



Planning Committee

Report of Head of Planning and Building Control on 30 October 2023

Plans List Item Number: 3

Reason for bringing to committee

Called in by a Councillor Cooper on the grounds that there will be:

- Inadequate parking/access arrangements that could lead to cars being parked on street detrimental to amenity/highway safety
- Increased traffic in the area over and above that which the existing road network could cope with detrimental to highway safety
- Overdevelopment

Application Details

Location: 120, FOLEY ROAD WEST, STREETLY, WALSALL, B74 3NS

Proposal: PROPOSED DEMOLITION OF EXISTING GARAGE AND MODERN EXTENSION AT 120 FOLEY ROAD WEST AND THE PROPOSED SUBDIVISION OF THE PLOT AND ERECTION OF TWO ADDITIONAL NEW DWELLINGS (PLANNING USE CLASS C3 - RESIDENTIAL DWELLINGS) TO INCLUDE 1 NO. 4 BEDROOM DETACHED TWO STOREY HOUSE AND 1 NO. DETACHED BUNGALOW WITH 2 BEDROOMS AND ASSOCIATED WORKS.

Application Number: 23/0760

Case Officer: Fiona Fuller

Applicant: Findlay

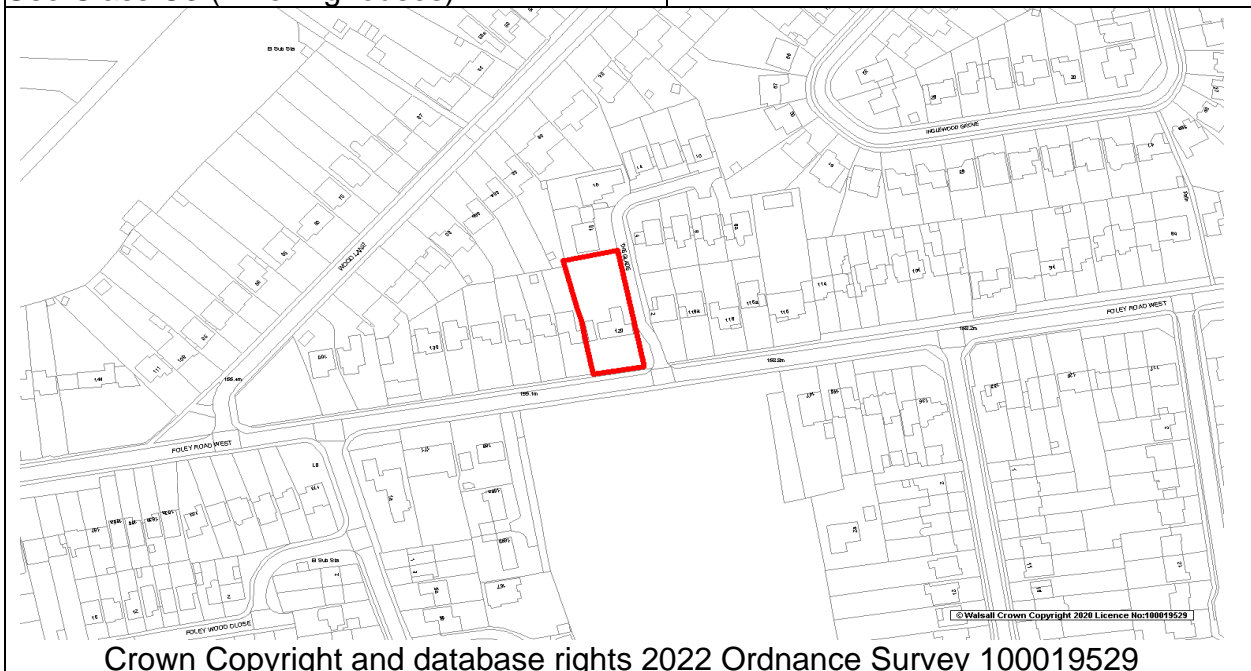
Ward: Streetly

Agent: ADC Ltd

Expired Date: 28-Sep-2023

Application Type: Full Application: Minor Use Class C3 (Dwellinghouses)

Time Extension Expiry:



Recommendation:

Refuse

Proposal

The applicant seeks full planning permission for the proposed demolition of existing garage and modern extension at 120 Foley Road West. The proposed subdivision of the plot and erection of two additional new dwellings (planning use class C3 - residential dwellings) to include 1 no. 4 bedroom detached two storey house (to front and be accessed from Foley Road West) and 1 no. detached bungalow with 2 bedrooms and associated works (to front and be accessed from The Glade).

