 tonne trucks and pick-up trucks will be used. In conclusion it states the proposal will result in minimal increase in vehicle trips on the local highway network

5: Hydrogeology – States the site is underlain by 10-15 metres of bedrock of lower coal measure clays beneath which there is 10m of lower Ludlow Shales before groundwater is intercepted in the Upper Wenlock Limestone. All shafts have potential to act as a preferential pathway to any source of pollution. As the groundwater flow is slow so wash out from infilling will be slow and the concrete slab over shafts prevents further risk from shaft entries. Exposing and infilling shafts with suitable inert material and capping shafts will remove the pathway for pollutants.

6: Flood Risk Assessment – Considers the policy context, sources of flooding, assessment of actual flood risk and fluvial flood risk, control of flood risk and residual flood risk and application of flood risk policy. It concludes the site is in Flood Zone 1 with no actual risk of flooding and surface run-off does not impact third party land. The site is less vulnerable and appropriate as it is above the groundwater table.

7: Archaeology Review – Reviews the archaeological assets of the site.

8: Noise Management – See Noise & Vibration Plan referred to above.

Relevant Planning History

13/0652/FL - Fill and cap mine shafts including ancillary aggregate/waste recycling to produce materials suitable for reclamation of the site and treatment of shafts and voids, construct a temporary bund along the canal and restore original land levels to return the site to open grazing. Construction of new access and provision of temporary passing bays on Winterley Lane – Withdrawn 21/11/13.

09/0695/FL – Fill and cap collapsed mineshaft and restore original levels to an area in a field which has compressed due to previous mine workings – Granted subject to conditions 31/7/09.

05/0512/FL/E5 – Proposed alteration/extension to 2 no. Existing stabling units – 1 traditional construction, 1 cladding to existing frame – Withdrawn 20/12/07

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Support sustainable development
- Promoting sustainable transport

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 79 states the essential characteristic of Green Belts is their openness and permanence.

Paragraph 80 identifies the five purposes of Green Belts which are:

- *to check the unrestricted sprawl of large built-up areas*
- *to prevent neighbouring towns merging into one another*
- *to assist in safeguarding the countryside from encroachment*
- *to preserve the setting and special character of historic towns*
- *to assist in urban regeneration by encouraging recycling of derelict and other urban land*

Paragraph 81 states local planning authorities should plan positively to enhance the beneficial use of the Green Belt and to retain and enhance landscapes and visual amenity. It also encourages improving damaged or derelict land in the Green Belt.

Paragraph 87 states inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 88 states very special circumstances will not exist unless the potential harm is clearly outweighed by other considerations.

Paragraph 89 states the construction of new buildings is inappropriate in Green Belt except for specific purposes including:

- *buildings for agriculture or forestry*
- *provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it*
- *replacement of a building provided the new building is the same use and not materially larger than the one it replaces*

Paragraph 90 certain types of development are not inappropriate provided they do not conflict with the openness of the Green Belt including engineering operations.

Paragraph 103 when determining planning applications local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a Flood Risk Assessment.

Paragraph 109 encourages protection and enhancement of valued landscapes and geological conservation and remediation and mitigation of despoiled, degraded, derelict, contaminated and unstable land where appropriate.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 121 Development sites should be suitable for new uses taking account of ground conditions and land instability, including from natural hazards or former activities such as mining and pollution.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

Paragraph 126 - Local planning authorities should have a positive strategy for the conservation and enjoyment of the historic environment. LPA's should recognise Heritage Assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

Paragraph 129 - Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal and take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 133 - Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, LPA's should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

Paragraph 135- The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 136 - Local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

Paragraph 139 - Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

- 1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.
- 2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.
- 3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

3. Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.
6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.
9. Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.

10. Safeguard and make the most sustainable use of the Black Country's mineral resources including primary, secondary and recycled materials without compromising environmental quality.

The above are supported by the following policies:

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character. Development proposals will be required to preserve and where appropriate enhance aspects of the historic environment together with their settings. Buildings, structures and archaeological remains of traditional manufacturing and extractive industries such as coal mining and limestone quarrying should be conserved.

ENV4: All development proposals likely to affect the canal network should seek to protect and enhance its special historic, architectural, archaeological and cultural interest, nature conservation, visual amenity and water quality.

ENV5: Seeks to minimise the probability and consequences of flood risk.

WM1: Encourages sustainable waste management and enabling existing waste management infrastructure to expand or relocate where appropriate.

WM4: Considers new waste management proposals stating they should seek to minimise impacts on the highway, visual impacts, potential detrimental effects on the environment and human health and localised impacts on neighbouring uses from noise, emissions, odours, vermin and litter.

Proposals should demonstrate compatibility with surrounding areas. Disposal of inert wastes to land as part of land remediation/engineering will require an open outdoor site and should include mitigation for visual and other harmful effects by appropriate landscaping and screening.

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

ENV1: Identifies the Green Belt boundaries.

ENV2: Seeks to control development in the Green Belt. Any engineering or other operation or the making of a material change of use of land is inappropriate in the Green Belt if it conflicts with the openness and purposes of the Green Belt.

ENV3: Relates to detailed evaluation of proposals within the Green Belt.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: Encourages reclamation and development of derelict and previously developed land where possible in accordance with other policies. Where previous uses have affected the stability of the site the application must be accompanied by a site investigation report.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV25: Proposals for development which affect archaeological sites will normally be accompanied by an evaluation of the archaeological resource.

ENV26: Seeks to protect the Borough's industrial archaeology including canal heritage.

ENV32: Proposals should take in to account the surrounding context particularly within or adjacent to the Green Belt including consideration of the effect on the local character of the area, vehicular and pedestrian patterns and visual relationship to surrounding areas.

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

ENV40: The quality of all water resources will be protected.

JP8: Bad neighbour industries will be given careful consideration and should be capable of providing satisfactory screening and landscaping and must be subject to stringent operational control to minimise disturbance.

T1: All development should conform to the accessibility standards set out in policies T10-T13.

T4: Classifies the highway network and specifies that residential streets and minor roads are those where traffic volumes and speeds should be quite low. Sometimes traffic calming measures will be required.

T5: Seeks to implement selective improvements to highway infrastructure and states highway improvement schemes should be designed to minimise any adverse impact on the environment or the amenity of residents.

T7 – All development should satisfy the car parking standards set out in Policy T13.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

LC5: Seeks to protect a network of Greenways throughout the Borough.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Designing Walsall SPD

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

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

Conserving Walsall's Natural Environment SPD

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

Consultations on the planning application

Transportation – No objections. The impacts of the temporary works on the surrounding highway network are not severe. Conditions are recommended to secure full engineering details of the access, parking for site operatives and provision and maintenance of visibility splays at the access. Notes for the applicant regarding S38/S278 works, mud on the highway, drainage over the public highway and provision of a dilapidation survey are recommended.

Pollution Control (Scientific Team) – No objections but recommend conditions to secure measures of controlling noise and dust. A method of cleaning vehicle wheels before they exit the site onto the highway should also be agreed. The site is some distance from residential premises and no noise complaints have been received but it is recommended that measures to control noise are secured by condition and mitigation measures proposed are fully implemented.

Pollution Control (Contaminated Land) – No objections. A condition is recommended to ensure the materials to make up the ground levels are chemically tested for suitability.

Archaeologist – Objects on the basis that the proposals would cause damage to a Heritage Asset of National Importance and of locally distinctive character. The former limeworks cover a large area (2.5 hectares) in the northern part of the site.

The applicant should present an assessment of the archaeological remains and a strategy for dealing with those remains affected by the proposals. The submitted plan does not show the location of the remains accurately. It should be emphasised that the lime kilns are only a small portion of the total area of archaeological interest (around 10%) and the applicant should present a strategy for dealing with the archaeological remains over the entire site. The preferred option would be preservation but for areas where this is not possible for safety considerations there should be a strategy for excavation and recording of archaeological remains prior to and/or during removal of materials. Benchmark Archaeology has provided a draft scheme of investigation for review which is acceptable subject to a condition to secure the works.

Canal & River Trust – No objections subject to conditions to secure details of the bund along the canal and details of surface water drainage in order to maintain the integrity of the canal structure.

The Coal Authority – No specific comments or observations. Whilst there are no shallow recorded mine workings within the specific area proposed for development there is the potential for historic unrecorded coal mining features within coalfield areas. An informative note to applicant is recommended to contact the Coal Authority in the event that a mining legacy is encountered.

CPRE Staffordshire – No objections. CPRE welcomes restoration of the area to a more natural condition and the improvement in the appearance of the site when work is completed. The infilling of the shafts is also welcomed as it makes the shafts safe and disposes of inert waste safely.

Ecology – No objections. Investigations into a claim by an objector to the application alleging the presence of four bat species have been investigated. No substantial evidence has been provided to persuade officers that the development will cause harm to bats which are a European Protected Species. The objector has been advised that alleged destruction of bat roosts would be investigated by the police. There are no ecological objections to the proposal subject to inclusion of planning conditions relating to habitat protection, restoration and management.

Environment Agency – No objections. The material proposed to fill the shafts should be suitable clean inert material to ensure no contamination of groundwater. The proposed activities would be controlled under a Waste Permit and it is recommended that a bespoke permit would be required for this site to include specific conditions and risk assessments on how potential impacts on the Daw End Railway Cuttings SSSI will be mitigated. A bund will be required along the boundary with the canal to prevent contaminated run-off entering the canal. Permission is required from the

Environment Agency and Canal & River Trust to extract water from the canal for dust suppression purposes.

Environmental Health – No comments as the environmental health team has no enforcement responsibility for the proposed works.

Fire Service – No objections.

Inland Waterways – No objection subject to appropriate protection of the structure and amenity of the Daw End Branch Canal including the temporary bund as described.

Landscape - A revised landscaping plan is required to include details of preparation of the land for the end use, protection of trees and hedges, soil depths and planting details, phasing and maintenance.

Local Access Forum (Walsall Ramblers) – No objections. There are no impacts on public rights of way.

Natural England – It is recommended that the LPA undertake a Habitats Regulations Assessment (HRA) as the site is close to Cannock Extension Canal Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). Key considerations should include the impact on local sites, local landscape character, national biodiversity and priority habitats and species. Conditions to secure biodiversity enhancements and green infrastructure are also recommended.

Public Rights Of Way – No objections.

Structures & Geotechnical – No objections in principle. The former limestone mineshaft infilling should be carried out in accordance with specific details recommended to be secured by condition. Further details of the stabilisation of the former limestone mineshafts are required and should be secured by condition.

Public Participation Response on the planning application

25 letters of objection have been received which are summarised as follows:

- Unsafe access due to the narrow road and poor visibility
- Unsuitable access for the volume of heavy vehicles
- Volume and type of vehicles using the site are a danger to pedestrians and other road users
- Vehicles have ruined the verges on Winterley Lane
- Change to the historic character of Winterley Lane
- Increased debris and soil has dragged out onto Winterley Lane
- There is a weight limit on the bridge which is unsuitable for HGV's yet is ignored
- Heavy vehicles manoeuvring to avoid the bridge
- There is already excessive numbers of vehicles operating from the site
- Adverse impact on the environment due to fly tipping and attraction of pests
- Potential contamination from imported materials
- The site has become untidy since works commenced
- The site is operating as a tip
- The operator is already abusing existing hours of operation
- Increased dust causes health and amenity problems
- Noise from operation of machinery on site is audible from neighbouring properties including weekends
- Increased noise and environmental pollution
- The Council should consider residents not developer profits
- Materials are being sold off site and not used for filling

- Bunds have been erected to excessive heights to screen operations
- Works continue on site despite not having full permission
- A new access has already been implemented
- Sceptical about it being a 12 month operation
- Concerned about the potential use of the land once restoration is complete
- Lack of faith in the operator on the basis that current conditions have been ignored
- Loss of wildlife
- Loss of archaeology
- Land should be returned to its former use
- Lack of consultation with neighbouring properties
- Concern about a repeated application
- Buildings and trees have been removed already that contained protected species (bats) and has been reported to the Police as a criminal offence
- Inaccurate ecological surveys – a survey has been provided by the objector
- The operators are in breach of the Wildlife & Countryside Act
- Loss of property value

A letter enclosing a copy of a petition with 46 signatures submitted in objection to application 13/0652/FL has also been submitted. Officers cannot confirm that the signatories still object other than the covering letter advising that this is the case.

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

HABITATS REGULATIONS ASSESSMENT

The Local Planning Authority has a duty under Regulation 9 (5) of the Conservation of Habitats and Species Regulation 2010 ("2010 Regulations"). This duty is for all "competent authorities" (including Local Planning Authorities and other public bodies) to "have regard to the Habitats Directive in the exercise of its functions".

Regulation 61 (1) of the Habitats Regulations states the following:

"A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which:

- a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*
- b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site's conservation objectives".*

The first stage (screening) of Habitats Regulations Assessment is to identify the likely impacts (if any) upon a European site of a project or plan, either alone or in combination with other projects or plans, and consider whether these impacts are likely to be significant.

The screening element of the Habitats Regulations Assessment has been undertaken by Walsall Council. In assessing the proposal recognition is given to Regulation 61(6) which acknowledges that consideration can be given to any conditions or restrictions subject to which the consent is proposed.

This Habitats Regulations Assessment concludes that the development would not result in a significant effect on the Cannock Extension Canal Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) for the following reasons:

- The inclusion of the bund along the canal will prevent materials from entering the canal
- The Environment Agency permit will monitor the operations on the site to protect against potential pollution
- The proposal is to retain trees along the canal that provide habitats for protected species

- The land will be restored to open land/grazing use once operations have ceased and any required habitat enhancements secured by conditions on any planning permission

Taking into account these factors, it is considered that the restoration of the land by infilling and capping mine shafts will have no likely significant effects on Cannock Extension Canal SAC and SSSI, either alone or in combination. It can therefore be screened out for the purposes of the HRA, and does not need to proceed to Stage 2: Appropriate Assessment.

Given this conclusion, it is considered the requirement to complete an appropriate assessment has not been triggered. As a consequence, officers consider the development is in compliance with the provisions of Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).

Natural England state they are not aware of any significant effects on the International or European interests of the sites referred to.

Determining Issues on the planning application

- Principle of development
- Impact on the character and openness of the Green Belt
- Archaeological Impact
- Relationship to surrounding properties
- Land Stability
- Means of access and impact on the highway network
- Landscaping/Ecology
- Environmental Impact Screening Opinion

Observations on the planning application

Principle of Development

Key considerations as to whether the principle of the development is acceptable are:

- Whether the level of restoration is appropriate to support the after use of this Green Belt site for open space/grazing use.
- Whether the proposed materials are appropriate to achieve the restoration for this after use
- Whether the right volume and type of materials to support the shortest timescale for restoration of the site
- Impact on the amenity of those living nearby

The principle of remediation and mitigation of derelict and unstable land is supported, where appropriate, by paragraph 109 of the NPPF and policy ENV14 of the UDP. The site is a former limeworks site where mine shafts have been identified that are affecting the stability of the land. In this case a key consideration is whether the level of restoration proposed is appropriate for this Green Belt site where the after use is to return the land for open space/grazing purposes.

The applicant is proposing to excavate and process the 2m depth of fill that presently covers the site and former shafts and workings. They anticipate that at worst case 50% of the recovered material will be unsuitable for backfill and will be exported off site. They anticipate that 25,000m³ of imported fill will be required as inert waste to bring the ground levels back to original and some imported fines and sand to treat the shafts and voids. This is a reduction from 37,417m³ originally anticipated under application 13/0652/FL. The proposals include on site processing of materials by crushing and screening to manufacture suitable materials for the reclamation of the site with additional imported inert waste and sale of secondary recycled aggregate from the site.

The level of restoration required should be appropriate to the end use for open space or grazing by removing the voids and restoring the land to a level sufficient to withstand livestock and machinery for this end use. The current proposal is for a reduced amount of imported inert waste material

(reduced from 37,417m³ to 25,000m³) which will be processed and sorted on site and a reduced timescale for restoration from 30 months to 18 months. Although importation of materials that could be deposited straight into the ground without the need for sorting, screening and crushing would be preferred it is considered that the developer has made efforts to reduce the timescale of the programmed works to reduce potential adverse impacts on amenity.

The main implications of sorting materials on site is from screening/crushing processes, generation of traffic and stockpiling materials that would have an adverse impact on the amenities of the area. Nevertheless the applicant has identified mitigation measures such as restricting the operation times for the crusher, provision of a screen bund around the site, and an improved access and passing bays on Winterley Lane. The extent of the works and anticipated amount of imported materials has also been reduced which coupled with the reduced timescale should help to reduce any significant effects. The level of restoration is considered appropriate given the size of the site and extent of the unstable land and would not permanently harm the openness or character of the Green Belt.

The proposed method of reclamation which involves importation of inert waste material to be stored, screened and processed on site is controlled by the Environment Agency through the granting of an Environmental Permit. This will address residents concerns about potential contamination of the land from imported materials and alleged operation of waste recycling.

Residents have objected as works commenced before planning permission was sought and have little confidence in the company complying with any conditions as hours of operation are already being abused, materials are being sold off site and not used for infilling. They also doubt the programme of works would last only 12 months. They consider residents concerns should take priority over developer profits. The current application seeks to rectify the issues regarding non-compliance with the earlier permission and appropriate monitoring of conditions should preclude any breach. The proposal does allow for non-useable materials to be sold off site. Residents are also concerned about the potential use of the land once restoration is complete. The application states that the intention is to return the land to open space (grazing) as this was the previous use of the land. Any alternative use would require planning permission and be subject to public consultations. Residents concerns are further addressed in the following report.

Whilst residents are concerned about this repeated application the developer has sought to address the objections raised in regard to the earlier proposals 13/0652/FL.

It is considered that the restoration of the land to return it to open space/grazing is appropriate within the Green Belt and despite the concerns about the method of reclamation the operations will be for a limited period only and not a permanent use. Recommended conditions will secure appropriate mitigation and the Environment Agency monitoring of the Environmental Permit will help protect neighbour's amenity and the environment.

Appropriate conditions are recommended to mitigate the impact on neighbours' amenity for the duration of the temporary works.

Impact on the character and openness of the Green Belt

The proposal is partly retrospective as some works had already commenced including a bund alongside Winterley Lane behind the existing hedge. There are also stockpiles of materials throughout the site. These stockpiles inevitably have an adverse impact on the openness and character of the Green Belt. Upon restoration of the land these stockpiles will be removed and the land restored to its original level and returned to open space. There will not be a permanent impact on the Green Belt character or openness and the restoration of the land is considered a very special circumstance sufficient to outweigh any temporary harm.

To enable restoration of the site the developer proposes screening and crushing materials and inert waste recycling plus sale of recyclable materials. This is not an appropriate use in the Green Belt. Nevertheless the developer has reduced the timescale for the process of restoration from 30 months to 18 months from the grant of any planning permission. Although it cannot be guaranteed that there will be an adequate supply of suitable materials available to complete the works in this timescale any extension to the timing would require a further planning permission. It is clear that the establishment of a permanent waste recycling operation on this site would not be acceptable and a temporary use is only acceptable for a temporary period whilst it enables early restoration of the land.

Once all machinery, equipment and materials have been removed from the site and the land returned to its original form for use for grazing, the proposals would not have a significant impact on the character or openness of the Green Belt.

Archaeological Impact

The NPPF encourages protection and enhancement of valued landscapes and geological conservation and preservation of heritage assets where appropriate. Policy ENV26 of the UDP seeks to protect the Borough's industrial archaeology including canal heritage. The site was last used for grazing purposes but was formerly occupied by Winterley Lane Limeworks. This amended scheme proposes to retain an area of land in the north of the site that is not to be disturbed as it is where the most significant archaeological remains are located.

The Archaeologist states that no accurate details of the archaeological remains have been provided and there is no information identifying the depth of the remains throughout the site to confirm whether they will be disturbed or not. The Archaeologist recommends a programme of archaeological work in accordance with a written scheme of investigation should be secured by condition. As the site is not a Scheduled Monument it is recommended that a condition to secure a scheme of photographic recording of the excavated areas and features of archaeological interest is imposed rather than a programme of works. The public safety benefits of treating the mine shafts and restoring the land are considered to outweigh the retention of the non designated heritage asset.

Objectors are concerned about the loss of archaeology on the site. The proposal is to excavate the top 2m off the land and to remove building foundations and materials below the surface would effectively be removal of the archaeology throughout the site.

The NPPF requires consideration of the scale of any harm or loss and significance of the heritage asset. In this case the proposals have been amended to reduce the potential archaeological impact by identifying an area not to be disturbed adjacent to the canal where the archaeology will remain. This area is where the most significant remains have been identified. Although the remainder of the site is to be excavated which would disturb or remove the archaeological remains the site is not listed as a Scheduled Monument so is not a significant heritage asset worthy of permanent retention. Nevertheless it is recommended that photographic recording of the archaeological remains is secured by condition. It is acknowledged that not all archaeology throughout the site will remain. The public safety benefit of treating the mine shafts and restoring the land are considered to outweigh the loss of the non designated heritage asset.

Relationship to surrounding properties

The nearest residential property to the site is Rosedene Kennels, Radley Road 66m away on the opposite side of the canal. Other properties in Radley Road, Countess Drive, Winterley Lane, The Longcroft and Friary Crescent are all over 100m away from the site.

The site is in a semi-rural location but is accessed via residential areas. Works began in January 2013 and residents have experienced disruption from noise and dust, particularly from the crusher on the site and increased commercial vehicles utilising Winterley Lane. Residents are concerned about air quality and pollution and potential health issues that could affect quality of life. The amended proposals reduce the timescale to complete the works in 12 months instead of 30 months in order to reduce continued disturbance to neighbours. Although the site is in an exposed semi-rural area and increased commercial traffic and operations on site are more obvious, this will only be for a limited timescale and operations are proposed to be controlled by conditions on any permission. Pollution Control officers recommend conditions to control noise and vibration, dust and odour and to agree a method working plan which will help provide adequate mitigation to address residents concerns.

Residents consider the bunds installed around the site are to screen unauthorised activities but they are to provide protection from noise and pollution effects particularly along the canal boundary. They do act as a partial screen to the activities being carried out which have an untidy appearance. Whilst these activities are not usually acceptable in the Green Belt for the reasons stated above there are very special circumstances to justify this exceptional case for restoration of the land. The bunds are considered an appropriate measure to screen this temporary use. As for potential fly tipping and attraction of pests as the infilling uses inert material there will not be a significant risk of this.

With regards to the concern that there has been a lack of consultation with residents the application has been publicised in Walsall Chronicle, a site notice posted and direct notifications sent to the nearest neighbours. This is in accordance with the planning legislative requirements.

Loss of property value to surrounding properties is not a material planning consideration.

Land Stability

The developer has indicated that the former Lime Works shafts and mine workings will be capped with a concrete cap. The Structures & Geotechnical officers recommend the infilling is carried out to specific standards to include pressure grouting, reinforced concrete cap, testing regime for all infilling and restoration of the land to original levels. A condition to secure these measures is proposed as well as measures to ensure the mine shafts are treated and capped adequately.

The area has a history of land collapses and there is a concern that stockpiling of materials around the site may destabilise the land. However, the recommended conditions will ensure the satisfactory stabilisation of the land. The Canal & River Trust do not have any adverse comments regarding the stockpiles along the canal edge.

On the basis of the above it is considered that adequate measures to stabilise and treat the former lime workings to stabilise the land will be secured.

Means of access and Impact on the Highway Network

The proposal is to implement a new access to the site as previously approved for permission 09/0695/FL. This replaces the existing access which is close to Winterley Bridge which is a narrow humped back bridge with a 3 tonne weight limit, poor visibility and no footway. The new access is further away from the bridge. Some works to clear vegetation in preparation for implementing this new access have already been undertaken. Residents remain concerned that Winterley Lane is unsuitable for this type of use and volume of heavy goods vehicles as it is narrow with poor visibility and the proposals increase dangers to pedestrians and other road users and vehicles have already mounted the verges in Winterley Lane and mud has been dragged out of the site onto the highway.

The new access will give better visibility and the introduction of passing bays on Winterley Lane will allow HGV's to pass safely without the need to mount the verges. It is recommended that the design of the new access is secured by conditions. The potential issues regarding mud and debris being dragged out of the site onto the highway could be addressed by an appropriate condition requiring wheel washing facilities. Provision of a new access and new signage to direct traffic from the site towards Bosty Lane will reduce potential for large vehicles needing to manoeuvre in Winterley Lane causing a potential hazard.

All parking will occur within the site so there are no perceived issues regarding this.

The proposed means of access is considered satisfactory subject to securing details and will not have any significant adverse impact on the local highway network or highway safety. The Transportation officer supports the proposals subject to implementation of the safeguarding measures. The incorporation of passing places will not alter Winterley Lane to such an extent that it would significantly alter its character as a lane.

Landscaping/Ecology

The proposed development has limited impact on the existing landscaping on the site as the original levels will be restored and the outer tree belt and hedgerows are to remain. Conditions to secure appropriate landscaping details required by the landscape officer are recommended.

The Council Ecology officer has no objections to the proposals but recommends planning conditions to secure habitat protection, restoration and management. The proposal is to return the site to its former use i.e. agricultural/grazing land and a condition to secure implementation of the mitigation measures proposed in the ecological report are recommended. The mitigation includes planting, provision of a management plan, planting of species rich grassland, a stand off from the canal and prevention of levels changes around trees and hedgerows. These measures address landscape and ecology matters.

Natural England does not raise any objections to the proposals and recommend conditions to secure mitigation measures.

One objector states that the ecological surveys are inaccurate and that buildings and trees have already been removed that contained protected species (bats) and the operator is in breach of the Wildlife & Countryside Act. The objector provided a Bat survey report just prior to the Planning Committee on 10th April 2014 when the application was first due to be considered alleging significant bat presence. Following this allegation and submitted report the Council Ecologist has reviewed the information provided by the third party but finds it contains no substantial evidence to demonstrate that the development will cause harm to European Protected Species. In light of this there is also no requirement for a further Bat Activity Survey.

It is recommended that suitable landscaping and ecology throughout the site could be adequately addressed.

Environmental Impact Assessment (EIA) Screening Opinion

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 distinguishes between two separate groups of development to which EIA are required. Schedule 1 Development requires an EIA in every case and Schedule 2 Development requires an EIA only if the project is judged likely to have significant effects on the environment by virtue of factors such as its size, nature or location.

The proposal does not fall within Schedule 1.

The development falls within Schedule 2 part 11(b)(ii) as it is an installation for the disposal of waste where the area of development that exceeds 0.5 hectares and part 11(b)(iii) as the installation is sited within 100 metres of controlled waters (Daw End Branch Canal). The scale, nature and characteristics of the proposed restoration are considered not to have a significant permanent impact on the Green Belt and surrounding area or upon amenities of nearby residents.

In light of the above an Environmental Impact Assessment for the proposed development is not needed.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted. In light of the submitted details officers are able to support the scheme.

Recommendation on the Habitats Regulations Assessment

It is recommended that the Habitats Regulation Assessment be endorsed by the Planning Committee, as the competent authority and confirm that, the Council considers that the proposed development would not have a significant effect on a European site.

Recommendation: Grant Permission Subject to Conditions

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

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

2. The Limestone mineshaft infilling shall be carried out in accordance with the following details:

- Mineshaft/s shall be stabilized by pressure grouting or provision made in the shaft cap/s to top up the infill as it settles
- Timescale for the works to commence
- The reinforced concrete cap to the limestone shaft should be designed to the Coal Authority's recommendations for capping mineshafts
- The applicant should ensure that an adequate testing regime is in place to ensure only clean well graded materials are used to infill the limestone mineshafts and backfilled excavations
- To ensure the stability of the underground limestone mines the site is to be restored to the existing levels with no increase in loading from the overburden

Reason: To ensure the satisfactory completion of the development and protect land stability.

3a. Prior to works commencing on site and within two months of the date of this permission detailed proposals and measures for addressing the underlying stability of the limestone mines and minimising/preventing further crown hole collapses shall be submitted to the local planning authority for approval in writing.

3b. The development shall be implemented in accordance with the approved details.

Reason: To ensure the satisfactory completion of the development and protect land stability.

4. No works, (including, land reclamation, stabilisation, preparation, and deliveries etc.), shall take place on any Sunday, Bank Holiday or Public Holiday*, and Site operating hours shall be 0700 to 1800 Monday to Friday and 0700 to 1300 Saturdays, with the material processing activities taking place between 0800 to 1600 Monday to Friday and 0800 to 1200 Saturdays only.

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

Reason: To protect the residential amenities of surrounding occupiers.

5. Noise from the application site, either individually or cumulatively, shall not exceed 55 dB (A) LAeq,1h (free field) and 5 dB(A) above background levels 1 metre from nearby sensitive premises. The following measures shall be fully implemented in order to achieve this:

- (i) Within 2 weeks of the site commencing operations an acoustic survey shall be undertaken by a suitably qualified person to demonstrate compliance with the noise limits. Thereafter bi-annual monitoring of noise shall be taken from the nearest noise sensitive property to ensure that noise levels do not exceed 55dB LAeq (1 hour) (Free field). Results of the acoustic surveys shall be submitted in writing to the Local Planning Authority within 14 days.
- (ii) Proprietary plant and equipment shall be fitted with appropriate silencers and/or acoustic panels or insulation.
- (iii) All mobile plant will be fitted with non-intrusive warbler reversing or white noise systems.
- (iv) Equipment maintenance and operation shall be in accordance with manufacturers' instructions.
- (v) Audible noise/vibration assessment shall be undertaken on a daily basis. All such assessments and instances of remedial and corrective action shall be recorded in writing in the site diary and made available to the Local Planning Authority upon request.
- (vi) An acoustic bund shall be constructed around the crusher and screener.

Reason: To protect the residential amenities of surrounding occupiers.

6. The site operator shall ensure that the mitigation measures stated in the following approved documents are implemented prior to activities commencing and thereafter maintained throughout the duration of the works:

- Noise and Vibration Management Plan
- Dust and Odour Assessment, (including a Particulate Management Plan),
- Method Statement and Working Plan, and
- Transport Statement

Reason: To protect the residential amenities of surrounding occupiers.

7. The site operator shall ensure an adequate quantity of water is available on-site to suppress dust and clean vehicle wheels on a daily basis prior to works commencing.

Reason: To ensure the satisfactory completion of the development and protect residential amenities of surrounding occupiers.

8a. The site operator shall agree a method for the cleaning of vehicle wheels before they exit onto the highway with the Local Planning Authority.

8b. The agreed methodology shall be fully implemented prior to works commencing and shall be maintained throughout the duration of the works.

Reason: To protect the adjacent highway.

9. Material shall be stored within storage bays only and shall not exceed the wall heights.

Reason: To protect the residential amenities of surrounding occupiers.

10. Prior to the commencement of the development the height, depth and breadth of all stockpiles shall be agreed in writing with the Local Planning Authority.

Reason: To protect the residential amenities of surrounding occupiers.

11a. Prior to the commencement of any works, the following details shall be submitted and approved in writing by the Local Planning Authority in conjunction with the Highway Authority;

- (i) Full engineering details of the proposed access off Winterley Lane
- (ii) Full engineering details and locations of the proposed passing places on Winterley Lane.
- (iii) Full engineering details of the proposed permanent closure of the existing access off Winterley Lane.
- (iv) Full details and locations of temporary/permanent advanced site access warning signs on Winterley Lane.

11b. Prior to the site being brought into use, all highway infrastructure works detailed and agreed, shall be fully completed and brought into use to the satisfaction of the local planning authority and all associated costs to be met by the applicant.

Reason: In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

12a. Prior to the commencement of development details shall be submitted to the Local Planning Authority in conjunction with the Highway Authority, setting out where the location of parking for site operatives and visitors has been provided within the application site.

12b. The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during the development process.

Reason: To prevent indiscriminate parking in the interest of highway safety.

13. Materials to be deposited at the site for the purpose of achieving agreed landform levels shall be tested to demonstrate the absence of contaminants and ensure that they are suitable for use. Details of sampling frequency and arrangements shall be agreed in writing with the local planning authority prior to the deposit of land forming materials.

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

14. A validation report confirming details of sampling and testing and giving the results of laboratory analysis of samples tested shall be provided to and agreed in writing by the Local Planning Authority within one month of the completion of each phase of restoration as detailed in drawing "Enviroarm Limited, Winterley Lane, Phasing Plan Ref ESID 8 December 2013".

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

15. The visibility splay at the access point shown on the approved plan shall at all times be kept clear of up-growth and overhanging vegetation between 0.6m and 2.0m above ground level.

Reason: In the interests of highway safety.

16a. No development or site clearance shall commence until full details of a restoration scheme is submitted to the Local Planning Authority and approved in writing. The scheme shall provide the following elements:

- (i) Restoring and enhancing native hedge and tree planting along the boundaries of the site;
- (ii) Creation/ enhancement of diverse species-rich native grassland in accordance with paragraph 5.1 of the ecological Assessment by Eco Tech; Full details shall be provided of:
 - Preparation of land for planting.
 - Eradication of Japanese knotweed.
 - Specification and depths of topsoil/ subsoil/ growing medium and any mulches.
 - Locations of all planting.
 - Density of planting/ sowing.
 - Specifications for all planting to include: full details of sizes/ container volumes/ seed mixes/ plant numbers/ provenance/ botanical and English names and methods of planting.
 - Phasing.

16b. The restoration scheme shall be implemented incrementally as each phase is completed in accordance with the approved scheme and retained and managed thereafter.

Reason: To restore and enhance the visual, amenity and nature conservation value of the site and contribute to the ecological diversity of the site in linked green infrastructure in the neighbourhood in accordance with policies ENV23, ENV32 and ENV33 of the Council's adopted UDP.

17a. No development or site clearance shall commence until a 5 year management plan has been submitted to the Local Planning Authority and approved in writing. The management plan shall be carried out to an accepted methodology and provide full details of:

- How the site will be managed to promote ecological diversity.
- How the all planting will be maintained through the establishment period and managed thereafter.
- Monitoring and reviewing the effects of management and incorporating any remedial works required to implement the approved restoration scheme.
- Provision for the replacement of any planted or seeded area which dies, becomes diseased or damaged.
- Eradication of any Japanese knotweed which appears on the site.
- Details of routine maintenance such as pruning/ litter picking/ cutting/ watering in dry period/ weeding.
- Full details of all management operations will be set out together with a timetable for each operation.

17b. The restoration scheme shall be managed in accordance with the approved management plan.

Reason: To restore and enhance the visual, amenity and nature conservation value of the site and contribute to the ecological diversity of the site in linked green infrastructure in the neighbourhood in accordance with policies ENV23, ENV32 and ENV33 of the Council's adopted UDP.

18a. No development or site clearance shall commence until a scheme for the mitigation of adverse impacts on the canal and surrounding hedgerows and trees has been submitted to the Local Planning Authority and approved in writing. The approved scheme shall be put in place before any development commences and remain until the development is completed. The mitigation scheme shall comprise the following elements described:

- (i) No works shall be undertaken within 5 metres of the canal edge.
- (ii) This stand-off shall be delineated by a small bund no less than 1 metre high to prevent any run-off from the site entering the canal. The bund shall incorporate a shallow interceptor ditch on the canal side of the ditch which will both channel any run-off back onto the site and provide a new wetland habitat. Both the bund and ditch shall be further than 5 metres from the edge of the canal.
- (iii) No levels changes shall be permitted within 5 metres of any tree or hedgerow. The five metre stand-off area shall be demarcated on site using fencing capable of withstanding vehicle collision and no storage of materials, temporary site buildings, vehicles or anything else shall be permitted in this zone.

18b. The approved scheme shall be put in place before any development commences and remain until the development is completed. Thereafter it shall be incorporated as a habitat feature into the restoration scheme.

Reason: To protect and enhance the nature conservation value of the site and the adjacent canal and contribute to the ecological diversity of the site in linked green infrastructure in the neighbourhood in accordance with policies ENV1 of the Black Country Core Strategy and policies ENV23, ENV32 and ENV33 of the Council's adopted UDP.

19a. Within two months of the date of this permission details of the proposed bund shall be submitted to and agreed in writing by the Local Planning Authority in consultation with the Canal & River Trust. This shall include details of whether the bund is to be removed once infilling works are completed and the site restored for open space.

19b. The development hereby approved shall thereafter only be carried out in accordance with the agreed details.

Reason: To protect the structural stability of the canal and ensure that the proposed development contributes to the ecological value of the waterway corridor in accordance with policies ENV1 and ENV4 of the Black Country Core Strategy.

20a. Within two months of the date of this permission details of the measures to prevent surface water from entering the canal and soakaway shall be submitted to and agreed in writing by the Local Planning Authority.

20b. The development shall be completed in accordance with the agreed details and maintained thereafter.

Reason: To ensure that surface water from the site is disposed of in a safe and appropriate manner in order to protect the integrity of the waterway structure and water quality in accordance with policies ENV4 and ENV5, Sustainable Drainage Systems and Urban Heat Island of the Black Country Core Strategy.

21a. No development shall take place until a scheme of photographic recording of the excavated areas and features of archaeological interest has been submitted to and agreed in writing by the local planning authority.

