



# Walsall Council

## Planning Committee

**Thursday 5 September 2024 at 5:30pm**

**Meeting Venue: Council Chamber at the Council House, Lichfield Street, Walsall**

[Livestream Link](#)

**Membership:**

Councillor M. Statham (Chair)  
Councillor J. Murray (Vice-Chair)  
Councillor B. Bains  
Councillor H. Bashir  
Councillor M.A. Bird  
Councillor P. Bott  
Councillor S. Elson  
Councillor M. Follows  
Councillor P. Gill  
Councillor A. Hussain  
Councillor I. Hussain  
Councillor K. Hussain  
Councillor K. Margetts  
Councillor R. Martin  
Councillor L. Nahal  
Councillor A. Nawaz  
Councillor A. Parkes  
Councillor G. Singh-Sohal  
Councillor S. Samra  
Councillor V. Waters

**Quorum:**

Seven Members

Democratic Services, The Council House, Walsall, WS1 1TW  
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[Walsall Council Website](#)

**If you are disabled and require help to and from the meeting room,  
please contact the person above**

## **The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012**

### **Specified pecuniary interests**

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

<b>Subject</b>	<b>Prescribed description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member in carrying out duties as a member, or towards the election expenses of a member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to a member's knowledge):</p> <p>(a) the landlord is the relevant authority;</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

## **Schedule 12A to the Local Government Act, 1972 (as amended)**

### **Access to information: Exempt information**

#### **Part 1**

#### **Descriptions of exempt information: England**

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
  - (a) to give any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information being disclosed during a meeting of a Scrutiny and Performance Panel when considering flood risk management functions which:
  - (a) Constitutes a trades secret;
  - (b) Its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the risk management authority);
  - (c) It was obtained by a risk management authority from any other person and its disclosure to the public by the risk management authority would constitute a breach of confidence actionable by that other person.

## **Part 1 – Public Session**

- 1. Apologies**
- 2. Declarations of Interest**
- 3. Deputations and Petitions**
- 4. Minutes of the Previous Meeting**

To approve and sign the minutes of the meeting held on 25 July 2024.

Copy **enclosed** (pp.5-19)

- 5. Local Government (Access to Information) Act, 1985 (as amended):**

To agree that the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.

- 6. Birmingham Local Plan preferred options document**

Copy **enclosed** (pp.20-24)

- 7. Application list for permission to develop:**

- a) Items subject to public speaking;
- b) Items 'called-in' by members
- c) Items not subject to 'call-in'

Copy **enclosed** (pp.25-167)

- 8. Date of next meeting**

The next meeting will be held on Thursday 3 October 2024.

## **Minutes of the Planning Committee held in The Council Chamber, Walsall Council House**

**Thursday 25 July 2024 at 5.30pm**

### **Committee Members present:**

Councillor M. Statham (Chair)  
Councillor J. Murray (Vice Chair)  
Councillor B. Bains (arrived 6:13pm)  
Councillor H. Bashir  
Councillor M.A. Bird  
Councillor S. Elson  
Councillor P. Gill  
Councillor A. Hussain  
Councillor I. Hussain  
Councillor K. Hussain  
Councillor R. Martin  
Councillor L. Nahal  
Councillor A. Nawaz  
Councillor A. Parkes  
Councillor S. Samra  
Councillor G. Singh-Sohal  
Councillor V. Waters

### **Officers Present:**

N. Alcock	Solicitor
M. Brereton	Head of Planning and Building Control
K. Gannon	Development Control and Public Rights of Way Manager
S. Hewitt	Senior Planning Officer
S. Hollands	Team Leader Development Management
D. Holloway	Planning Policy Manager
O. Horne	Senior Planning Officer
I. Jarrett	Principal Environmental Protection Officer
G. Meaton	Group Manager – Planning
R. Rowley	Senior Planning Officer
H. Smith	Principal Planning Officer
S. Wagstaff	Team Leader Development Management
L. Wright	Senior Planning Officer
E. Cook	Democratic Services Officer
L. Cook	Assistant Democratic Services Officer

125 **Apologies**

Apologies were received from Councillor Margetts.

126 **Declarations of Interest**

The following declarations of interest were received:

- Councillor K. Hussain – Plans List Item 5, 74 Mellish Road – Pecuniary interest
- Councillor Singh Sohal – Plan List Item 4, 89 Belvidere Road – Pecuniary interest
- Councillor Bird – Plans List Items 1a-1d, Buffet Island – Pecuniary interest
- Councillor Samra – Plans List Item 4, 89 Belvidere Road – Non-pecuniary interest which would not affect ability make an impartial decision.
- Councillor I. Hussain – Plans List Item 2, Former Local History Centre – Non-pecuniary interest which would not affect ability make an impartial decision.

127 **Deputations and Petitions**

There were no deputation or petitions.

128 **Minutes**

A copy of the minutes of the meeting held on 20 June 2024 was submitted.

[annexed]

**Resolved**

**That the minutes of the meeting held on 20 June 2024, a copy having previously been circulated to each member of the Committee, be approved and signed by the Chair as a correct record subject to the following amendments:**

- **That the penultimate sentence of paragraph 4 of Minute Number 121 (Sandown Quarry) be amended to read: ‘Mr Merckel felt that the traffic flow calculations were fundamentally flawed as material for the landfill came from sites within a defined 30-mile radius with their own travel plans and vehicles would in practice be accessing the site over a shorter period than the hours stated.’**
- **The addition at the end of paragraph 8 of Minute Number 121 (Sandown Quarry) ‘Mr Merckel questioned the accuracy of statements made regarding protecting wildlife and the type of ‘inert materials’ to be used.’**
- **That minute number 123 be amended to reflect that the decision was not unanimous as Cllr Elson did not vote on the item.**

129 **Local Government (Access to Information) Act 1985 (as amended)**

**Exclusion of the Public**

**Resolved**

There were no items for consideration in the private session.

130 **South Staffordshire local plan review - duty to co-operate**

The Planning Policy Manager introduced the report, including information contained within the Supplementary paper.

[annexed]

There was a discussion regarding the responsibilities for meeting the allocations of neighbouring authorities and the effect the reduction of additional housing supply could have on Walsall's green belt. This included discussions regarding potential changes to mandatory housing targets and further planning reform under the new Government.

It was **moved** by Councillor Statham and **seconded** by Councillor Bird and it was;

**Resolved** (unanimously)

**That Planning Committee:**

1. **Agree the wording set out in appendix 1, subject to the strengthening of wording that Walsall reserves the right to add further objections should they be required following the new Government's position on planning reform and housing targets becoming clear, as a basis for Walsall Council's response to the consultation request from South Staffordshire District Council dated 18 April 2024 on their Local Plan Review (regulation 19 stage), under duty to cooperate.**
2. **Authorise the Executive Director for Economy, Environment & Communities to submit the council's full response to South Staffordshire District Council in consultation with the Portfolio Holder for Regeneration, with delegated authority given to the Head of Planning and Building Control Services to make amendments to its contents as necessary.**

131 **Application List for Permission to Develop**

The application list for permission to develop (the plans list) was submitted, together with a supplementary report which provided additional information on items already on the plans list.

[annexed]

The Committee agreed to deal with the items on the agenda where members of the public had previously indicated that they wished to address the Committee first. The Chair, at the beginning of each item for which there were speakers, confirmed they had been advised of the procedure whereby each speaker would have two minutes to speak.

*Having declared an interest in Plans List Item 4, Councillor Singh-Sohal left the meeting.*

132 **Plans List Item 4 – 24/0337 – 89 Belvidere Road**

The Principal Planning Officer presented the report of the Head of Planning and Building Control, including the additional information contained within the supplementary paper.

[annexed]

There were two speakers against the application, Mr Bal and Mr Bolton, and two speakers in support, Mr Aslam and Ms Khambay.

Mr Bolton asserted that the reasons given for the previous application's refusal had not been addressed; that the application represented an overdevelopment of the plot; and that all residents in the street facing the property had objected. Mr Bal emphasised highways concerns due to the site being a corner plot and its proximity to a school. He added that the previous reasons for refusal remained with the only change being to the boundary wall.

Ms Khambay asserted that there had been substantial changes from the previous application including reduced height of the boundary wall, increased amenity space at the front and the removal of gates. Ms Khambay stated that the height of the property and the vehicular access were unchanged from the existing property; rear-facing windows used obscured glass so would not overlook neighbouring properties; and swept paths had been provided to show safe forward ingress and egress.

Mr Aslam stated that there had been numerous planning officers allocated to the case and amendments had been made throughout in response to subjective recommendations. He asserted that the 45-degree test had been met and that the property was not out of character, with properties in the area being diverse.

*At this point, Councillor Bains entered the meeting.*



Responding to questions from Members, Mr Bolton stated that a previous extension had been built without permission for a window and the obscured windows would overlook the neighbouring property. He added that only the amenity space and boundary walls been amended from the previous application and that the access from Belvidere Road had been a pedestrian gate and with a lamp-post in front.

In response to questions, Mr Aslam asserted that the application was well suited to the site and the applicant had exhausted their options to make the property more acceptable to officers. He stated that the applicant had made numerous changes on subjective matters and that the objective issue of the gates had been resolved.

There followed a period of questions to officers. The Principal Planning Officer clarified that the measure of acceptability regarding overlooking was whether there was a 'sense of overlooking'. There were no conservation objections and those regarding design were considered relative to the immediate local area. The Principal Planning Officer stated that the effect of the development on light would not be significant but the property's bulk and position forward of existing dwellings would dwarf neighbouring properties. The removal of gates could be secured via condition. The Development Control and Public Rights of Way Manager clarified that the principal highways objections were regarding the height of the wall given the site's proximity to a school; the lack of visibility splays; and the inability to support a second entrance.

Debating the application, there was a discussion regarding the efforts undertaken by the applicant to address the officers' objections. It was **moved** by Councillor Bird and **seconded** by Councillor K. Hussain and, upon being put to the vote, it was:

**Resolved** (10 in support, 0 against, 1 abstention)

**That Planning Committee delegate to Head of Planning and Building Control to grant planning permission for application 24/0337, contrary to the officer's recommendation, subject to:**

- the finalisation of conditions;
- the highway authority being satisfied that visibility splays can be achieved for both ingress and egress; and
- a condition being included preventing gates being installed at the accesses.

**The following reasons were provided for going against officers' recommendations:**

- The body of the report and the reports/surveys referred to therein addressed the majority of the reasons for refusal including the design and access statement, bat report and heritage report;
- The development fitted into a large plot and was no different in height to the existing property;

- **The applicants had made significant alterations to the previously refused scheme and had worked with officers to make amendments.**

*Councillor Bains, having entered the meeting after the item had commenced, did not vote.*

*At this juncture, Councillor Singh Sohal returned to the meeting. Having declared an interest in Plans List Items 1a to 1d, Councillor Bird left the meeting. Having previously registered to do so, Councillor Bird spoke on Plans List Items 1a to 1d as a member of the public and for the duration of the items, sat as a member of the public and not as a member of the Committee.*

### **133 Plans List Item 1a – 23/0669 – Buffet Island, Queslsett Road**

The Chairman clarified that Plans List Item 1 consisted of four related applications (1a, 1b, 1c and 1d). The four applications would be heard collectively however the votes on each application would be taken individually.

The Team Leader Development Management presented the report of the Head of Planning and Building Control, including the additional information contained within the supplementary paper.

[annexed]

There were two speakers against the application, Councillor Andrew and Councillor Bird, and two speakers in favour, Mr Carpenter and Ms Chapman.

Councillor Bird stated that the application was deemed ‘on balance’ acceptable but that in his view the sequential test was flawed as an alternative nearby site would be more appropriate. He asserted that there was already a highways danger on Collingwood Drive due to four left-turns; that a McDonalds would not be like a pub or restaurant and would result in a constant stream of traffic; and that the proposed development was only 20metres away from properties on Romney Way and would be detrimental to those residents.

Councillor Andrew stated that the pictures of the junction shown, did not reflect how busy the junction was and that people using the restaurant would not ‘park and eat’ as at a traditional restaurant but would make short stops and cause traffic chaos. He added that the site was in close proximity to schools which could exacerbate school-related highway challenges.

Mr Carpenter stated that the application was for a restaurant of similar use to the existing property, adding that he was confident the application accorded with the development plan. Noise, lighting, odour and litter concerns had been addressed and all consultees had confirmed it was acceptable.