The submitted planning statement and the proposed plans sets out the proposed development.

The application site is not in a Conservation Area, it is not a Listed Building or in the setting of Listed Buildings but there are Protected Trees on the application site.

Site and Surroundings

The application property is (120 Foley Road West). It is a detached cottage dating back to 1900's it was formerly known as Yew Tree Cottage and occupies a corner position, facing Foley Road West whilst its side elevation faces The Glade, a cul de sac.

The dwelling lies within a continuous built-up frontage with fairly recent residential development to the West and North.

The existing dwelling has large open and mature gardens to the front and rear with a pair of trees which have a Tree Protection Order (TPOs).

The area is residential in nature consisting of a mix of single and two storey detached dwellings and a mix of ages and designs generally red brick construction with tiled roofs. The Foley Road West dwellings benefit from longer rear gardens, whilst The Glade dwellings, have smaller rear gardens. To the west of the application site, there are 3 1980's detached infill houses, with for today's standards, long mature gardens, backing on to 3 1970's style detached infill dwellings again benefitting from long mature gardens. To the left of the application site, is The Glade cul-de-sac and then 2 1960's style infill style bungalows similar to The Glade bungalows with smaller mature rear gardens. To the north of the application site, is an extended bungalow fronting The Glade with a small mostly hard surfaced rear garden. To the south of the application site, is Foley Road West and then Foley Wood, 2.6 hectare of protected trees.

Relevant Planning History

02/1390/OL/E5 - Outline: Erection of detached bungalow. Rear garden of 120 Foley Road West – Refused - 13-Sep-2002

The application failed to demonstrate that a satisfactory residential amenity could be provided for future residents of the dwelling, nor that a satisfactory amenity could be maintained for occupants of neighbouring dwellings, the application failed to demonstrate that sufficient off-street parking or safe access could be provided, the proposal would represent over-development and would result in the loss of two attractive trees.

04/1778/FL/H5 - Single storey rear extension & conservatory - Permission Granted - 08-Oct-2004

05/1677/FL/H1 - Erection of one detached bungalow - Permission Refused - 13-Oct-2005

- 1. The proposal fails to provide an adequate level of amenity space for future residents of the proposed dwelling, with a very short rear garden and most of the front garden occupied by the spread of the protected trees. The close proximity of the development is therefore likely to cause an unacceptable level of disturbance to the gardens of neighbouring properties and lead to pressure in the future for the removal of the trees. The proposal would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV18, ENV32 and H10, and the Residential Development Standards.*
- 2. The provision of the visibility splay required to serve the proposed access would lead to the loss of much of the existing hedge. In addition, the splay cannot be achieved on one side because of the garden wall to number 18, which lies outside the control of the applicant. The limited length of the proposed drive in front of the garage would also lead to vehicles overhanging the road, to the detriment of the free flow of traffic. The proposal would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV18, T7 and T13.*
- 3. The application fails to include sufficient information to demonstrate the potential impact on trees on the site, including an arboricultural impact assessment, construction details for the driveway, service details including sustainable drainage, levels and site access, storage, fuelling, mixing, welfare points and car parking area for on site staff. The application is therefore contrary to Walsall's Unitary Development Plan, in particular policies GP2 and ENV18.*

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure 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
- Encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

- NPPF 2 – Achieving sustainable development
- NPPF 4 – Decision Making
- NPPF 8 – Promoting healthy and safe communities
- NPPF 9 – Promoting sustainable transport
- NPPF 12 – Achieving well-designed places

On planning conditions the NPPF 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.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- DEL1: Infrastructure Provision
- ENV3: Design Quality
- TRAN2: Managing Transport Impacts of New Development

Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- ENV14: Development of Derelict and Previously Developed Sites
- ENV 18: Trees and Woodlands
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing

T4: The Highway Network

Conserving Walsall's Natural Environment

Development with the potential to affect trees, woodlands and hedgerows

- NE10 – Tree Preservation Order

Designing Walsall

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall and Conserving Walsall's Natural Environment SPD's are consistent with the NPPF.

Consultation Replies

Planning Policy – Supports - adds to the housing supply. Attention must be drawn to the previous refusal application 05/1677/FL/H1

West Midlands Fire Service – No objection - No adverse comments

The Highway Authority – Supports - will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2023 paragraph 111. They offered frontage parking area shall be fully consolidated, frontage parking area shall be fully consolidated and 2.4m x 3.4m pedestrian visibility splay conditions should be imposed.

