

Planning Committee

Report of Head of Planning and Building Control on 20 June 2024

Plans List Item Number: 5

Reason for bringing to committee

- Called in by a Councillor Josh Whitehouse on the grounds of;
 - Lack of parking
 - Inadequate access
 - Traffic Capacity
 - Significant public interest

- Significant Community Interest

Application Details

Location: LIVING AREA, 1, BENTLEY LANE, WILLENHALL, WV12 4AA

Proposal: CHANGE OF USE FROM PUBLIC HOUSE (USE CLASS SUI GENERIS) TO RETAIL (CONVENIENCE STORE - USE CLASS E), INSTALLATION OF UPVC DOUBLE DOORS, PVC ROLLER SHUTTER AND ERECTION OF INFILL REAR EXTENSION.

Application Number: 24/0100

Case Officer: Leah Wright

Applicant: Bar Investments Ltd

Ward: Short Heath

Agent: GT Designz LTD

Expired Date: 18-Apr-2024

Application Type: Full Application: Change of Use

Time Extension Expiry: 24-Apr-2024



Crown Copyright and database rights 2022 Ordnance Survey 100019529

Recommendation:

Refuse

Proposal

Change of use from public house (Use class sui generis) to retail (convenience store - Use class E), installation of UPVC double doors, PVC roller shutter and erection of infill rear extension.

Site and Surroundings

The application site is situated on the corner of Bentley Lane and High Road, Willenhall with the current access from Bentley Lane. The site comprises a two storey, detached property which is currently in use as a public house known as 'The Bridge'. The property is a locally listed building constructed from Georgian stone lintels and rendered. There is parking to the side of the site.

In terms of neighbouring properties, there are both residential flats and commercial properties in the immediate surrounding area.

The application site is within the Lane Head Local Centre. The site is within 15km of the Cannock Chase Special Area of Conservation (SAC) Zone of Influence (ZOI) and is within the Coal Authority High Risk Area.

To the rear of the site is the Wyrley and Essington Canal which passes under the Lane Head Bridge.

Relevant Planning History

1 Bentley Lane, Willenhall, WV12 4AA

11/0463/AD- 1 x externally illuminated set of individual timber letters fitted direct to wall- Grant advertisement for 5 years.

Outside The Bridge Tavern, 1, Bentley Lane, Willenhall, WV12 4AA

23/0992- Installation of a new 9m wooden pole- Not permitted development.

Relevant Policies

National Planning Policy Framework (NPPF)

[Read more on the national planning policy framework.](#)

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

Human rights and reducing inequalities

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been considered in reaching the recommendation contained in this report. The articles/protocols identified below were considered of relevance:

Article 8 – Right to Respect for Private and Family Life
THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Walsall Council Development Plan

[Read more on the development plan published on the council website.](#) .

Planning law requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Our Development Plan includes:

Black Country Core Strategy (BCCS)
Walsall Site Allocations Document
Unitary Development Plan
Walsall Town Centre Area Action Plan

Planning guidance is published within a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

Public consultation has been carried out in accordance with the Development Management Procedure Order and the council's Statement of Community Involvement.

Consultation Replies

Canal and River Trust- Convenience store is in close proximity to the canal corridor and the towpath access point at Lane Head Bridge. A condition will need to be attached to any permission to ensure litter bins are provided and a management plan is in place for their regular emptying.

Coal Authority- Development is in High-Risk Area, however the proposal is predominantly for a change of use of an existing building and there aren't any substantial foundations or earthworks proposed. A Coal Mining Risk Assessment is not required and there are no objections.

Conservation- Principle is supported but existing drawings are incorrect, further details have not been submitted and the Heritage Statement fails to meet the aims and objectives of paragraph 200 of the NPPF.

Ecology- No comment.

Highways- Development will have an unacceptable impact on road safety and the operation of the local road network at this busy junction, contrary to NPPF December 2023 paragraph 115.

Historic England- No comment.

Planning Policy- Accords with policy. No objection.

Public Health- No objections, however questions whether the proposal will increase or decrease employees and questioned whether arrangements have been made for the separate storage and collection of recyclable waste.

West Midlands Fire Service- Must meet requirements of Approved Document B Volume 2, Buildings other than Dwellings, 2019 edition incorporating 2020 and 2022 amendments – for use in England.