Ms Chapman stated that traffic peaks on a weekday mornings and evenings had been assessed with peak trading for McDonalds on Saturday lunchtimes,

not at peak traffic hours. It was estimated that 50-60% of trips would be users already on the road network and that the roundabout had capacity. She asserted that there would be no severe impact on highways and that the maximum number of vehicles, eighteen, in the drive-through area was greater than deemed necessary.

Responding to questions, Councillor Bird stated that existing 20mph speed restrictions were not effectively enforced and there had been requests for traffic calming measures to be installed on Romney Way due to existing highways concerns. He asserted that the site would result in more littering and the proposed lighting would be detrimental to the amenities of existing residents. Councillor Bird stated his view that this was not the most appropriate site, identifying two alternative sites nearby, and that this was an inappropriate development of a destination store in a residential area. 113 objections from residents had been received and the site was also within walking distance of three schools.

Responding to questions, Ms Chapman explained the methodology used to assess the impact of the restaurant on highways and stated that this was consistent with the methodology used for other applications. Data from similar existing McDonalds restaurants was used to predict peak times and was assessed with data from the industry-standard TRICS database to estimate the number of users on the network and potential impact. These surveys often resulted in over-estimations. Surveys were carried out at peak times, with peak McDonalds usage expected to be Saturday lunchtimes. McDonalds-related traffic during the morning highways' peak was estimated at approximately 70 an hour, much lower than at other times and Ms Chapman stated that many of these users would already be on the road network. Ms Chapman added that an uncontrolled pedestrian crossing would be included and that the Council's highways team had not objected to the proposals.

Responding to questions, Mr Carpenter stated that the restaurant would serve the immediate local area of Pheasey and those using the roundabout, which existing stores at Perry Barr and New Oscott could not effectively serve. This would be a 'local' store and could take journeys off the road network who otherwise travelled further. Mr Carpenter stated that the Council did not have a policy regarding the proximity of such restaurants to schools but the restaurant was further than 400m away from schools. He added that the two alternative sites raised by the objectors had been assessed and deemed unsuitable. In response to questions regarding delivery services, Mr Carpenter stated that couriers would be separated from other users in a designated area and McDonalds could negatively review delivery drivers behaving unacceptably. Regarding light pollution and the effect on residents, Mr Carpenter stated that the three associated applications for lighting and signage included full lighting mitigations and the totem would not flash. Deliveries to the store would happen three to five times per week and were all undertaken by one provider.

There followed a period of questions to officers. The Development Control and Public Rights of Way Manager explained that the highways authority was

reliant on the applicant to advise of expected peak times. Much of the data required was provided by the applicant and compared with empirical data for similar existing stores. Based on the information available, the highways authority was satisfied that the development would not have a severe negative impact. All additional information requested had been provided and Birmingham City Council had also raised no objections. Regarding the sequential test, the Planning Policy Manager advised that alternative sites on Moreton Avenue and Queslett Road had been assessed and deemed too cramped and inappropriate respectively. Regarding public health concerns the Head of Planning and Building Control clarified that there was no specific local planning policy, but there was a thread through national policy guidance. There were no objections from ecology officers and the application was not subject to Biodiversity Net Gain requirements as it was submitted prior to their introduction.

Debating the item Members raised a number of concerns regarding the application. It was **moved** by Councillor Bains and **seconded** by Councillor Martin and, upon being put to the vote, it was:

**Resolved** (15 in support, 1 against)

**That Planning Committee refuse planning permission for application 23/0669, contrary to the officer's recommendation, for the following reasons:**

- the application had failed to fulfil an adequate sequential test;
- the development would have a harmful impact on the highway network and on highway safety;
- the development would have a detrimental impact on the amenity of the surrounding occupiers;
- the detrimental impact on the health of children from nearby schools.

134 **Plans List Item 1b – 23/0688 – Buffet Island, Queslett Road**

Planning Committee considered the report of the Head of Planning and Building Control and the representations given during the discussions minuted under Plans List Item 1a.

[annexed]

It was;

**Resolved** (15 in support, 1 against)

**That Planning Committee refuse planning permission for application 23/0688, contrary to the officer's recommendation, on the grounds that it would not be appropriate to approve the erection of signage where the associated principle development had not been supported.**

135 **Plans List Item 1c – 23/0689 – Buffet Island, Queslsett Road**

Planning Committee considered the report of the Head of Planning and Building Control and the representations given during the discussions minuted under Plans List Item 1a.

[annexed]

It was;

**Resolved** (15 in support, 1 against)

**That Planning Committee refuse planning permission for application 23/0689, contrary to the officer's recommendation, on the grounds that it would not be appropriate to approve the erection of signage where the associated principle development had not been supported.**

136 **Plans List Item 1d – 23/0690 – Buffet Island, Queslsett Road**

Planning Committee considered the report of the Head of Planning and Building Control and the representations given during the discussions minuted under Plans List Item 1a.

[annexed]

It was;

**Resolved** (15 in support, 1 against)

**That Planning Committee refuse planning permission for application 23/0690, contrary to the officer's recommendation, on the grounds that it would not be appropriate to approve the erection of signage where the associated principle development had not been supported.**

*Upon the conclusion of the item and with the consent of the Committee, the meeting was adjourned at 20:22.*

*Councillor Samra and Councillor Bains left the meeting and did not return.*

*The meeting re-convened at 20:31. At this juncture, Cllr Statham moved and it was duly seconded, that Standing Order 9a be suspended in order to enable the remaining business to be transacted. The meeting consented.*

137 **Plans List Item 2 – 23/0715 – Former Local History Centre, Essex Street**

The Head of Planning and Building Control advised the Committee of an error within the report regarding the reason for bringing the item to Committee. The Head of Planning and Building Control confirmed that the application had not

been called-in by Councillor Nawaz and was in front of the Committee due to Head of Service discretion. Councillor Nawaz confirmed to the Committee that he had no interest the item.

The Senior Planning Officer presented the report of the Head of Planning and Building Control, including the additional information contained within the supplementary paper.

[annexed]

There was one speaker in favour of the application, Mr Cobb, who was supported by Mr Khan.

Mr Cobb stated that the proposal would support religious education for the surrounding Muslim community and was policy compliant. A travel plan had been provided and a smaller congregation of 60 people for prayers was anticipated than the 200 originally stated, with a proposal to limit the size of the prayer space and hold two separate prayer sessions on a Friday. Although there were other mosques in the area, this one would be small. Mr Cobb acknowledged that there were challenges regarding parking which would deter people from travelling from afar. He asserted that some additional parking could be created and that as the applicants recognised the constraints of the site, it was not in their interest to encourage people to travel from beyond the local area. The applicants were aware of the need to carry out alterations with care, given its heritage status and neglect over the years.

Responding to questions, Mr Cobb stated that in his understanding, if the building was to be used solely for religious education, there would be no change of use class required. He confirmed that there were approximately 26 mosques in Walsall, and that visitors may have to pass several en-route if travelling to the site by car. Mr Cobb responded to questions regarding parking and advised that the existing car park could be rearranged to accommodate 12 to 15 additional spaces resulting in 35 to 40 in total. It was possible that the applicants may be able to negotiate temporary parking with the school to the rear of the site but to his understanding, no negotiations had taken place. Mr Cobb stated that the proposal was to serve the local community and that many users would attend on foot. Regarding possible travel plans, such as bus provision or walking buses, Mr Cobb stated that the applicant had already submitted a travel plan and would be prepared to sign up to it.

Responding to questions, Mr Khan advised that an external call to prayer did not feature in the proposal and that the projected number of people attending a prayer session had reduced from 200 to 60 per prayer session due to an oversight and miscommunication with the travel consultants. Regarding questions about funerals and large gatherings, Mr Khan confirmed that a mortuary with washing and funeral facilities was included in the proposal. He stated that its size meant it could only fit one body for prayers and large funerals would need to be held elsewhere. It was possible that a body could be prepared at the site and taken to a larger mosque if required.

A Member asked if stress tests had been done to compare footfall and car usage at other mosques in the area. Mr Khan advised that these aspects had been looked at prior to the proposal; that the site was within a dense area with an identified need; and the building would be used as it was without extensions. He believed this was sufficient but confirmed that he did not have information comparing pedestrian and car-based visits at other mosques. In response to further questions, Mr Khan stated that residents he had spoken to were welcoming of the plan and wanted to see the building in use. He stated that there was a growing Muslim population in the surrounding area and confirmed that it would be a family facility with 20 to 30 children attending daily on weekdays who would mostly arrive from very local areas within walking distance.

Responding to questions, the Head of Planning and Building Control advised that a religious facility was in the same Planning Use Class F as a school and it was correct to some extent that much of the building would be used for the same purpose as it had been for over 100 years. However, there were elements of the proposal that were outside this class use including the mortuary and conversion of the former caretaker's house to a part self-contained flat and the application needed to be treated as a whole. It would need to be investigated further if there had been a break in the use class of the building, should Members be minded to approve the application. The Senior Planning Officer advised that the application did not provide detailed information regarding the windows however, it was not expedient to request this information given the application was recommended for refusal because of highways concerns.

Responding to questions, the Development Control and Public Rights of Way Manager stated that it was already a struggle to travel along Essex Street due to parked vehicles. He referred to a table submitted as part of the application stating there would be 200 people for Friday prayers from 12.30pm to 2.30pm and the community facility and classrooms would have 15 people for religious studies and 15 people for community groups. Through the Chair, it was clarified with the applicants that a mistake had been made in the application and that the numbers would be 60 for prayer and 15 for education. The Development Control and Public Rights of Way Manager stated that it remained unclear how the site would operate, where users would arrive from and that to make an accurate assessment, more information would be required from the applicants. He also advised that as the vacant site behind was not included in the plans it could not be considered, adding that there was no provision for additional parking on the existing car park as pedestrian movements needed to be accommodated.

Regarding questions about users travelling by car, it was noted by the Development Control and Public Rights of Way Manager that the applicants used census data from 2011 which showed 38 per cent of the surrounding areas had a higher level of Islamic religious belief, however 2021 census data for the same area stated that 62 percent of households had access to a vehicle. Using this data and forecast numbers of mosque users, there could

be 47 vehicles using the site. He added that data provided by the applicants calculated that the proposal would result in 520 trips between 6am and 10pm, a net increase of 331 trips to the site and that this could amount to 32 vehicles per hour. A Member asked if there were any known parking issues related to the former Abu Bakr boys school on the adjacent street which had approximately 10 spaces. Officers stated that they did not have this information. The first stage of assessing an application was to understand the site in question and how it would work. As sufficient information had not been provided to demonstrate how the development would function, this additional information may not have been sought. The Head of Planning and Building Control summarised that there were outstanding concerns about the lack of information in the travel plan, plans to reduce trips over time, and the provision of additional parking on site.

Debating the application, Members considered the possible effect on parking issues in the area following the closure of the school to the rear of the site; the opportunity to bring back into use a redundant building; the needs of the local community and how users would likely travel to the mosque. A Member suggested that concerns surrounding the windows could be address via conditions.

It was **moved** by Councillor Nawaz and **seconded** by Councillor K. Hussain and, upon being put to the vote, it was:

**Resolved** (Unanimously)

**That Planning Committee delegate to the Head of Planning and Building Control to grant planning permission for application 23/0715 and for the finalisation of conditions, contrary to the officer's recommendation, on the following grounds:**

- **The proposed development fulfils a local need;**
- **There would not be an issue with traffic in the area arising from the application, as the objections raised by the Highways Officer had not accounted for the reduction of traffic following the closure of the nearby Abu Bakr boys' school and that the users of the development would largely be coming from the immediate local area and within walking distance;**
- **The development would bring an existing, unused building back into use;**
- **The development would help to address existing ASB issues;**
- **The proposed use was not a significantly different use of the building from the existing one and the numbers using the facility would be controlled.**

*At this juncture, Councillors Gill, A. Hussain, I. Hussain, K. Hussain, Martin, Nahal and Singh-Sohal left the meeting and did not return.*

*The Chair confirmed that the meeting remained quorate.*



137 **Plans List Item 5 – 23/0446 – 74 Mellish Road**

The Senior Planning Officer presented the report of the Head of Planning and Building Control, including the additional information contained within the supplementary paper.