21b. The development shall thereafter be completed in accordance with the approved scheme.

Reason: To secure recording of features of archaeological interest.

22. Upon completion of the works hereby approved all land affected by the works, including the haul roads, site access and material/storage compound, shall be grubbed up, the materials removed from the site and the areas of land restored to their former state. All other materials, structures or equipment brought on to the site for the purposes of the development shall be removed from the site. The site shall then be landscaped in accordance with an agreed restoration, management and mitigation measures required by conditions 14, 15 and 16 of this approval and maintained thereafter.

Reason: To protect the character and openness of the Green Belt and visual amenities of the area.

23. This development shall not be carried out other than in conformity with the following plans and documents: -

- Site Location Plan (ESID1) received 10/2/14
- Planning Application Boundary (ESID2) received 10/2/14
- Site Ownership Boundary (ESID3) received 10/2/14
- Bedrock Geology (ESID4) received 10/2/14
- Bedrock Aquifer Designation (ESID5) received 10/2/14
- Flood Map (ESID6) received 10/2/14
- Shaft Location Plan (ESID7) received 10/2/14
- Phasing Plan (ESID8) received 10/2/14
- Flood Protection (ESID9) received 10/2/14
- Original Levels (ESID10) received 10/2/14
- Proposed Levels (ESID11) received 10/2/14
- Tree Plan (ESID1) received 10/2/14
- Design & Access Statement prepared by M Design (Rev B) received 10/2/14
- Noise & Vibration Management Plan (revision 1.00) received 10/2/14
- Supporting Statement Volume 2 prepared by Enviroarm received 10/2/14

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).

Note for applicant regarding S38/S278 Works

No works on the public highway shall be commenced until all engineering details have been approved by the Highway Authority and an agreement under Section 38/278 of the Highways Act, 1980 entered into. All costs are to be met by the applicant and it should be noted that any non standard materials, landscaping, highway drainage or structures etc will require a commuted sum for future maintenance.

Note for applicant regarding Mud on Highway

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

Note for applicant regarding Drainage over the public highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning areas do not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway or vice versa.

Note for applicant regarding dilapidation survey.

Due to the nature and width of Winterley Lane it is recommended that a highway dilapidation survey is undertaken by the Highway Authority to assess and record the condition of the highway prior to commencement of the development in the event of the highway being damaged by the extraordinary traffic movements as a result of this application.

Note for applicant – Coal Authority

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is also available on The Coal Authority website at www.coal.decc.gov.uk Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority Property Search Service on 0845 762 6848 or at www.groundstability.com

Note for Applicant – Canal & River Trust

The applicant/developer is advised to contact the Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Trust's "Code of Practice for Works affecting Canal & River Trust".

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

Note for applicant – Contamination

Frequency of sampling and testing of re-deposited soils should be sufficient to reliably indicate that they are suitable for use however as a minimum samples should be tested for each 250 cubic metres of material. More frequent sampling may be required if the results of laboratory analysis indicate the presence of contaminants of concern. Samples should be taken in accordance with BS3882:2007 with reference to BS EN12579:2000 and BS5930:1999.

RE PLANNING APPLICATION 13/0652/FL
LAND OFF WINTERLEY LANE RUSHALL 2/3/14

WE THE UNDERSIGNED STRONGLY OBJECT TO THE PROPOSAL ON THE FOLLOWING GROUNDS.
POTENTIAL FOR.

- 1 NOISE POLLUTION FROM BRICK CRUSHER
- 2 DUST FROM CRUSHER (IE DARLASTON CEMETARY)
- 3 HEAVY GOODS VEHICLES IN WINTERLEY LN AS ROAD IS NARROW + HAS BLIND BEND IN IT

	127 FRIARY CRES
	135 Friary Cres.
	131. FRIARY Crescent.
	125 Friary Cres.
	119 Friary Crescent
	101 Friary Crescent
	99 Friary Cres
	91 FRIARY CRES
	117 FRIARY CRES
	123 Friary Cres
	139, Friary Cres.
	141 FRIARY CRES
	141 Friary Cres.
	145 FRIARY CRES.
	179 FRIARY CRES



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 2.

Reason for bringing to committee: Major Application

Application Number: 14/0024/FL
Application Type: Full application

Case Officer: Andrew Thompson
Telephone Number: 01922 652603
Email: planningservices@walsall.gov.uk
Agent: Gould Singleton Architects

Applicant: Nationworld Ltd

Proposal: Amendment to planning permission 12/0063/FL - (Demolition of existing derelict factory premises, roadway and ancillary buildings. Erection of new high bay warehouse with associated offices, fencing, landscaping, access roads and vehicle parking provisions) - To add additional staff car parking and allow car access from Park Road.

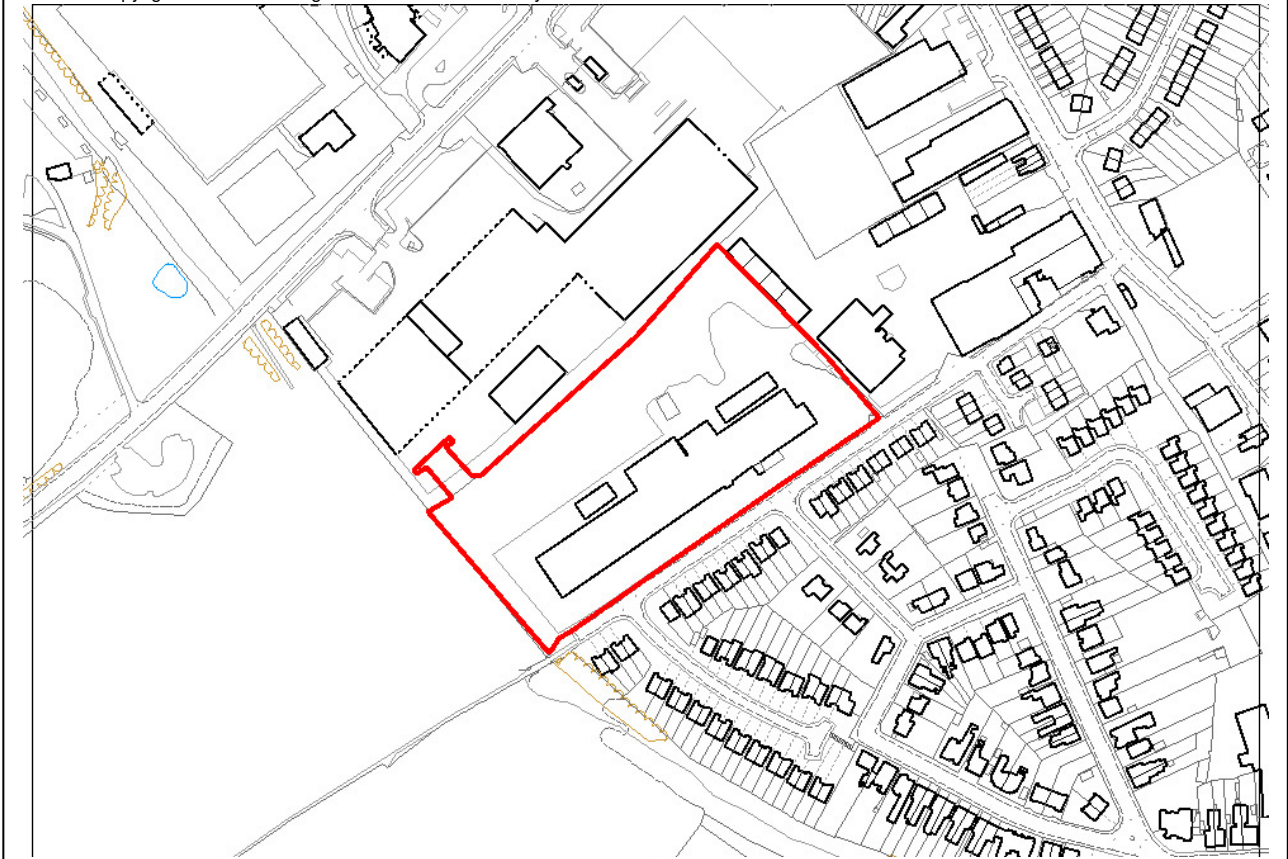
Location: ASPRAY24, PARK ROAD, WILLENHALL, WV13 1BU

Ward: Willenhall South

Expired Date: 04/04/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This application seeks to amend condition 3 of planning permission 12/0063/FL relating to the erection of a new high bay warehouse building for Aspray24. The current condition restricts use of the Park Road entrance to emergency vehicles and pedestrian access only.

The development has commenced with the first half of the building erected and operational. The second phase will be commenced in the near future and planning conditions relating to remediation, materials and other aspects of the development have been agreed with the treatment of the bank to Willenhall Memorial Park, to remove Japanese Knotweed, has also been commenced.

Since the permission it is noted that a 3m high acoustic fence (as opposed to the recommended 2m high fence) has been erected. Some of the high conifer trees have also been lost and these have been replaced.

Pedestrian access has also been installed with a dedicated secure gated access.

It is noted that there is outdoor storage of cars and supplies behind the fencing which was not part of the original permission.

In support of the application the following documents has been submitted:
Updated Transport Technical Note states that some 55 parking spaces are proposed to be marked out at the rear (south-eastern corner) of the depot for use by staff. These parking spaces will be accessed from Park Road via the existing site access which was (and currently is) reserved for emergency access and pedestrian use as part of the 2012 planning consent. No amendment to the existing gated access arrangement is necessary. The gates will be open during operational hours such that vehicles will not have to wait on, or queue back onto, Park Road.

The Technical Note notes that the original *TA* stated that Park Road is '*unsuitable for use by commercial/heavy vehicles*' and that this is still the case and this latest proposal is not at odds with that assessment. Park Road is, however, suitable for light vehicles, and it is only cars that will begin to reuse the access from Park Road.

The Technical Note also states that only members of staff issued with a permit will be entitled to use the proposed 55 parking spaces, where the number of permits issued will reflect the number of spaces. This will reduce the potential for staff 'looking' for a space here, perhaps not finding any available and having to return along Park Road to subsequently access the other car parks off Noose Lane. Accordingly, vehicle movements along Park Road will be minimised as far as possible. Only those issued with a permit will travel along Park Road and a space will always be available. The permit system will be 'policed' by security personnel at the Aspray Transport depot.

The applicant has also submitted a letter highlighting the installation of a higher acoustic fence at 3m in height to the entire length of Park Road.

Relevant Planning History

12/0063/FL - Demolition of existing derelict factory premises, roadway and ancillary buildings. Erection of new high bay warehouse with associated offices, fencing, landscaping, access roads and vehicle parking provisions – Granted 30th March 2012.

05/0983/FL/W3 – Variation to condition of BC54180P to allow additional time to implement – Granted 20 May 2005

BC54180P – Erection of a single storey extension – Granted 29 June 1999

BC51824P – Variation in previous permission to allow washing of machine parts – Granted 29 June 1998

BC42056P – Single Storey extensions – Granted 31st January 1995

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

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations)

These have been considered by Officers through a screening opinion and the development is not considered significant or in a sensitive area that would call for an Environmental Statement.

National Planning Policy Framework (NPPF) and associated Technical Guidance

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*".

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Reuse land that has been previously developed

Key provisions of the NPPF relevant in this case:

Paragraphs 18-21 encourage Planning Authorities to support and put significant weight on economic growth and to proactively to meet the development needs of business whilst protecting strategically important economic areas from encroachment.

Paragraph 103 – seeks to ensure that development is located in appropriate areas at low risk of flooding and does not exacerbate the risk of flooding.

Paragraph 123 seeks to ensure that development mitigates against pollution, including noise.

On planning conditions the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

- 1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.
- 2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.
- 3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.

The above are supported by the following policies which have superseded UDP Waste Management Policies:

CSP3 – Seeks to improve environmental infrastructure

EMP1-4 – Seeks to secure, safeguard and provide appropriate levels of employment land to aid sustainable economic growth

EMP5 – seeks to deliver local jobs and training opportunities

TRAN5 Sets out the requirement for development to focus on moving away from the reliance on the private car.

ENV1 - 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.

ENV 3 sets out the criteria for design quality

ENV4 development must enhance the canal corridor.

ENV5 seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage

ENV7 seeks to ensure new development promotes renewable energy provision

Saved Policies of Walsall Unitary Development Plan March 2005

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the Development Plan. However, in such cases the NPPF says “due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”.

GP2 expects development to make a positive contribution to the environment and considers (II) the susceptibility to pollution of any kind as an adverse impact which would not be permitted, and VII. Adequacy of access will be taken into account.

ENV10 states that development which may give rise to pollution such as noise and smell will only be permitted where it would not have an adverse effect on adjoining uses/potential uses.

ENV32 states that poorly designed proposals which fail to take account of the context or surroundings will not be permitted.

JP7 – seeks to retain other employment land

T7 and T13 seeks to ensure that car parking and servicing is well laid out and car parking is provided for at an appropriate level.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPDs are:

Designing Walsall SPD

Aims to achieve high quality development that reflects the Borough’s local distinctiveness and character, through key design principles.

Consultations

Transportation – No objection subject to conditions relating to disabled parking and cycling provision.

Pollution Control

Contaminated Land – No objection

Scientific Team – No objection

Natural Environment Team (ecology) – No objection

National Grid – No objection however, Low or Medium pressure (below 2 bar) gas pipes and associated equipment are in the vicinity. The applicant is advised to contact National Grid.

Representations

6 letters of objection from local residents, in particular those on Park Road raising the following objections:

- Intensification of Park Road
- Lead to more noise and disturbance, particularly with shift changes

- The entrance to Park Road is unsafe as it is with many drivers unaware it is there and with lorry's parking outside the existing factory visibility is poor.
- More accidents will result on Wednesfield Road
- Staff cars already using Park Rd as a car park and blocking residents driveways.
- Lorries using the entrance will be the next thing

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

Determining Issues

- Relationship to neighbouring residents on Park Road
- Car parking, highway safety and servicing

Observations

Relationship to neighbouring residents on Park Road

The principle concern relates to the noise and disturbance to residents. The gated entrance and noise mitigation measures that have been installed are noted. Given that at the current time there are storage of vehicles for delivery and other materials, it is considered necessary to add an additional condition preventing outdoor storage which is currently taking place and compromises the emergency servicing of the warehouse. Further it also adds additional activity to the Park Road frontage which is unnecessary.

It is noted that Park Road, along the Aspray frontage, is unrestricted, and could be used for car parking for staff accessing the site through the Park Road pedestrian access. Bringing vehicles on site would prevent this situation. The acoustic fence also minimises the amount of disturbance.

Overall on balance it is considered that the amendment would be acceptable subject to appropriate control and the site access only being used for these 55 car parking spaces.

Car parking, highway safety and servicing

The proposed layout of the car parking is considered to be acceptable. Transportation Officers raise no objection following the receipt and consideration of the applicant's Technical Note. The use of the Park Road access for HGVs, deliveries or commercial activity continues to be resisted.

The proposals would not raise significant issues from a highway perspective and may remove the need for staff to park on Park Road.

With the amended restrictions in place, it is considered that the proposals are acceptable.

Positive and Proactive working with the applicant

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

Recommendation: Grant Permission Subject to Conditions

1. The development shall be carried out in accordance with the approved details under 12/0063/FL, 12/1591/DOC and 13/0054/DOC and the following plans and associated documents
 - 11-1274/501A Site Survey
 - 11-1274/PO1 Location Plan and Block Plan
 - 11-1274/PO2 Proposed Site Plan
 - 11-1274/PO3 Proposed Floor Plans
 - 11-1274/PO4 Proposed Elevations
 - 11-1274/PO5 Proposed Sections – Sheet 1
 - 11-1274/PO6 Proposed Sections – Sheet 2
 - 13-1401/035a Full Depot Layout – Car Parking

Supported by the following documents:

- Design & Access Statement, prepared by Gould Singleton
- Transport Assessment, Addendum and Travel Plan (all Issue 2), prepared by Cole Easdon
- Updated Transport Technical Note prepared by Cole Easdon Consultants Limited (CEC) (ref: 4238, dated March 2014, Issue 1)
- Floor Risk Assessment, prepared by Cole Easdon
- Bat Survey (ref: RT-MME-110643-02) prepared by Middlemarch Environmental
- Extended Phase 1 Habitat (ref: RT-MME-110643-01 Rev3) prepared by Middlemarch Environmental
- WSP Noise Assessment (Jan 2012)
- Ground Investigation Report (ref: J11065/01) prepared by Harry Spillman
- Landmark Envirocheck Report (ref: J11065/02) prepared by Harry Spillman
- Landscape Drawings No 1 and 2 – prepared Martin Holland
- Site Appraisal for Great Crested Newts (March 2012) – prepared by Dr Jackie Underhill
- Letter from Gould Singleton Architects – dated 7th April 2014 (ref: Z:\gsac\13113-1401\letters\sjb070414.sc1)

Reason: To define the permission.

2. The existing gated access onto Park Road shall only be used for pedestrian, staff car parking for 55 spaces shown on drawing 13-1401/035a and emergency vehicular access only. No goods or other vehicles shall be taken through the Park Road access.

Reason: In the interests of highway safety.

3. All commercial vehicles using the site shall not use the audible 'beeping' reversing alarms. Alternative alarms should be sought such as the use of white noise, infrared, or visible alarm systems.

Reason: To ensure that the amenities of neighbouring residents or occupiers are not unduly inconvenienced by servicing of the site.

4. There shall be no outdoor storage of materials or delivery goods on the site.

Reason: To ensure that the amenities of neighbouring residents or occupiers are not unduly inconvenienced by servicing of the site and to ensure satisfactory functioning of the application site.

5. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00 weekdays and

08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To safeguard the amenities of neighbouring and nearby residents

6a) Prior to their installation details of the sprinkler tanks and any other plant equipment (including height, external finish, acoustic enclosures and boundary treatment) shall be submitted to and approved in writing by the local planning authority. Any structures shall be agreed in writing with the Local Planning Authority within buildings or in acoustically designed enclosures, and thereafter retained in accordance with any approval for the period of their use.

6b) The agreed details shall be implemented prior to the first use of the part of the development to which the plant and equipment relates.

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

7) The landscape scheme approved under 12/0063/FL, 12/1591/DOC and 13/0054/DOC of this condition shall be implemented in accordance with the approved timetable, or such other period as may be agreed in writing by the Local Planning Authority. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

(i) grassed areas shall be maintained;

(ii) planted areas shall be maintained;

(iii) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;

(iv) any damage to protective fences shall be made good.

Reason: To ensure the satisfactory appearance of the development.

8. The development proposals shall only be used in conjunction with the existing premises at Aspray24, Noose Lane.

Reason: In order to ensure satisfactory access to and development of the application site.

9i) Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

ii). The remedial measures as set out in the "Remediation Statement" required by part i) of this condition shall be implemented in accordance with the agreed timetable.

iii) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation is encountered development shall cease until the "Remediation Statement" required by part i) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

iv) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

10. Prior to commencement of built development further investigation and treatment measures in respect of the recorded mine entries and shallow coal mine workings [as outlined in Section 14.2 of the Ground Investigation Report (dated October 2011)] shall be undertaken.

Reason: In order to ensure that shallow mine workings are not compromised.

11. Vehicle horns shall not be sounded between the hours of 2300 to 0700 hours except for emergency purposes.

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

12. No public address facility shall be installed internally or externally without the prior written approval of the local planning authority and thereafter it shall not be modified from any approved details.

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

13. The continuous 3metre high acoustic barrier shall be retained at all times on the Park Road frontage.

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

Notes for Applicant – Contaminated Land

CL1) Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2011 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2) When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land Contamination”, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 “Updated technical background to the CLEA model” and Science Report – SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3) Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 3.

Reason for bringing to committee: Major Application

Application Number: 14/0332/FL
Application Type: Full application

Case Officer: Andrew Thompson
Telephone Number: 01922 652603
Email: planningservices@walsall.gov.uk
Agent: JLL

Applicant: ZF Lemforder UK Ltd

Proposal: Demolition of building F3 and part of building F2; extension of building F2 to provide new industrial floor space of 3,533sqm; construction of canopy of 1,137sqm to cover a new loading area to the east of building F1; closure of gate 5 for delivery and dispatch of raw materials, finished goods, and waste products; re-opening of gate 6 for collection of waste product and for the parking of 20 cars; rationalisation of existing car parking to the north of building F1; and associated minor works including improvements to circulation and enclosure.

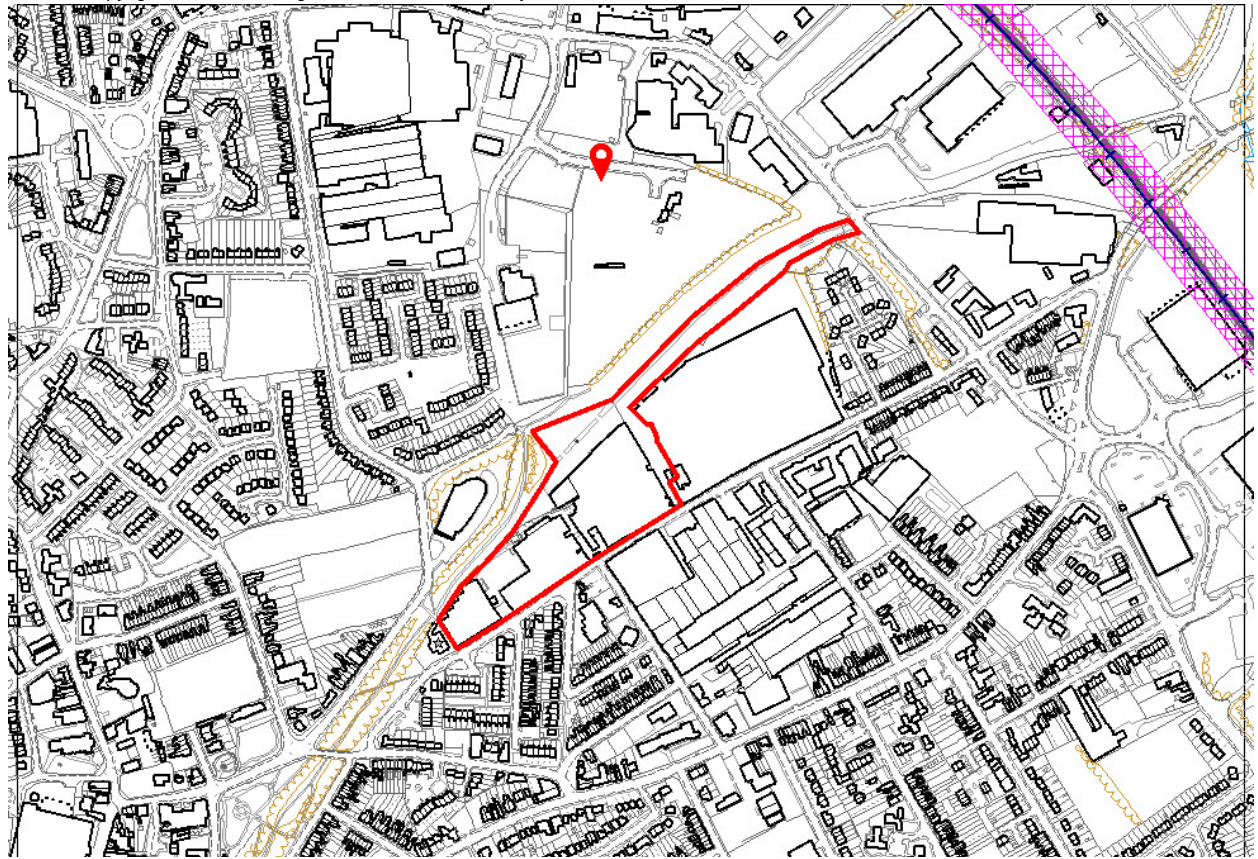
Location: ZF LEMFORDER FACTORY, STATION STREET, DARLASTON

Ward: Bentley & Darlaston North

Expired Date: 11/06/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The application site is the ZF Lemforder industrial factories which are located between Station Street and Victoria Road, Darlaston with access from Heath Road and Station Street. The access is shared with Caparro works and is accessed through a barrier system from Heath Road.

The area is on the edge of the Darlaston industrial area with residential and small industrial properties opposite and a care home immediately to the west. A public footpath (Dar 16) lies between the existing factories and the care home with the former railway line to the north.

The application site is currently developed to a high proportion of the application site with service yards primarily to the northern side of the site and there are existing high brick walls to the boundary with Station Street.

The site's buildings are set out in three distinct structures known as F1, F2, and F3. Buildings F1 and F2 are large modern industrial building with steel cladding and brick walls to Station Street. Building F3 is located on the eastern end of the site and is a set of six combined metal cylindrical buildings behind a brick facade to Station Street.

For clarity

Gate 1 is the principal access for Caparo and ZF Lemforder off Heath Road

Gate 2 is the access within the site to Caparo and ZF Lemforder

Gate 3 is the shared access for Caparo and ZF Lemforder on Station Street

Gate 4 is a limited access point between building F1 and F2 opposite Bills Street

Gate 5 is an access from Station Street opposite Tilley Street and forms one of the current principal access points

Gate 6 off Station Street is currently closed due to building F3 blocking this access.

The proposals are to demolish the group of structures known building F3 and extend building F2 to combine and rationalise the industrial processes and despatch internally. There will also be a new canopy and revisions to the entrances on the eastern side of building F1. Building F1 (on the eastern side of the site) would to house the logistics operation with the extended building F2 being the principal area for manufacturing and assembly.

The proposals will also include reopening of Gate 6 (currently prevented by buildings), with the creation of a new 20 space car park for office staff and visitors in the position of current building F3 and improvement and rationalisation of the main staff car parking areas. The extensions will result in the closure of Gate 5 on Station Street with the improvement to Gate 3 to allow this to be the principal exit of goods and vehicles. This is also the principal access and egress for Caparro works. A new wall would be erected on the western boundary of the site.

Gate 6 would be used only for the collection of waste whereas Gate 1, 2 and 3 would be used for delivery and despatch of goods.

The proposals would result in a net increase in floorspace of 1,062sqm and increase parking provision from 134 to 169spaces.

Currently there are 268 jobs on the site (76 office staff and 192shift workers). The proposals increases this to approximately 283staff being jobs principally created in the manufacturing process.

The application is supported by the following:

Design and Access Statement – Sets out the history of the site and the design principles behind the proposals including access and relationship to the street scene and neighbouring properties.

Planning Statement – The applicant sets out that the current factory is not modern and is constrained. Building F3 is considered to be in a poor state and is not longer fit for purpose. The Statement also highlights that the public consultation and exhibition held by the applicant and the planning context and support for the proposals.

Transport Statement – considers the proposals in terms of the number of lorries visiting the site, lorry movements, removing waiting HGV vehicles on Station Street through the rationalisation of movement, and the increase of car parking and adoption of a Travel Plan. The Statement highlights that there would be no material or overriding highway or transportation reasons why the development cannot be granted.

Environmental Desk Study – Notes that there was one recorded mineshaft at the site, however recorded mineworkings have not been identified beneath the site. The possibility of there being unrecorded mineshafts within the site cannot be discounted and therefore further intrusive site investigation is recommended by the report.

Flood Risk Assessment – Notes that the site is located within Flood Zone 1. The redevelopment will not result in new flooding issues with the existing drainage connections to Severn Trent sewers being retained and reused.

Noise Assessment – considers that the proposed extensions would improve the noise environment and that based on the findings of the existing noise climate, noise need not be a constraint on the development.

Relevant Planning History

09/0189/FL - Construction of a new covered link building between existing factory buildings – Granted 27/03/2009

BC53462P - Erection of security lodge and external alterations to elevation. Granted 04/02/1999

BCW649 - 2 storey extension (offices and testing facility), re-roofing and elevational alterations – Granted 15/10/1997

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

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations)

These have been considered by Officers through a screening opinion and the development is not considered significant or in a sensitive area that would call for an Environmental Statement.

National Planning Policy Framework (NPPF) and associated Technical Guidance

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"*.

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Reuse land that has been previously developed

Key provisions of the NPPF relevant in this case:

Paragraphs 18-21 encourage Planning Authorities to support and put significant weight on economic growth and to proactively to meet the development needs of business whilst protecting strategically important economic areas from encroachment.

Paragraph 103 – seeks to ensure that development is located in appropriate areas at low risk of flooding and does not exacerbate the risk of flooding.

Paragraph 123 seeks to ensure that development mitigates against pollution, including noise.

On planning conditions the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.

2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.

The above are supported by the following policies which have superseded UDP Waste Management Policies:

CSP3 – Seeks to improve environmental infrastructure

CSP4 – seeks to achieve high quality design

EMP1-4 – Seeks to secure, safeguard and provide appropriate levels of employment land to aid sustainable economic growth

EMP5 – seeks to deliver local jobs and training opportunities

TRAN5 Sets out the requirement for development to focus on moving away from the reliance on the private car.

ENV1 - 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.

ENV 3 sets out the criteria for design quality

ENV5 seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage

ENV7 seeks to ensure new development promotes renewable energy provision

Saved Policies of Walsall Unitary Development Plan March 2005

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the Development Plan. However, in such cases the NPPF says “due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”.

GP2 expects development to make a positive contribution to the environment and considers (II) the susceptibility to pollution of any kind as an adverse impact which would not be permitted, and VII. Adequacy of access will be taken into account.

ENV10 states that development which may give rise to pollution such as noise and smell will only be permitted where it would not have an adverse effect on adjoining uses/potential uses.

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

ENV32 states that poorly designed proposals which fail to take account of the context or surroundings will not be permitted.

JP5 – seeks to retain and enhance Core Employment Land provision

T7 and T13 seeks to ensure that car parking and servicing is well laid out and car parking is provided for at an appropriate level.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPDs are:

Designing Walsall SPD

Aims to achieve high quality development that reflects the Borough's local distinctiveness and character, through key design principles.

Darlaston Local Development Order

The application site lies within Sub Zone B of Darlaston Local Development Order, which promotes employment development and a simplified planning regime however due to the site's characteristics and the proximity of the proposed development to the boundary of the site and residential the simplified planning application process of the LDO cannot be used in this instance.

Consultations

Transportation – No objection however the Autotracking plan shows the 16.5 HGV having to mount the footway on exiting onto Station Street. This could be resolved with some improvements to the access gates therefore a revised plan is required.

Pollution Control

Contaminated Land – No objection subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the site. Conditions to address these concerns have been provided.

Scientific Team – No objection recommend that working hours are conditioned and a method statement agreed to control noise and dust during the demolition and construction phases.

Rights of Way Officer – No objection - Definitive public footpath 18 runs adjacent to the application site, adjacent to the proposed car parking area. There is unlikely to be any significant impact upon the public footpath as a result of the proposed development and therefore there are no public rights of way objections or requirements.

Local Access Forum (including Ramblers Association) - No objection - This application appears to introduce a significant change to the buildings and traffic flow arrangements within this site on Station Street, but from what we can gather from the plans the impact outside of the site boundaries will be limited. The key area for the Local Access Forum is the changes being made at the western end of the factory where buildings will be demolished and space created for further car parking. This should not impact on the Right of Way which runs along this boundary, DAR 16 (Station Street to Victoria Road), providing it is not obstructed during these operations. There is also a need to modify the access to the site here where it crosses the pavement, but if alternative routes for pedestrians are established while the work is underway then this should not be problem.

Environmental Health – No objection

Coal Authority - no objection to the proposed development subject to the imposition of a condition requiring intrusive investigation works.

Community Protection Team – No objection however consideration should be given to the impact on parking in the adjacent roads. Would it be possible for the company to include a “feeder”

access/waiting road/area within the site to relieve congestion which is an issue raised on a continual basis by residents in the neighbourhood. This is exacerbated already during “rush hour” and when people attend mosque as parking in the area is at a premium.

Representations

Three letters (one from a local resident and the others from local businesses opposite Gate 3) received raising the following objections.

- The factory causes parking problems in the area
- Fork lift trucks cause noise disturbance – situation will get worse if the proposals are approved.
- Iron clad buildings are a pre-war structure that might be of interest to future generations
- The gates that are currently being used opposite our factory entrance are just not wide enough for the lorries that go in and out of this particular entrance.
- On every occasion the lorries have to mount the pavement opposite (directly against our factory wall)
- Width of the road is not wide enough and causes loading problems to other

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

Determining Issues

- Principle of the Development
- Proposed height and scale of the proposed extensions
- Relationship to residential properties to the south and west and the surrounding area
- Car parking and servicing

Observations

Principle of the Development

The existing factories and operations are an established operation in a commercial area and whilst there are residential properties in the area, the proposals are not resisted in principle and the Development Plan seeks to retain and enhance employment operations. The proposals would be acceptable and the rationalisation and modernisation will improve the relationship with neighbouring properties.

Proposed height and scale of the proposed extensions and demolition of existing buildings

The comments of the local resident are noted with regard to the existing buildings which are noted in terms of their style and characteristic. The buildings are however beyond their useful life and in terms of modern industry are unsuitable. They would also be very difficult to convert or reasonably use for alternative uses due to their height and shape. Their loss is not resisted.

The proposed buildings would be of similar scale and mass to the existing industrial buildings. It is considered that the scale of the proposed buildings will continue to form an appropriate relationship to the street scene based on the established character of the area.

Relationship to other uses in the area

The comments of the local resident and businesses are noted with regard to issues of noise and disturbance.

The existing operations will rationalise and improve the relationship with neighbouring businesses by ensure that access and goods operate a one-way route around the site and therefore vehicles will no longer be queuing on Station Street as the proposals are to ensure that vehicles use Heath Road access for this purpose. With Station Street being exit only from Gate 3, the vehicles will not need to stop opposite the businesses that are opposite the access point. It is noted that Lemforder have also erected signs to ensure that vehicles that may be on Station Street do not cause disturbance to neighbouring residents.

In addition, the rationalisation and improvement to the industrial space and the movement of despatch and logistics elements of the operations to building F1 (the furthest away from residents and the neighbouring care home) will also lessen the likelihood of forklifts being in the vicinity of residential buildings or indeed being outside at all. Further with limited access to the site from Gate 6 and Gate 5 being closed, operations will be further away from residential neighbours.

It is considered that the proposals, with the rationalisation and extensions to the industrial operations, will improve the relationship to the neighbouring businesses and residents and are acceptable.

Car parking and servicing

Comments of neighbouring businesses are noted and it is considered that the alteration to access and egress from Gate 3 will improve the situation both for the applicant, Caparo and neighbouring businesses with less conflict between deliveries on Station Street itself.

The proposed alterations to the operations will improve the servicing and access from the site. The additional car parking will also improve the situation on site, particularly at shift change over, and the added relationship to the Caparo works in terms of a single route will also improve the servicing of the site. The submission of a Travel Plan is also welcomed.

The comments of Transportation Officers are noted and a minor change to the plans in terms of the egress from the site is required but there is room and an alteration to the existing gates is capable of being implemented.

Overall, the proposals are acceptable and would not cause a significant issue in terms of highway movement.

Positive and Proactive working with the applicant

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

Recommendation: Grant Permission Subject to Conditions

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

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

2. The development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Plans and Drawings:

10176/0005

10176/0007 Rev D

10176/0008 Rev C

10176/0010 Rev B

10176/0011 Rev A

10176/0012

10176/0013

10176/0014

10176/0015
Dwg-01 Rev A
Dwg-04 Rev A

Documents:

Design and Access Statement prepared by IMB_architects ltd (ref: 10176)
Planning Statement prepared by Jones Lang LaSalle (dated 7 March 2014)
Transport Statement prepared by Savoy Consulting (dated March 2014)
Environmental Desk Study prepared by Wardell Armstrong (dated January 2014, ref: WM10884-RPT-001)
Noise Assessment prepared by Wardell Armstrong (dated March 2014, ref: WM10884 Report No 001)
Flood Risk Assessment prepared by Wardell Armstrong (dated February 2014, WM10884 Report No 002 Rev A)
Travel Plan prepared by Savoy Consulting (dated March 2014)

Reason: In order to define the permission.

3a) Prior to the commencement of development a schedule of materials shall be submitted to and agreed in writing by the Local Planning Authority.

3b) The development shall be carried out in accordance with the agreed details.

Reason: To ensure satisfactory development of the application site.

4a) Prior to any demolition or construction activities commencing, a method statement shall be agreed in writing with the local planning authority for the purposes of controlling grit, dust and fume.

4b) The agreed method statement shall be implemented and thereafter maintained throughout the duration of demolition operations and construction activities.

Reason: To safeguard the amenities of nearby residents

5a) Prior to commencement of development a strategy for recruitment and training including draft construction training and employment methods statement setting out measures to maximise local job and training opportunities during construction shall be submitted to and approved in writing by the local planning authority.

5b) The agreed details shall be fully implemented throughout construction

Reason: In order to promote employment and skill enhancement within the Black Country and in accordance with Black Country Core Strategy policy EMP5.

6i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

iii) Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

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

v) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the “Remediation Statement” required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

vi) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

7a) Prior to the commencement of development the following details shall be submitted to and agreed in writing by the Local Planning Authority:

- i) Accessways and entrances to Station Street
- ii) A standard bellmouth layout with pedestrian crossing points and tactile paving.