Representations

At the time of writing this report, 36 representations have been received objecting to the application (Officer's comments are in italics):

- Several near misses near the site/accident waiting to happen if approved (*See highways section of the report below*).
- Development would pose a risk to the school nearby (*See highways section of the report below*).
- Do not require another local shop (*Principle is supported in line with local and national policy*).
- Planning has not been passed but they have started works to turn the pub into a shop by way of new PVC windows (*If works are taking place without planning permission, the works would be in breach of planning and enforcement will be notified*).
- Cause issues to residents and surrounding businesses (*See amenity section of the report below*).
- Building has been a historic landmark for years (*See heritage section of the report below*).
- Not in keeping with area (*See heritage and design section of the report as below*).
- Concern with parking and access at major road junction (*See highways section of the report as below*).
- Volume of traffic would increase with the change (*As above*).
- Health and safety risks to pedestrians and vehicle users (*As above*).
- Noise and litter from those using store at night (*See the amenity section of the report below and see the other section of the report which talks about waste bins for the proposal*).
- Unsocial behaviour from youths around store (*As above*).
- Would better operate as a restaurant (*Not a material planning consideration*).
- No jobs to area as people employed would be family (*Not a material planning consideration*).
- Rubbish will affect wildlife on the canal and pollute the water (*See the 'Other' section of this report*).

Cllr Josh Whitehouse has made the following comments on the proposal:

- Pub is over 200 years old and may be locally listed. Any alterations to the site's historical assets would be a loss to local heritage.

- Change of use to a retail unit will increase the traffic on site. This is concerning due to the local nursery opposite the site.
- Concerned about HGVs accessing the shop to receive deliveries.
- Limited parking.
- Canal and Rivers Trust have raised concern regarding litter.

In addition, a public petition signed by over 500 residents and Cllr Josh Whitehouse has been received. The petition states that the pub has a long history in Short Heath and is in the heart of the area. Further, it is located on the junction with Lane head Bridge which is busy. The traffic is high in the area and the entrance to the car park leads onto Bentley Lane which is a busy road.

Determining Issues

- Principle of Development
- Heritage Assessment and Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Impact on Wyrley and Essington Canal

Assessment of the Proposal

Principle of Development

This application is for the change of use from an existing public house (use class sui generis) to a retail convenience store (use class E).

The application states that the site area is 930.47sqm in total, however, this appears to be the size of the entire site rather than that of the proposed store itself.

The site falls within Lane Head local centre (LC11). Policy SLC1 states that the network of vibrant Local Centres provides particularly for day-to-day convenience shopping and service needs. These boundaries are drawn tightly to concentrate investment. Within these areas the retention, enhancement and further development of shops, services and other town centre uses will be encouraged. and is considered to play a key role in serving the surrounding community and has a distinctive boundary.

The key planning policies uses are whether the loss of the public house is justified by saved UDP policy LC8, and whether the proposed use is acceptable in this location.

No justification for the loss of the public house has been provided with the application. However, UDP policy LC8 is not specifically about the loss of public houses, it is about the loss of community facilities that provide an equivalent role as meeting places. Other premises nearby remain that provide community facilities- these include the United Kingdom Pub and Short Heath Liberal Club, as well as a church and school on Stroud Avenue. It is therefore considered that the loss of the Public House is acceptable in this instance, and the proposal accords with UDP Policy LC8.

The site is situated within Lane Head Local Centre and proposes a change of use from an existing public house (use class sui generis) to a retail convenience store (use class E). This use is supported by the development plan as the proposals include the enhancement of an existing town centre use, including meeting day-to-day shopping needs (particularly convenience shopping) which is encouraged as per SAD policy SLC1.

It is assumed that the proposal is for ground floor conversion only and would be below the 500sqm threshold, therefore, it would be considered an appropriate scale to the function of the centre as per policy CEN5 of the BCCS.

As such, the principle of the conversion is supported, subject to other material considerations as below.

Heritage Assessment and Design, Layout and Character.

The application site is a locally listed building, circa 1800, a three-storey building with Georgian stone lintels and rendered. In terms of the National Planning Policy Framework, the site is classed as a non-designated heritage asset.

Paragraph 200 of the NPPF states that *“in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum, the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation”*.

Whilst a Heritage Statement was submitted with the application, it fails to describe the significance of the heritage asset and fails to refer to the correct NPPF paragraph number 209 in respect of non-designated heritage assets. Furthermore, the historic environment record has not been consulted.

Paragraph 209 of the NPPF states *“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 directly or indirectly affect 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”*.

Saved Policy ENV28 of the UDP states *“Council will not grant planning permission for a development scheme which proposes the demolition or adverse alteration of a ‘local list’ building”*.