[annexed]

There was one speaker in support of the application, Mr Clifton, who stated that multiple neighbouring properties in the street had been extended or rebuilt and that the proposed dwelling, both as built and as approved, had been of a contemporary design with vertical windows. He asserted that the raised ridge height, fenestration, and inappropriate palette of materials were subjective considerations and that two windows on the property were for ensuite bathrooms and were obscure glazed. He advised that a separate application had been submitted to resolve the vehicle access arrangements and that he had dealt with some eight different officers on the project making continuity challenging.

Responding to questions, Mr Clifton advised that the left and right windows with obscure glazing were for ensuite bathrooms in the loft space and that the central window was located on a staircase at a level which would not impact the privacy of neighbouring properties.

The Committee asked questions to Officers. A Member asked if officers agreed with a subjective view that the property was, in isolation, an iconic building within a large plot and was aesthetically acceptable. The Senior Planning Officer stated this was a subjective matter however, there were specific design policies and guidance to be followed and that high quality street scenes should be preserved as part of any new development. Responding to questions about the expediency test, the Head of Planning and Building Control explained there was an element of subjectivity however, there were policies that helped guide and frame opinion. He advised that the proposal went above and beyond what was deemed acceptable in the locality and there was a live enforcement case relating to the property, however, the expediency test would be determined by the outcome of the application before the Committee.

The Committee moved to debate. A member stated that the property made a statement on Mellish Road, and that the application had first been lodged in 2022 and needed to be closed. A member stated the opinion that the design fitted in well; was an impressive dwelling and the detriment caused did not outweigh the benefit.

It was **moved** by Councillor Bird and **seconded** by Councillor Nawaz and, upon being put to the vote, it was:

**Resolved** (Unanimously)

**That Planning Committee delegate to Head of Planning and Building Control to grant permission for application 23/0446, contrary to the officer's recommendation and subject to:**

- **the finalisation of conditions; and**
- **securing satisfactory vehicle access in the interest of highways safety.**

**On the grounds that the development was an iconic building within a large plot, comprised of high-quality materials and representing a modern take on the character of the area.**

*At this juncture, Councillors Bashir left the meeting and did not return.*

*The Chair confirmed that the meeting remained quorate.*

### **138 Plans List Item 6 – 24/0201 – Holtshill Lane**

The Senior Planning Officer presented the report of the Head of Planning and Building Control.

[annexed]

There was one speaker in support of the application.

Mr DeMay stated that the applicant already operated a care home in the Highgate area for children with Special Educational Needs. The proposed development would provide accommodation for 3 children and no adult clients, securing local places for local children where appropriate. The proposed development was on a site with multiple previous issues.

Responding to questions, Mr DeMay confirmed that work had already commenced. The applicants believed it was appropriate to begin preparatory works and remove the existing asbestos garage and were unaware planning permission was required to do so. He was unable to provide further information regarding Public Rights of Way on the site.

Responding to questions to officers the Senior Planning Officer confirmed that the Public Right of Way had been consulted on and the due process had been followed, with no comments received from the Rights of Way officer. There was some uncertainty regarding the position of the Right of Way and whether it was within the site boundary. The Group Manager – Planning confirmed that an enforcement case had been registered and that this was currently on hold as efforts were undertaken to regularise the work already done.

It was **moved** by Councillor Statham, that the Committee vote in line with the officer's recommendations. Following further debate, Councillor Statham **withdrew his motion**.

It was **moved** by Councillor Bird and **seconded** by Councillor Nawaz and, upon being put to the vote, it was:

**Resolved** (Unanimously)

**The Planning Committee defer application 24/0201 to a future meeting of Planning Committee to enable additional information to be provided on the impact on the existing Public Right of Way and regarding the status of the enforcement case.**

**139 Plans List Item 3 – 24/0277 – 205 High Street**

Planning Committee considered the report of the Head of Planning and Building Control, including the additional information contained within the supplementary paper.

[annexed]

It was **moved** by Councillor Bird and **seconded** by Councillor Nawaz and, upon being put to the vote, it was:

**Resolved** (Unanimously)

**That Planning Committee delegate to the Head of Planning & Building Control to grant planning permission for application 24/0277, subject to conditions and a Section 111 legal agreement to secure the Cannock Chase Special Area of Conservation mitigation payment, and subject to the amendment and finalising of conditions.**

**Date of next meeting**

The date of the next meeting was 5 September 2024.

There being no further business, the meeting terminated at 10:34pm.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_



# Walsall Council

## PLANNING COMMITTEE

5 September 2024

### REPORT OF HEAD OF PLANNING & BUILDING CONTROL

#### Birmingham Local Plan preferred options document

#### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to agree Walsall Council's response to a consultation on the Birmingham Local Plan - preferred options document. The consultation ran from 8 July to 27 August 2024, so it has been necessary for officers to submit an initial response to meet that timeframe. However, this was on the basis that the council's response would follow, with that response being agreed at Planning Committee.

#### 2. RECOMMENDATION

- a) agree the wording set out in **appendix 1** as a basis for Walsall Council's response to the consultation from Birmingham City Council dated 8 July 2024 on their Preferred Options Document (regulation 18 stage).
- b) authorise the Executive Director for Economy, Environment & Communities to submit the council's full response to Birmingham City Council in consultation with the Associate Leader, Economic Growth and Regeneration, with delegated authority given to the Head of Planning and Building Control Services to make amendments to its contents as necessary.

#### 3. FINANCIAL IMPLICATIONS

None arising directly from this report.

#### **4. POLICY IMPLICATIONS**

- 4.1 This report summarises draft policies in the document that are of potential cross-boundary significance and could impact on the issues that will need to be addressed in the Walsall Borough Local Plan (WBLP).
- 4.2 Birmingham City Council previously consulted in 2022 on the issues and options version of their plan. A response to this was agreed by planning committee on 1 December 2022. The issues and options report identified that the city had a significant unmet housing and employment need that it was unable to accommodate in its own area. Given Walsall's own shortfall in land supply, we confirmed that Walsall was unable to contribute to meeting these needs.
- 4.3 The preferred options document advises that additional housing supply has now been found within the city. This has reduced the stated housing shortfall over the plan period from 78,415 to 46,153 homes. This lower figure however is still very large and exceeds the shortfall of 28,239 for the period 2020-2039 that was identified for the four Black Country authorities in the draft Black Country Plan. The additional housing supply has been achieved through a range of measures, most of which are similar to those being explored for the WBLP. These include increasing expected densities, identifying additional brownfield sites and making use of surplus open space.
- 4.4 However, the proposed housing target does not address the figures proposed in the revised standard method for calculating housing need which forms part of the current government consultation on the National Planning Policy Framework (NPPF). Although the requirement for most of the other authorities in the region including Walsall would increase, the annual requirement for Birmingham is proposed to reduce from 7,174 homes to 4,974. This would reduce the total requirement over the period 2022-2042 to 99,480 homes, which is less than the supply as at March 2023 of 103,027 homes. On this basis, there would no longer be any need for other authorities in the housing market area, including the Black Country authorities, to contribute to meeting the needs of Birmingham. Indeed, the city could make a contribution to meeting the housing needs of the Black Country.
- 4.5 The document confirms that there is sufficient land within the city to accommodate employment needs over the plan period without the need to consider further opportunities for industrial development in other local authority areas, other than an 'apportionment' of part of the land at the West Midlands Strategic Rail Freight Interchange in South Staffordshire.
- 4.5 The remainder of the preferred options document mainly comprises site allocations and development management policies that would not directly affect Walsall. Policies are proposed on protecting existing housing, to resist the conversion of 2- and 3-bedroom houses to flats or houses in multiple occupation, and to address large-scale shared accommodation. These policies, whilst supported, could have consequential effects if they result in developers switching to develop such accommodation in Walsall instead.

## **5. LEGAL IMPLICATIONS**

- 5.1 The consultation is being carried out under the 2012 local planning regulations. These are likely to be replaced as part of a new system for preparing local plans to be introduced under the Levelling Up and Regeneration Act (LURA) 2023. The new government has advised that the new system is unlikely to be introduced until secondary legislation is in place in late 2025. In the meantime, local plans should continue to be prepared under the 2012 regulations. However, the current NPPF consultation advises that plans which are currently in preparation such as Birmingham's should address the proposed revised housing targets.

## **6. EQUAL OPPORTUNITY IMPLICATIONS**

- 6.1 The Birmingham Local Plan will be required to ensure the needs of all sections of the community are met.

## **7. ENVIRONMENTAL IMPACT**

- 7.1 The Birmingham Local Plan is accompanied by a sustainability appraisal and habitat regulations assessment which will be updated as the plan is progressed.

## **8. WARD(S) AFFECTED**

- 8.1 All.

## **9. CONSULTEES**

- 9.1 Officers in Planning and Building Control and in Legal services have been consulted in the preparation of this report.

## **10. CONTACT OFFICER**

Neville Ball – Principal Planning Officer

[neville.ball@walsall.gov.uk](mailto:neville.ball@walsall.gov.uk)

## **11. BACKGROUND PAPERS**

All published.

Documents about the Birmingham Local Plan can be viewed at <https://www.birmingham.gov.uk/birminghamplan>

## **Appendix 1**

***Response from Walsall Council to Birmingham City Council on the Local Plan Preferred Options Document consultation*** Thank you for your email dated 8 July 2024.

This response represents Walsall Council's response on the consultation, and, in the main, confirms, the officer response to the preferred options document which was sent on 27 August 2024 within the consultation period.

This response below has been authorised in accordance with Walsall's scheme of delegation by the planning committee, with the final wording agreed by the executive director.

Walsall Council consider that there is a discrepancy between the version of the document on the consultation portal and the pdf version. Paragraphs in the former are numbered whereas they are unnumbered in the latter. Paragraphs 2.17 (climate change) to 2.29 (what you told us) on the portal appear to be missing from the pdf. Vision and objectives are in chapter 3 of the pdf whereas they form paragraphs 2.30 to 2.36 on the portal. The numbering of subsequent chapters differs, beginning with Planning for Growth which is chapter 3 on the portal and chapter 4 in the pdf. The comments below are based on the paragraph and chapter numbers in the portal version.

Paragraph 3.5. Walsall welcome the additional housing supply identified in the latest HELAA. However, the stated housing need figure is based on that calculated in accordance with the current standard method. The revised standard method, details of which were published for consultation by the government on 30 July, would considerably reduce the annual housing need for Birmingham, to the extent that the supply identified by the HELAA would be sufficient to meet the city's needs over the period to 2042 with some surplus. Walsall ask if consideration can be given, under duty to co-operate, to that surplus being used to contribute to the needs of neighbouring local authorities, particularly those in the Black Country.

Paragraph 3.10, and policy HN4. This policy could be clarified to confirm the minimum site size that it will apply to (we would suggest developments of 10 or more dwellings) and whether it refers to the net density, excluding main roads, open space and services within the development.

Paragraphs 3.22 and 3.23, and policy EC1. This policy could be clarified to confirm if the target of 296 hectare refers to new build on land not previously used for industry, or whether it includes 'churn' comprising the redevelopment of existing industrial land.

The reference in paragraph 3.22 to 53 hectares of land available in South Staffordshire does not appear to correspond with evidence published by South Staffordshire to support their local plan. The Stantec SRFI apportionment study indicated that 67ha of the land at WMI could be apportioned to the Birmingham FEMA, but only 37ha of this could be apportioned to the city itself. Other employment land in South Staffordshire,

apart from that to meet local needs, is likely to be required to meet the needs of the Black Country.

Policies EC2 and EC3 to protect existing industrial land are welcome. The policies should be clarified that this protection does not include existing industrial land that is allocated for housing.

The note in paragraph 3.51 to confirm that the terms 'employment land' and 'employment need' now refer only to uses in classes B2 and B8 is sensible in view of the change to the Use Classes Order. However, it is unclear how land that is used for the former class B1 (now E(g)(i)/(ii)/(III)) is to be treated in the plan, including proposals for new developments that fall within this sub-class that may not be main town centre uses.

Walsall have no comments on most of the other draft policies as they mainly relate to site allocations or development management issues. However, we would like to comment as follows:

Policy HN2: We note that the policy states that it will apply to changes of use, however it should be noted that vacant building credit (NPPF paragraph 65) will reduce its effectiveness with respect to such developments.

