

Planning Committee

Report of Head of Planning and Building Control on 21 July 2022

Plans List Item Number: 5

Reason for bringing to committee

Council Owned Land

Application Details

Location: Site Of Former 37 To 38, Pinfold Street, Darlaston, WS10 8SY

Proposal: PROPOSED DROPPED KERB TO PROVIDE SECOND VEHICLE ACCESS TO PREMISES

Application Number: 20/0851

Case Officer: Rebecca Rowley

Applicant: Mr Mehimi

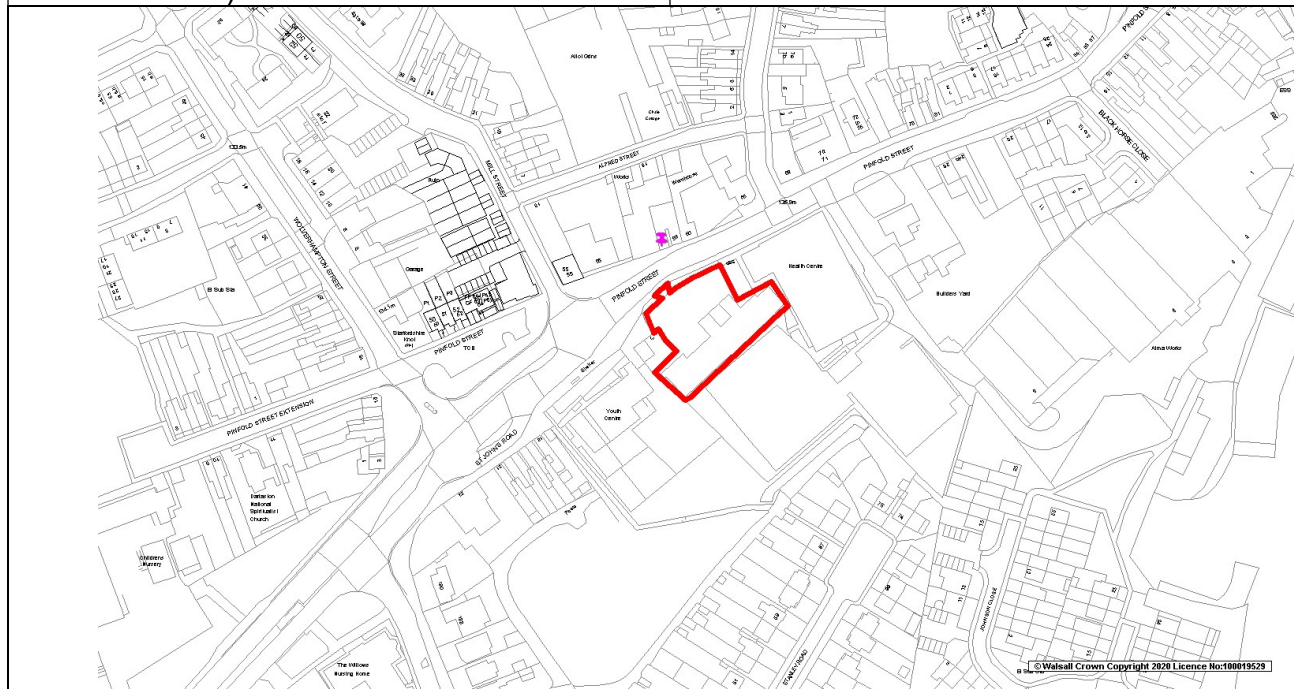
Ward: Darlaston South

Agent: Mr Amardeep Bharg

Expired Date: 27-Apr-2021

Application Type: Full Application: Minor Use Class Sui Generis (Pubs and Drinking Establishments)

Time Extension Expiry: 30-Sep-2021



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Recommendation:

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to
 - The amendment and finalising of conditions;
 - The purchase of the defined area of Council owned land that the applicant will be required to cross to access the public highway.

Proposal

This application requests permission to install a dropped kerb for the purpose of egress from the approved car park of the application site onto the public highway.

As there is some variation in the dimensions of the constructed front boundary treatment at the application site, compared to the front boundary treatment that was initially proposed for the site, the design of the boundary wall 'as built' has also been included in this application for regularisation.