Environmental Protection: Raised concerns: Air quality/ smoke control, construction management plan, asbestos and demolition plan conditions should be imposed.

Ecology – Object on the grounds that a HRA form should be completed

Arboriculturists- Object to the proposal as plot 2 of the proposal has an unacceptable relationship existing trees that make a useful contribution to the amenity of the locality. The trees are easily seen when entering The Glade and from properties in The Glade, creating an important element of landscape of this location and characteristic of the street scene.

Representations

(Local Planning Authority comments in brackets and italics)

Councillor Samra was concerned about the lack of neighbour notification *(The Local Planning Authority consulted neighbours in accordance with the statutory requirements of the national planning legislation)*

Councillor Cooper – Called the application in and objected on the grounds of inadequate parking/access arrangements that could lead to cars being parked on street detrimental to amenity/highway safety, increased traffic in the area over and above that which the existing road network could cope with detrimental to highway safety and overdevelopment (*These points will be addressed in the report*)

Seven neighbours were notified via letter. There were five letters of objections on the following grounds:

Removal of the hedges of the existing dwellings will expose the objector's dwelling

- The proposed development will cause overlooking
- The proposed development will block views
- Sewers suspected blockage/ concerns about the sewerage (*This is not a material planning consideration and residents need to contact their statutory undertaker regarding this matter*)
- Are there foul waste improvements mitigations in place
- The objectors suffer from mental health issues (*noted, this is not material planning consideration*)
- The development will exacerbate the objector's mental health (*noted, this is not material planning consideration*)
- Plot 1 will cause overshadowing/ reduce light/ impact on privacy
- Plot 1 is not in keeping with the site surrounding/ intrusive.
- Plot 1 and Plot 2 will spoil the character of the area.
- The community and the elderly community don't want the development/ The development will affect the vulnerable residents (*noted, these points are not material planning considerations*)
- Increase in noise and traffic construction will have detrimental impact on the objector's mental health.
- The objector has tried to speak to the case officer but keeps on going to the answering machine/ no answer. (*Noted, this is not a material planning consideration and the planning authority offers a duty planning officer each day that can answer general enquiries about planning applications*)
- The objector has complained to the Councillor. (*Noted*)
- Sites of ecological and historical significance will be damaged by the developers (*This has limited weight in the assessment of the current application as the neighbour has not explained which ecological or historic site will be damaged*)
- No.120 will devalue the property by development (*This is not a material planning consideration*)
- Proposed plans will set a precedent (*Each planning application and application site has its own unique set of circumstances; planning decisions do not set precedents*)
- Cram houses in a plot purely for profit (*Not a material planning consideration*)
- Little thought for the community and the Conservation (*This is not a material planning consideration and the neighbour has not explained what conservation so this has limited weight in the assessment of the application*)
- Breach of tenancy agreement (*Not a material planning consideration, this would be a civil matter between those involved in the tenancy agreement*)

- Need clear access to their premises – include bin collection/ emergency services.
- Large plant and other large vehicles will block off access.
- Site too small for two developments leaving existing property No120 remaining.
- Removing garage etc will have a structural impact on the existing property.
(This is not a material planning consideration and will be a matter for the building inspector overseeing any construction)

Determining Issues

- Principle of Development
- Design and Character of Area
- Amenity of Nearby Residents
- Protected Trees
- Cannock Chase SAC
- Parking

Assessment of the Proposal

Principle of Development

The site is situated within a well- established residential area within a location served by public transportation into Walsall and Birmingham. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP.

Whilst it is noted that this site has been the subject of a previous refusal of planning permission for a bungalow in the rear garden. Application 05/1677/FL/H1 was refused in 2005 on the grounds of lack of amenity space for the proposed dwelling, loss of hedge and the impact on trees. These issues would still apply, however the two proposed dwellings would be similar in scale to the respective existing dwellings that they are to lie alongside, with a house facing Foley Road West and a bungalow in The Glade.

Notwithstanding above comments, the current proposal still has to address the previous concerns and this is set out in the rest of the report.

The latest available figures show that the Council does not currently have a 5-year housing land supply and, in addition, the Council failed the Housing Delivery Test published in January 2022 based on low levels of delivery over the last 3 years. This means that the presumption in favour of sustainable development as described in the NPPF paragraph 11d) is in effect.

Under emerging national legislation, provision for biodiversity net gain will be required, either on part of the site or elsewhere.