Policy HN3: This policy should only apply to sites above a minimum size threshold, in line with the policies on affordable housing and density.

Policy HN8: We note that this policy is aimed at developments of at least 50 units, however we wonder if it might be appropriate to also apply it to proposals for large houses in multiple occupation, i.e. those for seven or more residents that are defined as sui generis.

Walsall look forward to further engagement with your council especially under duty to cooperate/alignment test protocols as we progress our respective local plans.

Yours sincerely

**Dave Brown**

**Executive Director, Economy, Environment and Communities**





## Development Management Planning Committee

Report of Head of Planning and Building Control on 05/09/2024

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## Planning Committee 05 Sep 2024

### Plans List Item 1

Report of Head of Planning and Building Control

### Reason for reporting to the planning committee.

1. The application was called before planning committee by Councillor Andrew who objects to the proposal on the following grounds:

- Increased traffic in the area over and above that which the existing road network could cope with detrimental to highway safety.
- Detrimental to the character and visual amenities of the area due to poor design.
- Inappropriate development in the green belt detrimental to the openness of the area.
- Detrimental to the character and setting of a listed building/conservation area.

2. This report seeks to establish how planning committee would have pursued the determination of this major application following the notification of an appeal for non-determination. The appeal will be heard at a public inquiry starting on 5 November 2024.

### Application details.

**Application reference:** 23/1286

**Site location:** FIELD ADJACENT THE DUCKERY, CHAPEL LANE, GREAT BARR

**Application proposal:** Construction of a temporary 49.35MW battery storage facility to include 44 energy storage container units, associated controls, PCS inverters, cooling and fire safety system, 11 Transformer feeder pillars, two substations and compound, new access off Chapel Lane, dedicated access track with 3 no. track routes, 15 m high comms tower, DNO control room, security fencing enclosing the site and site security system, 22 PCS containers, and high voltage switchgear and intake substation. Intended lifespan of 40 years.

**Application type:** Full Application: Major Use Class Sui Generis

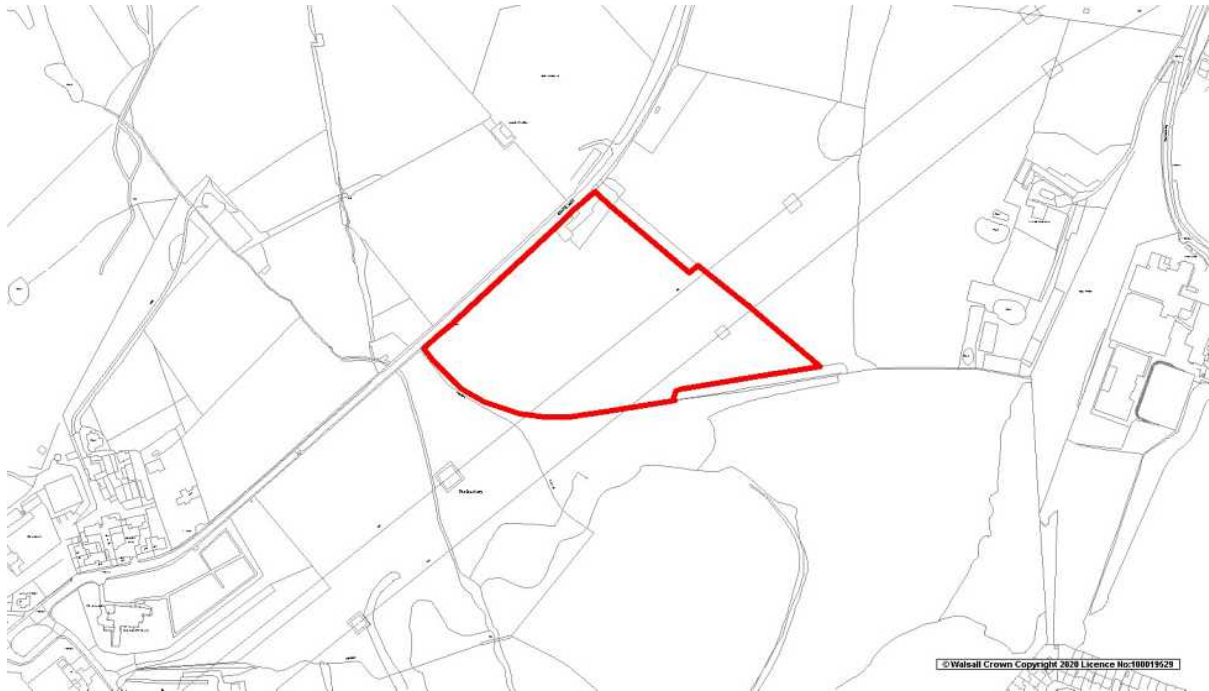
**Link to application documents:** <https://go.walsall.gov.uk/planningapps?id=23/1286>

**Applicant:** C/o Agent, Anesco Ltd Anesco Ltd, The Green, Easter Park, Reading, RG7 2PQ

**Planning agent:** Nick Pleasant, Stantec Stantec, Floor 4, Q2 Whitehall Quay, Leeds, LS1 4HR

**Ward:** Pheasey Park Farm

## Red line location



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## Recommendation

The officer recommendation is to resolve that the Council would have refused permission and resists the appeal.

## Proposal

This planning application is a re-submission following a previous refusal of planning permission by planning committee on 22/06/23 for a battery energy storage system (BESS), planning reference no. 21/1720.

The current proposal is for the construction of a temporary 49.35MW maximum export capacity battery storage facility to include 44 energy storage container units, associated controls, PCS inverters, cooling and fire safety system, 11 Transformer feeder pillars, two substations and compound, new access off Chapel Lane, dedicated access track with 3 no. track routes, 15 metre high comms tower, DNO (District Network Operator) control room, security fencing enclosing the Site and site security system, 22 PCS (power conversion system) containers, and high voltage

switchgear and intake substation. The intended lifespan of the proposed development is 40 years.

In terms of the need for an Environmental Impact Assessment (EIA) The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. This would be a Schedule 2 development but, having assessed this against Schedule 3, it was considered that this would not be an EIA development as determined in October 2021.

The current application differs from the previous application in that –

- Red line has been extended to include a parcel of land to the east and southeast of the site increasing site area from 2.07ha to 3.185ha
- Different Internal Track layout
- 44 Sungrow Battery Units (Green finish)
- 22 PCS Containers
- 15m High Comms Tower
- Additional Acoustic Fencing
- CCTV
- Different compound positions and layout

Same details as previous application

- BESS Control Room
- Sub Station Control Room
- Switch Room
- DNO Control Room
- Transformers (Grey Finish)
- New Access from Chapel Lane

The planning statement states that BESS provides a way to capture the unreliable sources of renewable energy from sources such as solar, tidal and wind for release at times of peak demand when renewable energy sources are not at their most productive. The BESS does not in itself produce renewable energy. The applicants develop, construct, and operate large scale battery assets.

The submission states that the proposed facility will store electrical energy and release it to the National Grid when required. At the end of its operational life, the submission states that the infrastructure will be removed from the Site and the field returned to its previous condition. No remediation details have been provided.

The application states that unlike coal or gas power stations BESS generators can discharge energy immediately when required by National Grid and provides an extremely powerful grid balancing tool to meet changing demand. The submission states that BESS can only be located where there is a grid connection.

The planning statement details the locational requirements that are necessary to ensure that BESS can be deployed and operated effectively, and the applicants consider that the Site meets the locational requirements for a BESS development and that there are no suitable alternative sites.

The previous planning application was for a smaller site area with a different site layout with positioning of the BESS compounds further back into the Site at 41

metres, a different equipment installation, configuration, and revised internal access routes to the three compounds. The proposed Site area has increased from 2.07ha to 3.185ha from the first planning application.

This total number of energy storage container units would be 44 which is an increase of 16 units from the previous application. The proposed battery units would be inset 3 metres from the edge of the compound boundary. The BESS system consists of multiple rows of cabinets containing lithium-ion phosphate batteries.

The submission states that the total installed capacity would be 55MW/111MWh with a maximum export capacity of 49.35MW and the DNO would permit a connection into the 132kV underground cable which feeds into the Bustleholm substation in Sandwell. A direct cable route will link the Site to the point of connection however the location of the proposed point of connection is not identified on the plans.

The proposal includes 3 no. compound areas including. The proposed three compounds would be set back 31 metres from the Chapel Lane

The application proposals indicate the main elements of the scheme as follows:

- A single point of vehicular access from the west side of the Site taking an access road from Chapel Lane across the current field before it splits into three to service the main battery yard, the customer's sub-station (up to a height of 2.9m). and the DNO sub-station( up to a height of 3.5m)
- 44 energy storage container units containing the batteries, associated control equipment, PCS inverters, cooling system, and fire safety equipment.
- 11 Transformers.
- A single 132kV substation compound, with a DNO substation (up to a height of 3.5m) and customer substation (up to a height of 2.9m).
- A dedicated access track and security fencing enclosing the Site.
- 22 PCS containers installed at the end of the battery blocks. Each PCS container is typically 2.4m wide, 6.06m long and 2.9m high.
- High Voltage (HV) switchgear is required to accumulate all the HV cables from the transformers before connecting to the grid network.
- An intake substation required by the Distribution Network Provider; to protect the grid should a fault occur within the BESS.
- A Security system is required to prevent unauthorised access into the battery storage system and protect the equipment. This will consist of 2.4m high palisade fence which is a requirement by the DNO to ensure the adequate security of the storage system.
- Either CCTV cameras or detectors mounted on 4 metres high poles, or a security beam detection system will be installed around the fence perimeter. The security beams will be approximately 1.2m off the ground and will employ laser technology and no artificial lighting will be required.
- Landscaping and biodiversity enhancement
- Set to the south side of the battery yard are the two sub-stations required to draw down the supply current from the National Grid;
- The smaller of the two is the Customer sub-station, the larger the DNO sub-station which is set closest to the south of the field and the Great Barr Hall RP&G;
- To the west of the DNO sub-station is a further small building / large kiosk that is the DNO sub-station control room and a 15m high communications tower



presumably for telemetry equipment to allow the BESS to be controlled and monitored remotely;

- In addition, there is a considerable amount of fencing with each of the three principle parts (battery yard, customer sub-station and DNO sub-station) fenced in with ;
- Also apparently fenced in is the communication tower although the site plan shows this outside the proposed fencing;
- The fence types are varied with a 2.8m high acoustic barrier set also the way around the battery yard, presumably to mitigate the sound of switchgear and buzzing that emanates from that part of the BESS;
- Set at a distance of 1.5m is a shown a deer fence running around the battery yard which is labelled in the key as a security fence;

A proposed 15 metres high communications tower would have a width of 1.7 metres at the base narrowing to 0.7 metres wide at the top with two antennae at the top. The purpose of the tower has not been clarified and the positioning of the tower on the Site is ambiguous as it is shown both behind and in front of proposed fencing. This may be permitted development however no details of who would install this proposal has been provided.

The DNO substation would export electricity to the national grid. This substation provides a grid connection, regulates voltage and ensures that the BESS operates within the safety and technical standards required by the grid, energy management to balance the energy flow and enabling BESS to participate in various grid services. The substation provides the link between the energy storage system and the point of connection.

The proposed 22 blocks of battery cabinets would be located at the end of each row. Each row is 1.71 metres wide by 2.59 metres high by 9.33 metres long. Each component would be coloured white/grey.

The 22 no. PCS cabinets would be situated next to each transformer to convert the electrical current within each block. Each transformer and PCS cabinet would be 6.06 metres in length, 2.44 metres in width and 2.90 metres high. These cabinets would have a silver finish.

The customer substation would measure 3.16 metres high and would contain electrical switchgear used to control, protect and isolate electrical equipment of the proposed BESS. This would be finished colour green.

The Energy Storage Materials document dated 1/9/23 refers to palisade galvanised steel fencing around the substation. The palisade fencing detail on drawing no. C0002457\_06 Rev. B states that the typical height would be 2 metres high however alternative heights of 1.8 and 2.5 metres has been included in brackets.

The proposal states that site fencing would include an approx. 2.1 m high security fence (deer fence) around the battery compound with an inner fence with a 2.8 metres high inner acoustic barrier. Drawing no. C000245709 Rev. A provides typical acoustic fence details at 2.8 metres high. A small section of 2 metres high V mesh security fencing is proposed around the transformer finished in colour green.