Site and Surroundings

The application site is the Shri Guru Ravidass Gurdwara Temple located towards the western edge of the Darlaston District Centre Boundary. It is located on Pinfold Street, which is a classified road (A4038) and is also a District Distributor road. There are double yellow lines directly in front of the property and along much of Pinfold Street.

The temple building, car park and front boundary wall site has constructed but the site is not yet in use.

Relevant Planning History

09/0709/FL - Demolition of existing building and erection of purpose designed temple with associated facilities and car parking – GSC on 24/05/2010

Conditions relevant to this application:

3. No development shall be carried out until further details of the proposed boundary treatment of the site, including elevation details of the proposed wall, gates, and railings along the Pinfold Street frontage, have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use or in accordance with any phasing to be agreed in writing by the Local Planning Authority.
12. The access and egress shall be installed prior to the development being brought into use and thereafter retained. Each shall be a minimum of 3.1 metres wide.
14. The gates to the entrance and exit shall be kept open at all times when the premises are in use.
15. The proposed 'no entry' signs shall be erected on either side of the exit prior to the development being brought into use.

The application to discharge condition 3 was submitted on 02/02/2011. Following a request for revisions, amended plans for the front boundary wall were submitted and acknowledged on 29/07/2014. There is no evidence of further correspondence in relation to the discharge of this condition, nor a decision notice in response to the discharge of this condition.

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*".

Key provisions of the NPPF relevant in this case:

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

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

- sex
- sexual orientation

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T4 - The Highway Network
- T5 - Highway Improvements
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- TRAN2: Managing Transport Impacts of New Development
- ENV3. Design Quality

Consultation Replies

Asset Management

Asset management would prefer to sell the parcel of Council owned land that the applicant would have to cross to allow egress from the application site onto the highway, rather than provide permission to cross it.

Local Highways Authority

Initial concerns about land ownership and inaccuracies on the site plan have been overcome.

Support subject to conditions to ensure the satisfactory completion and operation of the access including removal of a bollard and consolidation and drainage of the land to prevent surface water run off onto the highway as well a condition to ensure that the in/out access conditioned by the original permission for the site is enforced.

Representations

None Received

Determining Issues

- Principle of Development
- Land Ownership
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highway safety

Assessment of the Proposal

Principle of Development

The access and egress points to the application site were approved by application 09/0709/FL as outlined in the planning history. To use the access/egress lawfully requires the installation of a dropped kerb for the egress point. A dropped kerb already exists for the access.

Land Ownership

A section of grassed land between the front boundary wall of the site and the public highway is owned and maintained by Walsall Council. The users of the temple would be required to cross this land to access the public highway from the carpark egress point. The Council's asset management team have confirmed, they would prefer to sell this land to the applicant rather than grant permission to crossing the land to avoid any future potential for disputes over land maintenance. The applicant has clearly outlined the boundary of the land that they wish to purchase on the site plan and this would be edged with kerb stones to define the land within that would be owned and maintained by the applicant and the land outside of this edging treatment that would remain in the ownership and maintenance of the Council.

Design, Layout and Character

The position of the dropped kerb would be required to align with the car park egress for vehicles exiting the car park onto the public highway. A request was made for discharge of condition 3 of the original permission, which related to approval of the front boundary wall and gates. Some amendments were requested at the time and amended plans were submitted. There is no correspondence available to confirm that this condition was ever formally discharged. In any case, there are some minor discrepancies between the amended front boundary treatment plans submitted for the application to discharge condition 3 of the original permission and the front wall and railings that have been constructed on site. Therefore the front boundary treatment is being assessed as part of this application to regularise.

Although there are slight variations (0.1m-0.2m) in the distance between the pillars compared to the plans submitted for discharge of condition 3, and a 0.3-0.5m reduction in the height of some of the pillars, the general alignment, overall appearance and design is similar to the original proposal, for which are considered minor amendments. The original plans proposed flat top railings between the pillars to a similar height as the pillars. The built design includes rounded top railings at a lower height. The most significant difference is the increased width of the gap between the pillars which will support the exit gates from 3.1m to 4m. These differences are within the constraints of condition 12 of the original permission which required the gates to be a minimum of 3.1m wide and are considered limited harm to the overall appearance or character of

the front boundary treatment that was originally proposed and approved. It is reflective of a boundary treatment that could be expected to front a temple building and is therefore acceptable. Facing materials reflect the facing materials of the main site building and integrate with the site.