7b) The development shall be carried out in accordance with the agreed details.

Reason: To ensure satisfactory access arrangements.

8a) Prior to the commencement of development parking for site operatives and visitors has been provided within the application site in accordance with details to be submitted to and approved by the Local Planning Authority,

8b) The provision shall be retained and kept available during construction of the development.

Reason: To prevent indiscriminate parking in the interest of highway safety.

9a) Prior to the commencement of development details of the proposed boundary treatment shall be submitted to and agreed in writing by the Local Planning

9b) The development shall be carried out in accordance with the agreed details.

Reason: To ensure the satisfactory appearance of the development and to protect the amenities of neighbouring residents and to safeguard the setting of the neighbouring public right of way.

10a) Prior to the commencement of development details of the means of closure and reinstatement of this existing access shall be submitted to and approved in writing by the local planning authority.

10b) Prior to the first use of the development to which this permission relates all existing redundant vehicular accesses onto the adjoining highway shall be permanently closed.

Reason: To ensure the safe and free flow of traffic using the adjoining highway.

11. Prior to the first use of the development to which this permission relates the accessways, turning areas and parking facilities shown on the approved plan shall have been properly consolidated, surfaced, drained, free of loose stone and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall be thereafter be retained and kept available for those uses at all times.

Reason: In the interest of Highway Safety, and ensure the free flow of traffic using the adjoining Highway.

12. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To safeguard the amenities of nearby residents.

NOTES FOR APPLICANT:

S278 Works

No work on the public highway should commence until any engineering detail of improvements to the public highway have been approved by the Highway Authority, and an agreement under S278 of the Highways Act 1980 entered into. Any agreement for street lighting should be agreed in writing with Walsall Metropolitan Borough Council's Street lighting partner Amey.

Mud on Highway

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

Drainage

No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Notes for Applicant – Contaminated Land

CL1) Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings (Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2) When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 "Model Procedures for the Management of Land Contamination", The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 "Updated technical background to the CLEA model" and Science Report – SC050021/SR2 "Human health toxicological assessment of contaminants in soil" or any relevant successors of such guidance. This list is not exhaustive.

Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3) Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 4.

Reason for bringing to committee: Major Application

Application Number: 14/0272/FL
Application Type: Full application

Case Officer: Alison Ives
Telephone Number: 01922 652604
Email: planningservices@walsall.gov.uk
Agent: G H Design Ltd

Applicant: L & C Investments Ltd

Proposal: Change of use from Class B2 (general industry) to Classes B1 (light industry), B2 (general industry) and B8 (storage and distribution).

Location: UNITS 1 & 2 BLOXWICH LANE INDUSTRIAL ESTATE, BLOXWICH LANE, WALSALL

Ward: Birchills Leamore

Expired Date: 05/06/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The proposal is for change of use of units 1 & 2 Bloxwich Lane Industrial Estate from Class B2 (General Industry) to Class B1 (Business), Class B2 (General Industry) and Class B8 (Storage or Distribution). The premises have been vacant since July 2011 but have a history of industrial uses. The units are the end two units in a row of seven industrial units and are located near to Bloxwich Lane. They each have ancillary offices and toilets within the buildings. There are other industrial units at a higher ground level to the north of the site. The nearest house (492 Wolverhampton Road) is over 100m away from the front facade of the units on the opposite side of Bloxwich Lane facing the access. There is open land to the west used for grazing.

There is a one-way vehicle circulation route on the site. The southern access serves the site and adjacent warehouse and is for access purposes only. Parking is located along the access in front of the units and the northern access is for egress purposes only. There are 14 allocated car parking spaces for the two units.

The site area is 0.42 hectares and the gross internal floor space of the combined units is 3758m².

The proposal is speculative to allow wider marketing for alternative uses for future occupiers. There are no proposed changes to the external appearance of the units.

The Design & Access Statement

Gives a description of the site context; highlights accessibility for pedestrians, cycles and public transport; identifies car parking provision and explains the manoeuvrability and one-way circulation throughout the site for accessibility by HGV's. It concludes there would be no adverse impact on the surrounding area.

Relevant Planning History

12/0365/FL – Change of use from industrial units to car showroom/warehouse with external alterations (Units 1-3) – Withdrawn 18/9/12.

BC51962P – Change of use to business, general industrial and storage & distribution (Classes B1, B2 & B8) (Units 1-3 and 6 & 7) – GSC 28/7/98.

BC50406P – Change of use to business (B1) Financial & Professional (A2) and Storage (B8) (Unit 1) – GSC 14/1/98.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Support sustainable development
- Promoting sustainable transport

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 103 when determining planning applications local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a Flood Risk Assessment.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 121 Development sites should be suitable for new uses taking account of ground conditions and land instability, including from natural hazards or former activities such as mining and pollution.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there

is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

3. Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

9. Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.

10. Safeguard and make the most sustainable use of the Black Country's mineral resources including primary, secondary and recycled materials without compromising environmental quality.

The above are supported by the following policies:

CSP2: Outside strategic centres and regeneration corridors free-standing employment sites to provide local employment opportunities to serve communities outside the corridors will be supported.

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

EMP1: Aims to provide industrial land and warehouse jobs in the Black Country and to protect jobs and support economic growth.

EMP2: Encourages development of high quality employment land and safeguards it for B1(b), B1(c), B2 & B8 purposes.

EMP3: Provides for local quality employment land.

EMP5: Seeks to improve access to the labour market by securing recruitment and training.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV5: Seeks to minimise the probability and consequences of flood risk.

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: Encourages reclamation and development of derelict and previously developed land where possible in accordance with other policies. Where previous uses have affected the stability of the site the application must be accompanied by a site investigation report.

ENV32: Proposals should take in to account the surrounding context particularly within or adjacent to the Green Belt including consideration of the effect on the local character of the area, vehicular and pedestrian patterns and visual relationship to surrounding areas.

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

JP7: When windfall sites come forward for redevelopment these will be safeguarded for appropriate employment uses unless there are exceptional circumstances where it may be more appropriate to consider other uses such as housing due to the relationship of the site to the surrounding land uses or because the site is not well located to serve the needs of modern industry. Class B1(a) offices will not be allowed except where a purely local need is met.

JP8: Bad neighbour industries will be given careful consideration and should be capable of providing satisfactory screening and landscaping and must be subject to stringent operational control to minimise disturbance.

T1: All development should conform to the accessibility standards set out in policies T10-T13.

T4: Classifies the highway network and specifies that residential streets and minor roads are those where traffic volumes and speeds should be quite low. Sometimes traffic calming measures will be required.

T5: Seeks to implement selective improvements to highway infrastructure and states highway improvement schemes should be designed to minimise any adverse impact on the environment or the amenity of residents.

T7 – All development should satisfy the car parking standards set out in Policy T13.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

- Class B1 (Business) – 1 car park space per 30m² gross floor area
- Class B2 (Industrial) – 1 car park space per 50m² up to 250m² then 1 space for every additional 100m² of gross floor area
- Class B8 (Storage) – 1 car park space per 50m² up to 250m² then 1 space per 100m² up to 2500m² then 1 space for every 500m² gross floor area

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Designing Walsall SPD

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

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

Consultations

Transportation – No objections subject to conditions to define the approved use in order to ensure adequate parking and manoeuvring is available. The parking requirement for Class B1(a) office use or B1(b) research and technology use requires a greater amount of parking so it is recommended that B1(c), B2 and B8 uses only are allowed.

Pollution Control (Scientific Team) – No objections.

Pollution Control (Contaminated Land) – No specific contaminated land requirements.

The Coal Authority – No objections. The proposals do not intersect the ground or present risks to coal mining features so a Coal Mining Risk Assessment is not required. A note for applicant regarding coal mining risks is recommended.

National Grid – No objections. Although there is a pipeline in the vicinity the proposed development is outside the criteria requiring National Grid to carry out any improvements. A note for applicant is recommended to identify procedures before carrying out any works.

Public Participation Response

None received.

Determining Issues

- Principle of development
- Relationship to surrounding properties
- Means of access and impact on the highway network

Observations

Principle of Development

The premises are located on an established industrial estate and are surrounded by other industrial uses. In accordance with policy EMP3 of the BCCS and JP7 of the UDP these types of sites are safeguarded for employment uses including classes B1, B2 and B8. Planning permission has also been granted for these proposed uses in the past.

The proposal is for alternative uses that will allow flexibility for prospective occupiers to encourage employment and offer economic benefits. In accordance with policies EMP2 & EMP3 of the BCCS and policy JP7 of the UDP it is recommended that the Class B1(a) offices are excluded from any permission as this large amount of office floor space in an out of centre location would serve more than a local need and has not been justified. A condition is recommended to determine permitted uses.

For these reasons the proposals are considered in accordance with BCCS policy EMP2, EMP3 and UDP policy JP7.

Relationship to surrounding properties

The nearest premises to the application site are industrial occupiers. The proposed occupation of Units 1 & 2 for other employment uses does not have any significant adverse impact on these surrounding units.

The nearest housing to the north of the site is in Dalton Road 86m away from the site separated by the Maple Leaf Industrial Estate. Given the difference in ground levels and separation distance it is considered that the proposed use will not have any significant adverse impact on these occupiers. There is housing in Wolverhampton Road that faces Bloxwich Lane. The nearest is 492 Wolverhampton Road which is 112m away from the front facade of the buildings and 33m away from the access. Given the distance and the fact that there is an adopted highway between this property and the site the proposal will not have a significant adverse impact on residential amenities. It is also noted that the premises are located within an established industrial estate surrounded by other industrial occupiers.

Means of access and Impact on the Highway Network

The means of access remains as existing with an in/out arrangement, one-way system for heavy goods vehicles and provision of on-site parking. The occupation of the units for Class B1, B2 or B8 purposes does not alter this provision and would not have a significant impact on the surrounding highway network.

The Transportation officer notes that the potential for B1(a) office or B1(b) research and development uses would require a significant increase in parking provision. On this basis a condition is recommended to preclude occupation of the premises for B1(a) or B1(b) uses. Although only 14 car parking spaces are proposed this has always been the arrangement for the premises and there is overspill parking available within the landlord's ownership. This is considered adequate for B1(c), B2 and B8 uses only.

The means of access and parking are acceptable subject to precluding use for B1(a) and B1(b) purposes.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted. In light of the submitted details officers are able to support the scheme.

Recommendation: Grant Permission Subject to Conditions

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

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

2. Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987 (as amended) the premises shall only be used for Classes B1(c) light industry, B2 general industry or B8 storage or distribution purposes and for no other purpose.

Reason: To ensure that adequate on-site parking and servicing is available in order to minimise potential indiscriminate parking on the public highway in the interests of the free flow of traffic and highway safety and to prevent the occupation for Class B1(a) offices in this out of centre location where there is no justified local need in accordance with policies EMP2 & EMP3 of the Black Country Core Strategy and policies GP2, JP7, T7 and T13 of Walsall Unitary Development Plan.

3. This development shall not be carried out other than in conformity with the following plans and documents: -

- Location Plan (14-1727/03a) received 6/3/14
- Design & Access Statement prepared by GH Design (14-1727) received 26/2/14
- Ground Floor Plan as Existing (14-1727/01) received 26/2/14
- Section & Elevations as Existing (14-1727/02) received 26/2/14

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).

Note for applicant – The Coal Authority

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at www.coal.decc.gov.uk

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website www.coal.decc.gov.uk

Note for applicant – National Grid

BEFORE carrying out any work you must:

- **Ensure that no works are undertaken in the vicinity of our gas pipelines and that no heavy plant, machinery or vehicles cross the route of the pipeline until detailed consultation has taken place.**
- Carefully read these requirements including the attached guidance documents and maps showing the location of National Grid apparatus.
- Contact the landowner and ensure any proposed works in private land do not infringe National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.
- Ensure that all persons, including direct labour and contractors, working for you on or near National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47 - 'Avoiding Danger from Underground Services' and GS6 – 'Avoidance of danger from

overhead electric power lines'. This guidance can be downloaded free of charge at <http://www.hse.gov.uk>

- In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.

GUIDANCE

- High Pressure Gas Pipelines Guidance:

- If working in the vicinity of a high pressure gas pipeline the following document must be followed:
- 'Specification for Safe Working in the Vicinity of National Grid High Pressure Gas Pipelines and Associated Installations - Requirements for Third Parties' (SSW22). This can be obtained from:
- http://www.nationalgrid.com/NR/ronlyres/50ACAC0A-ED26-41A7-91FA-83163A98270F/23790/TSPSSW22_J537_Rev0807.pdf
- **Excavating Safely - Avoiding injury when working near gas pipes:**
- http://www.nationalgrid.com/NR/ronlyres/2D2EEA97-B213-459C-9A26-18361C6E0B0D/25249/Digsafe_leaflet3e2finalamends061207.pdf

Standard Guidance

- Essential Guidance document:

- <http://www.nationalgrid.com/NR/ronlyres/6D6525F9-59EB-4825-BA89-DBD7E68882C7/51319/EssentialGuidance.pdf>

- General Guidance document:

- <http://www.nationalgrid.com/NR/ronlyres/55C13C4D-A1AA-4B13-BFDA-1CF59F88B326/51318/GeneralGuidance.pdf>

- Excavating Safely in the vicinity of gas pipes guidance (Credit card):

- <http://www.nationalgrid.com/NR/ronlyres/A3D37677-6641-476C-9DDAE89949052829/44257/ExcavatingSafelyCreditCard.pdf>

- Excavating Safely in the vicinity of electricity cables guidance (Credit card):

- <http://www.nationalgrid.com/NR/ronlyres/35DDEC6D-D754-4BA5-AF3CD607D05A25C2/44858/ExcavatingSafelyCreditCardelectricitycables.pdf>

- Copies of all the Guidance Documents can also be downloaded from the National Grid Website:

- <http://www.nationalgrid.com/uk/Gas/Safety/work/downloads/>



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 5.

Reason for bringing to committee: Major Application and Called in by Councillor Sean Coughlan

Application Number: 13/1438/FL
Application Type: Full application

Case Officer: Barbara Toy
Telephone Number: 01922 652615
Email: planningservices@walsall.gov.uk
Agent: BBLB Architects llp

Applicant: Mr & Mrs C & P Hammonds

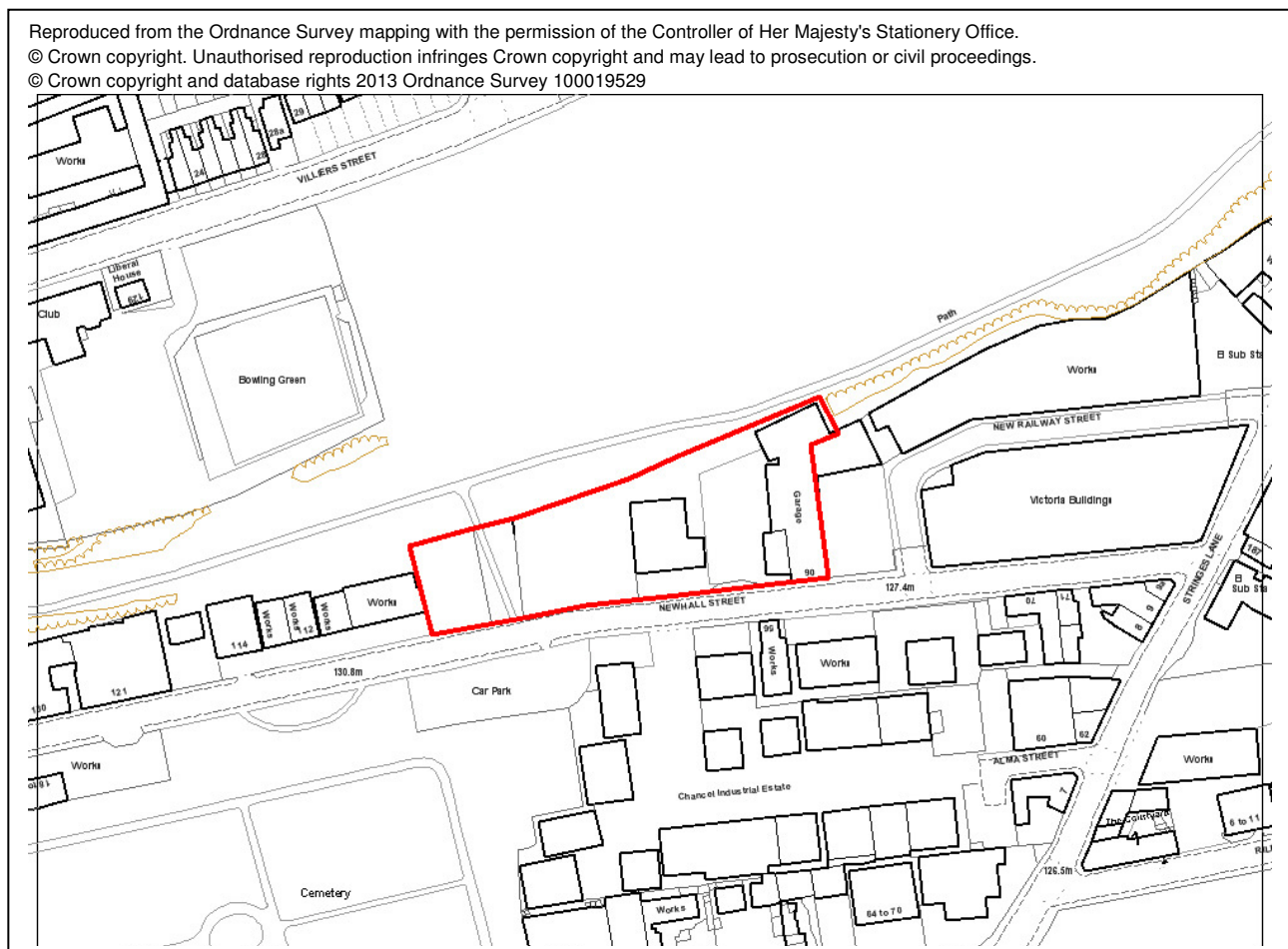
Proposal: Redevelopment to provide residential development comprising 5 x 2 bed houses, 5 x 3 bed houses & 18 x 2 bed flats in storey buildings, together with associated works, landscaping and access into Villiers Street Open Space.

Location: BIRWAY GARAGE LTD, 90 NEWHALL STREET, WILLENHALL WV13 1LQ

Ward: Willenhall South

Expired Date: 29/01/2014

Recommendation Summary: Grant Permission Subject to Conditions



Status

Councillor S Coughlan has called the application in to Committee for the following reasons:

Lack of parking

Inadequate access

Traffic capacity

Character of the area

Impact on the amenity of neighbours

Overdevelopment

Protecting Town Centre viability

Application and Site Details

The site is situated on the northern side of Newhall Street and incorporates Birway Garage and yard (commercial vehicle repair/sales), a dance centre, vehicle storage yard, vacant land and pedestrian, cycle and vehicle access to Villiers Street open space.

Immediately to the north of the site is Villiers Street open space, to the east a car park used by the surrounding industrial premises, with industrial premises beyond and a banqueting centre in New Railway Street. To the south on the opposite side of Newhall Street are industrial premises, access to Chancel Industrial Estate, and a council public car park, with Willenhall Cemetery beyond to the south west. To the west of the site are vacant industrial premises with a row of terraced houses beyond at the junction of Newhall Street and Cemetery Road.

The site is situated approx 350m to the east of Willenhall district centre in a mixed industrial and commercial area with a range of industrial and service uses.

The application proposes the redevelopment of the site for residential use and the scheme has been revised during the course of the application and now proposes to provide 28 residential units comprising:

5 x 2 bed, 2 storey houses (2 x semi detached and 3 x terraced houses)

5 x 3 bed houses (1 x 2 storey detached and 4 x 2.5 storey semi detached houses)

18 x 2 bed apartments (within 2, 3 storey blocks)

The three storey blocks of apartments would be situated at either end of the site, each with parking courts, the 5, 3 bed houses would front Newhall Street with the 5, 2 bed houses within the site.

The proposed houses would be traditional brick with tiled pitched roofs and would incorporate gable features into the design. The apartment blocks would have brickwork at ground floor level with render above and include gable features and small dormer windows in the front elevation. The four 2.5 storey houses fronting Newhall Street would have dormer windows in the front roof elevation.

Two parking spaces would be provided for each house and 1 space for each apartment within the parking courts, together with cycle storage and bin stores.

Each house would have a private amenity space to the rear, three plots (8, 9 and 11) would have amenity spaces below the 68 sqm guideline within Appendix D of Designing Walsall and only small areas of amenity space would be provided for the apartments.

The proposals also include a new 3m wide dedicated cycle and pedestrian route (in a similar position to the existing access) into the Villiers open space to the rear of the site and a gated vehicle access to the open space would be provided at the head of the western parking court.

The site is 0.37 hectares which equates to a density of 75 dwellings per hectare.

The application is supported by:

The Design & Access/Planning Statement

This discusses the context and character of the area, a site analysis, the design concept, sustainability, security and surveillance.

Planning Supporting Statement

This provides a full site description, details of the proposed development, the operational difficulties for the current occupiers, justification for loss of employment land, planning policy analysis and conclusions and provides as an appendices a schedule of employment sites on the market and vacant in the immediate vicinity.

Operational Business Statement

This provides an overview of the existing company, how they operate, their plans for the future and their comments on the proposed development.

Phase I & Phase I Geo-Environmental Site Investigation

The Geo-Environmental Report finds that there are some elevated levels of heavy metals and Polycyclic Aromatic Hydrocarbons on the site and recommends that following the demolition of the existing buildings on the site further intrusive site investigation will need to be undertaken to confirm that no elevated concentrations of contaminants exist in these areas which would alter the findings.

Air Quality Assessment

The report concludes that air quality should not be a factor and the location is suitable for residential use.

Bat Inspection Report

The existing buildings on site lack suitable potential roosting areas and the site lacks direct connectivity with suitable foraging areas the site is assessed as having negligible potential to support bat roosts.

Noise Impact Assessment (Three reports submitted dates January 2013, November 2013 and March 2014)

The report has been updated to take account of the amended site layout. The final report assesses the potential of the road traffic noise and commercial noise on the proposed residential properties. This identifies that the key noise sources within the vicinity are road vehicles using Newhall Street, noise from commercial units in Newhall Street and noise associated with patrons accessing and egressing the car park associated with Shine Star Banqueting Hall. The report recommends the installation of acoustic fences along certain garden boundaries in order to control noise within external amenity areas. The report also recommends the incorporation of trickle ventilators into the glazing units for certain Plots in order to control internal noise levels whilst maintaining a supply of fresh air.

A Tree Root Influence Plan

This identifies the individual trees and groups of trees on the site and the root protection areas.

The Coal Authority Search

This Identifies that the property is not within the zone of likely physical influence on the surface from past underground workings, but is in an area where the Coak Authority believe there is coal at or close to the surface and within 20m there is one mine entry. It recommends a full investigation of coal and former coal mines and their treatment prior to any development being carried out.

Relevant Planning History

07/2648/OL/W6, erection of 33 one bed apartments, refused 03-03-08.

Reasons for refusal:

- Residential development would unacceptably constrain the adjacent industrial uses
- Unacceptable mix of dwellings
- Unsatisfactory pedestrian access, parking, cycle and bin storage
- Failure to provide satisfactory assessment of pollution hazards
- Unacceptable design and layout
- Failure to demonstrate provision of open space, education, healthcare and affordable housing.

Relevant Planning Policy Summary

National Planning Policy

National Planning Policy Framework (NPPF)

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*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Proactively drive and support sustainable economic development to deliver homes
- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas
- Reuse land that has been previously developed

Key provisions of the NPPF relevant in this case:

4: Promoting Sustainable Transport

35. Opportunities for the use of sustainable transport modes should be protected and exploited.

39. If setting parking standards, LPA's should take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

6: Delivering a wide choice of high quality homes

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

11: Conserving and Enhancing the Natural Environment

123. Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

- 1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.
- 2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.
- 3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

CSP4: A high quality of design of the built and natural environment is required.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness.

HOU3: Will seek to secure 25% affordable housing on all sites of 15 dwellings or more. DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV7: All residential developments of 10 units or more must incorporate generation of energy from renewable sources sufficient to offset at least 10% of the energy demand of the development.

It is considered in this case that the relevant provisions of the BCCS can be given full weight.

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV32 & 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

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

JP7: When windfall sites come forward for reuse in industrial areas they will normally be safeguarded for appropriate employment uses. It is recognised however that there may sometimes be exceptional circumstances in which it will be more appropriate to consider other uses such as housing.

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

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

T7 – Car Parking

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

1, 2 & 3 bedroom houses: 2 spaces per unit

Flats with communal parking: 1.5 spaces per unit

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Designing Walsall SPD

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

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;
DW3 – Character -design to respect and enhance local identity;
DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;
DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Conserving Walsall's Natural Environment SPD

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

Supplementary Planning Document for Affordable Housing

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

Supplementary Planning Document Urban Open Space

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

Consultations

Transportation – No objections to the revised scheme subject to conditions re parking areas, reinstatement of redundant footway crossings and provision of pedestrian visibility splays.

Public Rights of Way – No objections to the revised scheme. There will be a requirement to carry out a diversion and extinguishment order due to the realignment of the cycleway and for details of the footpath construction, drainage, lighting, boundary treatment and gates/barriers to be agreed. Appropriate conditions recommended.

Pollution Control

Scientific Team – No objections to the revised scheme subject to conditions to ensure the submission, approval and implementation of acoustic mitigation measures. The mitigation measures will vary from plot to plot and include:

- Glazing with a minimum sound reduction property, R_w , of 33dB.
- Acoustic trickle vents with attenuation of up to 42 dB $D_{n,e,w}+C_{tr}$ in open position.
- Mechanical Extract Ventilation
- Acoustic boundary fencing (imperforate and sealed at base) with a superficial mass of 28 kg/m².

Contaminated Land – No objection subject to conditions. An assessment of the submitted Phase I and II Geo-Environmental Investigation report has been made. The report finds that there are some elevated levels of heavy metals and Polycyclic Aromatic Hydrocarbons on the site, but recommends that further investigations take place following the demolition of the existing buildings and that gas ingress protection measures be installed. Appropriate conditions recommended.

Environmental Health – No objections to the revised scheme, but support Pollution Control recommendations re noise mitigation measures.

Housing Strategy – 25% affordable housing should be provided on site.

West Midlands Police – No objections but one of the highest crime areas in Walsall, recommend that the proposals meet Secured by Design principles.

Landscape Team – No objection however the landscape detail will need to be improved.

Natural Environment Team – No bat issues but some concern at the quality of the submitted tree report and the potential loss of trees on the site.

Clean and Green Services – Pedestrian and vehicle access to the Villiers Street Open Space should be retained.

Community Safety Services – Concerns about the overall security of the site and potential for creation of an anti social behaviour hotspot.

Coal Authority – No objections

Severn Trent Water – No objections subject to drainage condition and informative to the applicant.

Public Participation Responses

Six objections received to the original submission (27 units, 3 x 2 bed houses, 11 x 3 bed houses and 13 x 2 bed apartments).

Objections:

- A previous refusal for residential on the site in 2008 should stand
- The site is opposite the entrance to the Chancel Industrial Estate, which would be unsafe
- Additional traffic would make operating surrounding businesses more difficult, and cause difficulties for visitors
- Inappropriate to provide residential opposite general engineering works which cause noise, houses very close to the road and likely to result in noise complaints which may make it difficult for local businesses to trade
- Residential use may impact on the operating hours of surrounding businesses (restrictions imposed)
- Some businesses operate 24 hour call out, with serious implications if hours restricted
- Insufficient parking within the site for the number of units
- Any on street parking would result in major issues for the operation of the industrial premises.
- Existing parking issues causing congestion as the street is narrow
- Due to the industrial nature of the area lorries are up and down the road from early morning till late into the evening
- Most weekends the street is full of cars from the wedding and function venue in New Railway St, parking attendants are used as the issues are so bad
- Traffic wardens regularly petrol the street due to the parking problems

- On street parking may hamper movements of HGV's, some deliveries take place between 0200 – 0600 6 days a week, some loading/unloading already has to take place in Newhall Street itself due to parked cars blocking manoeuvring space
- Noise from loading and unloading metal cages from HGVs and noise from reversing lorries
- Residential use inappropriate in this location on health and safety grounds, risk of injury and accidents to adults and children

One further letter submitted from one of the original objectors in relation to the revised scheme:

Similar objections:

- Still not enough parking on site
- 1 parking space per apartment is unrealistic
- Already double parking in Newhall Street which blocks the street most days
- Lorries coming and going to Chancel Industrial Estate opposite from 0330 hrs, a very busy industrial estate
- Already problems of lorry access due to parked cars
- Detrimental impact on local businesses over a long period of time during construction, disruption and disturbance.
- Street continues to be full of cars at the weekends from the wedding/function venue in New Railway Street
- Noise from industrial premises will result in complaints from residents
- Health and safety implications for children and the elderly in particular, from noise and lorry manoeuvring.

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

Determining Issues

Whether the proposals overcome the previous reasons for refusal in relation to:

- Principle of residential development
- Relationship to existing industrial and commercial uses
- Design and Layout
- Access and Parking
- Land contamination
- Provision of Affordable Housing and Urban Open Space
- Local Finance Considerations
- Environmental Impact Assessment Screening Opinion

Observations

Principle of residential development

The site sits within an industrial/commercial area, but is not a core employment area. The site is partly occupied by Birway Garage, which provides garage services, vehicle transport logistics and employee fleet solutions and are seeking to increase their operations. The site is no longer suitable to accommodate the applicants operational requirements, as there is insufficient space for them to expand. The business relies on large vehicle transporters which are difficult to operate from this restricted site. The company currently operate from this site and a further site in Stafford and it is their intention to relocate both businesses to a more suitable site in Walsall, the company are already in discussions with the Regeneration Delivery team about finding an alternative site. The capital receipt from the sale of the site is required to facilitate the move.

Whilst the site is currently in employment use the area has been identified within the Employment Land Review for possible release, but the Review advises caution in allowing housing on the site due to the impact this would have on the existing industrial premises. The applicants have provided an up to date statement in support of the loss of the employment land. This identifies that there are

approx 28 vacant industrial premises in Newhall Street and the adjoining roads within a 300m radius of the site and a further schedule of available accommodation within a 5 mile radius identifies 37 sites which are currently being marketed for employment uses. There is therefore no shortage of employment premises in the vicinity. The area is relatively cramped with narrow streets making servicing by large vehicles difficult, the stock is relatively old and of poor quality and the area is therefore not particularly attractive for modern industry and commercial uses. The company marketed part of the site for a long period of time before renting it to the current dance studio, which is a town centre use and currently operating without any planning consent.

If the site is vacated by the applicants it is unlikely to be of interest to industrial users given its location, size and quality of the premises and the extend of other available premises in the area and is likely to remain vacant. This is an out of centre location where town centre uses could not be promoted. All the commercial premises to the west of the site are vacant and have been for some time, with traditional terraced houses beyond.

Redevelopment of industrial sites in the area has already been established at the former Union Locks site opposite the cemetery further to the east of the site which is now built and occupied. Redevelopment of the site for residential purposes would be considered a sustainable reuse and regeneration of the land in accordance with the NPPF and would avoid the possibility of further vacant premises in the area. Policy JP7 of the UDP indicates that employment sites would normally be safeguarded for appropriate employment uses but also recognises that there may be some exceptional circumstances in which it will be more appropriate to consider other uses such as housing. This case is considered to be an exceptional circumstance due to the quality of the employment sites and the extent of vacant premises in the vicinity.

It is considered that the submitted evidence provides a justification for the loss of the employment land and overcomes the previous reason for refusal in terms of the principle of the development

Relationship to existing industrial and commercial uses

There are a number of existing industrial users directly opposite the site and the vehicle entrance to the Chancel Industrial Estate. A number of the industrial occupiers have raised objections related to the likely implications for their business if the residential development goes ahead, as a result of complaints from residents regarding noise and HGV movements.

The site layout has been amended to reduce the number of properties fronting Newhall Street and provide three storey apartment blocks at either end of the site as an end stop and form of acoustic barrier to the remainder of the site. The rear elevations of the apartment blocks would only have kitchen and landing windows facing out of the site with main habitable room windows facing into the site.

The applicants have submitted an Acoustic Impact Assessment which assesses the potential of the road traffic noise and commercial noise on the proposed residential properties. This identifies that the key noise sources within the vicinity are road vehicles using Newhall Street, noise from commercial units in Newhall Street and noise associated with patrons accessing and egressing the car park associated with Shine Star Banqueting Hall. The report recommends the installation of acoustic fences along certain garden boundaries in order to control noise within external amenity areas. The report also recommends the incorporation of trickle ventilators into the glazing units for certain Plots in order to control internal noise levels whilst maintaining a supply of fresh air. The report has been thoroughly assessed by Pollution Control who agree the recommendations and consider that providing appropriate acoustic mitigation measures are incorporated the future residents are unlikely to experience any adverse impact on their amenities from the surrounding commercial occupiers or traffic associated with these uses.

It is considered that subject to the agreed mitigation measures the revised residential layout would not unacceptably constrain the use of the surrounding industrial and commercial uses and the proposals would overcome the previous reason for refusal.

Design and Layout

The scheme has been amended since submission in order to overcome concerns raised by consultees. The revised layout reduces the number of houses and increases the number of apartments and reduces the number of properties fronting Newhall Street. The scheme now incorporates three storey blocks of apartments at either end of the site, which have habitable room windows overlooking the parking courts, the open space to the rear and end units that address the street frontage. Five houses would be set within the site fronting onto the parking courts and five houses would provide a street frontage to Newhall Street.

The height, scale, massing, design and proposed materials are considered appropriate within the street scene and the general character of the area. The houses fronting the street would be set close to the back of pavement which would address the street well and replicate the Victorian character of the area. It is considered that the development at 75 dwellings per hectare would reflect the character of the area, and a similar density to the Union Locks development off Cemetery Road which has a density of 71 dwellings per hectare.

The proposals provide a mix of housing, 2 bed apartments, 2 and 3 bed houses, which is considered appropriate for the site and overcomes the previous reason for refusal that regarding housing mix.

Three of the houses would have a private amenity space below the 68sqm guidance in Appendix D of Designing Walsall and the apartment blocks would have very limited amenity space. However given that the Villiers Street open space is situated to the rear of the site and would have direct pedestrian and cycle access from the site, this reduced level of amenity space is considered acceptable.

The separation distance between the frontage of the apartment blocks and the frontage of the houses opposite falls short of the 24m guidance in Appendix D of Designing Walsall (18.5m and 20m), however a public space comprising parking courts separate the units in both cases and at the western end the 3m wide cycle/pedestrian access to the open space also sits between the units. In these circumstances the separation distance is considered acceptable.

The proposals are likely to result in the loss of the existing trees along the line of the existing footpath link to the open space, whilst this is unfortunate the trees within the open space to the rear of the site would be retained and conditions are recommended to ensure these are protected during construction works and that compensatory tree planting is provided within the site.

It is considered that the proposals overcome the previous reasons for refusal relating to accommodation mix, design, layout and density.

Access and Parking

The proposals provide 200% parking for the proposed houses in line with guidance in policy T13 of the UDP. 100% parking is provided for the 18 apartments, which falls below the 150% guidance in T13. Considering the highly sustainable location, within walking distance of Willenhall District Centre that has good public transport links and a large supermarket, the need for high levels of car parking is reduced. In addition there is unrestricted parking on street in Newhall Street and an open public car park opposite the site. The parking requirements for the proposed use would not be dissimilar to the existing commercial uses on the site, but more formal parking arrangements within the site would be provided. The level of car parking is considered acceptable for the development in this location.

Objectors have raised concerns regarding the proximity of the development to the vehicle access to the Chancel Industrial Estate, the extent of vehicle movements associated with the industrial/commercial uses and the congestion within the street from on street parking. It must be recognised however that the proposals would remove a commercial garage use which generates a significant amount of vehicle movements, both large commercial vehicles and individual cars, a dance studio that has only limited parking within the site and a vehicle storage yard, it is not considered that the proposed development would have any additional adverse impact on the free flow of traffic or highway safety or adversely impact on the operations of the surrounding commercial/industrial premises over and above the existing situation.

The proposed layout would create 3 parking courts and direct parking access for 4 of the proposed houses. Transportation have raised no objections subject to conditions to ensure appropriate surfacing and provision of appropriate pedestrian visibility splays.

The proposals include an appropriate level of cycle storage and refuse bin storage facilities for the apartments.

The existing vehicle/cycle/pedestrian access to the Villiers open space to the rear of the site would be realigned and improved. The vehicle access (for maintenance and emergency vehicles) would be separated from the cycle/pedestrian route and the cycle/pedestrian path would be 3m wide and provide a direct visible route from Newhall Street, which is considered an improvement over the existing situation. Whilst it is regrettable that the trees along the existing route are likely to be lost, this would improve safety and surveillance of the new route and compensation planting would be provided elsewhere within the site. Due to the realignment of the cycle/footpath link a formal diversion and extinguishment order will be required which the applicant has been made fully aware of.