Access to the Site would be provided via the creation of a vehicular access off Chapel Lane. The proposed access road would sub-divide into three leading to the

compounds. There is a discrepancy on the Site Layout Plan which shows a straight agricultural access, and the Visibility Splay plans which shows a splayed access.

No details of hard surfacing on the Site have been provided other than reference to an impermeable area of 0.113ha within the Flood Risk Assessment. No details of whether the battery units would sit on bases and any additional height increase from this has been included.

The submission includes the following supporting documents,

- Alternative Site Assessment (ASA)
- Arboricultural Report
- Design and Access Statement
- Ecological Impact Assessment
- Energy Storage Materials
- Fire Safety Strategy
- Flood Risk Assessment
- Historic Environment Desk Based Assessment
- Landscape and Visual Impact Assessment
- Noise Impact Assessment
- Planning Statement
- Soils and Agricultural Report
- Traffic Management Plan
- Transport Statement
- Tree Report

## Site and surroundings

The Site occupies 3.185 hectares of land to located on the southern side of Chapel Lane. The site is used for horse grazing, it is grassed over and has a gentle slope that runs northeast to the southwest of the site. The site sits level with Chapel Lane adjacent the Duckery and rises towards the stables, and where the new access is proposed, the site is approximately 0.7m higher than Chapel Lane.

The Site is located within designated Green Belt and the surrounding area is largely rural in character. The Site is roughly triangular narrowing to a point in a south easterly direction.

The Site comprises an open field with the boundary to Chapel Lane with the boundary defined by a post and wire fence in a poor state of repair. The northern site boundary consists of a wire fence. Trees and a close board fence form the eastern boundary of the site. A gravel board fence forms the southern boundary of the site.

In the corner of the site there is a single storey stable block. The stable block is screened by trees which front Chapel Lane, but visible further along Chapel Lane through the gaps in the boundary vegetation fronting the site along Chapel Lane. The site is accessed by two gated access points, one access located near the stable block and a vehicular access located adjacent the Duckery. The vehicular access adjacent the Duckery is level with the highway.

The site sits within Great Barr Conservation Area, a designated heritage asset. Within the conservation area there are designated and non-designated heritage assets. To the southeast and southwest of the application site is Grade II Great Barr Hall Registered Park and Garden (RP&G), an 18th century park associated with a country house, Great Barr Hall, and Chapel, Grade II Listed. The Hall stands central alongside the east boundary of the RP&G.

The application site adjoins an area of woodland to the southwest, known as The Duckery. The Duckery to the south and south-west of the Site is a Site of Importance to Nature Conservation (SINC). The tree belt to the south and outside the Site which is subject to a group Tree Preservation Order (TPO reference 19/1995). The Holbrook stream (formally known as Hall Brook) runs adjacent to the Site.

Beyond the Duckery is the Church of St Margaret, Grade II Listed. To the northeast of the site, beyond the application site is Old Hall Farm. Old Hall Farmhouse is Grade II Listed and Barn approximately 20 metres north of Old Hall Farmhouse is Grade II Listed, to the south of these buildings are modern farm buildings belonging to Old Hall Farm. To the east and southeast of the listed farmhouse and listed barn and modern farm buildings is Barr Beacon School. Residential properties sit to the south of the school. Open fields and Great Barr Golf Club sit to the west of the site, the surrounding land is countryside and agricultural land. Bronze cricket club and the countryside sit to the north of the application site.

There are views into the site from Chapel Lane through and over the gated vehicular access adjacent the Duckery, over and through the post and wire and timber fence along Chapel Lane, from the gaps in the boundary hedgerow and in between the boundary hedgerow along Chapel Lane and vegetation that fronts Chapel Lane. Views towards the site are obtainable from the field to the north of the site, from the public footpath that crosses the field to the north of the application site and from the public footpath along Pinfold Lane, Beacon Way.

Chapel Lane is an unclassified road, which would provide access to the proposed development. Chapel Lane runs from Pinfold Lane Walsall in a south westerly direction to the Walsall Borough boundary and continues into Sandwell Borough. Chapel Lane is subject to a 30 miles per hour speed limit.

Crossing the Site in a north-eastern to south-western direction are overhead electricity power lines and a National Grid suspension tower within the field to the east of the Site.

Definitive Public Footpath Ald43 runs to the northern boundary of the Site.

The site is covered by an article 4 direction, which prevents development under parts 1 (classes A, B, C, D, E), 2 (class A and B) and 6 (class A) of schedule 2 of the General Development Order 2015 (as amended). Part 2, class A, prevents the erection, construction, alteration or demolition of any fences, walls, gates, or other means of enclosure without the benefit of planning permission and class B, prevents the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road.

The Site is within a Coal Development Low Risk Area and Flood Zone 1 and to the south-west and south of the Site (outside the application site boundary) are Flood Zones 2 and 3.

## Relevant planning history

1. 21/1720 – Construction of a temporary 49.35MW battery storage facility to include 28 energy storage container units, associated controls, PCS inverters, cooling and fire safety system, 14 Transformer feeder pillars, two substations and compound, each with an open-air transformer, dedicated access track, security fencing enclosing the Site, 14 low voltage cabins each with an open-air transformer and high voltage switchgear. Intended lifespan of 40 years – refused planning permission on 13/12/22 following determination by planning committee on 01/12/22 on the following grounds:

*1. The proposal would represent inappropriate development in the Green Belt, which is by definition harmful to the Green Belt and there are no very special circumstances which would outweigh the harm by reason of inappropriateness. The application is therefore contrary to Saved Policies GP2 (Environmental Protection), ENV6 (Protection and Encouragement of Agriculture) and ENV7 (Countryside Character) of the Walsall Unitary Development Plan, Policy CSP2 (Development Outside the Growth Network) of the Black Country Core Strategy and Policy GB1 (Green Belt and the Control of Development in the Green Belt) of the Walsall Site Allocation Document.*

*2. The proposal would fail to enhance and preserve the character and appearance of the Great Barr Conservation Area and heritage assets in the areas, resulting in less than substantial harm to the heritage asset, with the scale of harm not being outweighed by the overall public benefits of the proposal. The application is therefore contrary to Saved Policy EN32 (Design and Development Proposals) of the Walsall Unitary Development Plan, Policies CSP4 (Place-Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) of the Black Country Core Strategy and Policy EN5 (Development in Conservation Areas) of the Walsall Site Allocation Document.*

*3. The proposal would be unduly detrimental to the character of the area due to the introduction of metal cabins and associated equipment which would be an industrial feature creating an industrial estate type character within the Green Belt and Conservation Area. The application is therefore contrary to Saved Policy EN32 (Design and Development Proposals) of the Walsall Unitary Development Plan, Policies CSP4 (Place-Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) of the Black Country Core Strategy and Policy EN5 (Development in Conservation Areas) of the Walsall Site Allocation Document.*

*4. Perceived impacts on highways safety arising from an increase in large delivery vehicle movements along Chapel Lane, notwithstanding an existing 7.5t Environmental Weight Limit, over the course of a 30 week construction period contrary to Policy T4 (Highway Network) of the Site Allocation Document, TRAN2 (Managing Transport Impacts of New Development) of the Black Country Core Strategy and NPPF Paragraphs 110 and 111 (Highways Safety).*

The previous decision was referred to planning committee on 22 June 2023 seeking approval for an exchange of wording to refusal reason no. 3 and the withdrawal of refusal reason no. 4.

The wording of refusal no.3 was altered to the following, *'fails to properly take account of the context or surroundings.'* In replacement of *creating an industrial estate type character*.

The proposed wording amendment and removal of refusal reason no. 4 were approved unanimously by planning committee.

2. A planning appeal was submitted following this refusal of permission and was subsequently withdrawn in July 2023. The reference number for this previous appeal was APP/V4630/W/23/3319000.
3. 21/1288 – Environmental Impact Assessment (EIA) Screening Opinion for a proposed BESS (Battery Energy Storage System) – EIA not required 22/10/21.

## Relevant Policies

### 1. 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". The NPPF is a material consideration in the determination of a planning application.

Key provisions of the NPPF relevant in this case:

- NPPF 2 – Achieving sustainable development
- NPPF 4 – Decision Making
- NPPF 6 – Building a strong, competitive economy
- NPPF 8 – Promoting healthy and safe communities
- NPPF 11 – Making effective use of land
- NPPF 12 – Achieving well-designed places
- NPPF 13 – Protecting Green Belt land
- NPPF 14 – Meeting the challenge of climate change, flooding and coastal change
- NPPF 15 – Conserving and enhancing the natural environment
- NPPF 16 – Conserving and enhancing the historic environment

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.

## 2. 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

## 3. Human rights and reducing inequalities

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

## 4. Walsall Council Development Plan

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

Saved Policies of Walsall Unitary Development Plan

- 3.2 to 3.5 The Countryside and Green Belt
- 3.6 to 3.8 Environmental Improvement
- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- ENV6: Protection and Encouragement of Agriculture
- ENV7: Countryside Character
- ENV10: Pollution
- ENV13: Development Near Power Lines, Substations and Transformers
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV25: Archaeology
- ENV27: Buildings of Historic or Architectural Interest

- ENV30: Registered Parks and Gardens
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV38: Telecommunications Equipment
- T13: Parking Provision for Cars, Cycles and Taxis

#### Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy

#### Walsall Site Allocation Document 2019

- GB1: Green Belt Boundary and Control of Development in the Green Belt
- EN1: Natural Environment Protection, Management and Enhancement
- EN5: Development in Conservation Areas
- EN7: Great Barr Hall and Estate and St Margaret's Hospital
- T4: The Highway Network

### 5. Supplementary Planning Documents

#### Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

#### Survey standards

- NE4 – Survey Standards

#### The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

#### Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

#### Designing Walsall

##### DW1 Sustainability

- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW9 High Quality Public Realm

#### Air Quality SPD

- Section 5 – Mitigation and Compensation:

- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

## 6. Conservation Area Appraisal and Management Plan (CAAMP)

Great Barr CAAMP (Draft)

## 7. Historic England Guidance

- Advice Note 1: Conservation Areas: Designation, Appraisal and Review (Second Edition) (February 2019)
- Good Practice Advice Note 2: Managing Significance in Decision-Taking in the Historic Environment (2015)
- Good Practice Advice Note 3: The Setting of Heritage Assets (2017)
- Advice Note 12: Statements of Heritage Significance: Analysing Significance in Heritage Assets (2019)

# Consultee comments (planning officer's summary)

## 1. Archaeology

No archaeological implications.

## 2. Birmingham and Black Country Wildlife Trust

Objects on ecological grounds.

## 3. Building Control

No objections.

## 4. Cadent Gas

No objections as no national gas assets affected in this area.

## 5. Community Protection

No response received to consultation.

## 6. Conservation Officer (Heritage)

Objects on the grounds that the proposal would be harmful to the significance of Great Barr Hall Registered Park and Garden, Old Hall Farmhouse, and the Barn approximately 20 metres north of Old Hall Farmhouse and the Church of St Margaret. It would introduce incongruous modern alien industrial dominant features into their setting, that are utilitarian in appearance, into the rural agricultural and historical landscape, that would be visually dominant and detrimental, and which would alter the rural character of the site effecting the way in which we experience and appreciate these heritage assets thereby causing less than substantial harm. Furthermore, the development would tower above existing boundary treatments and would be seen as modern alien industrial dominant features from views from within the conservation area, failing to enhance and preserve the character and appearance of Great Barr Conservation Area, thereby causing less than substantial harm.