Amenity of Neighbours and Amenity of Future Occupiers

There are no immediate adjacent residential neighbouring occupants. Surrounding uses are commercial with some residential on the opposite side of the highway. It is considered that the boundary wall is reflective of what would be expected to be seen in such a district centre location and would not cause harm to the amenity of any neighbouring occupant.

Highway Safety

The local highways authority has confirmed their support for the scheme subject to a number of conditions to ensure consolidation of the ground and drainage to prevent surface water run off onto the highway. Also provision of the 'no entry' signs on either side of the exit gates that were secured by condition 15 of the original permission for this site. The Highway Authority will require this Condition to be fully implemented prior to the dropped kerb being installed as it was originally intended that the car park is to operate on a one-way in and out basis.

Furthermore, condition 14 of the original permission required that the gates to the entrance and exit shall be kept open at all times when the premises are in use. It is considered prudent to carry this condition forward to this permission in order to prevent any potential for backed up traffic on the highway.

Conclusions and Reasons for Decision

When assessing the material planning considerations and taking into account the local and national planning guidance and representations received, this application has demonstrated that these proposed dropped kerb and front boundary wall would not result in harm to the character of the local area and would not harm the amenity of neighbouring occupants nor cause harm to highway safety and thus complies with the policies and guidance set out in this report.

The use of safeguarding conditions in respect of the materials and plans to maintain its appearance and conditions to maintain highway safety will further ensure that the local amenity is protected and that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding land ownership and discrepancies in the site plan, amended plans have been submitted which enable full support to be given to the scheme.

Decision Recommendation

Grant Permission Subject to Conditions

Conditions

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

2: The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Proposed Site and Location Plan and Boundary Walls Plans and Elevations, drawing no. 20:417:PO1 rev D, submitted 09/06/2022

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3: Prior to the use of the development hereby permitted until a vehicle footway crossing has been installed that aligns with the car park egress. The vehicular footway crossings shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory completion and operation of the access, in accordance with UDP Policy GP2, the Council's footway crossing procedure and in the interests of highway safety.

4a: Notwithstanding the details submitted, prior to the use of the development hereby permitted, details shall be submitted in writing to and approved in writing by the Local Planning Authority for:

i) The removal of the existing street bollard obstructing the existing eastern access together with footway reinstatement

ii) The consolidation and hard surfacing of the intervening land between the gates and the back of public highway including drainage to prevent surface water run-off onto the public highway or into the public highway drains

4b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained and maintained for the lifetime of the development.

Reason: To ensure provision of adequate car parking and to avoid increased surface flooding to comply with Walsall's Unitary Development Plan saved policies T13, T7, GP2 and ENV40

5. Notwithstanding the details submitted and prior to the use of the development hereby permitted, the development shall not be carried out otherwise than in accordance with 'no entry' signs being erected on either side of the exit gates facing the public highway and shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory functioning of the site in accordance with the approved one way system around the vehicle car park, in accordance with the requirements of saved UDP policy GP2, T4 and in the interests of highway safety.

6. Notwithstanding the details as submitted, for the development hereby permitted shall not be carried out otherwise than in accordance with the vehicular gates to the car park entrance and exit shall be kept open at all times when the premises are in use. The gates shall be designed to only open into the application site car park and not at any time be able to open outwards for the lifetime of the development.

Reason: To prevent vehicles waiting on the highway to enter the site to ensure the satisfactory functioning of the site in accordance with the requirements of saved UDP policy GP2, T4 and in the interests of highway safety.

Notes for Applicant

1. 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.
2. The applicant will be required to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information and application forms please visit the Council's webpage under **Transport and Streets - Parking Roads and Vehicles**.
3. The Highway Authority's permission is required under the Highways Act 1980 and the New Roads and Street Works Act 1991 for all works on or in the highway.

END OF OFFICERS REPORT