It is considered that the proposals overcome the previous reason for refusal with regard to parking, pedestrian access, cycle storage and refuse bin storage facilities.

Land Contamination

The submission includes a Phase I and Phase II Geo-Environmental Site Investigation report and an Air Quality Assessment.

The Geo-Environmental Report finds that there are some elevated levels of heavy metals and Polycyclic Aromatic Hydrocarbons on the site and recommends that following the demolition of the existing buildings on the site further intrusive site investigation will need to be undertaken to confirm that no elevated concentrations of contaminants exist in these areas which would alter the findings.

Pollution Control agree with the findings and recommendations of both reports and have no objections subject to conditions.

The submission of the two reports overcomes the previous reason for refusal in relation to potential pollution hazards at the site.

Provision for affordable housing and Urban Open Space

Policy HOU3 of the BCCS requires provision of 25% affordable housing on qualifying sites of 15 units or over. This equates to 7 units for the proposed scheme of 28 units.

In accordance with policies GP3 and LC1 of the UDP, policy DEL1 of the BCCS and Supplementary Planning Document: Urban Open Space the proposal triggers the need for urban open space contribution. In accordance with the policies an urban open space contribution of £42,273.00 is required.

The District Valuer has reviewed a Development Viability Appraisal submitted by the applicant, as a case not to provide any affordable housing or payment of the urban open space contribution. The District Valuer agreed that the development would not be viable if the provision for affordable housing and urban open space was required as there would be a negative residual land value of - £196,598. The District Valuer's report has been reviewed by the Council's Asset Management Team in relation to the revised scheme for 28 units (5 x 2 bed houses, 5 x 3 bed houses and 18 x 2 bed apartments). Whilst the revised scheme provides one additional unit the scheme reduces the number of houses and increases the number of apartments. It is concluded that the alterations to the scheme would not lead to a positive residual land value and as such the scheme remains unviable.

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 28 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

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

Environmental Impact Assessment (EIA) Screening Opinion

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 distinguishes between two separate groups of development to which EIA are required. Schedule 1 Development requires an EIA in every case and Schedule 2 Development requires an EIA only if the project is judged likely to have significant effects on the environment by virtue of factors such as its size, nature or location.

The proposal does not fall within Schedule 1.

Although development falls within Schedule 2 part 10(b) as it is an urban development project however the area of development does not exceed the threshold of 0.5 hectares, in the circumstances an EIA is not required.

In light of the above an Environmental Impact Assessment for the proposed development is not needed.

Positive and Proactive working with the applicant

Officers have negotiated a revised scheme with the applicants and their agent to overcome objections raised, which has resulted in the submission of amended plans and additional supporting information to enable full support to the scheme.

Recommendation: Grant Permission Subject to Conditions

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

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

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

- i) Following demolition of existing buildings and prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- iv) The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the "Remediation Statement" required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

3a. Prior to the commencement of any development on site details of specific acoustic mitigation measures (with reference to measures stated in Section 6: Mitigation (pages 24 – 28) in the revised Noise Impact Assessment, REC Report: 90178r2, Issued: 11th March 2014) shall be submitted to and approved in writing by the Local Planning Authority.

3b. The approved measures shall be fully implemented prior to first occupation of any residential unit hereby approved and demonstrated in writing that the measures have been implemented.

3c. Future residents shall be made aware of acoustic mitigation measures and shall be responsible for the on-going maintenance of the measures.

Reason: To protect the residential amenities of future occupiers.

4a. Prior to the commencement of the development drainage plans for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the local planning authority.

4b. The scheme shall be implemented in accordance with the agreed details before the development is first brought into use and retained as such.

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

5a. No built development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority.

5b. The development shall be completed with the approved details and retained as such.

Reason: To ensure the satisfactory appearance of the development.

6a. No development shall be carried out until a detailed soft and hard landscaping scheme for the site, (including any necessary phasing of implementation) has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include; indication of all hard surfaces, walls, fencing, access features, proposed tree planting (and times of planting), the existing trees and hedges to be retained and details of the measures to be taken to protect existing features during the construction of the development. The scheme shall include full details and specifications of plant material together with detailed locations of the species proposed.

6b. The approved scheme shall be implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use.

6c. Arboricultural work to existing trees shall be carried out prior to the commencement of any development.

6d. If within a period of five years from the date of the planting of any tree, that tree, or any planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of the same species and size as that originally planted shall be planted in the same place.

Reason: In order to preserve and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall Unitary Development Plan.

7a. Prior to the commencement of the development details of the construction, drainage, lighting, boundary treatment and gates/barriers of the new cycle/footpath link from Newhall Street to the Villiers Street open space shall be submitted to and approved by the Local Planning Authority.

7b. The approved details shall be implemented and available for use prior to the first occupation of any of the residential units hereby approved and retained thereafter.

Reason: In order to provide satisfactory pedestrian access to the Villiers Street open space.

8a. Prior to the commencement of development details shall be submitted to and approved by the Local Planning Authority in conjunction with the Highway Authority, setting out the location of parking for site operatives and visitors shall be provided within the application site.

8b. The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during construction of the development.

Reason: To prevent indiscriminate parking in the interest of highway safety.

9a. Prior to the occupation of the development hereby approved the access, turning areas and parking facilities shown on the approved plan(s) shall be properly consolidated, surfaced, drained, free of loose stone and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority in conjunction with the Highway Authority.

9b. These areas shall thereafter be retained and kept available for those uses at all times.

Reason: In the interest of highway safety, and ensure the free flow of traffic using the adjoining Highway.

10. Prior to the occupation of the first dwelling any redundant existing vehicular accesses onto Newhall Street shall be permanently closed in accordance with full engineering details submitted to and approved in writing by the local planning authority in conjunction with the Highway Authority.

Reason: To ensure the safe and free flow of traffic using the adjoining highway.

11. All new driveway and access points shall have 2.4m x 3.4m pedestrian visibility splays within which no planting or structures exceeding 600mm in height above ground level shall be permitted and therein retained.

Reason: In the interests of highway safety.

12a. Prior to the commencement of development details of the vehicle access gate to the Villiers Street open space shall be submitted to and approved by the Local Planning Authority.

12b. The approved details shall be implemented prior to the first occupation of any residential unit hereby approved and thereafter retained.

12c. The vehicle access gate shall remain available for use at all times.

Reason: To ensure the satisfactory appearance of the development and ensure vehicle access is maintained at all times.

13a. Prior to the commencement of the development, full details of cycle storage facilities for the use of residents of the apartment blocks (shall be secure and covered) and refuse storage facilities shall be submitted to and approved in writing by the Local Planning Authority.

13b. The facilities shall be fully implemented in accordance with the approved details prior to the apartments being first occupied and shall thereafter retained and used for no other purpose.

Reason: To encourage sustainable travel and in accordance with Black Country Core Strategy policy TRAN4.

14a. Prior to the commencement of development, details of all proposed boundary treatments shall be submitted to and agreed in writing by the Local Planning Authority.

14b. The development shall be implemented in accordance with the agreed details thereafter.

Reason: To ensure the satisfactory appearance and security of the site.

15. No development within Classes A (enlargement, improvement or alteration to the dwelling), B (addition to roof), C (alteration to roof) and E (buildings within the curtilage) of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development Order 1995) (Amendment No.2)(England) Order 2008, or succeeding Orders shall be carried out to the dwelling or on the site, as appropriate, without the prior submission and approval of a planning application.

Reason: To protect residential amenities of adjacent occupiers.

16. This development shall not be carried out other than in conformity with the following plans and documents: -

Site Location Plan 12064 P-001 Rev A submitted 30th October 2013

Proposed Site Plan 12064 P-101 Rev A submitted 20th March 2014

Proposed Street Scene 12064 P-112 submitted 11th March 2014

Elevations Apartment Type E Plots 17-28 12064 P-110 submitted 11th March 2014
Floor Plans Apartment Type E Plots 17-28 12064 P111 submitted 11th March 2014
House Type A Floor Plans and Elevations 12064 P-02 submitted 22 October 2013
House Type B Floor plans and Elevations 12064 P-03 submitted 22 October 2013
House Type C Floor Plans and Elevations 12064 P-04 submitted 22 October 2013
Site Survey 16984/1/R1 submitted 22 October 2013
Design, Access and Sustainability Statement submitted 22 October 2013
Coal Authority Report submitted 22 October 2013
Phase I & Phase II Geo-Environmental Site Investigation REC Report 44760p1r1 issued March 2013 submitted 22 October 2013
Air Quality Assessment REC report 33275r1 issued 11th January 2013 submitted 22 October 2013
Bat Inspection Survey submitted 22 October 2013
Noise Impact Assessment REC report 90178r2 issued 11th March 2014 submitted 11th March 2014
Tree Root Influence Plan 44760p1r0-006 submitted 14th January 2014
Planning Supporting Statement By Harris Lamb (P1078) submitted 14th March 2014
Overview of Hammond Group submitted 13th March 2014

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).

Note for applicant – Contaminated Land

CL1

Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

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

CL3

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

Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

Note for applicant – Severn Trent Water

Advise that there is a public sewer located within the application site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

If you require any further information please contact Rhiannon Thomas on 01902 793883.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 6.

Reason for bringing to committee: Contrary to 45 degree code and reduced level of parking

Application Number: 13/1050/FL
Application Type: Full application

Case Officer: Devinder Matharu
Telephone Number: 01922 652602
Email: planningservices@walsall.gov.uk
Agent: Christopher Thomas Architects

Applicant: PCC of St.Marks Church

Proposal: Rear and side extensions to existing church and extension to annexe to provide meeting rooms, toilets, kitchen, increased worship area, improved parking provision, replacement of existing flat roof over annexe with pitched roof and ramps along the main frontage and side.

Location: ST.MARKS CHURCH, GREEN LANE, WALSALL,

Ward: Rushall-Shelfield

Expired Date: 23/10/2013

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

St Marks Church is located on Green Lane approximately 100m from the junction with Mill lane and approximately 50m from the edge of Shelfield Local Centre.

The church has a single storey flat roof rectangular section to the front. The main part of the church has a gable roof. There is an existing single storey flat roof extension on the southern elevation which is set back from Green Lane. To the north of the church is the Vicarage, which is occupied by the Vicar of the church. Adjacent the Vicarage is Defford Avenue which runs parallel to the Vicarage. Beyond the rear church and Vicarage boundary is Breedon Way.

A low level brick wall forms the boundary of the church and the Vicarage along Green Lane. A 1.8m high close board fence forms the boundary with the Vicarage and Defford Avenue. Towards the rear of the church is grass land. The car park to the church is accessed off Defford Avenue and sits behind the Vicarage; the car park is open with concrete bollards along Defford Avenue and Breedon Way.

The church is located on a higher level than Green Lane and has steps up to it from Green Lane.

The church is located in a predominately residential area with terrace residential properties on the opposite side of Green Lane. The vicarage, a two storey detached property. To the rear of the church and vicarage are semi detached properties Breedon Way. There is a raised grass verge that forms the boundary between the rear of the church boundary and Breedon Way with a number of trees that belong to the Council.

To the south of the application site is Wedgewood Court a two storey building containing six flats with a rear two storey wing. Wedgewood Court is set at a slightly lower level than St Marks Church. Between the church and Wedgewood Court is a driveway accessed from Green Lane with rear access and parking for Wedgewood Court. The boundary between the church and the driveway is a 1.8m high close board fence. There are habitable room windows on the rear wing of Wedgewood Court (northern elevation) that face the church at both ground and first floor and habitable room windows at both ground and first floor on the return wall of the first block (western elevation).

The application proposes a rear extension to the existing church (measuring 10.2m in length by 6.7m in width) and annexe to provide meeting rooms, toilets, kitchen, increased worship area, and improved parking provision and replacement of existing flat roof over annexe with pitched roof. The extension to the annexe would be single storey with a pitch roof and storage space within the roof space and would measure 15.2m in length and 4m wide. A single storey extension on the northern elevation would be undertaken to provide a clergy vestry and store room measuring 7.4m in length and 4m wide.

The proposal would also include ramps along the front of the church fronting Green Lane.

St Marks Church is located approximately 50m from the edge of Shelfield Local Centre, approximately 285m from the edge of Spring Road Local Centre and approximately 171m from Lichfield Road.

The following documents have been submitted with the application:

Design and Access Statement which states:

- The existing church was built in 1965 and was the amalgamation of two existing church communities, the old St Marks Mission Church serving Shelfield and Christ church serving the farming community of High Heath.

- St Marks Church is a modern dual purpose building incorporating a flexible and pleasant worship area with an annexe building to the side used for community and church functions and meetings.
- The buildings well used by the local community and Church Groups which include Craft Club, Drop in Lunch, Sequence Dancing, Evergreens Senior Citizens Club, Brownies, Zumba Dance Group, Shelfield Youth Support Group, Ladies Friendship Group, Scramblers and Toddlers Group.
- There is also a flourishing adult special needs group which attracts 30 users plus their carers.
- Local councillors use the church for weekly surgery.
- The stronger links with the local schools are resulting in a requirement for increased facilities, for example running messy church or a youth/adult alpha would stretch the existing small kitchen beyond its capacity.
- Existing groups have expressed a need for increased space. The Drop in Lunch targets bereaved and lonely people, a growing issue in the community is expanding and requires better facilities.
- There are no availability for additional church activities.
- Services are bringing in larger numbers, particularly baptisms and funerals
- The scheme will be undertaken in 2 phases with the existing ancillary areas contained within the annexe are to be extended and secondly the church itself.
- An entrance from the rear of the church would encourage parishioners to park in the car park as opposed to the street.
- The introduction of additional rooms of varying sizes will allow greater flexibility in the use of the building by existing and new user groups and will enable more than one user to be accommodated during a single period of time.
- The car parking will be remodelled.
- Local residents were invited to comment on the proposal and the feedback was positive.
- It is intended to replace the flat roofs with pitch roofs to match the main church building. The main issue is the flats to the south of the site, they are located approximately 6m away at their closest point and terminate in line with the rear existing annexe. The proposal is to pitch the roofs away from the flats to avoid any potential interruption of their daylight and to maintain the eaves at existing level to minimise the resulting ridge height.

Transport Statement

This document identifies the buses that serve the church, the remodelling of the car park, when the groups use the church and how many cars by visitors are on site at that time and identifies on street parking and an informal paved parking area at the junction of Green Lane and Mill Road. The document concludes that the proposed works will alleviate an existing intermittent issue with parking at the church by providing improved and more convenient onsite parking. A significant increase in the numbers of cars visiting the site at any one time is not anticipated.

Relevant Planning History

BC26152P – Section 53 removal of lower glazed panel. Planning permission not required 1989.

BC11266 – erection of living room, utility and 2 bedrooms and garage – granted subject to conditions- February 1979.

EAB3648 – Erection of a church hall- granted subject to conditions -1971.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

The NPPF was published on Tuesday 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Enhance and improve the places in which people live their lives;
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- Always require high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

Key provisions of the NPPF relevant in this case:

4: Promoting Sustainable Transport

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

7. Requiring good design

56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

- Planning policies and decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

11. Conserving and enhancing the natural environment

118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should

not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies include 2A, 2B, CSP4, ENV2.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

Walsall’s Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says “*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.

Saved policies of the Unitary Development Plan

3.6, 3.7, GP2, 3.113, 3.114, 3.115, ENV32, 3.116, ENV14, ENV17, ENV18, ENV33, T4, T7, T13.

It is considered in this case that the relevant provisions of Walsall’s saved UDP are consistent with the National Planning Policy Framework.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD’s are;

Designing Walsall (Feb 2013)

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

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

Conserving Walsall's Natural Environment (April 2013)

Expands on the policies contained within the environment chapter of the UDP. The document provides criteria for European Protected Species survey requirements.

The following are the relevant policies;

NE7: all applications with the potential to damage trees should be supported by an arboricultural impact assessment.

NE8: All planning applications proposing the retention of trees within a development site should demonstrate that the trees to be retained will survive without causing significant nuisance beyond the development phase. Adequate space should be retained for the trees to develop in the future without causing severe shading or requiring damaging containment pruning.

Consultations

Transportation – No objection subject to conditions on car parking, existing kerbs and cycle storage details being agreed.

Pollution Control Contaminated Land Team – No objection

Pollution Control Scientific Team – No objection

Fire Service – No objection

Environmental Health – No objection

Coal Authority – No objection

Police- No objection subject to secure by design

Landscape Officer – No objection subject to landscaping condition.

Arboricultural Officer – No objection subject to conditions to protect existing trees on site.

Public Participation Responses

Two letters from one resident have been received objecting to the proposal on the grounds that the proposal would block out natural light to kitchen and living room windows which face the extension, resulting in lights having to be left on, which would be costly.

One letter has been submitted supporting the application.

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

Determining Issues

- Principle of development
- Design
- Impact upon surrounding residential occupiers
- Impact on trees
- Landscaping
- Access and parking

Observations

Principle of development

The proposed extensions would enable greater space within the church to be provided to deal with the growing congregation for particular services such as christenings and funerals. The additional facilities will also provide smaller rooms so that the church can be utilised for more than one

existing activity group simultaneously. The church has links with local schools resulting in a requirement for increased facilities; the proposed extensions would meet these increasing needs.

Design

The existing chancel is to be demolished and the nave extended to the west with a new chancel with apse constructed to terminate the nave. The existing vestry to the north is to be extended forward and given a hipped roof back to newly extended nave roof. The apse would have a canted footprint and the gable over the apse would continue from the existing main ridge to the nave (splayed down to flank walls).

The existing flat roof annexe on the southern elevation of the church would be replaced with a gable roof and the extension to this annexe would run parallel to the main church with the roof being of a similar height forming a valley roof.

Three apse windows on the western elevation would be provided that would correspond to the gradient of the gable; consequently a central window would be flanked by 2 angled windows.

The designs of the proposed extensions are considered acceptable and would enhance the appearance of the church.

Impact upon surrounding residential occupiers

Wedgewood Court, the flat development to the south of the site is the nearest residential development to the existing church. There are habitable room windows on the northern elevation, facing the church at both ground and first floor. On the western elevation there are habitable room windows on the ground and first floor. The proposed extension to the existing annexe on the southern part of the church would extend out 15.2m and would be set off the southern boundary with the whole existing and proposed structure having a pitch roof. The proposed extension would be set off the boundary with Wedgewood Court by 2.5m at the closest point and 6.9m at the furthest point. The windows in the northern elevation of Wedgewood Court are more in line with the existing single storey building. It is considered that the proposed extension would not unduly impact upon the amenities of the occupiers of Wedgewood Court to warrant refusal of the application. The pitch roof would slope away from these adjacent habitable rooms still allowing light into the habitable rooms. The boundary fence between the church and Wedgewood court is closer than the proposed development and the driveway between the two sites would provide interrupted views across the extension and over the proposed roof line.

Due to the orientation of Wedgewood Court it is considered there would be no greater loss of light to these windows as they are located on the northern elevation with limited light at present.

When drawing a 45 degree line from the habitable room windows on the western elevation of Wedgewood Court, the line hits the existing single storey extension. It is considered the proposed extension to the existing single storey extension would not unduly impact upon the amenities of the occupiers of Wedgewood Court by way of loss of light or loss of amenity.

To protect the amenities of the occupiers of Wedgewood Court a planning condition ensuring the windows on the southern elevation of the proposed extension to the existing annexe shall be obscurely glazed.

The proposed extensions would be positioned 16m away from the nearest residential properties on Breedon Way, which would meet the Council's 13m separation distance between habitable room windows and blank walls exceeding 3m high. In this case, the western elevation of the proposed extension would have windows belonging to offices, the submitted plans show that these windows would be obscurely glazed and this can be secured by way of planning condition. Furthermore,

planting along the western boundary would also help provide some screening between the church and residential properties on Breedon Way.

The proposal does not comply with the 45 degree code from the nearest habitable room windows of the adjoining property, the Vicarage. The Vicarage has been outlined in blue, which indicates that the Vicarage is part of the application site and the agent has confirmed that the Vicar of the church resides at this property. In order to provide a church that meets the needs of the community, there are no other options to extend the church that would not impact upon the Vicarage. The extension would extend 8m beyond the point where the 45 degree line meets the extension and whilst there would be afternoon loss of light to the nearest habitable room window and shading to the garden area in front of this window, it is considered, on balance, the proposal would not unduly result in loss of amenity to the Vicar to warrant refusal of the application.

The Vicarage has secondary windows on the side elevation facing the church; it is considered as these are secondary the proposal would not unduly impact upon the amenities of the occupier of the Vicarage as there are main windows towards the rear and front which would provide light into the rooms these windows serve.

Impact on trees

The existing trees to the rear of the church on Breedon Way would be retained. The Arboricultural Officer has no objection to the proposal subject to tree protection measures being implemented prior to and during construction, these can be sought by planning conditions.

Landscaping

The submitted plans illustrate planting along the western boundary of the site. The Landscape Officer has no objection to the proposal subject to landscaping details being submitted, these can be sought by way of planning condition.

Access and parking

The proposal would include the provision of new meeting rooms and improved parking provision to allow greater flexibility in the use of the buildings and attract new users groups. The development looks to provide increased and better parking facilities by extending, formalising and demarcating the parking area to include 12 parking spaces inclusive of 3 disabled parking spaces. In terms of policy T13 the increased floor area, 270 square metres equates to a maximum additional parking requirement of 13 spaces plus 2 disabled spaces.

A Transport Statement has been submitted including user surveys of travel modes to address the parking situation. The survey states that generally the proposed level of parking provision will in most cases be adequate to meet the needs of the development and will reduce the current on street parking that occurs around the site. It also states there is parking available to church users in Breedon Way and further public parking a short distance away (about 70m) in Green Lane.

The site is also located close to the Sheffield local centre where there are frequent bus services.

On balance, the improvements to the on-site parking provision meets the requirements of policy T7 (b) in that the development will have adequate parking to meet its operational needs whilst not exceeding the maximum parking standards. The repositioning of the access point will generally be a betterment to current arrangements.

The development is considered acceptable, subject to the imposition of planning conditions on car parking, existing kerbs and cycle storage details which can be sought by planning conditions.

The Building Control Officer has verbally agreed that the proposed ramps are acceptable.

The proposed development is considered to be consistent with the National Planning Policy Framework and meets the aims and objectives of the Black Country Core Strategy policies, in particular 2A, 2B, CSP4 and ENV2 and the Walsall Unitary Development Plan policies, in particular, 3.6, 3.7, GP2, 3.113, 3.114, 3.115, ENV32, 3.116, ENV14, ENV17, ENV18, ENV33 and T4, T7, T13 and Policy DW3 of Designing Walsall and Policies NE7 and NE8 of Conserving Walsall's Natural Environment.

Positive and Proactive Statement

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long that they safeguard the natural and built environment, highway network and the amenity of citizens. In this instance the council has not been able to support the proposed development as detailed in the planning report.

Recommendation: Grant Permission Subject to Conditions

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

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

2. The proposed development hereby approved shall be completed in accordance with the following plan numbers:

- the location plan submitted on 16th July 2013.
- drawing number 1926/14D submitted on 31st March 2014.
- drawing number 1926/05B submitted on 17th January 2014.
- drawing number 1926/17 submitted on 17th January 2014.
- drawing number 1926/16 submitted on 17th January 2014.
- drawing number 1926/7B submitted on 17th January 2014.
- drawing number 1926/17 submitted on 17th January 2014.
- drawing number 1926/11 submitted on 26th July 2013.
- drawing number 1926/10A submitted on 17th January 2014.
- drawing number 1926/09A submitted on 17th January 2014.
- drawing number 1926/8A submitted on 17th January 2014.
- drawing number 1926/15A submitted on 17th January 2014.
- drawing number 1926/12 submitted on 26th July 2013.
- drawing number 1926/06C submitted on 31 March 2014.
- drawing number 1926/04E submitted on 31 March 2014.

Reason: To define the permission.

3a. Prior to the commencement of this development, details of the facing and roofing materials to be constructed on the proposed extensions hereby approved shall be submitted to and approved in writing by the Local Planning Authority.

3b. The development shall be constructed in accordance with the approved facing and roofing materials and retained and maintained at all times.

Reason: In the visual amenities of the area.

4a. Prior to the commencement of this development, full details including the location and design, of the proposed cycle shelter facility referred to in page 4 of the Transport Statement, shall be submitted to and approved by the Local Planning Authority. The shelter shall be covered, secure and located in a convenient and appropriate location near to the building entrance.

4b. Prior to the development first coming into use, the approved cycle shelter facility shall be fully installed and implemented in accordance with the approved details and shall thereafter be retained.

Reason: To encourage sustainable travel modes and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

5a. Prior to the commencement of this development, details of the existing dropped kerb vehicle footway crossing access onto Defford Avenue to be adjusted accordingly to align with the new car park entrance, including the reinstatement back to full kerb height of the part of the existing dropped crossing made redundant by the repositioned access shall be submitted to and approved in writing by the Local Planning Authority.

5b. The development shall be completed in accordance with the approved details and retained and maintained at all times.

Reason: To ensure the satisfactory completion and operation of the development and in the interests of highway safety.

6a. Prior to the commencement of this development, full landscaping details as outlined below, shall be submitted to and approved in writing by the Local Planning Authority.

I) Soft landscaping details:-

- Topsoil specification. – If existing soils are to be used, details of its retention and safe storage for re-use should be specified.
- Topsoil depths – shrub/hedgerow planting areas should be at least 450mm : grass seeded / turfed areas should be at least 150mm; **Trees in paved areas** - a minimum 5 cubic metres rootzone for individual trees in paved areas is required and can be achieved by using load bearing Urban Tree Soil beneath paving construction surrounding tree stations.
- Ground preparation for any planting and seeding/turfing areas should include the requirement to de-compact formation level below any top soiling following inevitable heavy trafficking by construction plant.
- Further details of proposed tree/plant species, number of plants/shrubs, planting size at time of planting, density, ground surface treatment, tree support and tree pit details, root barriers and mulching.
- Details of proposed grass seed/turf specification.
- The intended establishment maintenance proposals

II) Hard landscaping details:-

- Full specification for walls, fences, gates (boundary and internal, showing materials, heights and location), and paving (materials and layout).

6b. The approved landscaping shall be planted within the first planting season following completion of the development.

6c. Within 5 years should any tree/shrub/plant become seriously diseased, damaged or is removed it shall be replaced with a tree/shrub/plant of the same or greater size and the same species as that originally required to be planted.

Reason: In the visual amenities of the Area and to provide screening for the residents on Breedon Way.

7a. Prior to the commencement of this development, details of tree protection fencing as detailed in British Standard 5837: 2012 to protect the 4 Beech trees adjacent the west boundary shall be submitted to and approved in writing by the Local Planning Authority.

7b. The approved fencing shall be erected prior to any works commencing on site and retained until completion of the development. The area so enclosed shall be kept clear

Reason: To safeguard the four Beech trees adjacent the west boundary of the site.

8. No digging of trenches or changes in ground level shall be undertaken within the canopy of any tree to be retained on the site.

Reason: To safeguard the four Beech trees adjacent the west boundary of the site.

9. None of the existing trees on the site shall be lopped, felled or root pruned.

Reason: To safeguard the four Beech trees adjacent the west boundary of the site.

10a. Prior to the development first coming into use, the proposed car park, vehicle access ways and manoeuvring areas as shown on drawing number 1926/14D submitted on 31st March 2014 shall be fully consolidated, hard surfaced and drained, including the installation of a drainage channel across the car park entrance, and the parking bays shall be clearly demarcated on the ground.

10b. The car parking area, access ways and manoeuvring areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development, to prevent surface water from the car park discharging onto the public highway in the interests of highway safety and in accordance with UDP policy GP2,T7 and T13.

11. The development shall be completed in accordance with Secure by Design principles.

Reason: To ensure the development is secure and safe.

12. The first floor of the proposed annexe extension shall only be used for storage.

Reason: To protect the amenity of the residents of Wedgewood Court and to comply with Policy GP2 of the Walsall Unitary Development Plan.

13. The windows in the western elevation and southern elevation of the proposed annexe extension hereby approved shall comprise obscure glazing of Pilkington Level 4 standard of privacy, or equivalent, and retained thereafter.

Reason: To safeguard the amenities of the occupiers of nearby residential properties on Breedon Way and to comply with policy GP2 of Walsall's Unitary Development Plan.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 7.

Reason for bringing to committee: Significant Community Interest

Application Number: 14/0237/FL
Application Type: Full application

Case Officer: Barbara Toy
Telephone Number: 01922 652615
Email: planningservices@walsall.gov.uk
Agent: Deloitte LLP

Applicant: Asda Stores Ltd

Proposal: Refurbishment and conversion of existing building within service yard to 'Home Shopping Pod', provision of external freezer and cold store and erection of two loading canopies.

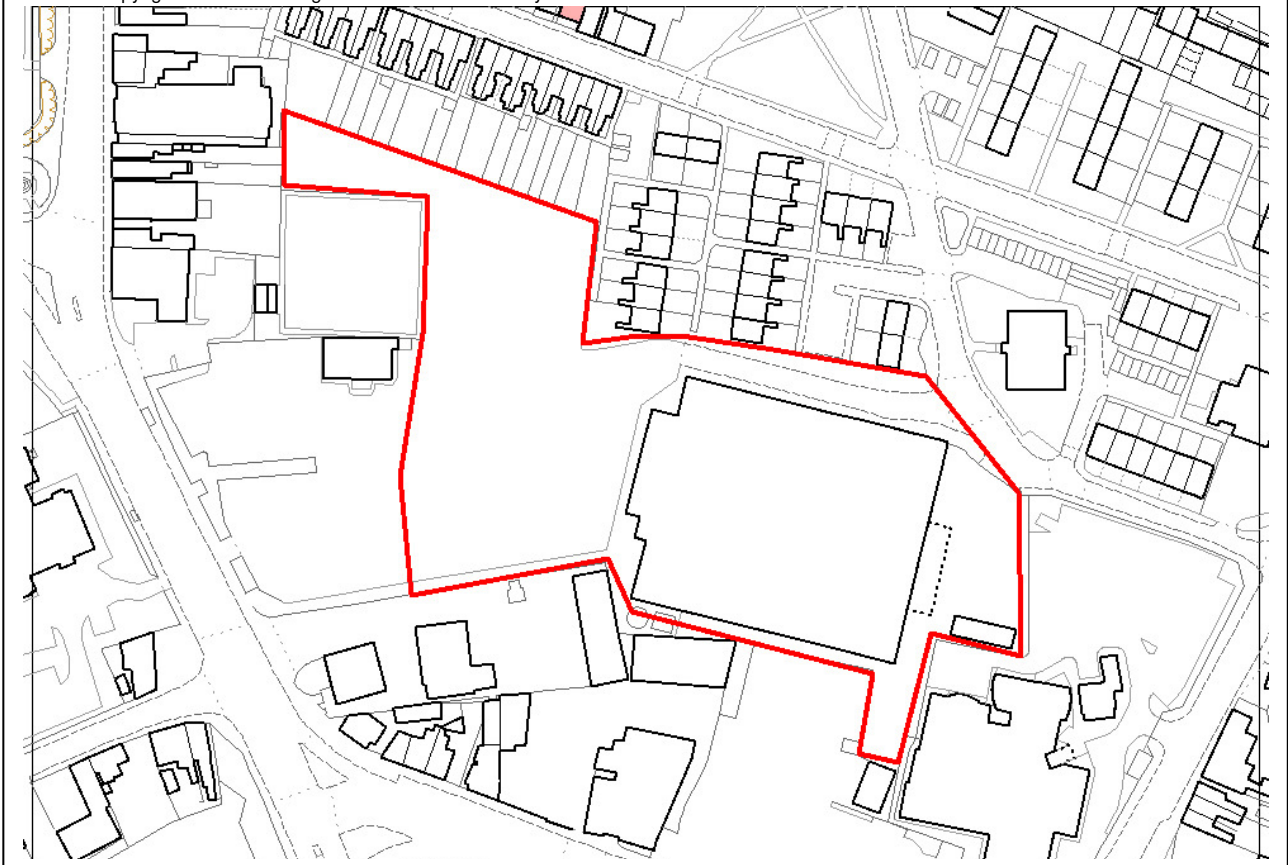
Location: ASDA STORES LTD, WOODALL STREET, WALSALL, WS3 3JR

Ward: Bloxwich East

Expired Date: 29/04/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The site comprises a retail food store situated within Bloxwich District Centre. The main vehicle access to the store is off Woodall Street with a further entrance (only) off High Street. The store itself is set to the rear of the site with the car parking on the frontage to High Street. The gated/walled service yard is situated to the rear of the store directly off Woodall Street.

This application relates to the service yard. Immediately to the east and south east of the service yard is a large medical centre and its car park, to the north east two storey residential properties in Woodall Street, to the north a eight storey block of flats (Woodall House) and to the north west are further two storey residential properties. To the south and south west is a car sales area, retail premises and a local fire station.

This is a revised application following a refusal for a similar scheme last year. This application proposes the refurbishment and conversion of the existing single storey flat roofed building at the southern end of the service yard to form a 'Home Shopping Pod', together with the provision of a new external freezer and chiller and erection of two canopies in order to initiate a home shopping service from the store.

The chiller (5.8m x 3.4m) and freezer (3.2m x 3.4m) would be situated on the front on the building with double doors between to allow access into the building. A loading canopy (7.6m wide by 7m in depth with max height of 3.8m) would sit forward of the chiller and freezer and a smaller canopy (6.2m in depth and up to 2.8m wide with max height of 3m) would sit at the western end of the building adjacent to the existing compactor. The chiller and freezer units would be constructed from insulated composite wall cladding finished in white (RAL 9010) and the canopies would be galvanised steel frame with profile sheeting roof to match existing structures within the service yard.

The facility would only be accessed by employees and not the public and would provide storage for customer orders once they have been filled, whilst waiting to be loaded into the vans for customer deliveries at pre-determined time slots throughout the day. The scheme would operate with the use of two vans. The use would eventually result in up to 25 additional part time staff being employed, depending on the take up of the service. It is proposed that the vans would start loading from 0700 hours and the last van would return to the yard by 2200 hours.

The store has been in situ for over 40 years and has no planning restrictions to either its opening hours or delivery times. However the store is currently open 0700 – 2300 hours Mon – Sat and 1000 – 1600 hours Sun, with no deliveries before 0600 hours or after 2000 hours.

The agent has confirmed that the introduction of the proposals would not result in an increase in the number of existing HGV deliveries to the store to cater of the proposed home shopping facilities.

The following have been submitted in support of the application:

Letter from the Agent (Deloitte)

This describes the proposals and looks at planning policy compliance.

Design and Access Statement

This discusses the use, amount of development, layout, scale, landscaping, appearance, design and access.

Transport Statement

This looks at the traffic flows for the proposed use and confirms that the use would operate using 2 vans that would undertake a maximum of 4 runs a day, which amounts to a total of 8 vehicle movements spread throughout the day between 0700 – 2200 hours. Each van would typically accommodate 60n orders per day at full capacity. The facility will allow customers to order on –line and make use of the delivery service rather than travelling to the store which will mean that the

home shopping vans will replace customer visits to the store. A 2 van operation at full capacity could account for a total of 120 customer orders, which could potentially mean 240 fewer customer movements per day. A survey of other Asda stores indicates that the net change in vehicle movements as a result of the introduction of home shopping facilities is -15 for PM peak movements, -22 for Saturday peak movements and -232 for daily movements and so would result in a net reduction in traffic to the store.

The Statement includes an Auto Track analysis to show the satisfactory operation of the service yard following the introduction of the home shopping facility.

Relevant Planning History

03/0087/FL/E2, new refrigeration plant. New ATM room (extension) plus recladding of front entrance elevation. Toilets alterations, new music & video section, granted subject to conditions 23-06-03

13/0097/FL, Replacement and upgrading of HVAC equipment and de-commissioning of existing centralised air handling unit and replacement with 5 new packaged air handling units located on main roof store, granted subject to conditions 18-03-13.

13/1195/FL, demolition of existing storage building within service yard and erection of a single storey 'Home Shopping Pod' and loading canopy, refused 06-11-13.

Reason for refusal:

1. The proposals fail to satisfactorily demonstrate that the operation of the proposed loading canopies for a Home Shopping Service would not have a detrimental impact on the overall operations of the service yard, vehicle access and the surrounding highway network and as such would be detrimental to highway safety.

Relevant Planning Policy Summary

National Planning Policy

National Planning Policy Framework (NPPF)

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".

All the core planning principles have been reviewed and those relevant in this case are:

- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas.
- Positively drive and support sustainable economic development to deliver business, taking account of the needs of the residential and business communities.

Key provisions of the NPPF relevant in this case:

1: Building a Strong, Competitive Economy

18. The Government is committed to securing economic growth in order to create jobs and prosperity.

19. The planning system should do everything it can to support sustainable growth

21. Planning policies should seek to address potential barriers to investment, including a poor environment, or any lack of infrastructure, services or housing.