Saved Policy ENV32 of the UDP states *“This policy will be applied to all development in Conservation Areas, on a visually prominent site, the vicinity of a Listed Building, Building of Local Interest or Registered Parks and Gardens. 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 and the maintenance requirements of the development”*.

Policy ENV2 of the BCCS states *“Development Proposals will be required to preserve, and where appropriate, enhance local character and those aspects of the historic environment together with their settings, which are recognised as being of special historic, archaeological, architectural, landscape or townscape quality”*.

The existing plans are incorrect, the first and second floor windows of the main three storey part of the building includes lintel detailing with a keystone, these have not been shown on the drawing. The pilasters have been shown on the plan, but they have not been fully drawn in on the submitted plans. The Bridge Tavern sign at second floor has not been shown on the plans, there is also a large sign on the main front elevation, which sits between the first and second floor, which has not been shown on the plans. The existing door on the front elevation is a timber panelled door and the submitted plan does not depict this detail. There is also a lintel and keystone above this doorway which has not been shown, as well as an advertisement board adjacent this doorway. The window cills are slightly wider than the windows, but this has also not been shown on the plans. The existing plans drawing number GTD1228-02 has not been altered to show the details referred to in the first response from Conservation.

The ground floor window is wider than the first-floor window, however this is not apparent on the submitted drawings. The elevation also shows two infilled openings, a door on the ground floor and a window at first floor and a recessed element adjacent the chimney, these have not been shown on the submitted existing or proposed plans. The existing plan places the infilled doorway closer to the chimney, however it is placed further away from the chimney. The existing plans drawing number GTD1228-02 has not been altered to correctly show the building details as existing.

The proposed plans are also incorrect as architectural detailing as referred to in the original comments received from Conservation have not been included in the amended plans submitted.

The window design on the existing plans do not match up to the situation on site. The current windows are timber sashes three over three, whereas the windows on the existing plans are shown as one over one, which is incorrect. The windows are still shown as incorrect on drawing number GTD1228-02 and do not correctly depict the style and design of the windows as they currently exist. A window on the ground floor has not been shown on this drawing. The proposed plan drawing number GTD1228-04B shows the detailing around the windows, however, the full details are not shown, the keystones include fluting and the stonework either side of the keystone includes horizontal banding. The window on the second floor to the right of the sign indicates a faintness of a stone detail, which is not shown on the drawings.

The plans indicate that some of the windows are rotten, however, they appear to be in a good condition. No window survey has been submitted to support the application. A full window condition survey of every window in the locally listed building (LLB) which outlines the current condition of every window in the LLB was requested, however these details have not been submitted. Further, there is no clarification as to whether the existing timber windows will be retained on drawing number GTD1228-04B or whether the timber panel door as seen on Google Street view is to be retained either. From the submitted plans, it appears that the two new openings are to form the retail frontage, however this retail frontage/s do not match the Shopfront SPD. Whilst a wholly traditional shop frontage would not be expected, some design elements of a shop frontage, for example a stall riser, fascia, window light, mullion would be expected in line with the Shopfront SPD. Furthermore, the proposals include a solid roller shutter which does not accord with Policy SF8 of the Shopfront SPD.

The proposal seeks internal alterations to remove walls and a chimneybreast. The Conservation Officer requested photographs of the interior of the building to further assess the scheme, however at the time of writing this report, they were not submitted.

The proposed works also include a rear infill extension. This extension would be seen to accord with the subject building and would be a subservient addition. There are no objections to this subject to materials being specified.

Whilst the principle of the conversion of the public house is supported, further details and clarification as specified in the above section of this report has not been submitted. As specified, the drawings are incorrect, and the Heritage Statement as submitted fails to meet the aims and objectives of paragraph 200 of the NPPF.

Therefore, the proposal is not supported on Heritage or Design grounds and would be contrary to policy ENV2 (Historic Character and Local Distinctiveness) and Policy ENV3 (Design Quality) of the Black Country Core Strategy, Policy ENV32 and ENV28 of the Saved UDP, Policies DW1 to DW10 of the Designing Walsall SPD and the Shopfront SPD and Paragraph 200 and 209 of the National Planning Policy Framework (2023).

Amenity of Neighbours and Amenity of Future Occupiers

The application site resides on a junction by the Lane Head Bridge. The nearest neighbouring residential properties are 30m to the north-east of the site at Bentley Wharf. There are residential dwellings directly opposite the site and commercial properties to the north-west of the site.