Design and Character of Area

Foley West Road is located within a predominately residential area of mixed character. Properties along Foley West Road and the wider area (including The Glades) comprises a mix of semi-detached single storey and two storey properties and bungalows. There are grassed spaces between and around properties with long garden areas to the front and the rear. The spaciousness of the area is further reinforced through wide, grassed verges, with properties set back from the pavements. The variation in property types and open spaces between and around the built development contributes to the character and appearance of the area.

The site comprises a large garden area that serves No.120 Foley West Road. Properties on Foley West Road are two storey, detached property, with front and rear garden. These properties have a largely uniform appearance, with space between each dwelling. An area of open space laid to grass with trees within it and its rear garden contributes towards the character of the area.

The proposed development consists of the proposed demolition of existing garage and modern extension at 120 Foley Road West and the proposed subdivision of the plot and erection of two additional new dwellings- namely Plot 1 and Plot2.

Plot 1 will be a two-storey detached dwelling and Plot 2 will be a detached bungalow. The size of the proposed site, in particular Plot 2 appears to be smaller than that of its neighbours on The Glades. The proposed development (Plot 2) would extend the full width of the site, thereby would be close to the boundary of No. 18. The Glade. The proposed development would appear to be a dominant appearance as a result of its location and width of the proposed dwelling (Plot 2), thus it would give an unacceptable impact of the character and appearance along this section of The Glade, to the detriment of residents' amenity.

The design of the proposed property (Plot 1) reflects the properties on Foley West Road and whilst the properties on The Glades are predominately bungalows – which Plot 2 will be. The frontage of the proposed property (Plot 1) is shown broadly in line with the frontage of Foley West Road houses, although the applicant is relying on the front frontage garage to position Plot 1. Ideally it needs to be set back a least another two metres which would better reflect the building line and would ensure that the openness of the site frontage is maintained.

Unfortunately, the re-positioning of Plot 1 would create an awkward relationship Plot 2 which already has an awkward relationship with no. 18 The Glade based on the scale of the proposed dwelling (Plot 2). This arrangement, together with the design and siting of the proposed property (Plot2) wouldn't reflect the layout of nearby bungalows in The Glades. Therefore, it is the opinion of the Local Planning Authority that the proposed development would be an incongruous form of development with the prevailing character and appearance of the area.

Amenity of Nearby Residents

The proposed Plot 2 would be a two-storey dwelling with obscured glazed windows to the side. It will be positioned 1.3metres from the boundary line within a limited plot of land. Whilst the neighbouring property (No. 18 The Glade) which is detached bungalow would be 1.1 metres from the shared boundary. The proposal would have a significant overbearing impact thus is unacceptable.

Protected Trees

The proposed sub-division of the existing plot and creation of a new plot (2) to the rear of the site would have a detrimental impact on the long-term health, condition and amenity value of the existing protected and non-protected trees.

The building is located in close proximity to 2 protected trees situated directly to the east. These will cast an unacceptable level of shade on the building for the whole morning period leading to requests to undertake unsympathetic pruning or even felling works that the Council may find difficult to refuse, even though they provide a positive amenity contribution to the street scene and locality.

In addition, the building is close to 2 evergreen trees situated in the northwest corner (rear garden). These trees will also cast an unacceptable level of shade onto the private amenity space to the rear, which will place the Council under pressure to allow unsympathetic pruning or felling works to these trees. They provide a useful degree of amenity value to the locality and their retention is desirable.

The proposed parking area to the front of the site will have a detrimental impact on a row of Cypress trees. They provide a useful degree of amenity value in the locality and their retention is desirable.

The location of the proposed dwelling (plot2) has an unacceptable relationship to T1 Cypress, T2 Beech and two other Cypress trees in the northwest corner (noted as T5 and T6 in the Tree Survey). T1 and T2 are significant trees that make a useful contribution to the amenity of the locality. They are easily seen when entering The Glade off Foley Road West, from Foley Road West, and from properties in The Glade and Wood Lane. They are important elements of the landscape when viewed from these locations and characteristic of the street scene. Locating a dwelling so close to protected trees does not accord with the paragraphs 130 and 174 of the NPPF, Black Country Core Strategies CSP4, ENV1 and ENV3, Saved policy ENV18 of the Walsall UDP 2005, and policy NE8 of the Walsall SPD (Conserving Walsall Natural Heritage). The relationship will inevitably lead to calls to fell or prune the trees and arguments that 'the trees are covered by a TPO and such could therefore be successfully resisted' are simplistic and run counter to the thrust of the TPO system which makes provision for the preservation of tree(s).

Cannock Chase SAC

Objection at this current time as there are ecological matters to be resolved before this application can be determined.