4: Promoting Sustainable Transport

32. Development that generate significant amounts of movement should be supported by a Transport Statement or Assessment. Decisions should take account of whether safe and

suitable access can be achieved for all people and development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people

58. Policies should set out the quality of development that will be expected of an area, including:

- Optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses and support local facilities and transport networks.

On decision-taking the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies include:

ENV2 states that development proposals will be expected to preserve and, where appropriate, enhance local character.

CSP4 - develops the need for high quality place making and design

ENV3: Design Quality

Development should deliver an urban renaissance through high quality design that stimulates economic, social and environmental benefits.

TRAN2: Managing Transport Impacts of New Development

Planning permission will not be granted for development proposals that are likely to have significant transport implications

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

Walsall's Unitary Development Plan (2005)

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

VII Adequacy of proposed access

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development
- The height, proportion, scale, and mass of proposed buildings/structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The integration and co-ordination of buildings and external space.
- Community safety and security
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The proposed vehicular and pedestrian circulation patterns.
- The integration of existing natural and built features of value.
- The maintenance requirements of the developments.

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Designing Walsall SPD

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;
DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;
DW3 – Character -design to respect and enhance local identity;
DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;
DW 10 – new development should make a positive contribution to creating a sustainable environment.

It is considered in this case that the relevant provisions of Designing Walsall SPD are consistent with the National Planning Policy Framework.

Consultations

Transportation – No objections subject to conditions to ensure that the improvements to the service yard are implemented and that no goods or obstructions be located within the vehicular manoeuvring areas.

Environmental Health – No objections. It is noted that the Transport Statement indicates that there will be a reduction in the traffic movements to the store. This is a noise sensitive location so it is recommended that the proposed new chiller and freezer have an acoustic treatment and the hours of operation of the home shopping service be restricted.

Pollution Control Scientific Team – No objections

Pollution Control Contaminated Land Team – No specific contaminated land requirements.

Public Participation Response

A petition against the proposals with 26 signatures from 18 properties within Woodall House has been received and includes 3 photographs to show the service yard and delivery vehicles.

Objections:

- Existing severe parking problems on Woodall Street, Church Street and Field Road.
- All these roads are marked up with double yellows but this is ignored by Asda traffic, with vehicles parked on double yellow lines within the one way route.
- Sometimes the rubbish bins for Woodall House are not emptied because Asda lorries are obstructing the rear entrance to the flats.
- Service yard already packed with goods and operated 24/7
- The flats directly overlook the service yard and the noise that starts at 0600 is very very disturbing, they should not be allowed to increase the volume of traffic, noise, parking, selling etc.
- The 'pod' will occupy a large space, when they are already fighting for space in the service yard.
- Where are the new extra vans going to collect from?
- What will happen to the large lorries when the smaller vans are loading?
- Not prepared to live with outdoor freezers making a constant noise
- Continual disturbance
- Please check wheelchair access to Asda and the doctors surgery when lorries park over the yard access gates, wheelchairs have to go into the middle of the road to get round the vehicles.

Determining Issues

Whether the proposals overcome the previous reason for refusal in terms of:

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- The operation of the service yard and highway safety

Other Issues Raised by the Petition:

- Existing unlawful parking
- Noise and disturbance

Observations

The previous application for this use failed to provide a Transport Statement and failed to satisfactorily demonstrate that the proposed use would not have a detrimental impact on the operation of the service yard, vehicle access and the surrounding highway network and as such would have a detrimental impact on highway safety.

A Transport Statement has now been submitted and concludes based on other Asda stores that operate a home delivery service that the proposals would ultimately result in an overall reduction in traffic movements to the store as the home delivery service would eventually reduce the number of customers to the store through those that change their shopping habit by having goods delivered to home. It is estimated that the net reduction of about 15 vehicle movements in the PM peak hour and 22 vehicle movements in the Saturday peak hour would result in an overall reduction in vehicle movements during typical operations of 232 daily. In addition the agent has confirmed that the proposals would not result in any additional delivery vehicles to the site. It is therefore considered that the proposals would have a positive impact on local road network conditions by reducing the numbers of traffic movements in and out of the site.

The Transport Statement also includes an auto track plan to show the vehicle movements in and out and within the service yard, this clearly demonstrates that the service area can accommodate the additional delivery vehicles required to operate the new service.

It is concluded therefore that the proposals would comply with paragraph 32 of the NPPF, as the submission has demonstrated that the residual cumulative impacts of the development are not severe and transportation have raised no objections subject to conditions.

Existing Unlawful Parking

The objectors have raised the issue of Asda delivery vehicles parking on double yellow lines within Woodall Street, Church Street and Field Road, blocking access for other users and blocking access for collection of bins from Woodall House. Further they indicate that the illegal parking results in difficulties for wheelchair users who have to use the road way to pass the vehicles.

The Asda site has no delivery or hours planning restrictions due to the age of the store and unlawful parking on double yellow lines is a parking enforcement issue not a planning one. Whilst residents indicate that unlawful parking of delivery vehicles takes place on a regular basis parking enforcement have confirmed that this issue has not been previously raised with them and they are unaware of any notices issued to any of the delivery vehicles.

Residents have been advised that if this continues to be an issue then they should contact parking enforcement direct for action to be taken. In addition Asda have been advised that they should have better control of their delivery scheduling to ensure that only one HGV is at the site at any one time, in the interests of good neighbourliness. Vehicles parked across the public footpath blocking pedestrian access is a police matter.

The submitted auto track drawing shows that the service yard layout would allow for one HGV delivery vehicle within the site and for one home delivery vehicle to enter and manoeuvre satisfactorily without any detriment to highway safety. It is not considered that the proposals would have any adverse impact on the surrounding highway network.

The proposals give the planning authority the opportunity to place some restrictions on the operation of the service yard through a condition to ensure that the vehicle manoeuvring areas within the service yard remain free of goods/storage and restrict the hours of operation of the home shopping facility, this is considered to be an improvement over the existing situation.

Noise and Disturbance

The objectors have raised the issue of noise and disturbance from the service yard and from the new freezer and chiller unit. The freezer and chiller unit would be set approx 31m back into the site behind the proposed loading canopy. Environmental Health have recommended a condition to ensure that the units are noise insulated and consider that the proposed units would have no additional adverse impact on the amenities of the surrounding residents. The area already has a background noise level from the existing use and traffic and it is considered that if noise insulation measures are put in place the proposals would have no additional adverse impact.

Positive and Proactive working with the applicant

After a request from the case officer the agent has provided confirmation that the proposals would result in no additional delivery vehicles to the site.

Recommendation: Grant Permission Subject to Conditions

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

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

2a. Prior to the commencement of any development on site details of noise insulation measures for the proposed external chiller and freezer in the service yard shall be submitted to and approved by the Local Planning Authority.

2b. The approved noise insulation measures shall be fully implemented prior to the first operation of the Home Shopping service from the site and thereafter maintained and retained.

Reason: In order to safeguard the amenity of the surrounding occupiers.

3. Prior to the first operation of the home Shopping Facility hereby approved the proposed improvements to the existing service area shown on drawing 0854.4653 (00)010 Rev C submitted on 18th February 2014 shall be fully implemented and thereafter retained.

Reason: To ensure the safe and efficient operation of the service area.

4. At no time shall any goods/materials or any other obstructions including the parking of any vehicles (other than for loading or unloading) be located within the vehicular manoeuvring areas shown drawing 0854.4653 (00)010 Rev C submitted on 18th February 2014.

Reason: To ensure the safe and efficient operation of the service area.

5. There shall be no more than two Home Shopping delivery vehicles operating from the site.

Reason: To ensure the safe and efficient operation of the service area.

6. The Home Shopping delivery vehicles shall not operate outside of the hours of 0700 – 2200 hours daily.

Reason: In order to safeguard the amenity of the surrounding occupiers.

7. This development shall not be carried out other than in conformity with the following plans and documents: -

Site Location Plan Drawing 0845.4653 (00)002 Rev B submitted on 18th February 2014

Existing Layout Drawing 0854.4653 (00)001 Rev B submitted 18th February 2014

Existing Elevations Drawing 0854.4653 (00)003 Rev B submitted 18th February 2014

Proposed Layout Drawing 0854.4653 (00)010 Rev C submitted 18th February 2014

Proposed Elevations Drawing 0854.4653 (00)011 Rev C submitted 18th February 2014

Letter from Deloitte received 18th February 2014

Design and Access Statement submitted 18th February 2014

Transport Statement by Cottee Transport Planning submitted 18th February 2014

Reason: For the avoidance of doubt and in the interests of proper planning (except in so far as other conditions may so require).



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 8.

Reason for bringing to committee: Significant Community Interest & not in accordance with a Consultee recommendation

Application Number: 14/0323/OL
Application Type: Outline Application

Case Officer: Alison Ives
Telephone Number: 01922 652604
Email: planningservices@walsall.gov.uk

Applicant: Walsall Housing Group

Agent: BM3 Architecture Ltd

Proposal: Outline application for erection of 2 dwellings (all matters reserved)

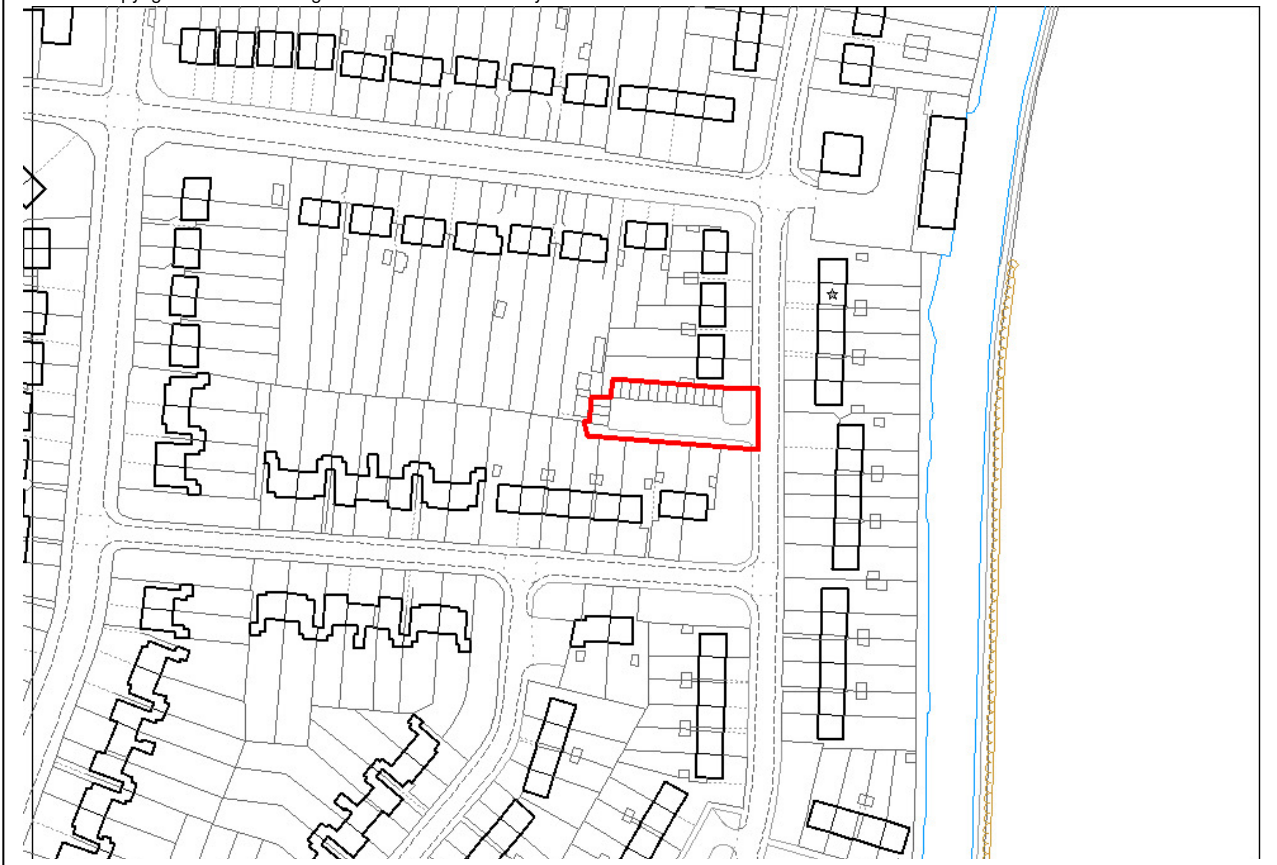
Location: FORMER GARAGE SITE, CATSHILL ROAD, WALSALL, WS8 6BL

Ward: Brownhills

Expired Date: 02/05/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The proposal seeks outline permission for the erection of two dwellings on a former garage site in Catshill Road. All matters are reserved for subsequent approval. The garages have been removed and the land is vacant. The site is surrounded by gardens of adjacent houses and the ground rises towards the rear. There are existing trees at the rear along the boundary with other gardens.

The surrounding area is predominantly residential comprising semi-detached and terraced Council built housing.

The indicative layout shows a pair of 3 bedroom semi-detached houses facing Catshill Road in line with the adjacent house 8 Catshill Road. Two parking spaces are provided for each house located in front of the building and a garden area between the parking spaces. The position of the proposed dwellings allows for a minimum 20m length rear garden.

The site area is 0.07 hectares which equates to 29 dwellings per hectare.

The Design & Access Statement – Describes the location, layout, scale and other aspects of the development. It also highlights local transport links and design principles for inclusive access.

The Supporting Statement – Highlights that there have been recent problems and issues in relation to derelict land within the WHG ownership and following a Neighbourhood Planning exercise this site was identified as preferred for potential residential development. There are currently no garages or licenses for parking on the land. There has been limited demand for parking since the garages were demolished and residents have complained of anti-social behaviour and fly tipping on the site whereby residential development offers an opportunity to enhance the area.

Relevant Planning History

No specific history.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the

Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include provision of a high quality environment.

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide new homes in sustainable communities built on brownfield sites close to existing public transport routes.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

CSP4: A high quality of design of the built and natural environment is required.

HOU1: Seeks to deliver at least 63,000 net new homes over the period 2006-2026.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says “due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”.

The relevant policies are:

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

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

ENV32 & 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

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

T1: Seeks to improve access and help people get around

T7 – Car Parking

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

1, 2 & 3 bedroom houses: 2 spaces per unit

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Designing Walsall SPD

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

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

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

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

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

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Conserving Walsall's Natural Environment SPD

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

Consultations

Transportation – Holding objection to the principle of development. There is insufficient information to demonstrate that the development of the site will not displace parking onto the local highway network to the detriment of the free flow of traffic and highway safety.

Pollution Control (Scientific Team) – No objections. A condition is recommended to control construction times to minimise impacts on neighbouring residential properties.

Pollution Control (Contaminated Land) – No objections subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the site. Conditions to address these concerns are recommended.

Severn Trent Water – No objections subject to securing drainage details. A condition is recommended. A note for applicant regarding the public sewer within the site is also recommended.

Public Participation Response

There are 3 letters of objection to the proposals which are summarised as follows:

- Residents have right of way over the land to access the garage at the bottom of the garden for 27 Springhill Rd which was granted by Walsall Council
- The development prevents access to existing garages/ surrounding properties
- Access for existing properties should be maintained
- The land is used to park cars on as the street is too narrow to park
- On street parking causes congestion in the street
- Dropped kerbs for existing residents should be provided which would improve disabled access
- Loss of privacy from overlooking
- Overshadowing by trees
- Boundary treatments should be separate to existing boundary fencing
- Hours of construction should be restricted

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

Determining Issues

- Principle of residential development
- Layout and design
- Relationship to surrounding properties

- Means of Access and Parking
- Local Finance Considerations

Observations

Principle of residential development

The principle of redevelopment for new housing on this previously developed site in a sustainable urban location is in accordance with the NPPF and BCCS and local development plan policies.

The former garages have been removed and the developer has identified that all leases have been terminated and there is no lawful right of access for surrounding properties to park on the site or gain access across it. Residents have objected to loss of access but this is a private legal matter between the developer and surrounding residents who claim to have a right of access.

The site is untidy and has potential to attract anti-social behaviour as well as exposing surrounding garden boundaries. In the circumstances it is considered that redevelopment for new housing is an acceptable alternative.

Layout and design

Although this is an outline application with all matters reserved the indicative layout shows how a pair of semi-detached houses could be accommodated on the site. The layout respects the position of surrounding houses and achieves a satisfactory distance between dwellings and garden areas. On this basis two houses could be accommodated on the site in a satisfactory manner in accordance with planning policies and supplementary guidance.

There are existing trees at the rear of the site which the proposals allow retention of. Although a neighbour has objected to potential overshadowing from trees these are existing and are located at the end of surrounding gardens so do not cause significant shading. The indicative layout shows planting a new tree between the driveways at the front of the proposed houses. This proposal will form part of the eventual landscaping proposals for the site and will be subject to a reserved matters application. A condition requiring details of landscaping is also recommended. In terms of whether this proposed tree would overshadow the neighbouring properties the tree is closer to the proposed new properties than neighbouring properties and will need to be a species compatible with buildings so as to prevent overshadowing.

The development of the site will have a positive impact on the character of the street scene by infilling the gap and will provide increased security to the boundaries of surrounding housing.

The density of the proposed housing is appropriate and in keeping with surrounding housing.

Conditions have been recommended in respect of addressing potential historical contamination on site and for drainage details. It is considered that these measures are appropriate to ensure an acceptable form of development is secured.

Although layout and design are not for consideration the illustrative plan demonstrates how a satisfactory layout could be achieved.

Relationship to surrounding properties

The proposed dwellings are in line with existing housing on Catshill Road and therefore do not have any significant impact on outlook, amenity or privacy of surrounding neighbours.

One neighbour objects to potential loss of privacy due to overlooking their garden but as the position of the proposed dwellings means the gable wall would be at least 13m away from the rear facing elevation of surrounding housing in Springhill Road this complies with guidance in Appendix

D of the SPD: Designing Walsall. With regard to neighbour concerns regarding future boundary fencing details could be secured by condition on any permission.

Pollution Control officers recommend restricting hours of construction and demolition on any permission which addresses the neighbour's objection.

The relationship to surrounding properties is considered to be acceptable.

Means of access & parking

There were formerly 15 garages on the site which have been demolished. The Transportation officer is concerned that there is insufficient justification to account for the displacement of parking off site. There are also at least two properties which have created an access across the land to garages within their rear gardens although this is not a lawful access according to the land owner. Neighbours are concerned that loss of this site for parking will result in more parking on the street which is narrow and causes congestion and highway safety issues.

The site is currently vacant and the land owner Walsall Housing Group (WHG) confirms there is no third party right of access over the land. This is a legal matter between the individual parties and not a material planning consideration.

Although there may be some unauthorised parking on the site by nearby neighbours it is noted that many residents in the vicinity have created their own driveways in front of their houses to provide off-street parking as this is more convenient. One resident suggests this may be an option but it would be for individuals to apply for a license from Highways to have the kerb dropped. Catshill Road is not a classified road so planning permission would not be required.

The former garages were a distance away from some of the housing it served and residents may not have considered this a convenient or safe option for parking. In the circumstances and despite concerns of some residents and the Transportation officer about potential displacement of parking from the site to the street it is unlikely that retention of the site for parking would reduce potential on street parking. As the site makes adequate provision for parking for the proposed dwellings there is no significant increased pressure for parking on street from the development of the site for proposed new dwellings.

On the basis of the above comments it is considered that the means of access and parking is acceptable.

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 2 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

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

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

Recommendation: Grant Permission Subject to Conditions

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

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

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

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

3. This development shall not be commenced until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) Appearance
- b) Means of Access
- c) Landscaping
- d) Layout
- e) Scale

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

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

- i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- iv) The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.

- v) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the “Remediation Statement” required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3).

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

5a. No development shall commence on site until drainage plans for the disposal of surface water and foul sewage has been submitted to and approved in writing by the local planning authority.

5b. The scheme shall be implemented in accordance with the approved scheme before the development is first brought into use.

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

6a. Prior to the commencement of development samples of all facing, roofing and hard surfacing materials and details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority.

6b. The development shall be completed with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development.

7. Prior to the occupation of the development hereby approved the access, turning areas and parking facilities shown on the approved plans shall have been properly consolidated, surfaced, drained, free of loose stone and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority in conjunction with the Highway Authority and these areas shall be thereafter be retained and kept available for those uses at all times.

Reason: In the interest of highway safety, and ensure the free flow of traffic using the adjoining Highway.

8. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To protect the amenities of surrounding properties.

9. This development shall not be carried out other than in conformity with the following approved plans and documents except in so far as may otherwise be required by conditions: -

- Site Location Plan (D30) received 4/3/14
- Site Layout (D31) received 4/3/14
- Design & Access Statement prepared by BM3 Architecture received 4/3/14

Reason: To ensure 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 require).

Note for applicant – Contaminated Land

CL1: Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2: When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land Contamination”, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 “Updated technical background to the CLEA model” and Science Report – SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3: Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

Note for applicant – Public Sewer

Severn Trent Water advises that there is a public sewer located just within the application site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent Water and advise them of any proposals located over or within 3 metres of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent Water can direct the building control officer to refuse building regulations approval. If you require any further information please contact Rhiannon Thomas on 01902 793883.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 9.

Reason for bringing to committee: Major application

Application Number: 14/0352/RM

Application Type: Reserved Matters

Applicant: 0

Proposal: Reserved matters proposals pursuant to outline permission 10/1544/FL for erection of 8 dwellings (appearance, landscaping and scale to be considered).

Location: The Rectory, 14 The Green, Aldridge, Walsall, WS9 8NH

Ward: Aldridge Central & South

Case Officer: Alison Ives

Telephone Number: 01922 652604

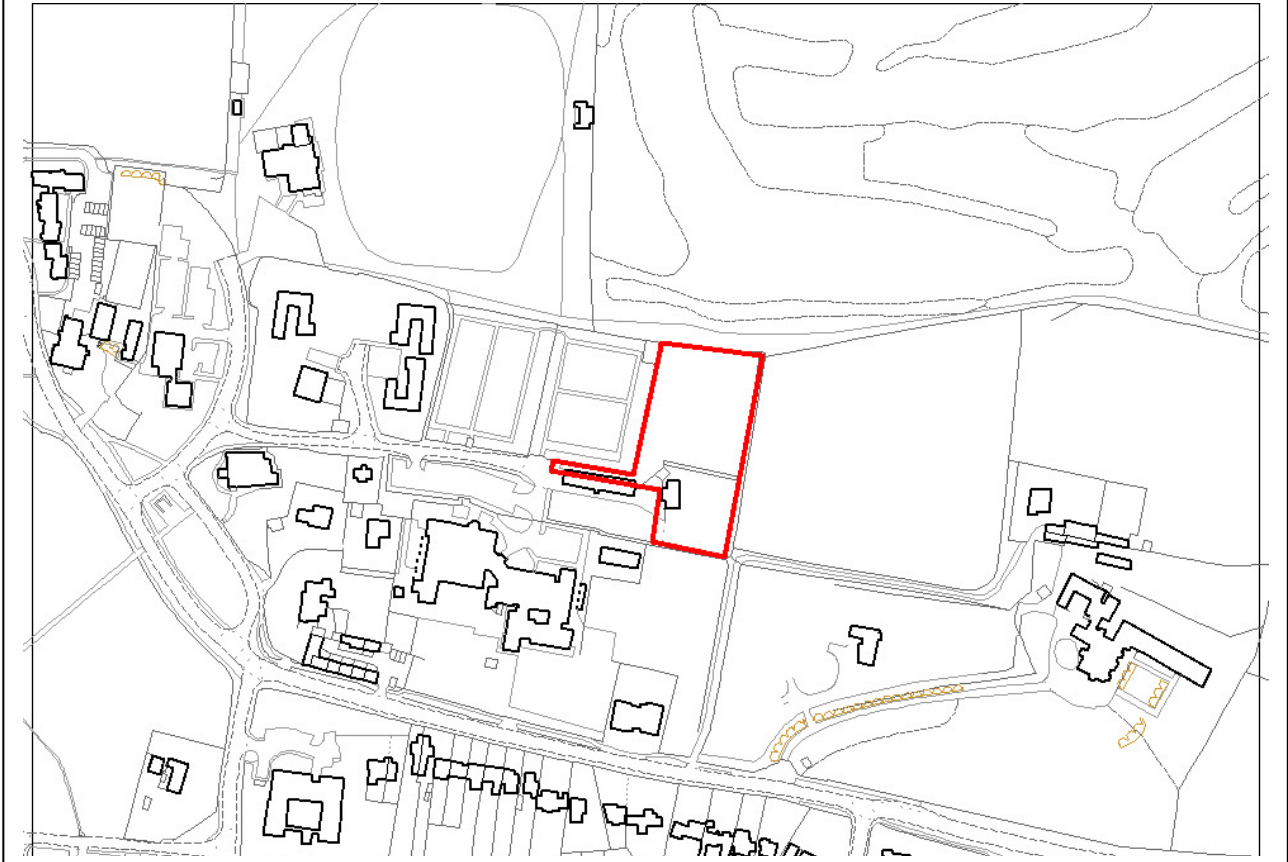
Email: planningservices@walsall.gov.uk

Agent: Pegasus Group

Expired Date: 08/05/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The application seeks approval of reserved matters for the erection of 8 detached houses off The Green at the rear of the new church rooms currently under construction for Aldridge Church. The reserved matters sought are appearance, landscaping and scale of the proposed houses as approval for layout and access was granted under the outline application 10/1544/FL.

The site is within Aldridge Conservation Area and is surrounded by Green Belt land to the north and east. Cooper & Jordan School adjoins the south, a cemetery to the west and north, Druids Heath Golf Club to the far north and open fields to the east. There are two public footpaths (ALD33 and ALD51) around the perimeter of the site.

The houses are located in a courtyard formation and are set away from the boundary with existing trees around the perimeter of the site. They comprise predominantly two storey houses but there is a three storey gable on plot 3 and plot 8 is a three storey dwelling. Each house has its own garage and there is additional parking in the shared surface courtyard.

The Addendum to the Design & Access Statement

Describes the site and explains the layout of the houses. It also explains how the individual house design and proposed landscaping has been determined to create an exclusive bespoke courtyard development. It also identifies proposed external surface materials, bricks, tiles and bat bricks.

Relevant Planning History

10/1544/FL - Demolition of existing church rooms and the Rectory. Hybrid application - Full application: New Church Rooms. Outline application: Housing on site of existing Rectory and adjoining church field as enabling development – Granted subject to conditions 14/3/11.

10/1545/CC – Conservation Area Consent: Demolition of existing church rooms and The Rectory – Consent Granted 14/3/11.

13/1188/DOC - Request for Discharge of Conditions 3, 4, 5, 6, 13, 19 and 20 of 10/1544/FL – Part discharged 28/10/13. This relates to conditions for the church rooms part of the hybrid application.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Support sustainable development
- Promoting sustainable transport

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 79 states the essential characteristic of Green Belts is their openness and permanence.

Paragraph 80 identifies the five purposes of Green Belts which are:

- *to check the unrestricted sprawl of large built-up areas*
- *to prevent neighbouring towns merging into one another*
- *to assist in safeguarding the countryside from encroachment*
- *to preserve the setting and special character of historic towns*
- *to assist in urban regeneration by encouraging recycling of derelict and other urban land*

Paragraph 81 states local planning authorities should plan positively to enhance the beneficial use of the Green Belt and to retain and enhance landscapes and visual amenity. It also encourages improving damaged or derelict land in the Green Belt.

Paragraph 87 states inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 88 states very special circumstances will not exist unless the potential harm is clearly outweighed by other considerations.

Paragraph 89 states the construction of new buildings is inappropriate in Green Belt except for specific purposes including:

- *buildings for agriculture or forestry*
- *provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it*
- *replacement of a building provided the new building is the same use and not materially larger than the one it replaces*

Paragraph 90 certain types of development are not inappropriate provided they do not conflict with the openness of the Green Belt including engineering operations.

Paragraph 103 when determining planning applications local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a Flood Risk Assessment.

Paragraph 109 encourages protection and enhancement of valued landscapes and geological conservation and remediation and mitigation of despoiled, degraded, derelict, contaminated and unstable land where appropriate.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

Paragraph 126 - Local planning authorities should have a positive strategy for the conservation and enjoyment of the historic environment.

Paragraph 131 seeks to sustain and enhance the significance of heritage assets putting them to viable uses and to ensure new development makes a positive contribution to local character and distinctiveness.

Paragraph 137 states new development in Conservation Areas should enhance their significance and preserve elements of their setting that make a positive contribution.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

3. Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

9. Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.

10. Safeguard and make the most sustainable use of the Black Country's mineral resources including primary, secondary and recycled materials without compromising environmental quality.

The above are supported by the following policies:

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character. Development proposals will be required to preserve and where appropriate enhance aspects of the historic environment together with their settings.

ENV5: Seeks to minimise the probability and consequences of flood risk.

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

ENV1: Identifies the Green Belt boundaries.

ENV2: Highlights considerations of proposals within or adjacent to the Green Belt and states development is inappropriate if it conflicts with the openness and purposes of the green belt.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: Encourages reclamation and development of derelict and previously developed land where possible in accordance with other policies. Where previous uses have affected the stability of the site the application must be accompanied by a site investigation report.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

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

ENV32: Proposals should take in to account the surrounding context particularly within or adjacent to the Green Belt including consideration of the effect on the local character of the area, vehicular and pedestrian patterns and visual relationship to surrounding areas.

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

ENV40: The quality of all water resources will be protected.

T1: All development should conform to the accessibility standards set out in policies T10-T13.

T4: Classifies the highway network and specifies that residential streets and minor roads are those where traffic volumes and speeds should be quite low. Sometimes traffic calming measures will be required.

T5: Seeks to implement selective improvements to highway infrastructure and states highway improvement schemes should be designed to minimise any adverse impact on the environment or the amenity of residents.

T7 – All development should satisfy the car parking standards set out in Policy T13.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

4 bedroom houses and above 3 spaces per unit

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Designing Walsall SPD

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

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

Conserving Walsall's Natural Environment SPD

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

Consultations

Transportation – No objections subject to conditions to secure car parking and vehicle hardstanding areas, details of works within the adopted highway and a construction methodology plan. A note for applicant regarding Highway Works is recommended.

Pollution Control (Scientific Team) – No objections.

Pollution Control (Contaminated Land) – No objections subject to securing a validation report regarding ground contamination.

Conservation Officer - No objections. Although there is scope for design improvements the approach is acceptable. The proposed design is post-modern which represents a neutral development in the conservation area rather than positive contribution but there is limited harm as the site is not seen from the main public aspects of the conservation area. The block paving is acceptable as it has already been accepted for the adjacent church rooms. Acceptable boundary details should be secured by condition. The houses are conventional two storey height with some roof accommodation but this is not detrimental to the conservation area and as the buildings are grouped within the settlement limits the impact on the adjacent green belt.

Fire Service – No comments.

Landscape – No objections. Maintenance of the new hedge is of concern and should be secured through conditions.

Local Access Forum (Walsall Ramblers) – The site is bounded by public footpaths ALD 33 (Little Aston Road to The Green) and ALD51 (ALD33 to Hobs Hole Lane). The construction of the houses should not obstruct the rights of way and protect them in future when the site is occupied.

Police – The site is within Rushall/Shelfield Neighbourhood Police Team where there are moderate levels of crime including 694 crimes in the last 12 months. Secure by Design accreditation is recommended. All windows, doors and boundary treatments should be robust and designed to prevent intrusion.

Rights of Way – No objections. Definitive footpaths 33 and 51 Aldridge adjoin the site. A condition to secure details of boundary fencing along the boundaries of the footpaths is recommended.

Public Participation Response

One letter of support has been received which states the plans make good use of the space and the quality housing fits in well with the environment. The work of Aldridge Parish Church will benefit and impact greatly on the area.

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

Determining Issues

- Appearance, Landscaping and Scale of the development
- Impact on the character and amenity of Conservation Area
- Relationship between surrounding properties
- Ecology and Trees
- Access and parking

Observations

Appearance, Landscaping and Scale of the development

The principle of residential development for 8 houses has already been approved by the hybrid application 10/1544/FL which granted full permission for the new church rooms and outline permission for the 8 houses with layout and access determined. The housing is located to the north of the new church building which is currently under construction and will have a shared access. The 8 detached houses are clustered in a courtyard formation. They comprise a variety of 2 and three storey 4 bedroom houses. Plot 3 has a three storey gable facing the head of the access and Plot 8 at the head of the courtyard is entirely three storeys high. This design has been chosen to mark the vistas at the head of the development. The design incorporates pitched roofs, chimneys,

dormer windows and feature windows. The Conservation officer considers the appearance acceptable and the houses are a neutral development in the conservation area.

The houses each have generous rear gardens varying between 235m² and 448m². Although there are mature trees around the perimeter of the site which cover part of the gardens and will shade the properties throughout different parts of the day there is adequate useable space remaining. The approved layout of the houses was designed taking into account this relationship. Given the existing trees screen the site from the wider Green Belt area beyond the appearance is considered acceptable.

The development is set within the existing landscaping setting with trees around the perimeter of the site. It is proposed to fill gaps around the perimeter with new tree planting. A native hedgerow is proposed along the northern and eastern boundaries Whilst the courtyard will remain largely hard landscaped in block paving to match that already approved for the church rooms, there are some small planted beds and wall climbing plants proposed in front of the houses to create a softer appearance. The proposed landscaping is acceptable and a condition to secure its implementation is recommended.

There is no front garden boundary definition within the courtyard other than these small planted areas as the space will be shared between the houses.

The scale and size of the houses is considered appropriate within these generous plots. The incorporation of a three storey dwelling on plot 8 and part three storey house on plot 3 is acceptable as they mark the end of key vistas. The height, width and length of each of the proposed houses are acceptable in this setting.

The reserved matters relating to the appearance, landscaping and scale of the development are acceptable on the basis of the above.

Impact on the character and amenity of Conservation Area

The principle of 8 new houses at this site has already been approved and is considered not to have a detrimental impact on the amenity of the conservation area as it is not visible from the main aspects of the conservation area.

The Conservation officer comments that this post modern design has a neutral impact on the conservation area and that the proposals are not detrimental to the conservation area. The buildings are grouped within the settlement limits and are screened from the wider Green Belt by existing trees causing no harm to the character of the area.

Relationship between surrounding properties

The layout of the dwellings has already been approved under the outline permission which determined the layout and access. The details now for consideration include the appearance of the dwellings and identify the design of specific house types.

There is over 13m between the main facing elevation of the new church rooms and the gable elevation of plot 1. This accords with Council guidelines and will not create significant potential for overlooking. There is 12m between the gable of plot 1 and facing elevation of plot 3 but this is only 1m short of the required distance and as there is only a secondary study window at ground floor in plot 1 there is no significant potential for overlooking. The remainder of the plots are designed to avoid directly facing windows to prevent overlooking between properties. The more intimate courtyard appearance is intentionally part of the design.

A condition to restrict construction and demolition hours on site is recommended as on the outline consent to protect the amenities of nearby occupiers.

The relationship between the proposals and the surrounding properties is considered acceptable.

Ecology and Trees

A bat roost was previously identified within the Rectory. Demolition of this property has already been approved and appropriate mitigation and compensatory provision will be secured by condition as before. Replacement bat roosts are proposed in existing trees and bat bricks incorporated in the roof of the proposed houses. A condition to secure these details and to require prior approval of details of any proposed lighting and underground services to protect the habitat for bats is recommended.

The trees are protected throughout the site due to the conservation area status. The layout as previously approved retains the majority of trees throughout the site and around its perimeter. This will maintain appropriate foraging habitat. Conditions are recommended to protect the trees further.

Access and parking

The means of access to the site has already been approved by application 10/1544/FL. The housing layout accommodates garages and off-street parking for all the dwellings and complies with Council policy. The layout drawing indicates where additional parking is available in the courtyard.

The proposals do not adversely affect the public rights of way around the perimeter of the site but a condition to secure details of boundary treatments is recommended.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted. In light of the submitted details officers are able to support the scheme.

Recommendation

Grant permission for the reserved matters subject to conditions.

Recommendation: Grant Permission Subject to Conditions

1. The development must be begun no later than 3 years after the date of this decision.

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

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

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

3. Following demolition and removal of the building a validation report shall be provided to the Local Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials and the building.

Reason: To ensure the satisfactory development of the site and prevent the risk of pollution.

4. The development shall be completed in accordance with the following external facing materials as identified within the Addendum to the Design & Access Statement prepared by St. Paul's Associates Limited received on 14 March 2014 and retained as such:

Brickwork – Wienerberger “Pembridge Red”

Brickwork Below DPC – Wienerberger “Staffordshire Smooth Blue Perf”

Windows & Doors – To be timber effect high quality PVC-U

Pitched Roofs – Sandtoft 20/20 interlocking plain clay tiles in “Flanders” colour.

Tile Hanging – Sandtoft Humber plain clay tiles in “Flanders” colour

Flat Roofs – Roll topped lead

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

5. Prior to the development first coming into use, all car parking and vehicle hardstanding areas shall be fully consolidated, hardsurfaced and suitably drained. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development.