7. Ecology  
Objects on the grounds that contaminated surface water runoff and ground water would have a detrimental impact on the Duckery SINC, Holbrook Stream (formally known as Hall Brook) and protected species White Clawed Crayfish.
8. Environment Agency (EA)  
No bespoke comments received however they refer to their BESS Guidance Note for Developers and Local Planning Authorities. This general guidance note refers to the risk of flooding, pollution risks to surface water and ground water and management of end-of-life batteries.
9. Environmental Health  
No response received to consultation.
10. Environmental Protection (EP)  
Objection raised that the application requires further work to address containment of firefighting water in the event of a fire and protection in line with Environment Agency BESS Guidance dated July 2024 and noise concerns.
11. Healthy Spaces  
No response received to consultation.
12. Historic England  
No objections and advise that the views of the council's specialist conservation and archaeological advisers is sought.
13. Landscape  
Objects on the grounds of harm to the landscape character.
14. Lead Local Flood Authority  
No objections subject to the inclusion of planning conditions in respect of surface water drainage design and the provision of an acceptable management plan.
15. Local Access Forum  
No objection on access grounds as the local rights of way (The Beacon Way, Ald42 and Ald43 footpaths will not be impacted upon however they object to the impact on the landscape, wildlife, Green Belt and risk of further development.
16. Local Highway Authority  
Objects however subject to drawing no. 2108013-06 Rev. A being accepted the LPA will withdraw the highways reason for refusal.
17. Natural England  
No objection as the proposed development would not have a significant adverse impact on statutorily protected nature conservation sites or landscapes. Further general advice on the consideration of protected species and other natural issues is available.
18. Police Designing Out Crime Officer  
No objections and recommend that the principles of Secured by Design Commercial are incorporated into the proposed development, if approved.
19. Public Health

No objections.

20. Public Rights of Way Officer

No objections and recommend the inclusion of an informative note for the applicant if the planning application is approved.

21. Sandwell Council (Highways Team)

No objections.

22. Sandwell Council (Policy Team)

No objection although note the proposal is contrary to green belt policy.

23. Severn Trent Water

No response received to consultation.

24. Staffordshire Gardens and Parks Trust

Objects on the grounds that this proposal will cause harm to the significance of Great Barr Conservation Area and to the Registered Park and Garden.

25. Strategic Planning Policy

Objects on the grounds that the proposal fails to accord with Green Belt policy, lack of very special circumstances, proximity of development near power lines for uses other than industry or warehousing, impact of telecom mast, the proposal not being for renewable energy generation and flawed approach to the alternative sites assessment.

26. Tree Preservation Officer

No arboricultural objections.

27. Waste Management

No response received to consultation.

28. West Midlands Fire Service

No objections subject to meeting the functional requirements stated within B5: Access and facilities for the fire service of Approved Document B Volume 2: Building other than dwellings, 2019 edition incorporating 2020 and 2022 amendments – for use in England. These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

29. Western Power

No objections provided the relevant statutory clearances are maintained as shown on their profile drawing are maintained and our guidance information is always followed. They have advised that additionally, the applicant will be required to agree an easement with NGET (National Grid Electricity Transmission) for the cable connection into their point of connection (Bustleholm Substation). An informative note can be included for the applicant if supported.

## **Neighbour and interested parties' comments (planning officer's summary)**

(The Local Planning Authority's comments are in *italics* and brackets)

The Rt Hon Valerie Vaz MP has objected to the proposal and considers that this second planning application fails to provide a response to the reasons for refusal given by the Council's Planning Committee in response to the first application and does not set out any 'very special circumstances' to overcome the harm to the Green Belt.

Two Sandwell Councillors have objected to the proposal as the Site is near to the border with Sandwell MBC and will have an impact on their residents in Great Barr on the following grounds:

- Impact on Green Belt
- 'Very Special Circumstances' required by the NPPF are not met
- Loss of Grade 1 to 3 agricultural land
- Inconsistent with conservation area policy
- Traffic impacts on Chapel Lane and surrounding Sandwell Street from volume of HGV construction traffic accessing the Site from the M6 Junction 7 via the A34

The former Mayor of the West Midlands objected to the proposal on the following grounds:

- Impact on Green Belt
- Impact on Great Barr Conservation Area
- Dissatisfied the application has changed significantly since the initial application
- Impacts on biodiversity and air quality
- Brownfield sites first

Beacon Action Group (non-political group of local people eager to protect and retain the special character of Great Barr Park [this description is taken from their website]) – Objection received on the grounds that this is Green Belt, an almost identical scheme to the previous refusal, historical connections, benefits the local community, visual appearance, within an article 4 Conservation Area, noise and light pollution as Barr Beacon is a UNESCO Geopark with a Dark Sky Discovery Status (2011), ecological concerns, impact on SLINC (Former St Margarets Hospital site) and SINC (The Duckery), heritage assets, high quality agricultural land, lifespan of 40 years not temporary and risk of further development, solar farm referred to in submission, highway safety and flood risk (*a UNESCO GEOpark designation in the Black Country is focused on the geology of the site rather than the sky although some GEOparks have night sky observation areas*).

Objections have been received from over 300 residents on the following grounds:

- Previous refusal reasons not addressed
- Disregard of the local community
- Increase in scale and is worse than the first application
- Impact on Green Belt
- Next to a UNESCO Geopark (*a UNESCO GEOpark designation in the Black Country is focused on the geology of the site rather than the sky although some GEOparks have night sky observation areas*).
- 40 years is not temporary
- Extensive repatriation to pastureland
- Risk of fire, toxic smoke, release of toxic compounds and explosion
- Contamination of land

- Contamination of water courses
- No biodiversity net gain calculations
- Little difference to previously refused application
- Impact on Article 4 Great Barr Conservation Area
- Impact on Area of Outstanding Natural Beauty (*the Site is not located with a designated AONB*)
- Visual harm to amenity
- Risk of flooding
- Impact on Listed buildings including the Church of St Margaret and Churchyard and Great Barr Registered Park and Garden
- Parking
- Highway safety
- Access for fire appliances and HGVs
- 7.5t weight limit of road
- Impact on local wildlife, protected species including bats and White Clawed Crayfish, flora and fauna, SINC and SLINC
- Impact on horses' health and well-being (*not a material planning consideration*)
- Very special circumstances required by NPPF not met
- Harmful to residents' leisure activities and mental health
- Unmanned site increases security and fire risks
- Noise
- Risk of precedence
- Risk of toxic gases being released
- Nascent technology with worrying lack of Government regulation
- Minimal information provided
- Industrial characteristics
- Unknown health risks (*no evidence has been provided to enable this to be assessed*)
- Move near to M6 where grid cables cross Sandwell Valley (*the Local Planning Authority is required to assess the planning application put before them*)
- Inconvenience during construction period and road closures
- More appropriate brownfield sites in the Black Country (*no details have been provided*)
- Loss of prime agricultural land grade 1 to 3a
- Risk of poor short-term decision if we want green development
- No Environmental Impact Assessment undertaken
- Fewer transformer feeder pillars providing less protection and control than the 1st application
- 16 more battery units than the 1st application
- Road access for delivery of equipment via a narrow country lane
- Object to the 15 metres high communication mast and control room
- Large scale fire in Sept. 2020 in Liverpool, 23 BESS fires in South Korea, 3 in Germany and a BESS explosion in Arizona. Over 50 explosive events found when researching from BESS systems
- Impact on house prices (*this is not a material planning consideration*)
- Proximity to a school
- Information leaflets provided to residents by the applicants initially showed a site with 6 no. container sized storage systems and the proposal is much larger
- Too close to local housing

- Residents fed up with the chaos, incompetence, division and non-delivery of the private sector
- Conflict with Article 2 of The Human Rights Act – The Right to Life by posing serious public health and safety risks to local communities(*the health and safety of local communities is addressed via local and national policy and addressed in detail in the assessment of impacts below*)
- Conflict with Article 1 of the Human Rights – Protection of Property – House property values, financial compensation and the continued enjoyment of residential property rights (*the Council's adopted policies consider impact on the amenity of the occupiers of the neighbouring properties in both visual appearance and amenity enjoyed in line with the aims of this legislation. Property values are not a material planning consideration*).
- Harm to residential amenity
- Potential for expansion a concern
- Impact on Barr Beacon which is promoted as a hub for leisure and recreation
- Risk of a perpetual reaction known as a thermal runaway event as a consequence of lithium-ion battery failure causing a release of hydrogen gas
- Chemical and nuclear plants are built away from communities
- Fire officers have no training to cover such an incident
- Battery storage process is a hazardous industrial process
- Making money at the community's expense
- Bustleholm BESS facility has opened and is 2.57km away
- Concern is for cost of cable to point of connection and no thought to the wrong place for development
- Alternative Sites document is desk bound, theoretical information rather than based on the knowledge of local people
- Most of the applicant's information is copy and pasting, some incorrectly
- Large areas of concrete affecting soil and farmland
- Fly tipping issues on Chapel Lane
- Low lying area prone to freezing and snow drifts
- Inadequate emergency water supply
- No specific fire code for BESS
- Bustleholm BESS planning permission has a lifespan of 30 years and was considered as a permanent development by Sandwell Council (*paragraph 5.3 of Sandwell Council's report to their planning committee dated 9/12/20 confirms that this interpretation is correct*).
- Bustleholm BESS is connect to the grid 1.6 miles from the new facility and this scheme may have more commercial justification than a logistical/infrastructure case.
- No on-site toilet facilities provided for staff (*the site would be unmanned once operational if approved*)
- Field is what is left from the original deer parks of Great Barr Hall
- Accessibility to site is unsuitable
- Loss of view from apartment (*there is no right to a private view in current planning legislation*).
- Impact on the local equine population using the Site for grazing and their owners who ride them in this area
- Viable alternative site offered by Sandwell Council and cost is not a material consideration (*the Local Planning Authority is required to assess the planning application put before them*)
- No evidence that alternative sites have been looked at within a 2km distance from the point of connection

- Destruction of valuable green space makes a mockery of any 'green' claims
- Residents have no funding, little time and no advisors to fight the scheme
- Alternative site at the Oldbury National Grid Station (*the Local Planning Authority is required to assess the planning application put before them*)

## Determining issues

1. Previous Refusal Reasons
2. Principle of Development
3. Green Belt Assessment
4. Heritage Assessment
5. Design and Character
6. Landscape Assessment
7. Agricultural Land
8. Alternative Sites
9. Amenity of Neighbours
10. Highways
11. Public Rights of Way
12. Ecology
13. Flood Risk / Drainage
14. Fire
15. Site Security
16. Trees / Protected Trees
17. Ground Conditions and Environment
18. Noise
19. NPPF Consultation 2024
20. Planning Balance

## Assessment of the proposal

### 1. Previous refusal reasons

#### Refusal Reason No. 1.

*The proposal would represent inappropriate development in the Green Belt, which is by definition harmful to the Green Belt and there are no very special circumstances which would outweigh the harm by reason of inappropriateness.*

The proposed enlargement of the Site along with the installation of additional plant and equipment is considered has not overcome refusal reason no. 1 as this current proposal represents a new scheme and the scale of the development has significantly increased. This is commented upon below in this report in greater detail under the committee report heading 3. Green Belt Assessment.

#### Refusal Reason No. 2.

*The proposal would fail to enhance and preserve the character and appearance of the Great Barr Conservation Area and heritage assets in the areas, resulting in less than substantial harm to the heritage asset, with the scale of harm not being outweighed by the overall public benefits of the proposal.*



The proposed enlargement of the Site along with the installation of additional plant and equipment represents a revised scheme with greater impacts over and above that of the previous proposal and it is considered that this current application has not overcome refusal reason no. 2. This is commented upon below in this report in greater detail under the committee report heading 4. Heritage Assessment.

### Refusal Reason No. 3.

*The proposal would be unduly detrimental to the character of the area due to the introduction of metal cabins and associated equipment which would be an industrial feature creating an industrial estate type character within the Green Belt and Conservation Area.*

The proposed enlargement of the Site along with the installation of the proposed additional equipment is a new element to the scheme and it is considered has not overcome refusal reason no. 3.

The wording was subsequently amended on recommendation to the planning committee, removing the words; ‘*creating an industrial estate type character*’ and replacing them with with ‘*fails to properly take account of the context or surroundings.*’ The replacement words better reflect council planning policy and are considered to better serve what planning committee were trying to achieve with their reason for refusal, whilst not introducing any new reason to the planning appeal. Planning committee agreed with this recommendation.

### Refusal Reason No. 4.

*Perceived impacts on highways safety arising from an increase in large delivery vehicle movements along Chapel Lane, notwithstanding an existing 7.5t Environmental Weight Limit, over the course of a 30 week construction period.*

As explained in the planning history section of this report in regard to refusal reason no. 4 the Local Highway Authority considered that the initial development proposed would not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and was acceptable in accordance with the (then) NPPF 2021 paragraph 111 (now Paragraph 115). The removal of refusal reason no. 4 was approved by planning committee prior to the Local Planning Authority submitting an appeal statement for the previous refused application (appeal reference no. APP/V4630/W/23/3319000).