It is considered that the properties former use as a public house would have seen a number of comings and goings late at night and during weekends. Therefore, the proposed change of use to a retail unit would not have a detrimental impact upon the immediate adjacent neighbours and surrounding area in relation to noise and disturbance over and above the previous use if it was bought back to use as a public house. Furthermore, no objections have been received from Environmental Protection or Environmental Health and it's considered that a condition could be implemented if approval were to be granted to control the opening times of the proposed retail unit.

Highways

The site is located on Bentley Lane which is an adopted unclassified District Distributor and fronts directly onto the signalised junction with High Road which is a classified road (A462) and a District Distributor.

The site access to the rear car park is located on Bentley Lane. It is only around 10 metres from the stop line of the signalised junction.

Visibility at the car park access is historically poor and is well below current highway design standards. The access can only achieve around 2.4m x 18m to the north-west compared to the required 2.4m x 43m.

The Local Highways Authority have raised concern regarding the parking on site. As such, the agent provided a revised Block Plan showing a parking layout with 15 spaces and a delivery vehicle space, inclusive of 2 disabled spaces.

For comparison purposes, under SAD Saved T13 parking policy, based upon a GF area of around 330sqm, the extant pub use requires a maximum of **17** spaces,

inclusive of 2 disabled bays and the proposed Convenience Store **26** spaces, inclusive of 3 disabled bays. Therefore, in parking policy terms, the proposed COU requires a higher level of on-site parking than the extant use.

The proposed 15 spaces are close to the provision for the extant public house use, however it is significantly below the maximum 26 spaces (only 57%) for the proposed use as a convenience store.

The level of parking for the proposed use is therefore considered unacceptable, particularly at this location and this site, and is likely to result in over-spill parking or queuing with potential backing up at the access point and obstructing the public highway, contrary to highway safety.

It is proposed to have the Store entrance off the car park. The submitted external layout 'Block Plan' fails to provide a car free pedestrian route to, from and around the Store entrance and the car park, which is unacceptable and poor design in terms of pedestrian accessibility and inclusivity.

No Swept Path drawing has been submitted showing how delivery vehicles will safely and satisfactorily service the development, including access into the car park, turning and egressing the car park through the car parking area. If a delivery vehicle is unable to satisfactorily make these manoeuvres then it could result in delivery vehicles parking at the front of the store for convenience, which would raise significant road safety issues.

The application fails to provide a Waste Management Plan, specifically around how bins will be collected from the rear of the building. No Swept Path drawing has been provided showing that a Refuse Collection Vehicle (RCV) can safely and satisfactorily access, turn and egress the rear car park on collections days. This could result in bins being brought to the front of the site requiring the RCV to stop on Bentley Lane, close to the traffic signal junction, which would be unsatisfactory for a highway safety point of view.

No Transport Statement has been submitted to support the application and address the Highway Authority's previous and above concerns. The proposed change of use from a Public House to a Convenience Store will result in a significant intensification in vehicle trips to the site and across a wider period during the day. Due to the position of the access point close to the signalised junction and the sub-standard visibility to the north west together with the likely significant under provision of on-site parking, the Highway Authority considers the development unacceptable from a road safety and transport policy point of view.

The Highway Authority raises a significant concern relating to the potential for vehicles trying to turn right when exiting the development site car park being unable to join the queue of traffic heading northwest through the junction as a result of queuing drivers not observing the "Keep Clear" markings. This is likely to lead to drivers exiting the car park trying to force their way into the queue by blocking the southeast bound carriageway. This would be a potential hazard to approaching vehicles who have limited visibility due to the pub building and could also potentially block traffic flows through the junction creating significant congestion and delays through the junction. This is of particular concern given the likely change in vehicle trips which will be significantly more concentrated during morning and evening peaks when compared to the trip generation profile of a public house/restaurant.

In terms of pedestrians and cyclists, the revised block plan shows 4 'Sheffield' type cycle stands to the rear of the building but their position and layout appears to show them fixed to the rear building extension and therefore the highways authority would require further details.

In assessing the plan as is, the application would fail to meet SAD Saved T13 Policy and BCCS TRAN4.

In taking all of the above into consideration, the development would have an unacceptable impact on road safety and on the operation of the local road network at this busy junction and hence is contrary to the NPPF December 2023 paragraph 115 and is therefore recommended for refusal on Highways grounds.