6a. Prior to the commencement of the development, full engineering details of all works within the existing public highway and all adoptable highway works shall be submitted to the Local Planning Authority for technical approval. The works shall include; layouts and alignments, widths and levels of the proposed road, tie in details, demarcation details, signage, speed reduction measures on the eastern approach to the Community building car park entrance, along with all the necessary drainage arrangements and run off calculations. All adoptable street lighting shall be with the agreement in writing with Walsall Council's Street lighting partner Amey.

6b. Prior to the first occupation of any dwelling on the development, all highway and adoptable highway infrastructure works shall be fully implemented in accordance with the approved details to the satisfaction of the Highway Authority.

Reason: To ensure the satisfactory completion and operation of the development.

7a. Prior to the commencement of the development, a Construction Methodology Statement and plan including details of a turning facility and parking for site operatives, the siting of portakabins and materials, shall be submitted to and approved in writing by the Local Planning Authority.

7b. The Construction Methodology Statement shall be implemented and retained during the period of construction in accordance with the approved details.

Reason: To ensure the safe and satisfactory operation of the development during construction due to the sensitive nature of the sites near to a school.

8. No development shall commence until a scheme to enhance the proposed development for bats is submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of permanent roosting features built into the fabric of proposed buildings in accordance with the recommendations within Section 5.0 of the Bat Mitigation Strategy by WYG dated October 2010 approved under the outline consent 10/1544/FL. The approved scheme shall be incorporated into the development and retained thereafter.

Reason: To conserve local bat populations.

9. The approved landscaping scheme shall be implemented within 12 months of the completion of the development. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs or plants which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to define the permission and to safeguard the visual amenity of the conservation area, green belt and natural environment of the site and the immediate vicinity and conserve local bat populations.

10a. Prior to the commencement of the development full details of all boundary treatment shall be submitted to and approved in writing by the local planning authority.

10b. The development shall be completed in accordance with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development and to secure the site.

11. Prior to the commencement of development full details of proposed external lighting to be installed on the site shall be submitted to and approved in writing by the Local Planning Authority. Any details of external lighting approved by the Local Planning Authority shall be installed fully in accordance with the approved details and retained as such.

Reason: To safeguard the visual amenities of the area.

12. None of the existing trees on the site shall be lopped, felled or root pruned without the prior consent in writing of the Local Planning Authority.

Reason: To safeguard the trees in the Conservation Area on site.

13. The approved tree protection measures and fencing detailed in the Arboricultural Report approved under the outline consent 10/1544/FL shall be fully implemented prior to the commencement of any works on site and shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2005.

Reason: To safeguard the trees in the Conservation Area on site.

14. During demolition, site preparation and building operations no storage of materials, equipment or waste, nor passage of vehicles, nor lighting of fires shall take place beneath the canopy of any tree to be retained.

Reason: To safeguard the trees in the Conservation Area on site.

15. No digging of trenches or changes in ground level shall be undertaken within the canopy of any tree to be retained on the site without the written approval of the Local Planning Authority.

Reason: To safeguard the trees in the Conservation Area on site.

16. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To protect the amenities of surrounding occupiers.

17. No development or site clearance works shall commence until the hedge comprising locally native species as shown on the approved landscape drawing Bir.3567_09 is planted along the eastern and northern boundaries of the proposed housing site. The hedge shall be retained thereafter and managed to a height and width of not less than 2 metres.

Reason: In the interests of the amenity of the area and the functioning of the site as a bat commuting and foraging habitat.

18. No development or site clearance shall commence until full details of underground services, drains, sewers and soakaways are submitted to the Local Planning Authority and approved in writing. The details shall demonstrate that all underground services avoid the root protection areas defined in the Arboricultural report by Jeff Marlow dated 4 November 2010 approved as part of the outline permission 10/1544/FL.

Reason: to ensure the protection of trees to be retained in the interests of the amenity of the area and the functioning of the site as bat commuting and foraging habitat.

19. This development shall not be carried out other than in conformity with the following plans and documents: -

- Location Plan (2456/SK/060 Rev D) received 13/3/14
- Site Layout & Roof Layout (2456/SK/100) received 14/3/14
- Soft Landscape Proposals (Bir.3567_09) received 13/3/14
- House No 1 – Floor Plans & Elevations (2456/SK/101) received 13/3/14
- House No 2 – Floor Plans & Elevations (2456/SK/102) received 13/3/14
- House No 3 – Floor Plans & Elevations (2456/SK/103) received 13/3/14
- House No 4 – Floor Plans & Elevations (2456/SK/104) received 13/3/14
- House No 5 – Floor Plans & Elevations (2456/SK/105) received 13/3/14
- House No 6 – Floor Plans & Elevations (2456/SK/106) received 13/3/14
- House No 7 – Floor Plans & Elevations (2456/SK/107) received 13/3/14
- House No 8 – Floor Plans & Elevations (2456/SK/108) received 13/3/14
- Addendum to Design Access Statement prepared by St Paul's Associates received 14/3/14

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

Notes for applicant: Highway Works

The developer is expected to enter into agreements under S38 and S278 of the Highways Act 1980 in respect of all works within the existing public highway and adoptable highway works.

Note for applicant: Mud on the Highway

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



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 10.

Reason for bringing to committee: Significant Community Interest*

Application Number: 14/0501/FL

Application Type: Regulation 3 Consent (V)

Applicant: Walsall Council

Proposal: Proposed changed access arrangements to allotment, including provision of new vehicle access from Carbridge Lane South and creation of a jointly accessible existing entrance with residents and provision of boundary treatments.

Location: Borneo Street Allotments, Borneo Street, Walsall

Ward: St. Matthews

Case Officer: Karon Hulse

Telephone Number: 01922 652614

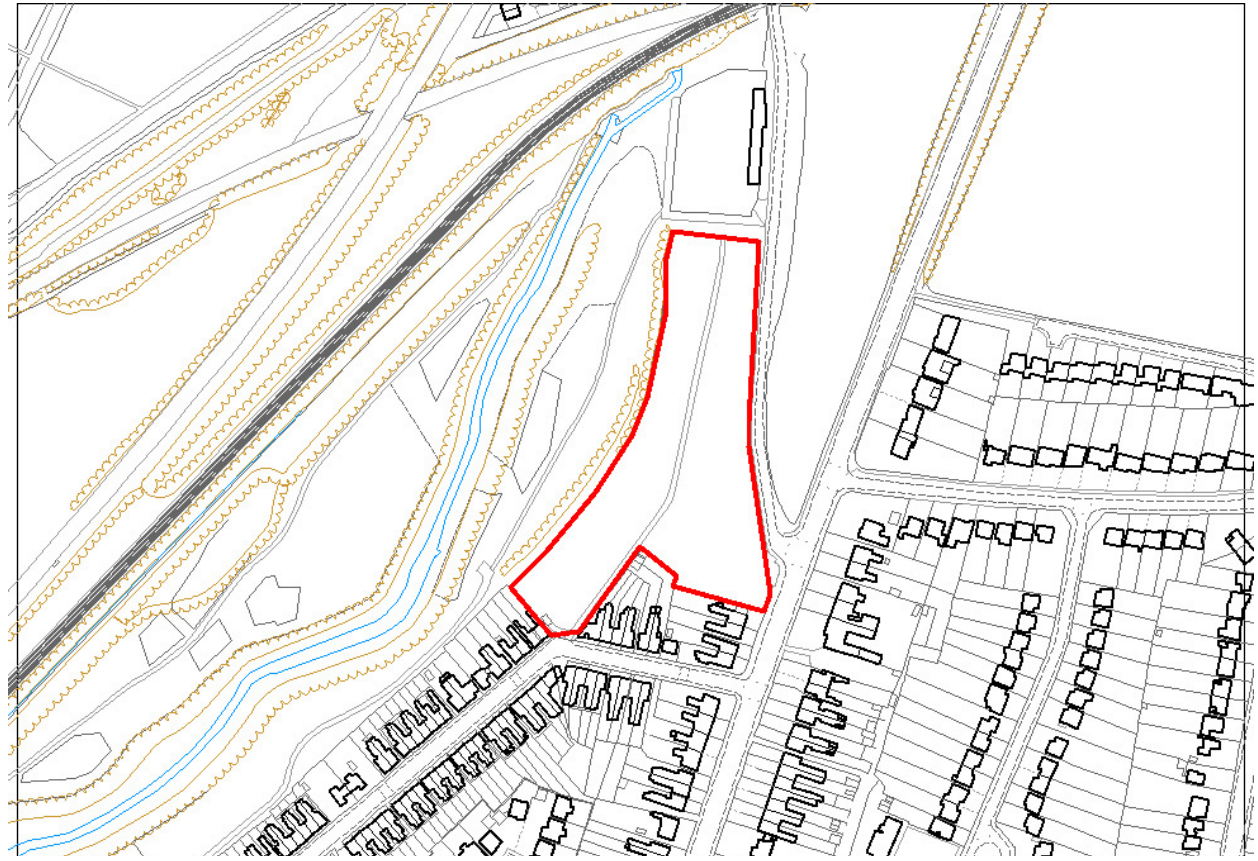
Email: planningservices@walsall.gov.uk

Agent: Walsall Council - Property Services

Expired Date: 30/05/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This application seeks consent for various improvements to the existing allotments at Borneo Street, Walsall.

The allotment site sits between Borneo Street, Ford Brook and Cartbridge Lane South, it is currently accessed from a single track access from Borneo Street. The allotments are approximately 1.41 ha in size.

To the south lies Borneo Street which is a mix of mostly Victorian semi detached and terraced houses. Most of the houses have no off street parking and as such there is always vehicles parked along Borneo Street.

To the west of the allotments is a designated SLINC and to the north is an electricity substation, between the allotments and the substation compound is open scrub land (in the councils ownership) whilst most of it is overgrown an undesignated footpath has been worn across it. There is a high voltage oil filled cable beneath this land which prevents any excavation or development (this is not included within the application site). To the east is Cartbridge Lane South which runs along the eastern boundary of the site and beyond that is green belt land and horse grazing.

The proposals include:

- Extinguish the current allotment drive
- Creation of a joint vehicle and pedestrian access including access for residents living at no.s 2 and 4 Borneo Street from the existing Borneo Street entrance.
- Creation of new vehicular gates accessible by allotment tenants to access storage sheds etc.
- Creation of new vehicular gates to access remainder of the site beyond residents access gated for allotment tenants only
- Creation of additional new entrance, drive, car park and raised beds off Cartbridge Lane South
- Creation of new pedestrian access path in and around the allotments
- Installation of new fence.

The site is within Green Belt as identified by the UDP.

Relevant Planning History

None

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas;

- support the transition to a low carbon future in a changing climate... encourage the reuse of existing resources, including conversion of existing buildings
- contribute to conserving and enhancing the natural environment

Key provisions of the NPPF relevant in this case:

3. Supporting a prosperous rural economy

28. Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

4. Promoting sustainable transport

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people

58. Policies should set out the quality of development that will be expected of an area, including:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

59. Consider using design codes where they could help deliver high quality outcomes. Design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.

60. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.

60. It is, proper to seek to promote or reinforce local distinctiveness

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

9. Protecting Green Belt land

79. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

80. Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this include:

- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Annex 2: Glossary - **Previously developed land:** Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.

11. *Conserving and enhancing the natural environment*

109. Contribute to and enhance the natural and local environment

118. Opportunities to incorporate biodiversity in and around developments should be encouraged.

120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.

121. Planning policies and decisions should ensure the site is suitable for its new use taking account of ground conditions and land instability, including natural hazards or former activities such as mining.

123. Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

On **conditions** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- 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.

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS)

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*".

2b: Encourages sustainable management of material resources through minimising waste, ensuring all members of the community have the best access to housing, previously development land is prioritised over greenfield sites and encourages a comprehensive approach to development.

CSP2: Green Belt boundaries will be maintained and protected from inappropriate development.

ENV1: Safeguards nature conservation by ensuring development is not permitted where it would harm designated sites including Site of Importance for Nature Conservation. Adequate information must be provided with planning applications to ensure the likely impacts are fully assessed.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Encourage high quality design that stimulates economic, social and environmental benefits.

TRAN2: Planning permission will not be granted for development proposals that are likely to have significant transport implications unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development including, in particular, access by walking, cycling, public transport and car sharing.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

Key references to saved UDP policies are:

3.3 The character and function of the Green Belt (which includes most of Walsall's countryside) will continue to be safeguarded as part of the wider West Midlands Green Belt. Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

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

3.21 & ENV1: Defines the purpose of the Green Belt.

The relevant policies are:

3.3: Inappropriate development within the Green Belt will not be allowed unless justified by very special circumstances.

ENV1: Defines the extent of the Green Belt.

ENV2: Highlights considerations of proposals within or adjacent to the Green Belt, and it includes a presumption against new buildings in the Green Belt, subject to exceptions similar to the approach in the NPPF although the NPPF now takes a more permissive approach to the extension or replacement of existing buildings (not just dwellings) and in respect of limited infilling or partial or complete redevelopment of previously developed sites. In both case this is subject to the impact on the Green Belt. Development is inappropriate if it conflicts with the openness and purposes of the green belt. ENV2(b) states re-use of existing buildings in the Green Belt will be acceptable provided that it does not involve any building extension or associated uses of land around the building that would conflict with the openness and purposes of the Green Belt.

ENV3: Detailed Evaluation of Proposals within the Green Belt - Proposals will be assessed for their impact on;

I. The detailed layout of the site.

II. The siting, design, grouping, height and scale of buildings, structures and associated outdoor equipment.

III. The colour and suitability of building materials, having regard for local styles and materials.

vi. The impact on significant views, viewpoints and topographical features.

IX. Any other relevant considerations identified in GP2.

ENV14: Seeks to bring forward derelict, vacant or underused land and buildings for new uses.

ENV17 the planting of new trees and hedgerows will be promoted.

ENV18: Seeks to ensure protection, positive management and enhancement of existing woodlands, trees and hedgerows.

ENV32: Seeks the design of developments to create high quality environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

ENV33: Promotes good landscape design, including in prominent locations and / or where there are features the council requires to be retained or enhanced.

LC4: Allotment Gardens. The provision of additional allotment sites will be encouraged in areas where there is increasing demand.

T7: Car Parking

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

T13: Parking Provision

4 bedroom houses and above: 3 spaces per unit

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the NPPF with two sets of exceptions. The first relates to the NPPF's acceptance of extension or alteration to or replacement of existing buildings. The second, which is more important in this case, is that the NPPF will allow the limited infilling or the partial or complete redevelopment of previously developed sites (where they are defined as brownfield land) and provided there will not be a greater impact on the openness of the Green Belt and the purpose of including land within it.

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD's are;

Designing Walsall SPD

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

DW2: All development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3: Design should respect and enhance local identity;

DW6: New development should contribute to creating a place that has a clear identity;

DW9: New development must seek to ensure it creates places with attractive environmental quality;

DW10: New development should make a positive contribution to creating a sustainable environment.

It is considered in this case that the relevant provisions of Designing Walsall Supplementary Planning Document are consistent with the NPPF.

Conserving Walsall's Natural Environment SPD

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

It is considered in this case that the relevant provisions of Natural Environment Supplementary Planning Document are consistent with the NPPF.

Consultations

Transportation - no objections subject to full engineering details of the new access and improvements to the existing

Pollution Control Contaminated Land/ Scientific Team – no objections

Regeneration (ecology) – insufficient information to establish natural environment impacts

Regeneration (landscape) – no objections

Public Participation Responses

Five representations have been received, three in support, one objection and one requiring confirmation on the information submitted. A petition containing 47 signatures in support of the proposals has also been received, mostly from residents of Borneo Street.

Support

The petition has been submitted on the grounds that the proposals will help to provide off street parking, reduce on-street parking in Borneo Street, provide off street parking for no.s 2 and 4 Borneo Street and creation of additional plots for new allotment holders.

Grounds of the supporting representations

- welcome the change as parking on Borneo Street has become increasingly difficult over the years
- The road is also used as a cut through for traffic which can be made worse by people also accessing the allotments
- the design will lower the number of vehicles using Borneo Street to gain access to the allotments.
- should include side road alongside 20 Borneo Street in the allotments to allow other residents access to the rear of their properties, this would reduce vehicles parking on Borneo Street.

Grounds of concern

- concerned about security of our property which runs parallel to the proposed access road especially if nothing to prevent access road used for multiple car parking.
- concerned about night-time security.
- Even with gates and fences, there have been thefts on the allotments.
- concerned that cars parked, other than in the garages, could be a potential security and fire-hazard especially over-night.
- concerned about noise aspect of these cars, diesel fumes and exhaust pollution.
- Closing of current access road and provision of new secured pedestrian access will increase problems with people from the allotments parking in Borneo Street.
- already inconvenienced by people parking across our drive, over the white line and dropped kerb,
- with extra fencing, our outlook will be lost and will be an added security issue. lose the community feel of living by the allotments which we value.
- concerned that fencing would reduce the sunlight, in our garden and property.
- concerned about value for money and how the council can justify spending money in this way under the present financial crisis and cutbacks to services.

The fifth representation seeks clarification of the following:

- It is unclear from the plans as to whether main access gates for the 4 metre wide residents roadway will be at both ends of this proposed track way/access point. Gates can clearly be seen at the Borneo St end but not at the other end of the track although an access point (i.e. an arc) is shown on the drawings. Please could you clarify.
- As a matter of interest please could you clarify also what gates are being constructed for the 1.5. metre allotment tenant pathway. Are they also Paladin gates and are they also at both ends ?
- Please could you clarify who will have keys to each of the different gates
- I notice that the new 2 metre high separation fence running in front of the allotments will have 1 small gate access for 10 allotment plots - My understanding of the purpose of this is to allow plot holders to bring things to and from their allotment and to receive deliveries. The length of this fence stretches across 10 allotments. Therefore 1 gateway will be woefully inadequate. Might I suggest that at least 5 (one between 2 plot holders) would be more practical and workable as the distance between each allotment is quite considerable especially when you are carrying heavy loads and pushing wheelbarrows.
- I note from the later plans that you have allocated all of plot 12 as a car park. Since half of plot 12 is tenanted and cultivated as an orchard this is not possible. I have been told (verbally) that you are only using half of this plot as a car park but please could you confirm in writing.
- Please could you provide more exact detail as to what the bottom end of the allotment site will look like as it is difficult to understand from the plans. Is there any scope to provide recycling areas for example down at the car park end ?
- Please could you confirm exactly what is planned as far as boundary protection is concerned. Our current boundaries are in a very poor state in some areas. Especially at the back of the houses. With extra access being granted to the site which is out of public view I am concerned that this might render residents houses even more vulnerable to burglaries. The new bottom end gates once opened would greatly facilitate the removal of stolen property from both the allotment site and houses as it will be well away from public view. Unlike the Borneo St access.
- Finally please could you confirm what improvements you will be making to the road surfaces on the site as again the quality of the road is extremely poor and gets much worse in Winter and Summer due to ice, mud and overgrown grass. I am concerned that the extra traffic might ultimately render the road unsuitable for use by all the community, especially our children and our numerous blue badge holders.

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

Determining Issues

- Parking and access
- Loss of allotments
- The amenities of neighbouring occupiers
- Landscaping/Green Belt
- Security and other matters raised

Observations

Parking and access

The creation of a new vehicular access from off Cartbridge Lane is welcomed and will benefit residents of Borneo Street, alleviating the need for allotment users to park on Borneo Street. The level of information regarding the proposed details as submitted is sketchy. Additional information is necessary and has been requested to ensure that the development is carried out satisfactorily. To include; Engineering details for the proposed new access off Cartbridge Lane South, engineering details for the improvements to the existing access off Borneo Street and a more detailed plan showing the car parking layout to include allocated disabled parking and access is required. Subject to the above information the proposed amendments are acceptable and will enhance the existing position regarding the use of the allotments at Borneo Street. This information can be dealt with through safeguarding conditions.

The separation of vehicular traffic and pedestrian traffic using the Borneo street access point is welcomed and will improve the safety of pedestrians using the allotments.

Loss of allotments

Whilst it is acknowledged that there will be a loss of some allotment plots this will be offset by provision of additional plots on other allotment sites within the borough. There will also be an environmental benefit to the Borneo Street allotments resulting from the reduction of allotment plots by increasing facilities for plot holders, reduction of on street parking along Borneo Street and increased security for adjacent residential occupiers.

The amenities of neighbouring occupiers

The proposals include new gates and fencing. It is considered that this will enhance the security of residents that share boundaries with the allotments and improve access to the rear of those residential properties which use the access from Borneo Street.

Landscaping/Green Belt

The allotments/application site falls within a wildlife corridor defined in the council's Unitary Development Plan (UDP). It is also immediately adjacent to the Ryecroft Site of Local Importance for Nature Conservation and the Ford Brook corridor. It is important that there are no adverse impacts on the natural environment. The current level of information provided with the application unfortunately is lacking in order to consider any potential impact on the environment and in particular on the wildlife corridor. The following additional information has been requested from the applicant.

- Are the boundary hedges at the northern end of the site to be retained?
- Are there any changes in levels in the vicinity of the northern car park area.
- Details of drainage of the car park areas required – potential for drainage into the adjacent Site of Local Importance for Nature Conservation.
- Details on the appearance of the proposed fencing and gates.
- Lack of any landscape provision.

It is considered that the proposals are unlikely to have any adverse impacts.

In order to ensure that the proposals do not impact on the environment it is recommended that no development shall be commenced until the additional information has been assessed fully, in this instance, it is considered that this can be satisfactorily secured by way of imposing planning conditions.

The site is within Green Belt as defined by the UDP. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. It is accepted that the use of the site is an appropriate development. It is considered that the current proposals will not have an unacceptable harm on the openness of the green belt and as such can be supported.

Security and other matters raised

The installation of new perimeter fencing and new vehicular and pedestrian access gates will improve security around the allotments both for users and for any property on the site. Access to the allotments is restricted to plot holders only therefore there will be no unauthorised parking or use of the site.

Matters of valuation are not a material planning consideration.

There will be no intensification of the use of the allotments therefore there will be no additional noise or nuisance created, diesel fumes or exhaust pollution.

The vehicular access off Borneo Street is not being closed it will be improved by providing a separate pedestrian access thereby improving safety.

Any new fencing along the access drive will be seen against the backdrop to that which already exists.

Whilst there is generally a lack of information contained within the application, the principle of the proposals are to be welcomed and it is considered that safeguarding conditions can satisfactorily ensure that the development meets the relevant Council policies and standards in all respects. There are no objections from significant consultees and whilst there has been community interest expressed, this is not considered to be contrary to the recommendation.

Recommendation: Grant Permission Subject to Conditions

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

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

2. The development shall be completed in accordance with the following plan numbers:

- Location plan received 4/4/14
- RC 02/B received 4th April, 2014
- planning statement received 4/4/14

Reason: To define the permission.

3a. Prior to the commencement of any development, the following details shall be submitted and approved in writing by the Local Planning Authority in conjunction with the Highway Authority;

- (i) Full engineering details of the proposed new vehicular access off Cartbridge Lane South.
- (ii) Full engineering details of the improvements to the existing pedestrian access off Borneo Street.
- (iii) Detailed plan showing the car parking layout at a scale of at least 1:100 to include allocated disabled parking and access.

3b. All highway infrastructure works detailed and agreed, shall be fully completed and brought into use to the satisfaction of the Local Planning Authority.

Reason: In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

4a. No development shall be commenced until the following details have been submitted to and approved in writing by the Local Planning Authority. The details shall be by way of a plan to 1:200 scale.

- Details showing how the boundary hedges at the northern end of the site is to be retained within the proposed development.
- Existing / proposed changes in levels in and around the vicinity of the northern car park area and proposed access.
- Details of drainage to all car park areas to demonstrate that there will be no detriment to the adjacent Site of Local Importance for Nature Conservation.
- Details of any landscape provision to include full details of the following:
 - Preparation of land for planting.
 - Specification and depths of topsoil/ subsoil/ growing medium and any mulches.
 - Locations of all planting.
 - Density of planting/ sowing.
 - Specifications for all planting to include: full details of sizes/ container volumes/ seed mixes/ plant numbers/ provenance/ botanical and English names and methods of planting.

4b. If any of the above details are required to be implemented it shall be within shall within 12 months of any part of the development being brought into use.

4c. Within 5 years from the date of planting any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted.

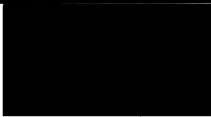
Reason: The application site falls within a wildlife corridor defined in the council's UDP and adjacent to the Ryecroft Site of Local Importance for Nature Conservation and the Ford Brook corridor as such it is important that there are not adverse impacts on the natural environment or for the potential for drainage into the adjacent Site of Local Importance for Nature Conservation to occur.

5a. No development shall be commenced until the height, appearance and colour finish of the new fencing and gates have been submitted to and approved in writing by the Local Planning Authority.

5b. The approved details shall be fully implemented in accordance with the agreed details prior to any part of the new development being first used and shall thereafter be retained.

Reason: To ensure the satisfactory appearance of the development.

Petition in Support of planning application



RECEIVED
30 APR 2014
RECEIVED

47

REGENERATION
30 APR 2014
RECEIVED

PETITION – Planning ref. 14/050/PL

The undersigned respectfully request that Walsall Council's Planning Committee supports the proposals for;

PROPOSED CHANGED ACCESS ARRANGEMENTS TO ALLOTMENT, INCLUDING PROVISION OF NEW VEHICLE ACCESS FROM CARTBRIDGE LANE SOUTH AND CREATION OF A JOINTLY ACCESSIBLE EXISTING ENTRANCE WITH RESIDENTS AND PROVISION OF BOUNDARY TREATMENTS.

This will help to provide off-street parking for 83 allotment holders and reduce on-parking in Borneo Street. A dedicated car park for allotment holders off Cartbridge Lane will help everyone.

- Off-street parking for residents of Nos 2 and 4 Borneo Street will also help to reduce on-street parking and free-up parking for other residents.

Creation of additional plots for new allotment holders will also help to reduce parking pressure in Borneo Street and help to reduce pressure on Borneo St site.

NAME	ADDRESS	SIGNATURE	DATE
[Redacted]	6 BORNEO STREET	[Redacted]	21/4/14
[Redacted]	10 BORNEO STREET	[Redacted]	21/4/14
[Redacted]	22 BORNEO STREET	[Redacted]	21/4/14
[Redacted]	36, BORNEO ST. WALSALL	[Redacted]	21/4/14
[Redacted]	42, Borneo St. Walsall	[Redacted]	21.4.14.
[Redacted]	39, Borneo St. Walsall	[Redacted]	21/4/14
[Redacted]	37, BORNEO ST.	[Redacted]	21/4/14
[Redacted]	29 Borneo St.	[Redacted]	21/4/14
[Redacted]	7, BORNEO ST	[Redacted]	21/4/14
[Redacted]	8 Eastbourne St Walsall	[Redacted]	21/4/14
[Redacted]	9 Borneo St Walsall	[Redacted]	21/4/14
[Redacted]	4 Borneo St Walsall	[Redacted]	29-4-2014

12



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 11.

Reason for bringing to committee: Significant community interest

Application Number: 14/0296/FL
Application Type: Full application

Case Officer: Philip Wears
Telephone Number: 01922 652611
Email: planningservices@walsall.gov.uk
Agent: Mr M. Aqbal

Applicant: Mr Azad Hussain

Proposal: Change of use of ground floor from retail shop (A1) to hot food take-away (A5).

Location: 14 IDA ROAD, WALSALL, WS2 9SR

Ward: Pleck

Expired Date: 05/05/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and site details

This application is a re-submission following the refusal of applications 12/1437/FL and 13/1419/FL for change of use to a sweets shop and hot food takeaway in December 2012 and December 2013. The application premises appears to have previously been an electrical repair shop (A1) but is now vacant on the ground floor

14 Ida Road contains two small shop units. The application relates to the larger of these, with the red-line location plan encompassing both shops, but the detailed plans showing the very small hairdressers shop nearest the corner as excluded from the application.

14 Ida Road is on the corner of Ida Road and a vehicular access drive. Opposite is the junction of Ida Road with Scarborough Road, making a type of cross-roads.

The vehicular access drive leads to staff parking to the Manor Hospital and the car park rear of the terraced houses at numbers 6 to 12 (evens) which have been converted to offices (07/1643/FL). On one side of the Ida Road/ Scarborough Road junction are semi-detached houses and on the other side the former Shelley campus of Walsall College, which is currently vacant but may be re-used. The hospital, offices, two shops, the former Shelley campus and the adjacent residential provides a mixed character location.

This end of Ida Road has double red line parking restrictions, in association with the 'red route' status of Pleck Road. Double yellow lines continue on one side of Ida Road and one side of Scarborough Road. Ida Road and Scarborough Road are bus routes.

Like the previous application the submitted plans show two fume extraction canopies to be installed, one over a food preparation work area, and one over a pizza oven. The canopies and ducting would lead to a stainless steel external flue erected at the rear of the property. The submitted drawings are inconsistent as to the flue height but it may be 1 metre above the roof ridge on the rear wing.

The application forms indicate that the floor area, a total of 50 sq. metres is for an A5 use, and there would be 2 full time and one part time employees.

No off-street parking is proposed.

The proposed hours of opening will be 10.00am to 10.00pm Monday to Saturdays and 10.00am to 8.00pm on Sundays.

A supporting 'Planning Statement' has been submitted. This refers to providing hot takeaway food and preparing and selling Asian sweets. It further explains:- that the proposal is to meet local needs, in particular serving residents in a local area within walking distance and comprising Ida Road, Scarborough Road, Jerome Road, Flaxhall Street and Reservoir Street. A petition in support mainly from these streets has been submitted. The statement adds that it is also intended to cater for hospital staff and visitors.

The statement goes on to review relevant planning policies and the previous refusal reasons. In response to being a town centre use outside a centre and not demonstrating local need, it points out that the same can be said for the existing shop; and policies can accept locations outside a centre where there is a local need, as the applicant considers is the case here. Furthermore by being local to a customer area it would encourage walking and avoid the need for customers to drive to local centres in Pleck, Palfrey and Caldmore, which are much further away. In response to the impacts on amenity (by noise and cooking fumes) it points out that there are high background noise levels, and dwellings are separated from the proposed takeaway by roads.

Furthermore modern odour control and fume extraction/ventilation equipment would be installed that could be controlled by a condition on an approval.

Relevant Planning History

12/1437/FL - Change of use to sweet shop (details were for a Class A5 takeaway) Refused December 2012 – out of centre location not justified and noise /odours affecting nearby residents and other occupiers.

13/1419/FL - Change of use to sweet shop and hot food takeaway. Refused December 2013 – out of centre location not justified and noise /odours affecting nearby residents and other occupiers.

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

National Planning Policy

National Planning Policy Framework (NPPF)

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*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas
- Support the transition to a low carbon future, encouraging the reuse of existing resources including the conversion of existing buildings

Key provisions of the NPPF relevant in this case:

2: Ensuring the vitality of town centres

23 Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:

- promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;
- retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive.

4: Promoting Sustainable Transport

35. Opportunities for the use of sustainable transport modes should be protected and exploited.

39. If setting parking standards, LPA's should take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place

- Respond to local character and history and reflect the identity of local surroundings and materials
64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

8: Promoting Healthy Communities

70. To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies are CEN6, CEN7, and ENV3.

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

Key planning policy references include saved policies 3.7, GP2, ENV10, ENV32, S6, S7, S10, T7 and T13

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPDs are:

Designing Walsall

DW3 – Character, development proposals must evaluate and understand the positive characteristics of the area it is located within to create or contribute to a distinctive sense of place.
DW9: new development must seek to ensure it creates places with attractive environmental quality
DW10: New development should make a positive contribution to creating a sustainable environment

It is considered in this case that the relevant provisions of Designing Walsall are consistent with the NPPF.

Consultations

Transportation – No objections. The existing retail shop is not afforded with any off street parking, but requires 3 car parking spaces in accordance with UDP Policy T13. The proposed A5 use requires 4 car parking spaces, therefore the Highway Authority does not consider this to be severe shortfall. It is acknowledged that the nature of the use is different. However at this location where there are double red lines directly outside the premises to control on street parking, and it is not on a main road, the impact of the A5 use does not constitute a severe highway safety concern.

Pollution Control (Contaminated Land Team) – no specific requirements.

Pollution Control (Scientific Team) recommend that odour and noise mitigation measures are undertaken prior to the business commencing.

Advises that not only the ceiling of the food preparation area but also the ceiling above the shop customer area should have noise insulation for the upper floor, achieving a sound reduction value of not less than Rw 60 dB.

Refers to DEFRA advice/guidance and recommends conditions to:-

- Require noise insulation details to be approved before development takes place.
- Fume extraction flue to be 1m higher than any roof within 20m of the flue, subject to efficiency of fume treatment.
- Where flues and associated fan and motor units are attached to wall vibration isolation mounting systems shall be used and ductwork shall be de-coupled from fan and motor units.
- Fume extract-ventilation systems shall be designed and operated to ensure that noise emissions do not give rise to a Rating Level of 5DBA
- A system to control grease, oil and fat discharges to drainage/sewerage

Also recommends notes to applicant

Environmental Health

– Layout changes needed to separate WC from food preparation area, and provide two hand washing basins additional to food washing sink/drainer.

- The cooking fume extraction system must comply with the requirements as set out in the DEFRA guidance document titled "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems"

- extraction flue must terminate no less than one metre above the highest point of the roof. This is not the case as shown on the proposed plan.
 - The extraction system must be maintained in accordance with manufacturer instructions.
 - There is no information on providing and maintaining a grease trap to prevent fat, oil and grease from cooking operations and washing operations entering the drainage system.
 - There needs to be a means of storing the refuse outside pending disposal, such as a trade waste bin.
 - A suitable and sufficient noise assessment should be carried out to determine whether noise insulation needed to avoid nuisance
- In the absence of the required information, it is not possible to make an informed judgement about whether the above matters will be satisfactory and therefore recommends that this application is refused planning permission.

Representations

A petition in **support**, containing 146 signatures, given in January and February 2014, was submitted with the application.

A petition in **objection**, containing 37 signatures, given in February, March and April 2014, has subsequently been received. The petition refers to problems of parking, anti-social behaviour and odours

4 letters of **objection** received:-

- No parking provided, so customers will park outside neighbouring homes despite double red lines
- Inconsiderate parking will take place contrary to Highway Code.
- Will make worse the existing parking problems due to hospital, pushing more parking into Scarborough Road
- The former Shelley Campus (corner of Scarborough Road) due to open as girls school, will also increase existing parking problems
- Noise and smell from cooking and cooking/fume extraction equipment
- Will increase anti-social behaviour in the area and immediate vicinity
- Already 20 food outlets in immediate area, including in the hospital itself.

Determining Issues

- Petitions and Public Participation Responses
- Principle of the use
- Impact on neighbouring amenities.

Observations

Petitions and Public Participation Responses

The petition in **support** contains a signature of a person who has written a letter of **objection**. That petition also appears to contain two signatures which are the same.

Principle of the use.

The proposal is a hot food takeaway, a new use which is treated in planning policies as one which should in the first instance be located in a town centre or local centre, or if this is not possible, in an edge of centre location. However policies allow for town and local centre new uses to be located out of centre if they meet a local need.

In this particular case the premises are distant from any town or local centre and the previous refusal of permission relied in part on the lack of evidence of local need. The past petition of 39 signatures from local addresses *objecting* to the proposal was seen as an indicator of a lack of local need and there were no other substantial submissions put forward by the applicant to counter this. On balance, it was considered that local need had not been demonstrated.

The petition in *support* now alters the assessment. Whilst the petition has some imperfections as noted above, the number of signatures can be taken to indicate some local support. Policies however require an assessment of local need.

From the submitted Planning Statement the local residents involved in any assessment of local need live in the residential area to the south and west of the site. In terms of the availability of alternative takeaways, there is a takeaway opposite the hospital on Pleck Road and this caters for a wide range of tastes. By road this is about 240 metres from the application premises, but about 580 metres from the junction of Jerome Road and Flaxhall Street, which may be regarded as the centre of the proposed catchment area. A Chinese style takeaway to the south on Pleck Road appears to have closed. Officers consider that whilst the takeaway opposite the hospital can cater for day to day needs, the walking distances involved are rather high so that car trips are encouraged.

Based on the expression of local support and the numbers and distances of other takeaways, officers recommend accepting that there is a small degree of local need.

It is further considered that any refusal based on grounds of insufficient local need to justify the location outside a centre, would also need to show some harm to the viability and vitality of local centres. However in this particular case where the existing use is as a shop subject to the same locational policies, it is difficult to point to any additional impact on local centres which would arise from the change of use to a takeaway.

Overall officers consider that given the evidence of local support, a small degree of local need, and a lack of evidence of additional harm to local centres, a refusal on grounds of insufficient local need would be difficult to defend.

Impact on neighbouring occupiers.

Cooking fumes, odour, noise etc

Although the previous applications have proposed a cooking fume extraction flue at the rear, there was no submitted information on fume treatment and odour control. It was considered on balance that there would be harm to amenities from cooking fumes and odours.