## 2. Principle of development

This application proposes the erection of a Battery Energy Storage System (BESS) at agricultural land located within the Green Belt and within the Great Barr Conservation Area.

BCCS Policy ENV7: Renewable Energy states that proposals involving the development of renewable energy sources will be permitted where the proposal accords with local, regional and national guidance and would not significantly harm the natural, historic or built environment or have a significant adverse effect on the amenity of those living or working nearby, in terms of visual, noise, odour, air pollution or other effects.

As set out in paragraph 154 of the NPPF, new buildings in the Green Belt are inappropriate development. There are some exceptions to this, in paragraph 154 and 155, however these do not make account for the proposal. This is further expanded on in section 3. Green Belt Assessment below.

In addition, NPPF Paragraph 156 states that: When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

As the proposed BESS development is not being used directly in conjunction with a windfarm, solar farm or other renewable energy generation system, the LPA cannot consider it as a renewable energy source as there is no way to guarantee the origin of the power it is drawing from the national grid due to the variety of sites that generate power for the grid. The proposal would store an 'energy mix' rather than energy from sustainable energy renewables.

Saved UDP policy ENV13 states that development for uses other than industry or warehousing will not normally be permitted in close proximity to high voltage electricity transmission lines, substations or transformers.

As the proposed use is not for industry or warehousing it does not meet the requirements of this policy, which also requires the appropriate operational safe clearances to be met. The policy justification text sets out a required zone of separation of at least 50 metres from pylons and overhead cables. The Site is within the 50m zone of separation as the power lines run through the middle of it and the compounds for the battery storage units and substation are directly adjacent to the power lines. The proposal is therefore in breach of policy ENV13.

Battery Energy Storage Sites are considered inappropriate development in the Green Belt which is by definition harmful to the Green Belt and there are no very special circumstances which would outweigh the harm by reason of inappropriateness. This is further expanded upon in section 3 Green belt assessment below.

The application includes a 15 metre tall 132kv Substation Compound Comms Tower, and cabinets which would fall within the remit of saved UDP Policy ENV38: Telecommunications Equipment. These are large items of telecommunications equipment and as the Site is in a low-rise area with residential properties nearby which is also a Conservation Area and within the settings of a Registered Park and Garden and several Listed Buildings, large items of telecommunications equipment such as masts, towers or cabinets are not considered to be acceptable or line with UDP Saved Policy ENV38.

Based on these policies, the proposed amended development is not supported, and the planning application is recommended for refusal as it fails to meet BCCS policy ENV7 and saved UDP polices ENV13 and ENV38.

The proposal would be contrary to NPPF chapter 13, BCCS policies ENV7, SAD policy GB1 and UDP saved policies GP2, ENV6, ENV7, ENV13 and ENV38 as the development can only be permitted where very special circumstances exist.



### 3. Green Belt assessment

The Site sits within the Green Belt, designated to protect the area from encroachment from the surrounding urban areas and important for the protection against urban sprawl between the three neighbouring authorities of Walsall, Sandwell and Birmingham.

As set out in paragraph 154 of the NPPF, new buildings in the Green Belt are inappropriate development. There are some exceptions to this, in paragraph 154 and 155, however these do not make account for the proposal.

Site Allocation Document Policy GB1 states that inappropriate development, as defined in the NPPF, will not be supported in the Green Belt in Walsall unless 'very special circumstances' exist which clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm. The level of harm to the Green Belt will be explored in this section.

The proposal is considered would represent inappropriate development in the Green Belt, which is by definition harmful to the Green Belt. .

Additional support for this inappropriate development is supplied by the Green Belt Study produced as evidence for the Black Country Plan. This rated the area of Green Belt which the Site is located in (Parcel Ref B93 – East of Walsall) as providing a strong contribution to each of the following key purposes: check the unrestricted sprawl of large built up areas; prevent neighbouring towns (Walsall, Aldridge, Streetly (adjoining Sutton Coldfield), and Pheasey (adjoining Birmingham)) merging into one another; assist in safeguarding the countryside from encroachment; and assist urban regeneration by encouraging recycling of derelict and other urban land. It states that the "Land contains the characteristics of open countryside (i.e. an absence of built or otherwise urbanising uses in Green Belt terms) and does not have a stronger relationship with the urban area than with the wider countryside."

Stage 2 of the Green Belt study provided an assessment of the 'potential harm' of releasing land from the Green Belt. The impact of releasing the area containing the Site (Sub-parcel B93A – Great Barr Hall/ Golf Course) is rated as Very High Harm. This is because of its strong contribution to preventing urban sprawl by maintaining the separation of Walsall, Birmingham, Streetly (adjoining Sutton Coldfield) and Aldridge and preventing encroachment on the countryside.

Much of the south of the sub-parcel is occupied by heritage assets, nature conservation sites, and areas within Flood Zone 3, which are all deemed inappropriate for development. The application Site is located within the portion of the sub area described as: *the valley along the eastern edge of Great Barr Golf Course and the slopes up to Barr Beacon are distinctive landforms increasing distinction from the urban area, and so encroachment on these would weaken the Green Belt.*

Paragraph 156 of the NPPF states that when located in Green Belt, elements of many renewable projects will comprise inappropriate development. In addition, there is also considered likely to be an impact on the openness of the green belt by the addition of the proposed 15m tall 132kv Substation Compound Comms Tower and 2.8m acoustic fence.

The very special circumstances set out in the applicants Planning Statement includes a statement suggesting that *“The contribution the site can make to supporting more productive uses of brownfield land (for employment and housing development, for example), on the basis that if the BESS were located within the urban areas, it would prevent other uses for which there is significant development pressure.”* This is considered displays a lack of understanding of how the fifth purpose of the Green Belt set out in NPPF Paragraph 143 (e) “to assist in urban regeneration, by encouraging the recycling of derelict land and other urban land” is applied. The aim of this Green Belt purpose is to ensure that derelict and urban land is used instead of areas of land in the green belt, regardless of the type of development proposed.

In addition, NPPF Paragraph 156 states that: When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

Neither the application or the appeal documentation suggests that the proposal is a means of renewable energy generation, (other than a mention of a solar farm development in the Design and Access Statement which is believed to be an error) nor that it is proposed to store energy solely from renewable sources. The proposal is to connect the facility to the grid for the purposes of storing surplus energy generated from *any* energy source. It is not for the development of a renewable energy source nor would it be used directly in conjunction with a windfarm, solar farm or other renewable energy generation system, it cannot be considered to be a renewable energy source as there is no way to guarantee the origin of the power it is drawing from the national grid due to the variety of sites that generate power for the grid.

When determining an application for inappropriate development in the Green Belt (as here) it is material consider the impact on Green Belt openness. Openness is considered to be about freedom from built form and is an essential characteristic of the Green Belt. Openness has both a spatial and a visual dimension.

The proposed design of the BESS Site is considered would result in a significant change from an open field to an industrial style location. The proposal would introduce a range of industrial plant of purely functional appearance and purpose with fenced compounds to a rural area that is open in character with limited built form in the surrounding area.

In visual terms the loss of openness can be perceived from Chapel Lane and the Beacon Way with the solid acoustic fencing effectively ‘boxing -off’ a central portion of the field’s openness. The quantum of other material such as the battery storage units’ upper portions, the twin sub-stations and the 15 metres high comms mast will all add to the sense of development in the former open area. The range of fencing both solid and open will mark the field as developed and therefore fundamentally different to other open fields in the rural Green Belt. This contrast adds to the visual incongruity of the proposals in this location.

The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) which considers the openness of the Green Belt and states that the proposal will not give rise to a substantial increase in the extent of visible development in existing

views beyond the immediate western Site boundary and will not result in greater visibility of the Site within the local or wider context. The proposal documents state that it seeks to enhance existing landscape features where this is possible to provide enhanced screening and enclosure to the application Site overall. It is this screening and enclosure that create harm to the Green Belt in terms of impact on openness.

The proposed lifespan of the development of 40 years would be perceived as permanent rather than temporary, in which the harm to the Green Belt would persist.

The current enlarged BESS Site and proposed additional built form over and above that of the previous proposal are considered would be inappropriate development in the Green Belt and would harm the openness of the Green Belt. The spatial and visual effects when combined are considered would result in the loss of openness whilst the proposal would conflict with the Green Belt purpose by failing to check the unrestricted sprawl of large built-up areas and to assist in safeguarding the countryside from encroachment.

Further assessment in the report below will determine whether this harm to the Green Belt and any other harm outweighs any benefits of the scheme and concludes whether there are very special circumstances to justify the development in the Green Belt.

## 4. Heritage Assessment

### The Site and Surroundings

The application site is an open agricultural field, irregular in shape and located on the southern side of Chapel Lane. The site is used for horse grazing, it is grassed over and has a gentle slope that runs northeast to the southwest of the site. The site sits level with Chapel Lane adjacent the Duckery and rises towards the stables, and where the new access is proposed, the site is approximately 0.7m higher than Chapel Lane.

In the corner of the site there is a single storey stable block. The stable block is screened by trees which front Chapel Lane, but visible further along Chapel Lane through the gaps in the boundary vegetation fronting the site along Chapel Lane. The site is accessed by two gated access points, one access located near the stable block and a vehicular access located adjacent the Duckery. The vehicular access adjacent the Duckery is level with the highway. Electricity pylon sits within the northern part of the site and overhead lines cross the site. The site boundary along Chapel Lane consists of a low-level timber post and wire fence, hedgerow, and some trees. The northern site boundary consists of a wire fence. Trees and a close board fence from the eastern boundary of the site. A gravel board fence forms the southern boundary of the site.

The site sits within Great Barr Conservation Area (GBCA), a designated heritage asset. Within the conservation area there are designated and non-designated heritage assets. To the southeast and southwest of the application site is Grade II Great Barr Hall Registered Park and Garden (RP&G), an 18th century park associated with a country house, Great Barr Hall, and Chapel, Grade II Listed. The Hall stands central alongside the east boundary of the RP&G. The application site adjoins an area of woodland to the southwest, known as The Duckery. Beyond the Duckery is the Church of St Margaret, Grade II Listed. To the northeast of the site, beyond the application site is Old Hall Farm. Old Hall

Farmhouse is Grade II Listed and Barn approximately 20 metres north of Old Hall Farmhouse is Grade II Listed, to the south of these buildings are modern farm buildings belonging to Old Hall Farm. To the east and southeast of the listed farmhouse and listed barn and modern farm buildings is Barr Beacon School. Residential properties sit to the south of the school. Open fields and Great Barr Golf Club sit to the west of the site, the surrounding land is countryside and agricultural land. Bronze cricket club and the countryside sit to the north of the application site.

There are views into the site from Chapel Lane through and over the gated vehicular access adjacent the Duckery, over and through the post and wire and timber fence along Chapel Lane, from the gaps in the boundary hedgerow and in between the boundary hedgerow along Chapel Lane and vegetation that fronts Chapel Lane. Views towards the site are obtainable from the field to the north of the site, from the public footpath that crosses the field to the north of the application site and from the public footpath along Pinfold Lane, Beacon Way.

The site is covered by an article 4 direction, which prevents development under parts 1 (classes A, B, C, D, E), 2 (class A and B) and 6 (class A) of schedule 2 of the General Development Order 2015. Part 2, class A, prevents the erection, construction, alteration or demolition of any fences, walls, gates, or other means of enclosure without the benefit of planning permission and class B, prevents the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road.

#### Draft Great Barr Conservation Area Appraisal and Management Plan (CAAMP)

In August 2021, a draft Great Barr Conservation Area Appraisal and Management Plan (CAAMP) was produced by RPS Group PLC. The appraisal and subsequent management plan were prepared to provide a detailed assessment of the character and appearance, and special interest of the conservation area. This draft CAAMP was subject to public consultation, as result of this consultation, a further draft document has been produced by RPS Group PLC.

The CAAMP has split the whole of the GBCA into four sub character areas, the Historic Core of the Great Barr Hall Estate (Character Area A), Great Barr Golf Course (Character Area B), Barr Beacon (Character Area C), and Surrounding Countryside (Character Area D).