Impact on Wryley and Essington Canal

The Canal and Rivers Trust were consulted and have raised concern that the access point to the towpath would be used by the visiting public and staff on a daily basis. As such, a condition attached to any permission granted is recommended to ensure that litter bins are provided, and a management plan is put in place for their regular emptying to prevent litter entering the canal environment. Litter within the canal environment is unsightly and harmful to wildlife and proposals should seek to avoid water pollution as required by policies EN4 Canals, LC5 Greenways and EN1 Natural Environment Protection, Management and Enhancement of the Walsall SAD 2019 and policies ENV1 Nature Conservation, ENV4 Canals and ENV6 Open Space, Sport and Recreation of the Black Country Core Strategy 2011 which are supported by the National Planning Policy Framework.

Conclusions and Reasons for Decision

Given that there are significant material planning considerations against support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

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

Recommendation

Refuse

Reasons for Refusal

1. The proposed development with only 15no. car parking spaces and 1no. delivery vehicle space, inclusive of 2no. disabled spaces, would fail to provide adequate off street parking provision to meet the needs of the proposed convenience store in line with the council's approved parking standards as the provision would be significantly below the maximum requirement of 26 spaces (15 spaces equates to 57%). The level of parking proposed is therefore unacceptable and is likely to result in over-spill parking or queuing with potential backing up at the access point and obstructing the public highway to the detriment of public and highway safety and is therefore contrary to NPPF paragraph 115, UDP Policies GP2 (Environmental Protection) and T13

(Parking Provision for Cars, Cycles and Taxis) and SAD Policy T4 (The Highway Network).

2. The store entrance would be off the car park, however the submitted block plan fails to provide a car free pedestrian route to, from and around the store entrance and the car park which is unacceptable and poor design in terms of pedestrian accessibility and inclusivity. The development is therefore contrary to NPPF paragraph 115, UDP Policies GP2 (Environmental Protection) and T11 (Access for Pedestrians, Cyclists and Wheelchair users) and SAD Policy T4 (The Highway Network).
3. The proposal has failed to provide a Swept Path drawing to show how delivery vehicles would safely and satisfactorily service the development, including access into the car park, turning and egressing the car park through the car parking area or to demonstrate how a Refuse Collection Vehicle (RCV) can safely and satisfactorily access, turn and egress the rear car park on collections days. If a delivery vehicle is unable to satisfactorily make these manoeuvres it could result in delivery vehicles parking at the front of the store for convenience, which would raise significant road safety issues. Further, this could result in bins being brought to the front of the site requiring the RCV to stop on Bentley Lane, close to the traffic signal junction, which would be unsatisfactory for a highway safety point of view. No Waste Management Plan, specifically around how bins will be collected from the rear of the building has been provided. As such, the development is contrary to NPPF paragraph 115, UDP Policies GP2 (Environmental Protection) and T13 (Parking Provision for Cars, Cycles and Taxis) and SAD Policy T4 (The Highway Network).
4. No Transport Statement has been submitted to support the application. The proposed COU from a Public House to a Convenience Store will result in a significant intensification in vehicle trips to the site and across a wider period during the day. In the absence of this supporting information, the development unacceptable from a road safety perspective and would be contrary NPPF paragraph 115, UDP Policies GP2 (Environmental Protection) and T13 (Parking Provision for Cars, Cycles and Taxis), SAD Policy T4 (The Highway Network) and BCCS Policy TRAN2 (Managing Transport Impacts of New Development).
5. In terms of pedestrians and cyclists, the revised block plan shows 4 'Sheffield' type cycle stands to the rear of the building, but their position and layout appears to show them fixed to the rear building extension therefore additional detail is required to assess whether the proposal provide secure cycle spaces and would therefore be contrary to NPPF paragraph 115, UDP Policies GP2 (Environmental Protection) and T13 (Parking Provision for Cars, Cycles and Taxis), SAD Policy T4 (The Highway Network) and BCCS Policy TRAN4 (Creating Coherent Networks for Cycling and for Walking).
6. The proposed development has failed to accurately depict the heritage asset as both the existing and proposed plans are incorrect, and no window survey has been submitted to support the application to describe the windows of the locally listed building. The development does not accord to the Shopfront SPD and is not a typical design that would be expected for this type of development and would include a solid roller shutter, contrary to Policy SF8 of the Shopfront SPD. The Heritage Statement as submitted fails to describe the significance of the heritage asset and fails to refer to the correct NPPF paragraph 209 in respect of the non-designated heritage assets. As such the proposal is contrary

to Policy ENV2 (Historic Character and Local Distinctiveness) and Policy ENV3 (Design Quality) of the Black Country Core Strategy, Policy ENV32 and ENV28 of the Saved UDP, Policies DW1 to DW10 of the Designing Walsall SPD and the Shopfront SPD and Paragraph 200 and 209 of the National Planning Policy Framework (2023).

END OF OFFICERS REPORT