The current application proposes the same extraction flue, but the Planning Statement presents an intention to install a modern fume extraction and odour control system, and invites a condition to control details of this. Officers consider that this alters the balance of considerations.

Furthermore there appear to be no special problems in providing such a system. As far as the appearance of the external flue is concerned, it would be most prominently visible from the rear windows of the offices in the adjacent converted houses, and from the accommodation above the takeaway which is in the same ownership. The surroundings at the rear do not have a high visual amenity, owing to the car parks at the hospital and offices, and some utilitarian looking buildings at this side of the hospital complex.

Overall, officers consider that on balance the applicant has done sufficient to overcome the reason for refusal regarding harm to amenity from cooking fumes and odour.

Officers consider that the issues of noise affecting the accommodation above and grease in waste water harming the drainage system, could also be dealt with by attaching conditions.

Parking and residential amenities.

The representations received on grounds of lack of parking are noted. Whilst there is no off-street parking proposed and the availability of on-street parking close to the application premises is very restricted. Transportation officers do not consider that the lack of parking would restrict the free-flow of traffic or endanger the safety of vehicles or pedestrians, plus the submitted Planning Statement emphasises customers walking from the local catchment area and officers have no reason to differ with the view of our highway officers.

Positive and Proactive working

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens.

Recommendation: Grant Permission Subject to Conditions

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

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

2. Subject to the other conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans and documents:-

Site Plan at 1:1250 scale,

Block Plan at 1:500 scale

Existing and proposed plans and elevations, Drawing No 1567/3.

Reason: To define the permission and in the interests of proper planning.

3.(i) No development shall commence until details of the means of providing noise insulation to control the transmission of sound from the ground floor to the first floor, have been submitted to the local planning authority and approved by it in writing.

3.(ii) The approved details of noise insulation shall be fully implemented before the hot food takeaway is first brought into use and shall be retained thereafter.

Reason; To safeguard the amenities of occupiers of the upper floor at 14 Ida Road and adjoining premises.

4.(i) No development shall commence until details have been submitted to the local planning authority on the following aspects of the fume extraction flue, and have been approved by it in writing:-

- the height and construction of the fume extraction flue, demonstrating that it shall terminate at least 1 metre above the main roof ridge at 14 Ida Road.

- the provision of anti-vibration mountings and de-coupling the flue and ductwork from the fan unit.
- the appearance of the external flue, including its painting with a powder-coated paint system.

4.(ii) The approved details of the fume extraction flue, its anti-vibration mountings and de-coupling shall be fully implemented before the hot food takeaway is first brought in to use, and shall be retained thereafter.

Reason: To ensure the satisfactory functioning of the development in order to safeguard the amenities of the occupiers in the adjoining premises and the wider vicinity.

5.(i) No development shall commence until details of the cooking fume extraction and odour control system, to include grease filters, odour control, and gas-interlock linked to the extraction system, have been submitted to the local planning authority and have been approved by it in writing.

5.(ii) The cooking fume extraction and odour control system shall be installed in accordance with the approved details before the use as a takeaway commences. The approved details shall thereafter be retained, shall be operated at all times when cooking is underway, and its components shall at all times be maintained in accordance with the manufactures or installers specification.

Reason: To ensure the satisfactory functioning of the development in order to safeguard the amenities of the occupiers in the adjoining premises and the wider vicinity.

6. (i) No development shall commence until details of a grease trap for grease in the waste water have been submitted to the local planning authority and have been approved by it in writing.

6. (ii) The grease trap shall be installed in accordance with the approved details before the use as a takeaway commences. The grease trap shall thereafter be retained in accordance with the approved details, and shall at all times be maintained in accordance with the manufactures or installers specification.

Reason: To prevent grease entering into the drainage system in the interests of the free flow & capacity of the drainage system & the prevention of pollution of the system.

7. (i) No development shall commence until details of the facilities for storage of refuse, and for recycling, have been submitted to the local planning authority and have been approved by it in writing.

7.(ii) The refuse storage & recycling facilities shall be installed in accordance with approved details before the use as a takeaway commences, and shall be retained thereafter.

Reason: To ensure the satisfactory appearance & functioning of the development & to safeguard the amenities of the area.

8. The hair dressers shop and its rear service room, shown on the submitted drawing, shall not be used for any purpose connected with the hot food takeaway.

Reason; To define the permission and to safeguard the amenities of the locality.

9. The hot food takeaway shall not be open to customers, nor shall receive any deliveries, outside the hours of 1000 to 2200 on Mondays to Fridays, 1000 to 2200 on Saturdays, and 1000 to 2000 on Sundays and on Bank Holidays.

Reason; To safeguard the amenities of the locality.

Petition Against planning application

10/4/14



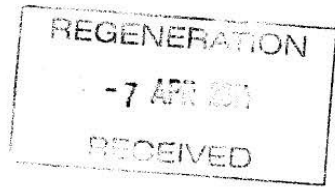
We the Undersigned wish to bring to the attention of Walsall Metropolitan Borough Council Planning Department , that the proposal for a Asian Sweet Shop and Takeaway for hot food at 14 Ida Road, Walsall, WS2 9SR.

Ref: 13/1419/FL 14/02961FL

We the Undersigned Appose and are Against the application due to community issues that may arise e.g Parking, Anti social behaviour, smell Odours. This is NOT a Welcome facility for the local community .

Name	Address	Sign	Date
[Redacted]	36 IDA ROAD	[Redacted]	1-4-2014
[Redacted]	58 IDA ROAD	[Redacted]	"
[Redacted]	58 Ida Road	[Redacted]	" "
[Redacted]	58 Ida road.	[Redacted]	" "
[Redacted]	58, Ida Road.	[Redacted]	" "
[Redacted]	26 Ida Road	[Redacted]	" "
[Redacted]	160 SCARBOROUGH RD.	[Redacted]	" "
[Redacted]	160 SCARBOROUGH RD.	[Redacted]	" "
[Redacted]	160 SCARBOROUGH RD.	[Redacted]	" "
[Redacted]	14 IDA ROAD	[Redacted]	" "
[Redacted]	29- South Bourne Av New	[Redacted]	" "
[Redacted]	77, Alumwell Road	[Redacted]	" "

1



Petition in support of planning application

REGENERATION
10 MAR 2014
RECEIVED

Petition for Mr Azad Hussain

14 Ida Road, Walsall, WS2 9SR

Please sign to show your support for the change of use to a
sweet & hot food takeaway shop.

	PRINT NAME	SIGNATURE	ADDRESS	DATE
1			18 Ida Road	4/2/14
2			18 Ida Road	4/2/14
3			8 IDA ROAD	4/2/14
4			30 IDA ROAD	4/2/14
5			34 Ida Road	4/2/14
6			Ida Road	4/2/14
7			Ida Road	4/2/14
8			58, Ida Road	4/2/14
9			108 Alumwell Rd	4-2-14
10			110, ALUMWELL RD	4-2-14
11			112 ALUMWELL RD	4-2-14
12			106 ALUMWELL	4-2-14
13			104 ALUMWELL RD	4-2-14
14				
15			102 " "	4-2-14
16			100 ALUMWELL ROAD	4/2/14
17			98 Alumwell Road	4/2/14
18			98 Alumwell Rd	4-2-14
19			96 " "	4-2-
20			96 " "	" "
21			92 " "	4-2-14
22			92 " "	4-2-14
23			785 " "	
24			76. ALUMWELL RD	4/2
25			76 ALUMWELL RD	4/2



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 12.

Reason for bringing to committee: Significant community interest

Application Number: 13/1629/FL
Application Type: Full application

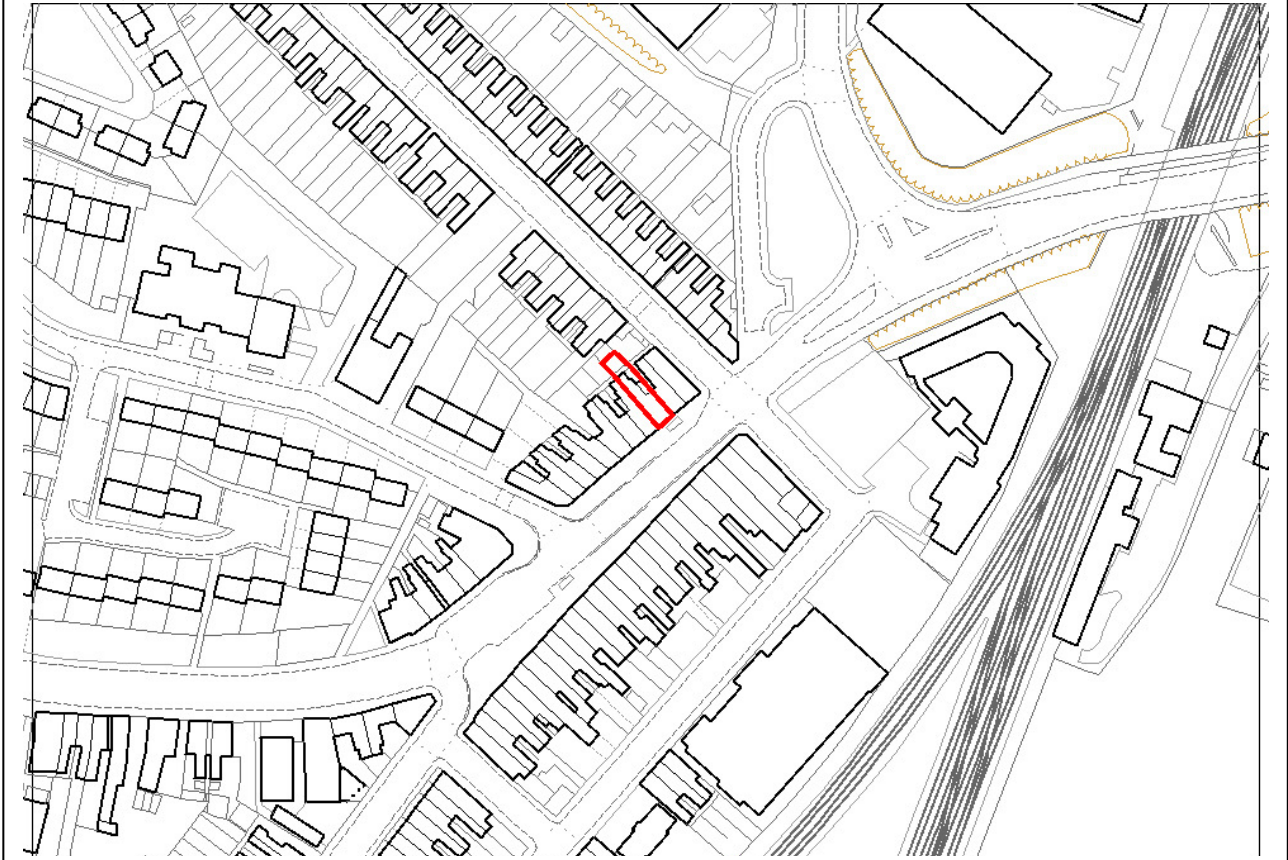
Case Officer: Philip Wears
Telephone Number: 01922 652611
Email: planningservices@walsall.gov.uk
Agent: Mr Miah

Applicant: Midcounties Co-Op
Proposal: Convert retail premises to hot food takeaway.
Location: 230 Wednesbury Road, Walsall, WS2 9QN
Ward: Aldridge North and Walsall Wood

Expired Date: 27/01/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The application site is a two-storey shop is situated on the eastern side of Wednesbury Road within the Pleck local centre near to the southern corner of the junction with Prince Street. In front of the shop is a bus stop with a shelter. At the rear of the application shop is a narrow private alley from Prince Street serving the rear of this row of shops. Beyond the shop are terraced houses in Prince Street.

The application proposes to convert the existing shop into a hot food takeaway employing 4 full time and one part time members of staff.

The opening hours would be 11am to 11pm every day.

Notes on the internal layout plan refer to the walls being insulated to achieve a sound reduction of 45db between properties, and the ceiling insulated to achieve a sound reduction of 60db to upstairs living accommodation. The plan also identifies a shed on the other side of the private rear alley as an area for the shop's refuse bin storage and recycling area.

A submitted drawing shows the erection of a brick chimney attached to the rear gable wall, and reaching a height of 1m above the rear gable roof. This would contain a flue for the proposed cooking fume extraction system. A note on the drawing states this system would comprise grease filters, carbon filtration or electrostatic precipitation for odour neutralisation, and an appropriate silencer. Furthermore details are to be submitted for approval, prior to installation.

The application is also supported by some details of the proposed cooking fume extraction system from a ventilation specialist. The details propose:-

- a fume extraction canopy with grease removal by baffle filters and grease traps
- ducting and an extraction fan, with a stated air flow.
- details of carbon filters for odour control
- details of two silencers giving a stated noise drop.
- recommended servicing intervals for the carbon filters and ducting.

There is also separate product information on a proposed grease trap to prevent grease in waste water harming the foul drainage system.

The agent has confirmed that a flat above (unoccupied at time of application) is in the same ownership. The neighbouring premises in this two storey frontage are currently used for retail and both have flats above.

Relevant Planning History

13/1123/FL Change of use of retail premises to Hot Food Take-Away. Permission refused on 18/10/2013 for the following reason:-

-The application has failed to demonstrate that the proposed development would not have an adverse impact on the amenities of the surrounding residential occupiers in terms of waste, cooking odours, noise and disturbance due to a lack of the following details:

A method to prevent grease entering the drainage system ventilation flue, and vibration mitigation measures of the ventilation extraction and filtration system, incorporating grease filters, carbon filtration or electrostatic precipitation and odour neutralisation, including an appropriate silencer refuse and waste recycling facilities
sound proofing for the premises (to prevent noise transmission between the ground floor business premises and the residential premises above)

The development would therefore be contrary to the National Planning Policy Frameworks in particular paragraphs 56, 57, 58 and 64, the Black Country Joint Core Strategy in particular CSP4, ENV2, CEN2 & CEN6 and Walsall's Unitary Development Plan (2005) in particular saved policies 3.7, GP2, ENV10, ENV32, S6 and S10.

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

National Planning Policy Framework (NPPF)

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*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.
- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas
- Support the transition to a low carbon future, encouraging the reuse of existing resources including the conversion of existing buildings

Key provisions of the NPPF relevant in this case:

4: Promoting Sustainable Transport

35. Opportunities for the use of sustainable transport modes should be protected and exploited.

39. If setting parking standards, LPA's should take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

70. To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and

- ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.
123. Planning policies and decisions should aim to:
- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
 - mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
 - recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

Decision-taking

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

CEN5. District and Local Centres. Small scale individual convenience retail developments acceptable where they satisfy local requirements and are appropriate to the scale and function of that centre.

ENV3 high quality design required, responding to identity of each place, and to deliver economic, social and environmental benefits.

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

3.7 seeks to protect people from unacceptable noise, pollution and other environmental problems.

GP2: The Council will expect all developments to make a positive contribution to the quality of the environment and the principles of sustainable development, and will not permit development which would have an unacceptable adverse impact on the environment. The following considerations will be taken into account:-

I. Visual appearance

II. The creation of, or susceptibility to, pollution of any kind

VII. Accessibility by a choice of means of transport; traffic impact, including the adequacy of the proposed access; and the adequacy of parking facilities

XIX. The hours of operation of any activities proposed.

XX. Any other factor of environmental significance.

ENV10: (a) It causes unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

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

ENV32: states poorly designed development which fails to take into account the context or surroundings will not be permitted.

S1 sets out uses which are acceptable in town, district and local centres. Restaurants and takeaways are within this category.

S5 defines the boundary and policies for specific local centres

S10: Hot Food Takeaways will be appropriate in the Town, District and Local Centres subject to the following considerations:-

I. The use proposed must not adversely affect the amenities of the existing or proposed dwellings by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.

II. Where the Council is minded to grant planning permission, the closing time for hot food takeaways will be considered in relation to the amenities of nearby dwellings. Conditions can be imposed on the permission stating opening and closing times

III. Permission will not be granted where the absence of adequate off street parking would be likely to lead to on street parking in a hazardous location.

IV. Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity.

T7: Long stay parking for commuters to be strictly controlled or reduced.

In Town and District Centres it may be appropriate for developments to contribute to general fund for car park improvements or public transport improvements. All development should satisfy the car parking standards set out in Policy T13

T13 Hot food takeaways - 4 car park spaces for establishments with a gross floor space up to 50m²; then 1 space per 22m² of gross floor space. At least 1 bike stand for every 5 car park spaces with an absolute minimum of 2 bike stands. Taxi facilities.

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPDs are:

Designing Walsall

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

DW9: new development must seek to ensure it creates places with attractive environmental quality

DW10: New development should make a positive contribution to creating a sustainable environment.

It is considered in this case that the relevant provisions of Designing Walsall are consistent with the NPPF.

Consultations

Environmental Health:- by proposing a grease trap, details of an odour control system, and extraction flue terminating 1m above roof ridge level, the previous objections on these aspects have been overcome.

Pollution Control, Contaminated Land – No requirements.

Pollution Control - Scientific Team – Proposed intention to insulate walls and ceilings overcomes concerns at noise. Proposed intention to install a grease trap, fume extraction flue and odour control system, overcomes concerns at drainage and fume odour, but suitability of odour control system should be discussed with EHO's. Recommends conditions on implementation of mitigation measures, servicing of grease trap, and hours of opening and deliveries.

Transportation – Although no parking is proposed, the parking standards for existing retail use and proposed takeaway are similar. Takeaway likely to generate more intensive vehicle trips, but taking account of location in a centre and parking control measures on Wednesbury Road and Prince Street, no overall objection.

Representations

Letters/emails from 5 addresses in the vicinity have been received:-

- Already many takeaways in the area.
- Numbers of takeaways discourage healthy eating by children
- Additional takeaway could cause existing ones to close down due to economic problems, resulting in empty properties
- Rubbish from takeaways is already deposited on Prince Street and Wednesbury Road, or is deposited in residents bins when left out for collection, causing them to be refused emptying.
- Located near a busy/congested bus shelter and therefore will cause obstruction and nuisance.
- Opening hours of 11am to 11pm daily are excessive
- Too close to residents in Prince Street, so will cause rodent problems. Also smell, noise and disturbance problems

Subsequently, following supplying of the addresses to the agent in accordance with normal practice when requests are made, further letters have been received from 3 of the same addresses as follows:-

- A resident of Prince Street has written to withdraw the previous objection.
- Another resident of Prince Street has written to state that they have no objection, and the previous eAccess comments were a fabrication which they did not send.
- A proprietor of a takeaway nearby has written to state that there is no objection and the previous eAccess comments were a false statement by someone misleading the Council.

Determining Issues

- Whether the application has overcome the previous refusal reason relating to impacts on amenities of neighbours.
- Other local objections

Observations

Whether the application has overcome the previous refusal reason relating to impacts on amenities of neighbours.

Waste

Officers consider the proposed secure waste storage and recycling area, within the existing rear shed, is suitable in size and location. It appears to be constructed in mix of brick and concrete blocks with a flat roof. Security is provided by a roller shutter door onto the rear alleyway and the shed being adjoined by other outbuildings to its three other sides. The premises would also be subject to monitoring of food premises by Environmental Health Officers.

With regard to prevention of grease in waste water entering the drainage system and causing blockages, officers consider that the submitted product information for a grease trap is acceptable subject to safeguarding condition(s).

Fume extraction/odour control

Officers consider that the written technical details of the fume extraction and de-odorising system are a satisfactory basis for avoiding problems of inadequate fume dispersal and odour. However additional information, in particular drawings illustrating the system in more detail, would be needed for greater certainty and for monitoring purposes. A safeguarding condition could be attached to require this additional information.

The proposed chimney and the fume extraction flue are proposed to terminate 1 metre above the ridge height of the rear wing on which they would be provided. However the ridge of the main roof is slightly higher and good practice for effective fume dispersal would require a height of 1 metre above the main ridge of the building.

In installing a fume extraction flue as part of the measures to avoid harm to amenities from cooking fumes, it is important that visual impacts are not created which are also harmful to amenities. A galvanised style external fume extraction flue would be readily visible from Prince Street, which has a view along the rear of the shops, and would be visually obtrusive. Cladding the extraction flue in a brickwork chimney against the end gable wall has been proposed to merge the flue visually with the existing buildings. However the chimney and flue would usually need to be slightly higher for fume dispersal as discussed above. A safeguarding condition can be imposed to require the chimney and flue to terminate 1 metre above the main building ridge and for details of their design and materials to be submitted, to ensure the flue blends with the existing building.

Noise

The submitted details of the fume extraction system are considered acceptable in terms of airborne noise from its fan unit and ducting. However some other details relating to noise are still lacking. With regard to structure-borne noise from the fume extraction system which could harm amenities in the flat above and to either side, anti-vibration mountings are proposed on the submitted drawings, but no details have been submitted.

The submitted drawing indicates an overall intention to insulate the ceiling to protect the flat above, achieving a sound reduction of 60dB, but details are again lacking

Potentially, conditions can require the submission of details on both of these noise issues.

Summary

It is considered from the above that the submitted details are sufficient in this instance to overcome the previous refusal reasons relating to waste issues and cooking odours. In order to further develop and ensure proper implementation of these aspects, safeguarding conditions can be attached to require the implementation of the grease trap, and the proposed fume extraction/odour control system. Additional details of the chimney and flue at the required height, can also be required. It is further considered that the issues relating to noise insulation, and anti-vibration mountings for the flue and fume extraction system, could be dealt with by attaching conditions to require details to be submitted for approval.

Other local objections

The number of hot food takeaways

In connection with the neighbour objections to the number of takeaways, there is currently no other takeaway in the block of eleven shops in which this proposal would be located. In the long retail frontage on the opposite side of Wednesbury Road, there are currently four hot food takeaways and two restaurants who offer a takeaway service. Whilst takeaway food is readily available it is not considered that the number of outlets is unusual and the economic activity is preferable to vacant premises. It is not the role of planning to prevent competition with existing takeaways, nor restrict takeaways for health reasons. Policy S10 of the UDP indicates that local centres are appropriate locations for such uses subject to key considerations of amenity, opening hours, parking and ventilation and fume extraction equipment, and these aspects have been examined above.

The application site is within a local centre, and the provision of a new takeaway is appropriate in principle in such a location.

Obstruction

The objection is noted regarding people gathering in addition to those at bus stop/ shelter and causing obstruction of the pavement. Officers consider this hard to predict and if it did occur would be dealt with under Police powers. It may also be expected that if there are numbers of people creating problems outside the application building the proprietors would call for help or intervene themselves. Overall this is not considered a sufficient reason to refuse the planning application.

Opening hours

The proposed hours of opening until 11pm each evening are not considered excessive in a local commercial centre where the public go for goods and services.

Litter

The objection on grounds of adding to litter on Wednesbury Road and Prince Street are also noted. There is already a litter bin immediately outside the front of the premises owing to the presence of the bus stop. Separate litter enforcement powers exist through the environmental health legislation should there be a need.

Positive and Proactive working with the applicant

The Government encourages applicants to seek pre-application advice prior to submitting applications to ensure that the proposal meets the aims and objectives of local and national policy. This can be written, by telephone or by looking at the Council's website. This application meets these requirements. Officers have discussed the previous refusal with agent in order to give pre-application advice, and have subsequently also discussed details of the current application.

Recommendation: Grant Permission Subject to Conditions

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

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

2. Subject to the other conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans and documents:-

Site Plan,

Existing survey plan. Drawing No S1, received 2/12/2013

Proposed layout. Drawing No P2A, received 2/12/2013

Product details of grease trap received 2/12/2013

Specification for cooking fume extraction system, by KSL, received 2/12/2013.

Reason: To define the permission and in the interests of proper planning.

3.(i) No development shall commence until details of the means of providing noise insulation to control the transmission of sound from the ground floor to the first floor, have been submitted to the local planning authority and approved by it in writing.

3.(ii) The approved details of noise insulation shall be fully implemented before the hot food takeaway is first brought into use and shall be retained thereafter.

Reason; To safeguard the amenities of occupiers of the upper floors at 230 Wednesbury Road and adjoining premises.

4.(i) No development shall commence until details have been submitted to the local planning authority on the following aspects of the fume extraction flue and the encasing brickwork chimney, and have been approved by it in writing:-

- the height and construction of the fume extraction flue, demonstrating that it shall terminate at least 1 metre above the main ridge of 230 Wednesbury Road,
- the provision of anti-vibration mountings and de-coupling the flue and ductwork from the fan unit.
- the height and design of the brickwork chimney, its relationship to the fume extraction flue, the existing chimney, and the design of its top.
- the size, colour and texture of the bricks to be used in constructing the exterior of the chimney.

4.(ii) The approved details of the fume extraction flue, its anti-vibration mountings and de-coupling and also the approved details of the brickwork chimney, shall be fully implemented before the hot food takeaway is first brought into use, and shall be retained thereafter.

Reason: To ensure the satisfactory functioning of the development in order to safeguard the amenities of the occupiers in the adjoining premises and the wider vicinity.

5.(i) No development shall commence until the illustrated details (drawn to scale) of the cooking fume extraction and odour control system, based on the submitted specification from a ventilation specialist, have been submitted to the local planning authority and have been approved by it in writing.

5.(ii) The approved cooking fume extraction and odour control system shall be fully installed before the hot food takeaway is first brought into use, shall be operated at all times when cooking is underway, and its components shall at all times be maintained in accordance with the manufactures or installers specification.

Reason: To ensure the satisfactory functioning of the development in order to safeguard the amenities of the occupiers in the adjoining premises and the wider vicinity.

6. The proposed hot food takeaway shall not be brought in to use until a grease trap for grease in the waste water has been installed in accordance with the submitted product details. The grease trap shall be fully implemented and retained thereafter.

Reason: To prevent grease entering into the drainage system in the interests of the free flow & capacity of the drainage system & the prevention of pollution of the system.

7. The refuse storage & recycling facilities shall only be located in the position as shown on approved drawing Proposed Layout, Drawing No.P2A received by the Local Planning Authority on 02nd December 2013.

Reason: To ensure the satisfactory appearance & functioning of the development & to safeguard the visual amenity of the area.

8. The hot food takeaway shall not be open to customers or for deliveries outside the hours of 1100 to 2300 daily.

Reason; To safeguard the amenities of the locality



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 13.

Reason for bringing to committee: Significant community interest

Application Number: 14/0063/FL
Application Type: Full application

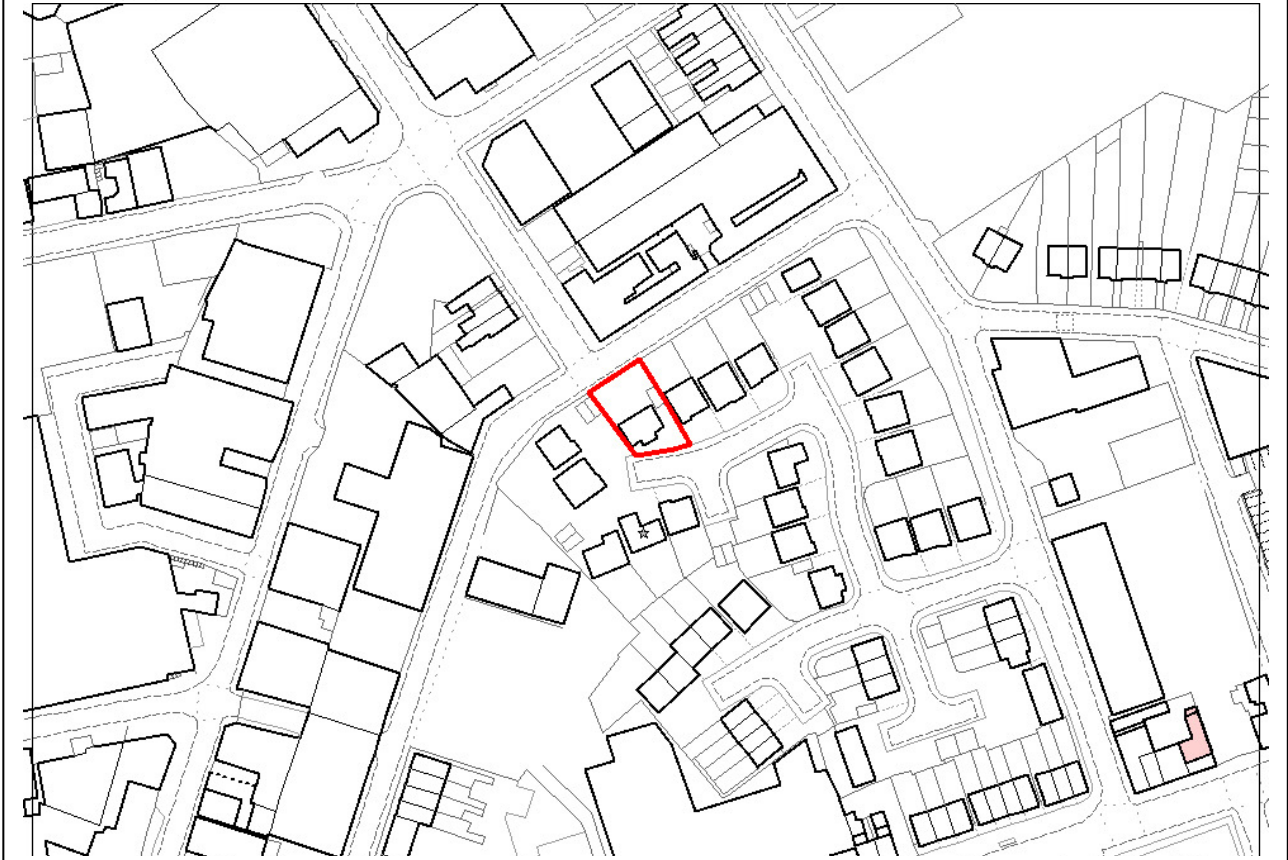
Case Officer: Jenny Townsend
Telephone Number: 01922 652610
Email: planningservices@walsall.gov.uk
Agent: Stephen Capper Design and Planning

Applicant: Mr Michael Davies
Proposal: Two storey side/rear extension
Location: 20 KNIGHTS CLOSE, WALSALL, WV13 1NG
Ward: Willenhall South

Expired Date: 14/03/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This application is for extensions to a detached house that would enlarge the existing kitchen, add a playroom and new garage at ground floor with two new bedrooms and an ex-suite bathroom built above. The number of bedrooms would remain at 5 but there is also a study which could be used as a 6th bedroom.

The application house is on a small modern residential estate of similar styled houses and has a two storey front gable projection with a hipped roof over the main house. There is a detached garage to the side of the house which is adjacent the boundary shared with number 18 and currently the access to the rear garden is between the house and the garage. The rear garden backs onto a road with industrial units opposite.

The proposed extension would replace the detached garage with a two storey side extension and the original plans were amended to reduce the length of the rear section but bring the extension further forward. The amended plans propose the extension to be set back 0.6 metres from the front corner of the existing house, be 2.8 metres wide and leaving a 0.9 metre wide gap between the side of the extension and the boundary shared with number 18.

The extension would be 9.1 metres long with the rear part projecting 3 metres beyond the original rear two storey part of the house. A lower hipped roof is proposed over the side section with double hipped roofs on the rear.

A window to the en-suite is proposed at first floor level in the side elevation facing towards the side of number 18 and on the front a new first floor bedroom window is proposed above the garage. Two new bedroom windows are proposed at first floor level on the rear elevation with double doors to the kitchen and a window to the playroom at ground floor.

Number 18 is to the east, set in 1.0 metre from the shared boundary and projects beyond the application house at both the front and rear. There are two doors at ground floor (one to the garage and one to the utility) and an obscurely glazed first floor bathroom window in the side elevation of number 18 facing towards the side of the application house. On the rear 18 has a bedroom window at first floor level with a toilet window below.

Number 22 is at the end of the cul-de-sac and at right angles to the application site. There is a double garage block alongside part of the side boundary of the application house with a tall fence to the rest. Some of the windows at 22 face towards the garages with the rest facing the fence and side of the existing conservatory and garden of number 20. The proposed extension would be beyond the conservatory on the far side of the application house with a separation of approximately 19 metres between the front of number 22 and the two storey blank side wall of the proposed extension.

The front driveway of the application house is paved and provides parking for two cars.

Relevant Planning History

BC57832P Outline – Residential development. Granted subject to conditions 16/04/03.

03/0187/FL/W4 49 houses, garages, roads and associated works. Granted subject to conditions 11/08/03.

06/1669/FL/H3 Conservatory. Granted subject to conditions 04/12/06.

PLANNING POLICY

National Planning Policy Framework (NPPF)

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*”.

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas

Key provisions of the NPPF relevant in this case:

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

131. In determining planning applications, local planning authorities should take account of: the desirability of new development making a positive contribution to local character and distinctiveness.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms ‘Local Plan’ policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

ENV2 and ENV3 states that all development should aim to protect and promote the special qualities, design quality and local distinctiveness of the Black Country.

Walsall’s Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says “*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. This policy will be applied to all development.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
 - The appearance of the proposed development.
 - The height, proportion, scale, and mass of proposed buildings / structures.
 - The materials proposed for buildings, external spaces and means of enclosure.
 - The integration and co-ordination of buildings and external space.
 - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

- The effect on the local character of the area.
- The proposed vehicular and pedestrian circulation patterns.

T7: Car Parking

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

T13: Parking Provision

1, 2 and 3 bedroom houses 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

'It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.'

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPDs are:

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- 13m separation between habitable windows and blank walls exceeding 3m in height.
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from www.walsall.gov.uk).
- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

'It is considered in this case that the relevant provisions of Designing Walsall are consistent with the NPPF.'

Consultation Replies

Pollution Control Contaminated Land Team – Contaminated Land Team supports the proposed development however the property is located in an area previously utilised as a works and a scrap yard. Subsequent remediation has taken place however; there may be hotspots of contaminated soil that may present Health and Safety implications for persons undertaking ground works. A note for the applicant is recommended to be attached to any planning approval issued.

Pollution Control Scientific Team - Pollution Control Scientific Team recommend a condition on construction working hours and any construction should include any acoustic mitigation measures that were required with regard to planning permission 03/0187/FL/W4.

Transportation – No objections subject to a condition relating to use.

Public Participation Responses

Three letters of objection have been received. The objections are:

- the view from their lounge and master bedroom will be adversely affected by height of rear projection;
- extension will reduce space at the front of the house causing further parking issues – there are already problems with access to driveways and manoeuvring in the cul-de-sac and parking of commercial vans in the street;
- two storey extension will look out of shape and not in line with other properties on the estate (they would have no objection to a single storey extension);
- extension would block light to side windows and doors to kitchen, utility, garage and bathroom;
- there would be a dark alleyway between the houses which would be a danger and make it difficult to get into the garden in the evenings;
- the extension will overlook rear garden causing a loss of privacy.

Two of the neighbours have sent the same comments in relation to the amended plans and one neighbour has included a copy of a letter sent to the Traffic Management Team and Willenhall Police in February 2013 concerning parking problems in the Close.

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking.
- Positive and Proactive working with the applicant

Observations

Design of Extension and Character of Area

The proposed hipped roof of the extension would be compatible with the existing house.

The lower ridge height of the roof and set back to the front of the extension is considered would keep the existing subservient to the existing house keeping the front projection as the main feature.

The gap to the side of the extension would be similar to the gap to the side of number 18 and between other houses nearby.

The proposal is considered would be in keeping with the character of the area.

Amenity of Nearby Residents

The extension would not project beyond number 18 at the front and whilst it is recognised that the two storey side wall of the extension would be closer to the side of number 18, the side window and doors belonging to number 18 all serve non habitable rooms (garage, bathroom and utility) to which less consideration is attributed.

The rear part of the extension would project approximately 1.8 metres beyond the rear of number 18 and would comply with the 45 degree code measured from the quarter point of the first floor bedroom window which is the nearest habitable room window to the boundary. The reduced length

of the rear part of the extension together with the 1.9 metre separation between the houses is considered would minimise impact on the amenity of the rear of number 18.

The proposed first floor bedroom window would be comparable to the existing bedroom window at number 18 in terms of proximity to the shared boundary and potential for overlooking into the rear garden of the neighbouring property. The new window is considered would be in a similar position to the existing rear bedroom windows on the neighbouring houses and as such would not adversely impact on the living conditions of the occupiers of number 18 sufficient to sustain a refusal for this reason alone.

The proposed first floor window in the side elevation facing number 18 would serve a non habitable room and a condition for obscure glazing is recommended to protect the amenity of the occupiers of both properties.

The separation between the front windows of number 22 and blank side wall of the extension at approximately 19 metres would exceed the minimum of 13 metres which is required for walls over 3 metres high. In this instance the proposed extension is proposed to the far side of the application house and would be viewed as a backdrop to the fence and conservatory which is considered would diminish any impact on the outlook from number 22.

With regard to the neighbour's comments regarding parking of commercial vans in the street, this is not a material planning matter and is covered by separate legislation. All other matters raised by the neighbours have been addressed above.

Parking

The house already has more than 4 bedrooms and at least 3 parking spaces are retained at the property, one across the property frontage, one in the new garage and one in front of the garage. This accords with UDP T13 parking policy for houses with 4 or more bedrooms.