Approximately 20% of Cannock Chase falls within the Cannock Chase Special Area of Conservation (SAC), an internationally protected site. The site was designated in 2005 under the European Habitats Directive primarily for its dry heathland, an Annex I habitat.

Pursuant to the Habitats Directive (92/43/EEC), where a plan or project is not connected with the nature conservation management of a European designated site, the competent authority must determine whether the plan or project is likely to have a significant effect on the site, either alone or in combination with other plans or projects. This is reflected in national law in the Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations"), which place a duty upon competent authorities to consider the potential for effects upon sites of European importance prior to granting consent. This is referred to as a screening assessment. If likely significant effects are identified by the screening assessment, the competent authority must then undertake an Appropriate Assessment of the implications.

Council areas in the vicinity of the SAC have formed a Partnership and commissioned reports, to assess impacts upon the SAC and how they arise. The evidence indicates that development, which would increase visitors within 15km of the SAC may have a significant impact from recreational disturbance, this include development that will lead to a net increase in dwellings.

Walsall Council, acting as the Competent Authority, must ensure that planning decisions do not have any negative impact on the SAC. Should a planning application be found to do so the Council must either refuse permission or ensure that the applicant secures the appropriate mitigation measures.

Walsall Council joined the Cannock Chase SAC Partnership on the 17th October 2022 and has implemented Black Country Strategy Policy EQ2 which has enabled the collection of payments to mitigate against impacts arising from new relevant development falling within the 15km Zone of Influence of the Cannock Chase SAC.

As the development lies within the 'zone of influence' of Cannock Chase SAC and includes the net increase of a single residential dwelling, through change of use, Walsall Council as the competent authority is required to undertake the Habitat Regulations Assessment (HRA) as part of the planning application process. The HRA is informed by information provided by the applicant. This information should be provided through the completion of a Habitat Regulation Assessment form. From a review of the associated documents provided with the planning application, this form does not appear to have been provided.

Therefore, a HRA form completed by the applicant is required in support of this application.

In addition, should the development be acceptable, there will be a need for bat and bird boxes within any approved development and a condition to manage light spill to protect protected species.

Parking

Objectors and the local councillors concerns of inadequate parking/access arrangements, leading to on street parking being detrimental to amenity/highway safety, plus increased traffic in the area over and above the existing road network can cope with would be detrimental to highway safety has been weighed in the overall assessment of the application, as well as taking into account the highway authorities comments.

The proposed off-road parking for each new dwelling, in the form of a driveway parking and access, is considered to accord with the Councils UDP parking standards. The local highway authority has no objections to the development subject to conditions being imposed.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed dwellings would not reflect the character and appearance of the other properties around the area. The proposal is considered to have a detrimental impact on the character of the wider area and the amenity for neighbouring occupiers. The application fails to demonstrate the potential impact on trees on the site which is unacceptable. Finally, in the absence of a Habitat Regulations Assessment document it is possible to assess the likely significant effects of a proposal on the integrity of the site and its conservation objectives. As such the development does not meet the aims and objectives of the National Planning Policy Framework CSP4, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2, ENV18, ENV23: and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

Taking into account the above factors it is considered that the 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 proposal fails to provide an adequate level of amenity space for future residents of the proposed dwelling, with a very short rear garden and most of the front garden occupied by the spread of the protected trees. The close proximity of the development is therefore likely to cause an unacceptable level of disturbance to the gardens of neighbouring properties and lead to pressure in the future for the removal of the trees. The proposal is contrary to the National Planning Policy Framework, Policies HOU2, CSP4, ENV2 and ENV3 of the Black Country Core Strategy, Saved Policies GP2, ENV32, ENV17, ENV33 and H3 of the Walsall Unitary Development Plan, Policies DW3, DW9 and DW10 of Designing Walsall SPD

2 The proposed development falls within the 15km zone of influence relating to the Cannock Chase Special Area of Conservation (SAC) and has failed to provide any potential necessary mitigation measures or a mechanism for securing them. This proposal is therefore contrary to the Conservation of Habitats and Species Regulations 2017, Black Country Core Strategy Policies EQ2 (Cannock Chase Special Area of Conservation), CSP3 (Environmental Infrastructure), CSP4 (Place-Making) and ENV1 (Nature Conservation), UDP Saved Policy ENV23 (Nature Conservation), SAD (Site Allocation Document) Policy EN1 (Natural Environment Protection, Management and Enhancement) and the National Planning Policy Framework paragraph 181 (2023)..

END OF OFFICERS REPORT