Positive and Proactive working with the applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding the length of the rear part of the extension, amended plans have been submitted which enable full support to be given to the scheme.

The proposed development is considered to meet 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" and other material planning considerations.

Recommendation: Grant Permission Subject to Conditions

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

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

2: Prior to construction the applicant shall agree acoustic mitigation measures with the Local Planning Authority. These measures shall be installed in the extension and retained thereafter.

Reason: To protect the amenities of surrounding properties.

3: Prior to the development being brought into use the first floor en-suite window in the side elevation facing number 18 Knights Close shall be obscurely glazed to at least Pilkington privacy level 4 and once installed retained as such thereafter.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

4: The walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the **date of this permission**, and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

5: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

6: The new garage and retained parking areas shall thereafter be retained for the use of vehicle parking only and shall not at any time be used for any other purpose.

Reason: To ensure adequate off street parking is retained at the property in accordance with UDP policy GP2, T7 and T13.

7: No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00 Monday to Fridays and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To protect the amenities of surrounding properties.

8: The development hereby permitted shall be carried out in accordance with the following approved plans and documents except insofar as other conditions may so require:

Location plan deposited 16 January 2014;
Block plan deposited 16 January 2014;
Existing ground floor layout drawing 945/1 deposited 16 January 2014;
Existing first floor plan drawing 945/2 deposited 16 January 2014;
Existing elevations drawing 945/3 deposited 16 January 2014;
Amended proposed ground floor layout drawing 945/4A deposited 27 February 2014;
Amended proposed elevations drawing 945/6A deposited 27 February 2014;
Amended proposed first floor plan drawing 945/5A deposited 27 February 2014.

Reason: For the avoidance of doubt and in the interests of proper planning.

Note for Applicant

The area of this proposed development has been utilised as a works and a scrap yard, subsequent remediation has taken place, however there may be hotspots of contaminated soil which may present Health and Safety implications. No specific detail of ground conditions in the area is

available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.

ALL DEVELOPMENTS WITHIN COALFIELD STANDING ADVICE AREAS

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at:
www.groundstability.com



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 14.

Reason for bringing to committee: Contrary to policy – called in by Councillor Sears and deferred at the meeting on 13 March 2014 for negotiations with the agent to amend the scheme

Application Number: 13/1563/FL
Application Type: Full application

Case Officer: Jenny Townsend
Telephone Number: 01922 652610
Email: planningservices@walsall.gov.uk

Applicant: Mr David Moran

Agent: Sueshire Services

Proposal: Rear part two storey and part ground floor domestic dwelling extension.

Location: 59 KINGSHAYES ROAD, WALSALL, WS9 8RT

Ward: Aldridge North and Walsall Wood

Expired Date: 28/02/2014

Recommendation Summary: Refuse

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Status

The applicant's agent has sent a plan showing the 45 degree line would be breached by the extension and advises that they do not wish to amend the proposals because it would totally spoil their plans to extend and achieve what the applicant's would like. He points out that the neighbours have written giving their full support to the proposal and asks to speak at Committee.

No changes have been made to the plans that were presented at the meeting on 13 March 2014.

Application and Site Details

This application is for extensions to the rear of a link detached house that would enlarge the existing dining room and kitchen at ground floor with an en-suite shower room and extension to one of the existing bedrooms built above. There would be no increase in the number of bedrooms.

The plans show a small flat roofed dormer inserted in the existing side roof slope to add head height to the existing bathroom. This would be permitted development and does not form part of the application.

The house is in a line of similar styled houses that have garages to the side which are attached for the full length to the side of the neighbouring house.

The ground floor extension would be 4.0 metres deep and across the whole of the rear elevation apart from the 1.1 metre wide lobby adjacent to number 57. Folding/sliding doors to the dining area and a window to the kitchen would face down the rear garden.

The bedroom extension and new en-suite shower room would be built above part of the proposed ground floor extension and would be 2.2 deep, 6.2 metres wide with a gable roof the same height as the original roof. Rear facing windows to the extended bedroom and new en-suite are proposed in the rear elevation.

The eaves of the first floor part of the extension would match with the original eaves and would overhang the boundary shared with number 61. The appropriate ownership certificate has been submitted and notice has been served on the owners of number 61.

Number 57 is to the south and has a conservatory on the rear adjacent the tall boundary fence. The rear of the conservatory is in line with the lobby door of the application house. The first floor part of 57 is 1.0 metre from the side of the application house, lies forward from the rear of the application house and has a bedroom window nearest to the boundary.

Number 61 is to the north and projects approximately 4 metres beyond the rear of the application house at both ground and first floor level. There are no side windows.

The rear garden backs onto the gardens of houses in Widney Avenue but the rear of the application house does not directly face towards any other house.

A statement from the agent challenges the opinion of your officers that the property is not considered to be a detached house. As such they are of the opinion that permitted development rights for a 4.0 metre deep single storey extension would apply.

Relevant Planning History

03/1339/FL/H2 Single storey front extension. Grant subject to conditions 15/09/03.

06/1123/FL/H2 Single and two storey rear extensions. Granted subject to conditions 23/08/06.

PLANNING POLICY

National Planning Policy Framework (NPPF)

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*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas

Key provisions of the NPPF relevant in this case:

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

131. In determining planning applications, local planning authorities should take account of: the desirability of new development making a positive contribution to local character and distinctiveness.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should

not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

ENV2 and ENV3 states that all development should aim to protect and promote the special qualities, design quality and local distinctiveness of the Black Country.

Walsall’s Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says “*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development.
- The height, proportion, scale, and mass of proposed buildings / structures.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.

'It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.'

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from www.walsall.gov.uk).

'It is considered in this case that the relevant provisions of Designing Walsall and Conserving Walsall's Natural Environment are consistent with the NPPF.'

Consultation Replies

None.

Public Participation Responses

Two letters of support from both of the neighbours stating that they have seen the proposals and raise no objections.

Determining Issues

- Amenity of Nearby Residents
- Positive and Proactive working with the applicant

Observations

Impact on Amenity of Nearby Residents

The proposed extension would not project beyond the rear of number 61 at either ground or first floor and although it would be to the south of number 61 it is considered there would be no impact in terms of shading or loss of light as the side of 61 is blank.

The proposed ground floor extension at 4 metres deep would breach the 45 degree code when measured from the midpoint of the rear elevation of the conservatory belonging to number 57 and would exceed the 3.5 metres normally allowed for single storey extensions that would otherwise breach the code. As such the proposed ground floor part of the extension is contrary to policy and is considered would have an overbearing impact on the amenity of the occupiers of number 57 due to the length. The applicant's agent states that common sense should be applied as an extension of this length could be added as permitted development.

Although the application house does have permitted development rights, in your officer's opinion and for the purposes of permitted development calculations, the application house whilst commonly being referred to as linked-detached is not a fully detached property as the ground floor part of the house is attached to the side of 57. A detached house stands alone with access around the whole of the house.

As linked or semi-detached house, an extension up to 3 metres could be added at the rear or a longer extension of up to 6 metres from the original rear wall could be applied for but this would be single storey only and not two storeys as proposed in the application.

The first floor part of the extension would be set in from the boundary shared with number 57 and screened from the first floor rear window of 57 by the existing two storey rear corner of the application house. It is considered that there would be little impact on the amenity of the occupiers of 57 from the first floor part of the extension.

The rear of the extension would be approximately 17 metres from the rear boundary and as the rear of the house does not face directly towards any other houses it is considered the extension would have no impact on the amenity of the occupiers of the houses in Widney Road.

Positive and Proactive working with the applicant

Officers have spoken with the applicant's agent to request the ground floor part of the extension is reduced in length to 3.5 metres to comply with policy. The agent has advised that the applicant wishes the proposal to be determined on the submitted plans by Planning Committee.

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long that they safeguard the natural and built environment, highway network and the amenity of citizens. In this instance the council has not been able to support the proposed development as detailed in the planning report.

Recommendation: Refuse

The ground floor part of the proposed extension would breach the 45 degree code (when measured from the midpoint of the rear elevation of the conservatory belonging to number 57) and would exceed the 3.5 metres normally allowed for single storey extensions that would otherwise breach the code. As such the proposed extension is considered would have an overbearing impact on the amenity of the occupiers of number 57 due to the length. The proposal is 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 and the Supplementary Planning Document "Designing Walsall".



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 15.

Reason for bringing to committee: called in by Councillor P Lane

Application Number: 14/0418/FL
Application Type: Full application

Case Officer: Devinder Matharu
Telephone Number: 01922 652602
Email: planningservices@walsall.gov.uk
Agent: Johnson Fellows LLP

Applicant: SEP Properties Limited

Proposal: Change of use from A1 to A5 hot food takeaway

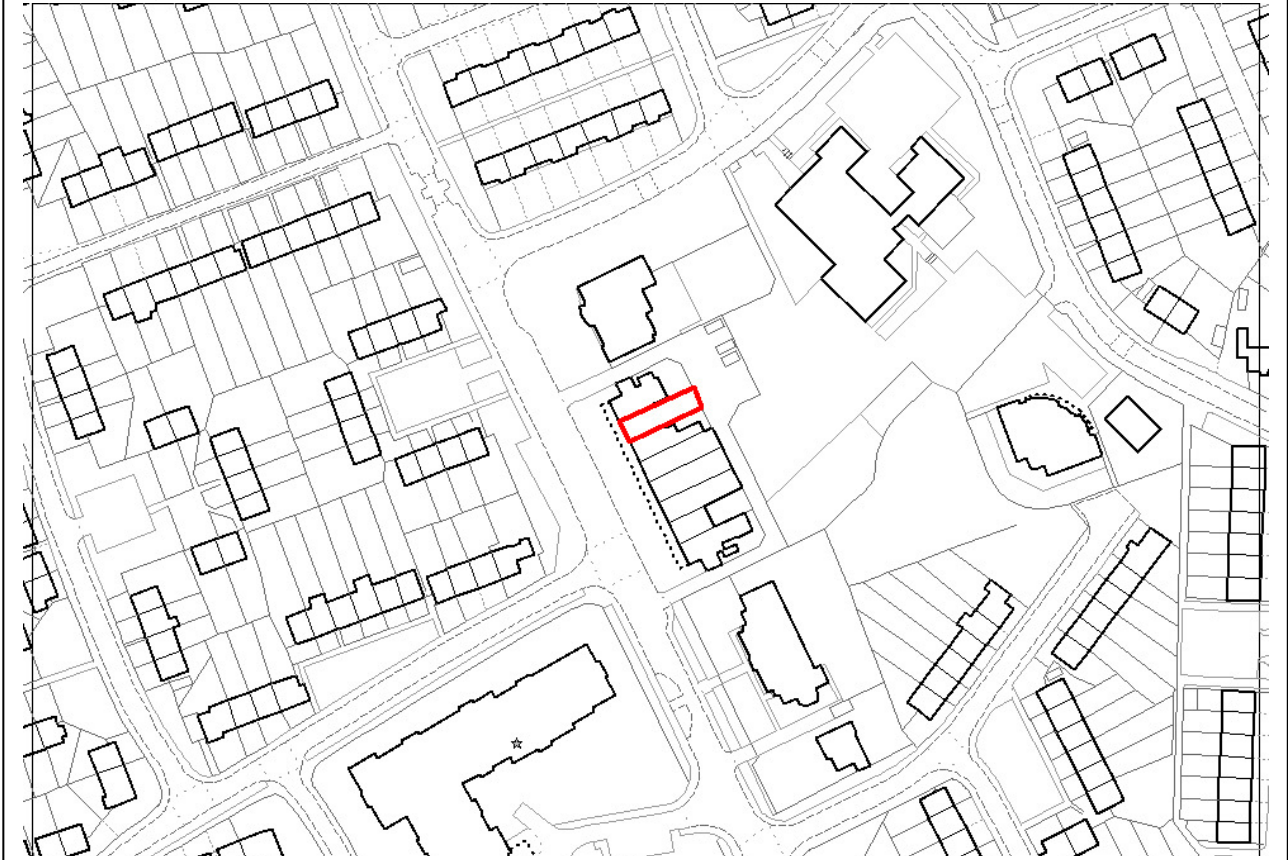
Location: 22 CRESSWELL CRESCENT, WALSALL, WS3 2UW

Ward: Bloxwich West

Expired Date: 19/05/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Current Status

Councillor P Lane has called in the application on the grounds of the community object to more take-aways and litter problems.

Application and Site Details

The application proposes the change of use of the premises from Retail (A1) to a take-away (A5).

Number 22 Cresswell Crescent sits in a parade of 8 units with number 22 sitting towards the northern end of the parade. The parade has commercial units on the ground floor and part first and second floor and is three storeys high. Access to the rear service area of the parade is available from access points either side of numbers 10 and 24 Cresswell Crescent.

Within the parade there are a number of mix uses from an existing hot food take-away, retail and vacant premises. The commercial units on the ground floor have rear single storey elements to provide large commercial units on the ground floor.

To the north of the site beyond the application site is the Leathern Bottle Public House, which has permission under planning reference 11/1594/FL for the demolition of existing public house and erection of a two and three storey structure to include residential (1no 1 bed flat, 7no 3 bed flats, 1no 2 bed flat - pub managers flat), retail (649.5 sqm) opening hours 6am-10pm Mondays to Saturday and 6am till 9pm Sundays, public house (142 sqm) opening hours 11am-11pm Monday to Saturday, 12noon-10.30pm Sunday, associated facilities and parking.

To the south of the application site is St Thomas's Church. The Leathern Bottle, numbers 10 to 24 (including the first and second floors) and St Thomas's Church all form South Mossley Local Centre.

To the rear of the application site is Mossley Primary School with the playground being closest to the application site and Bloxwich West Children's Centre. On the opposite side of Cresswell Crescent are residential houses and flats.

In front of the parade of shops there is an informal parking area.

The frontages of all the units within this parade are to be extended to be brought in line with the existing concrete support columns and to infill either sides under planning reference 14/0540/FL.

No details of opening hours or numbers of staff have been provided as no end user has been lined up for the unit.

The submitted plans illustrate an extraction flue on the single storey rear element of the proposal 1.4m high with a triangular "hat" type hood.

The agent has confirmed in writing that they are willing to install litter bins and the first and second floors are residential flats and none of them are occupied. They also confirm that a delivery service may operate dependant on the tenant.

On a recent site visit, it was noted that the flat above number 20 may be occupied.

A Design and Access Statement has been submitted which states:

- The application has been submitted to revamp the shops to increase the appeal of the area to local residents.
- Also assist the landlord to rent out the units
- The ground floor units are retails except for 14, which are offices under use class B1a.
- The site is within Bloxwich and there are bus routes along Cresswell Crescent.

Relevant Planning History

14/0540/FL - Extension of shop fronts, numbers 10-24 Cresswell Crescent to be brought into line with concrete columns and infill of either sides – still being processed.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

The NPPF was published on Tuesday 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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*".

All the core planning principles have been reviewed and those relevant in this case are:

- Enhance and improve the places in which people live their lives;
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- Support town centres and a town centre first approach for retail, leisure, commercial, office, tourism, cultural, and community uses;
- Always require high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

Key provisions of the NPPF relevant in this case:

1. Building a strong, Competitive economy

18. committed to securing economic growth in order to create jobs.

19. support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth.

2. Ensuring the vitality of the town centre

23. planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:

- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;
- promote competitive town centres that provide customer choice
- retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive;
- where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.

4. Promoting Sustainable Transport

29. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.

32. opportunities for sustainable transport modes should be taken up depending on nature and location of site and safe and suitable access to the site can be achieved for all people.

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

7. Requiring good design

56. The Government attaches great importance to the design of the built environment.

Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

Planning policies and decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

On planning obligations and conditions the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- 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.

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On decision-taking the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

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(including those on upper floors above commercial premises) by reason of noise, smell disturbance

or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity. Where the Council is minded to grant planning permission, the closing time for hot food take-aways will be considered in relation to the amenities of nearby dwellings – both existing and proposed – where these are likely to be affected. In such locations, the Council will usually impose a condition requiring the premises to close at 23:00 hours Mondays to Friday and 23:30 hours on Saturdays. Later opening hours and Sunday opening will be considered on their merits. Permission will not be granted where the absence of adequate off street parking would likely to lead to on street parking in a hazardous area. Permission will only be granted where fume and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment will not be detrimental to visual amenity. T7: All development should satisfy the car parking standards set out in Policy T13. T13: car parking standards
4 car parking spaces for establishments with a gross floorspace up to 50 square metres then 1 space per 22 square metres.

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF

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On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD's are;

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

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Transportation- No objection

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- Another hot food take-away not needed
- Already have a take-away in the parade
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- Encourage youths to congregate around

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Determining Issues

- Principle of development
- Impact on neighbouring residential and commercial properties
- Visual impact of the proposed shop front and roller shutter

- Visual impact of the extraction flue
- Parking and access

Observations

Principle of development

The site is within Mossley Local Centre with residential properties adjacent and in close proximity to the application site. Policy S10 of the UDP indicates that hot food take-aways can be supported in established local centres where certain criteria below are met.

Adjacent to the application site, number 24, there is an existing hot food take-away; there are no policies within the Black Country Core Strategy or the Unitary Development Plan that limits the number of take-aways in an established centre.

On balance, the re-use of the vacant premises would enhance the vitality and viability of Mossley Local Centre. The proposed take-away would provide a choice for local customers.

Impact on neighbouring residential properties

There are residential properties above and in close proximity to the application site. Whilst there would be an increase in activity with customers coming and going from the proposed use, particularly in the evenings, a property that is occupied would be a deterrent to unsocial activity rather than an encouragement. There is no evidence to suggest that a hot food take-away would attract anti social behaviour, customers may wait outside or inside the premises whilst collecting their take-away, and this would only be for a short period of time.

There are existing commercial premises in the centre and the locality with an existing evening economy with an existing hot food take-away. The flats above the commercial premises would be most directly affected. It is considered that these dwellings are already affected to some degree by an existing hot food take-away. Residents living within or directly adjacent to a local centre would not benefit from the same level of amenity that may be expected compared to a purely residential street. The addition of this hot food takeaway would not result in an unacceptable degree of disturbance over and above what would be currently experienced in an established centre to warrant refusal of the proposal.

Although Environmental Health have raised concerns over the type and location of the flue and the impact this would have on adjacent and nearby residents in terms of odour dissipation, cooking smells etc. it is considered an appropriate form of extraction system can be sought through appropriate conditions.

Policy S10 of the UDP explains that opening hours may be acceptable up to 23.00 hours weekdays and 23.30 on Saturdays with Sunday opening being considered on their merits. The site is within a local centre where hot food take-aways are encouraged and supported. Whilst the agent has not confirmed opening hours it is considered that the standard opening hours would be applied and if and when the units are occupied and the tenant wishes to extend the hours, then this can be considered at that time.

Deliveries to the premises during the day can be controlled by condition to further protect the amenity of neighbouring residential occupiers.

A safeguarding condition for a litter bins to be placed outside the premises to discourage indiscriminate littering can be imposed as part of any permission. Details of commercial waste bins for the premises can be sought via safeguarding conditions to ensure waste is stored appropriately to prevent any rodent infestation. Any rodent infestation can be dealt with via Environmental Health Legislation.

The site is located in a prominent position fronting the main highway benefitting from natural surveillance. It is expected that local centres would draw people into them to create footfall for businesses situated within them and the quantum of people going about their normal business would act to control and mitigate any potential anti-social behaviour. The current vacant premises do not contribute to natural surveillance, or the vitality and viability of the locality.

Visual impact of the proposed shop front and roller shutters

The agent has confirmed that roller shutters would be installed on the new shop fronts. The new shop fronts and roller shutters will be considered under planning reference 14/0540/FL, which seeks to extend all the existing units within the parade.

Visual impact of the extraction flue

The submitted plans illustrate an extraction system to be installed on the rear single storey element of the premises. The proposed flue would be seen from rear habitable room windows of the flats above the commercial premises. The proposed extraction system sitting above the single storey rear extension would have a detrimental impact upon the amenities of the occupiers of the flats above the commercial premises in terms of loss of outlook and as a result the design and location of the extraction flue would not be supported. A condition is therefore recommended to secure an alternative design for the flue to minimise its visual impact.

Parking and access

Under Policy T13 the proposal would require 9 parking spaces. Number 22 does not have independent parking of its own. However, the site is located in a parade of shops within the South Mossley Local Centre where there is built public parking in the form of in formally demarcated parking bays immediately outside and opposite the premises for about 20 vehicles. The premises have the benefit of rear servicing. Whilst the frequency of vehicle trips to the proposed hot food takeaways is likely to be more intensive during certain periods of the day than the present use, it is considered that there is sufficient parking in the Local Centre to cater for any additional parking demand.

Highways have sought cycles stands to meet Policy T13, these can be sought by way of planning condition.

Positive and Proactive Statement

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

The proposal complies with the National Planning Policy Framework, Policies CSP4, ENV3, CEN2 and CEN5 of the Walsall Unitary Development Plan, Saved Policies 3.6, 3.7, GP2, 3.113, 3.114, 3.115, ENV32, 3.116, S1, S2, S5, ENV35, 3.121, 5.2, S10, T7 and T10 of the Walsall Unitary Development Plan, Policy DW3 of Designing Walsall SPD.

Recommendation: Grant Permission Subject to Conditions

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

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

2. The works hereby approved shall only be carried out in accordance with the following drawings:
- drawing number 002a entitled "change of use application 22 Cresswell Crescent, Bloxwich" submitted on 24 March 2014.
 - drawing number 001 entitled "site location and block plan" submitted on 24 March 2014.

Reason: To define the permission.

3a. Prior to the commencement of this development the applicant shall submit a noise insulation scheme to address noise between the commercial operations and the residential developments above and adjacent to the Local Planning Authority. As a minimum it is recommended that the weighted sound reduction index, R_w , between the commercial development and the residential dwellings is not less than 60dB (ceiling/floors and walls).

3b. The development shall be constructed in accordance with the approved details and retained and maintained at all times.

Reason: To protect the amenity of the occupiers of the flat above and adjoining the premises.

4a. Notwithstanding the flue details shown on drawing number 002a entitled "change of use application 22 Cresswell Crescent, Bloxwich" submitted on 24 March 2014 and prior to the commencement of this development, details of:

- an odour arrestment system serving hot food cooking points
- a revised plan showing the flue serving the commercial hot food cooking points shall terminate at least 1 metre above the building roof level or building ridge level (whichever is the highest)
- details of anti vibration mounts
- Manufacturer's details of the odour arrestment system and flue
- external finish of the flue

shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be constructed in accordance with the approved details and retained and maintained at all times.

Reason: To ensure the proposed hot food take-away is provided with adequate flue extraction and safeguard the amenities of the occupiers of adjoining residential premises and protect the appearance of the area.

5a. Prior to the commencement of this development details of:

- litter bins outside the premises on Cresswell Crescent including arrangements for emptying and storing the litter bins within the premises when the premises are closed.
- Details of the arrangements for the storage and disposal of waste, including details of any bin stores.

Shall be submitted in writing to the Local Planning Authority.

5b. The development shall be completed in accordance with the approved details and retained and maintained at all times.

6a. Prior to the commencement of this development details of a grease trap shall be submitted to and approved in writing by the local planning Authority.

6b. Only the approved grease trap shall be installed and once it is installed the applicant shall notify the Local Planning Authority in writing, so that a visual inspection can take place.

6c. The grease trap shall remain at all times and retained and maintained at all times.

Reason: To prevent greases entering the drainage system and to prevent pollution.

7a. Prior to the commencement of the development, a plan showing at least one bike stand outside the premises for the use of staff and customers, including full details of the type of cycle stand to be installed shall be submitted to and approved by the Local Planning Authority. (it is suggested that the cycle stands be positioned in line with the concrete support pillars outside the premises parallel to the shop frontages).

7b. The cycle stand shall be fully implemented in accordance with the approved details prior to the development first coming into use and shall thereafter be retained.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

8. Where extract ventilation flues and associated fan and motor units are attached to wall or other structural building elements that serve more than one premises, or include links to residential occupancy, appropriate vibration isolation mounting systems shall be used and ductwork shall be de-coupled from fan and motor units.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

9. Where active ventilation of kitchen and cooking areas is required, this shall be facilitated via intake ventilation systems. [Note: These should be equipped with guards to prevent the ingress of insects].

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

10. Doors to the food preparation areas shall be kept closed when facilities are in use other than for ingress and egress.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

11. Windows to the food preparation areas shall be kept closed when facilities are in use.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

12. The customer entrance to the take-away shall be served by self closing door(s) and shall not be kept propped open.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

13. The premises shall only operate between the hours of 12noon and 23.00 Mondays to Fridays and 12noon to 23.30 on Saturdays with no Sunday opening.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

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14. Any deliveries to the property relating to the hot food take away use shall only take place between the hours of 9am to 5pm Mondays to Fridays only.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 15/05/2014

Plans list item no: 16.

Reason for bringing to committee: called in by Councillor P Lane

Application Number: 14/0419/FL
Application Type: Full application

Case Officer: Devinder Matharu
Telephone Number: 01922 652602
Email: planningservices@walsall.gov.uk
Agent: Johnson Fellows LLP

Applicant: SEP Properties Limited

Proposal: Change of use from B1a to A5 Hot Food Takeaway

Location: 14 CRESSWELL CRESCENT, WALSALL, WS3 2UW

Ward: Bloxwich West

Expired Date: 19/05/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Current Status

Councillor P Lane has called in the application on the grounds of the community object to more take-aways and litter problems.

Application and Site Details

The application proposes the change of use of the premises from offices (b1a) to a take-away (A5).

Number 14 Cresswell Crescent sits in a parade of 8 units with number 14 sitting towards the southern end of the parade. The parade has commercial units on the ground floor and part first and second floor and is three storeys high. Access to the rear service area of the parade is available from access points either side of numbers 10 and 24 Cresswell Crescent.

Within the parade there are a number of mix uses from an existing hot food take-away, retail and vacant premises. The commercial units on the ground floor have rear single storey elements to provide large commercial units on the ground floor.

To the north of the site beyond the application site is the Leathern Bottle Public House, which has permission under planning reference 11/1594/FL for the demolition of existing public house and erection of a two and three storey structure to include residential (1no 1 bed flat, 7no 3 bed flats, 1no 2 bed flat - pub managers flat), retail (649.5 sqm) opening hours 6am-10pm Mondays to Saturday and 6am till 9pm Sundays, public house (142 sqm) opening hours 11am-11pm Monday to Saturday, 12noon-10.30pm Sunday, associated facilities and parking.

To the south of the application site is St Thomas's Church. The Leathern Bottle, numbers 10 to 24 (including the first and second floors) and St Thomas's Church all form South Mossley Local Centre.

To the rear of the application site is Mossley Primary School with the playground being closest to the application site and Bloxwich West Children's Centre. On the opposite side of Cresswell Crescent are residential houses and flats.

In front of the parade of shops there is an informal parking area.

The frontages of all the units within this parade are to be extended to be brought in line with the existing concrete support columns and to infill either sides under planning reference 14/0540/FL.

No details of opening hours or numbers of staff have been provided as no end user has been lined up for the unit.

The submitted plans illustrate a extraction flue on the single storey rear element of the proposal 1.4m high with a triangular "hat" type hood.

The agent has confirmed in writing that they are willing to install litter bins and the first and second floors are residential flats and none of them are occupied. They also confirm that a delivery service may operate dependant on the tenant.

On a recent site visit, it was noted that the flat above number 20 may be occupied.

A Design and Access Statement has been submitted which states:

- The application has been submitted to revamp the shops to increase the appeal of the area to local residents.
- Also assist the landlord to rent out the units
- The ground floor units are retails except for 14, which are offices under use class B1a.
- The site is within Bloxwich and there are bus routes along Cresswell Crescent.

Relevant Planning History

14/0540/FL - Extension of shop fronts, numbers 10-24 Cresswell Crescent to be brought into line with concrete columns and infill of either sides – still being processed.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

The NPPF was published on Tuesday 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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*".

All the core planning principles have been reviewed and those relevant in this case are:

- Enhance and improve the places in which people live their lives;
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- Support town centres and a town centre first approach for retail, leisure, commercial, office, tourism, cultural, and community uses;
- Always require high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

Key provisions of the NPPF relevant in this case:

1. Building a strong, Competitive economy

18. committed to securing economic growth in order to create jobs.

19. support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth.

2. Ensuring the vitality of the town centre

24. planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:

- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;
- promote competitive town centres that provide customer choice
- retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive;
- where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.

4: Promoting Sustainable Transport

29. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.

32. opportunities for sustainable transport modes should be taken up depending on nature and location of site and safe and suitable access to the site can be achieved for all people.

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

7. Requiring good design

56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.
58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics. Planning policies and decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.
63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.
64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

On planning obligations and conditions the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- 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.

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On decision-taking the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

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Permission will only be granted where fume and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment will not be detrimental to visual amenity.

T7: All development should satisfy the car parking standards set out in Policy T13.

T13: car parking standards

4 car parking spaces for establishments with a gross floorspace up to 50 square metres then 1 space per 22 square metres.

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Observations

Principle of development

The site is within Mossley Local Centre with residential properties adjacent and in close proximity to the application site. Policy S10 of the UDP indicates that hot food take-aways can be supported in established local centres where certain criteria below are met.

Adjacent to the application site, number 24, there is an existing hot food take-away; there are no policies within the Black Country Core Strategy or the Unitary Development Plan that limits the number of take-aways in an established centre.

On balance, the re-use of the vacant premises would enhance the vitality and viability of Mossley Local Centre. The proposed take-away would provide a choice for local customers.

Impact on neighbouring residential properties

There are residential properties above and in close proximity to the application site. Whilst there would be an increase in activity with customers coming and going from the proposed use, particularly in the evenings, a property that is occupied would be a deterrent to unsocial activity rather than an encouragement. There is no evidence to suggest that a hot food take-away would attract anti social behaviour, customers may wait outside or inside the premises whilst collecting their take-away, and this would only be for a short period of time.

There are existing commercial premises in the centre and the locality with an existing evening economy with an existing hot food take-away. The flats above the commercial premises would be most directly affected. It is considered that these dwellings are already affected to some degree by an existing hot food take-away. Residents living within or directly adjacent to a local centre would not benefit from the same level of amenity that may be expected compared to a purely residential street. The addition of this hot food takeaway would not result in an unacceptable degree of disturbance over and above what would be currently experienced in an established centre to warrant refusal of the proposal.

Although Environmental Health have raised concerns over the type and location of the flue and the impact this would have on adjacent and nearby residents in terms of odour dissipation, cooking smells etc. it is considered an appropriate form of extraction system can be sought through appropriate conditions.

Policy S10 of the UDP explains that opening hours may be acceptable up to 23.00 hours weekdays and 23.30 on Saturdays with Sunday opening being considered on their merits. The site is within a local centre where hot food take-aways are encouraged and supported. Whilst the agent has not confirmed opening hours it is considered that the standard opening hours would be applied and if and when the units are occupied and the tenant wishes to extend the hours, then this can be considered at that time.

Deliveries to the premises during the day can be controlled by condition to further protect the amenity of neighbouring residential occupiers.

A safeguarding condition for a litter bins to be placed outside the premises to discourage indiscriminate littering can be imposed as part of any permission. Details of commercial waste bins for the premises can be sought via safeguarding conditions to ensure waste is stored appropriately

to prevent any rodent infestation. Any rodent infestation can be dealt with via Environmental Health Legislation.

The site is located in a prominent position fronting the main highway benefitting from natural surveillance. It is expected that local centres would draw people into them to create footfall for businesses situated within them and the quantum of people going about their normal business would act to control and mitigate any potential anti-social behaviour. The current vacant premises do not contribute to natural surveillance, or the vitality and viability of the locality.

Visual impact of the proposed shop front and roller shutters

The agent has confirmed that roller shutters would be installed on the new shop fronts. The new shop fronts and roller shutters will be considered under planning reference 14/0540/FL, which seeks to extend all the existing units within the parade.

Visual impact of the extraction flue

The submitted plans illustrate an extraction system to be installed on the rear single storey element of the premises. The proposed flue would be seen from rear habitable room windows of the flats above the commercial premises. The proposed extraction system sitting above the single storey rear extension would have a detrimental impact upon the amenities of the occupiers of the flats above the commercial premises in terms of loss of outlook and as a result the design and location of the extraction flue would not be supported.

Parking and access

Under Policy T13 the proposal would require 9 parking spaces. Number 22 does not have independent parking of its own. However, the site is located in a parade of shops within the South Mossley Local Centre where there is built public parking in the form of in formally demarcated parking bays immediately outside and opposite the premises for about 20 vehicles. The premises have the benefit of rear servicing. Whilst the frequency of vehicle trips to the proposed hot food takeaways is likely to be more intensive during certain periods of the day than the present use, it is considered that there is sufficient parking in the Local Centre to cater for any additional parking demand.

Highways have sought cycles stands to meet Policy T13, these can be sought by way of planning condition.

Positive and Proactive Statement

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

The proposal complies with the National Planning Policy Framework, Policies CSP4, ENV3, CEN2 and CEN5 of the Walsall Unitary Development Plan, Saved Policies 3.6, 3.7, GP2, 3.113, 3.114, 3.115, ENV32, 3.116, S1, S2, S5, ENV35, 3.121, 5.2, S10, T7 and T10 of the Walsall Unitary Development Plan, Policy DW3 of Designing Walsall SPD.

Recommendation: Grant Permission Subject to Conditions

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

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

2. The works hereby approved shall only be carried out in accordance with the following drawings:

- drawing number 003a entitled "change of use application 14 Cresswell Crescent, Bloxwich" submitted on 24 March 2014.
- drawing number 001 entitled "site location and block plan" submitted on 24 March 2014.

Reason: To define the permission.

3a. Prior to the commencement of this development the applicant shall submit a noise insulation scheme to address noise between the commercial operations and the residential developments above and adjacent to the Local Planning Authority. As a minimum it is recommended that the weighted sound reduction index, R_w , between the commercial development and the residential dwellings is not less than 60dB (ceiling/floors and walls).

3b. The development shall be constructed in accordance with the approved details and retained and maintained at all times.

Reason: To protect the amenity of the occupiers of the flat above and adjoining the premises.

4a. Notwithstanding the flue details shown on drawing number 003a entitled "change of use application 14 Cresswell Crescent, Bloxwich" submitted on 24 March 2014 and prior to the commencement of this development, details of:

- an odour arrestment system serving hot food cooking points
- a revised plan showing the flue serving the commercial hot food cooking points shall terminate at least 1 metre above the building roof level or building ridge level (whichever is the highest)
- details of anti vibration mounts
- Manufacturer's details of the odour arrestment system and flue
- external finish of the flue

shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be constructed in accordance with the approved details and retained and maintained at all times.

Reason: To ensure the proposed hot food take-away is provided with adequate flue extraction and safeguard the amenities of the occupiers of adjoining residential premises and protect the appearance of the area.

5a. Prior to the commencement of this development details of:

- litter bins outside the premises on Cresswell Crescent including arrangements for emptying and storing the litter bins within the premises when the premises are closed.
- Details of the arrangements for the storage and disposal of waste, including details of any bin stores.

Shall be submitted in writing to the Local Planning Authority.

5b. The development shall be completed in accordance with the approved details and retained and maintained at all times.

6a Prior to the commencement of this development details of a grease trap shall be submitted to and approved in writing by the local planning Authority.

6b. Only the approved grease trap shall be installed and once it is installed the applicant shall notify the Local Planning Authority in writing, so that a visual inspection can take place.

6c. The grease trap shall remain at all times and retained and maintained at all times.

Reason: To prevent greases entering the drainage system and to prevent pollution.

7a. Prior to the commencement of the development, a plan showing at least one bike stand outside the premises for the use of staff and customers, including full details of the type of cycle stand to be installed shall be submitted to and approved by the Local Planning Authority. (it is suggested that the cycle stands be positioned in line with the concrete support pillars outside the premises parallel to the shop frontages).

7b. The cycle stand shall be fully implemented in accordance with the approved details prior to the development first coming into use and shall thereafter be retained.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

8. Where extract ventilation flues and associated fan and motor units are attached to wall or other structural building elements that serve more than one premises, or include links to residential occupancy, appropriate vibration isolation mounting systems shall be used and ductwork shall be de-coupled from fan and motor units.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

9. Where active ventilation of kitchen and cooking areas is required, this shall be facilitated via intake ventilation systems. [Note: These should be equipped with guards to prevent the ingress of insects].

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

10. Doors to the food preparation areas shall be kept closed when facilities are in use other than for ingress and egress.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

11. Windows to the food preparation areas shall be kept closed when facilities are in use.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

12. The customer entrance to the take-away shall be served by self closing door(s) and shall not be kept propped open.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

13. The premises shall only operate between the hours of 12noon and 23.00 Mondays to Fridays and 12noon to 23.30 on Saturdays with no Sunday opening.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

14. Any deliveries to the property relating to the hot food take away use shall only take place between the hours of 9am to 5pm Mondays to Fridays only.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.