The application site sits within character area A, the Historic Core of the Great Barr Estate. Character area A is further subdivided into two-character areas, the Historic Core of the Great Barr Estate and Netherhall Park Housing Development. Character area A is further split into sub character areas, and the application site sits within the Chapel Lane and Pinfold Lane & Crook Lane and Old Hall Farm and its setting sub character areas.

#### History of Great Barr (extracted from the draft Great Barr CAAMP)

The medieval settlement at Great Barr is centred around Barr Chapel (where the Church of St Margaret now stands), Chapel Farm and additional farms associated with the Great Barr Estate. The history of the Great Barr Estate, the Chapel and Manor House can be traced back to 1257. The Chapel and Manor House formed part of the wider Great Barr Estate. The Great Barr Estate is the heart of Great Barr Conservation Area. The history of the conservation area is

shaped by the construction of Nether House, later known as Great Barr Hall by Richard Scott to the south of the original farmstead.

Great Barr has been historically associated with the Scott family since 1332. Within the parkland there is a moated site to the south of the church. A medieval Deer Park was established in 1335 for the Manor of Great Barr, today, much of the Deer Park has been lost, at Skip Lane there is a visible boundary, a small section of the Pale survives.

Richard Scott was the tenant of Old Hall in the mid seventeenth century and between 1641 to 1660 but Nether House Farm. The Scott family were the most important family in Great Barr from the middle of the seventeenth century to the end of the eighteenth century. After the death of Richard Scott, John Scott inherited Nether House. William Shenstone is associated to the works to the parkland (Great Barr Registered Park and Garden).

The Scott family are associated with the Manor House of Great Barr, it stood to the south of church. The Manor House was re-constructed by Sir Joseph Scott (1752-1828) shortly after being made a Baronet. In 1777 Nether House was renovated into the Gothic style (Strawberry Hill), marking one of the earliest examples of Gothic Revival architecture. Joseph Scott undertook landscape improvements to the parkland, including improvements to the Estate and Nether House, and despite financial issues “Joseph Scott persisted in investing in beautifying his landscape” (RPS, 2024). Paragraph 4.20 of the draft GB CAAMP references walks, and wooded areas planted within the parkland. It was Joseph Scott’s idea to create a parkland setting for Nether House (renamed Great Barr Hall). The Scott family rented out the Nether House in 1785 to Samuel Galton, who was a member of the Lunar Society and held Lunar Society meetings at Great Barr Hall.

Joseph Scott returned to the Hall in 1797, it was also the year that Merrion’s Wood became part of the Great Barr Estate. Joseph Scott commissioned Humphry Repton and John Nash to devise a designed landscape to the parkland. “The landscape design exhibits several Reptonian features, such as long approaches leading to Lodges, Lake and Cascade, picturesque gravel woodland walks, groups of trees in open parkland to draw they eye to a particular view, and belts at the park perimeter” (RPS, 2024). The works to the parkland also included the removal of field boundaries to create one large meadow, known as the Great Meadow. There are strategically placed trees in the parkland, which survive today. In 1798, alterations to the parkland included Sutton’s Drive and other routes.

Sir Edward Scott (MP for Lichfield) inherited Great Barr Hall and undertook further works to the gardens and Hall, and these works were influenced by Repton and Nash which included the creation of the upper lake gardens and the terrace. Sir Francis Scott inherited Great Barr Hall in 1851 and from 1851 to 1863 further additions to the Hall, Parkland and Estate were undertaken, including the chapel (Billiards Room) to designs of Sir George Gilbert Scott. Gilbert Scott is also credited with a number of other ancillary buildings such as the boat house. Lady Bateman-Scott resided at the Hall after the death of Sir Francis Scott. “The Great Barr Hall Estate passed through a number of tenants throughout the late nineteenth century and was last noted as a private residence under Lady Bateman-Scott in 1911” (RPS 2024). The Hall was used as a children’s home, and briefly, to house tuberculosis patients. It subsequently formed part of St



Margaret's Hospital from 1918. The Hospital closed in 1997, although the hall had been disused since the 1970s.

## Great Barr Hall

Great Barr Hall has fallen into a dilapidated state and was placed on Historic England's Buildings at Risk Register in 2008. It was downgraded from a Grade II\* to a Grade II listing in 2016. This led to the removal of the Listed Building from the Buildings at Risk Register. The surrounding Grade II Registered Park and Garden however remains on the Register.

## Historic Core

The historic core of the Great Barr Conservation Area which is the Great Barr Hall Estate encompasses the original boundary of the Conservation area and largely follows the later established Great Barr Hall Registered Park and Garden (NHLE ref: 1001202). It includes the core of the landscaped estate developed by the Scott family over the eighteenth century, Merrion's Wood, and two Archaeological Priority Areas (including the Site of Great Barr Medieval Settlement).

The area partially contains Chapel Lane, which was constructed by the Scott family in the late eighteenth century. The north of the area also contains the part of the locally designated Area of High Historic Landscape Value "Scattered Settlement at Over End," the remains of a linear settlement of farmsteads.

The two long lakes to the west of Great Barr Hall once formed an important part of the designed landscape and southern approach. These are fed by Holbrook stream which runs from the north and passes underneath Sutton's Approach Bridge. The first of these lakes was formed in 1744 and lies to the south and was purportedly fed by a cascade. The northern lake dates from 1799 at the time Repton and Nash were engaged to undertake works to the parkland.

An integral part of the planned landscape in all phases of its development was the lodges and entrance routes to Great Barr Hall. The 1790s saw the formalisation of the approach from the northwest, Sutton's Drive, and passed through Merrion's Wood, through the historic centre of Great Barr, and through the "Great Meadow" laid out by Repton and Nash. This route is the most legible today, and still maintains two of its gate lodges to Merrion's Wood and on Chapel Lane.

The core of the Conservation Area also contains a number of areas of mature woodland which were planned as part of the landscaped park of the eighteenth century. These include Merrion's Wood, High Wood, Holly Wood, The Duckery, and Gilberts Wood. The Duckery lies to the north part of the character area, and until the mid- nineteenth century was a large pond, surrounded by woodland.

There are a cluster of buildings around the junction of Sutton's Drive and Chapel Lane, those heritage assets being The Church of St Margaret, Former Agricultural Buildings of Chapel Farm, including Chapel Farmhouse, Avenue Lodge, built in 1856, and two storey residential buildings dating from the twentieth century. The buildings orientate themselves towards these routes, with the Church sitting in a more open plot as befits its character and status. The routes

are lined with mature hedges and trees; however, the buildings of Chapel Farm are constructed close to the road edge.

The area around Old Hall Farm lies to the north of character area. This element of the character area is bounded by Chapel Lane and Pinfold Lane, and includes the historic buildings of Old Hall Farm, thought to have been the original seat of the Scott family before Great Barr Hall was constructed to the south. This area comprises two Listed Buildings set within a wider agricultural landscape. The area is defined by farmland enclosed by Chapel Lane to the west, Pinfold Lane to the north, Old Hall Lane to the east and modern woodland to the south (between the historic woodland of The Duckery and High Wood). Chapel Lane runs to the west of this area. While this lane is bounded on both sides by mature hedgerows and trees, the topography does allow for views across the setting of Old Hall Farm to the east. The area around Pinfold Lane forms part of the Conservation Area and includes the dispersed linear settlement of farmsteads of the Pinfold, a Grade II Listed Building located on the north side of Pinfold Lane, and the historic farm buildings of Crook Farm (now known as Old Hall Court) on the corner of Pinfold Lane and Crook Lane. The built form is centred around the straight route of Pinfold Lane, which runs east to west and rises to a junction with Old Hall Lane.

The historic core of the Conservation Area contains a number of designated and non-designated heritage assets that make a strong positive contribution to the character and appearance of the Conservation Area through their special architectural and historic interest.

Great Barr Hall and Chapel are Grade II listed, for their architectural and historic interest and group value. Great Barr Hall with its surrounding landscape is registered at Grade II on Historic England's Register of Parks and Gardens of Special Historic Interest in England. Great Barr Hall Registered Park and Garden and related heritage assets within the parkland, form an integrated grouping which has special interest. The Duckery, until mid-nineteenth century was a large pond, surrounded by woodland. The pond was drained but the name has survived to the present day and Hall Brook (now known as Holbrook) runs through the Duckery and runs into the lakes within the parkland. The Church of St Maragret, Grade II listed, it was a chapel of ease to Aldridge, its design is early decoration with trefoil and quatrefoil detailing in the tracery. The medieval base of the church tower survives the church spire was added in the 1800s. Old Hall Farm was part of the wider Great Barr Estate. Old Hall Farmhouse is Grade II Listed, it is a timber framed and brick building of double plan. Old Hall Farmhouse Barn is Grade II Listed, it has remains of its original timber frame. Fields to the north, west and southwest of the farmhouse and barn formed part of the farmstead for Old Hall Farm.

### Background

Planning application 21/1720 for the construction of a temporary 49.35MW battery storage facility to include 28 energy storage container units, associated controls, PCS inverters, cooling, and fire safety system, 14 Transformer feeder pillars, two substations and compound, each with an open-air transformer, dedicated access track, security fencing enclosing the site, 14 low voltage cabins each with an open-air transformer and high voltage switchgear. Intended lifespan of 40 years was refused on 13-Dec-2022 for the following reasons:

2. The proposal would fail to enhance and preserve the character and appearance of the Great Barr Conservation Area and heritage assets in the areas, resulting in less than substantial harm to the heritage asset, with the scale of harm not being outweighed by the overall public benefits of the proposal.

3. The proposal would be unduly detrimental to the character of the area due to the introduction of metal cabins and associated equipment which would be an industrial feature creating an industrial estate type character within the Green Belt and Conservation Area.

### National Planning Policy Framework (NPPF)

Paragraph 195 states “Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations”.

Paragraph 196 states “Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account: a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation; b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring; c) the desirability of new development making a positive contribution to local character and distinctiveness; and d) opportunities to draw on the contribution made by the historic environment to the character of a place”.

Paragraph 197 states “When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest”.

Paragraph 200 states “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”.

Paragraph 201 states “Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset,



to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal".

Paragraph 203 states "In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness".

Paragraph 205 states "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

Paragraph 206 states "Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of: a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional; b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional".

Paragraph 207 states "Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply: a) the nature of the heritage asset prevents all reasonable uses of the site; and b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d) the harm or loss is outweighed by the benefit of bringing the site back into use".

Paragraph 208 states "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".

Paragraph 212 states "Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably".

Paragraph 213 states "Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 207 or less than substantial harm under paragraph 208,

as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole”.

The NPPF provides definitions of heritage assets, designated heritage assets, and setting.

### Planning Practice Guidance (PPG)

The Historic Environment section of the PPG provides further advice and guidance on the historic environment, in respect of plan making, decision making, designated heritage assets, non-designated heritage assets, heritage consent process, consultation and notification requirements and further information on heritage and planning issues.

### Development Plan Policy

Saved UDP Policy ENV27(a): Buildings of Historic or Architectural Interest states “Alteration, extension or any other form of development involving a listed building or its setting will only be permitted where it can be clearly demonstrated by the applicant that the internal and/or external appearance, character and value of the building, its curtilage and the contribution the building makes to the surrounding area in which it is situated are not adversely affected by the proposals”.

Saved UDP Policy ENV32: Design and Development Proposals states “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 but will be particularly significant in the following locations:- I. Within a Conservation Area. II. III. On a visually prominent site. VII. In the vicinity of a Listed Building, Building of Local Interest or Registered Parks and Gardens. (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:- I. The appearance of the proposed development. II. The height, proportion, scale, and mass of proposed buildings / structures. III. The materials proposed for buildings, external spaces and means of enclosure. IV. The integration and co-ordination of buildings and external space. V. Community safety and security. VI. The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood. VII. The effect on the local character of the area. VIII. The proposed vehicular and pedestrian circulation patterns. IX. The integration of existing natural and built features of value. X. The maintenance requirements of the development”.

UDP Policy ENV30: Registered Parks and Gardens states “the Council will seek to protect the Borough’s registered parks and gardens from the effects of inappropriate built development and insensitive alteration. The special character and features contained within the park or garden will be considered when assessing development proposals, with particular reference to the area’s origin, design, history, landscape, flora, fauna, management and environmental quality”.

Saved UDP Policy ENV38(a): Telecommunications Equipment states “Large items of telecommunications equipment - e.g., masts, dishes, antennae and cabins - can have a significant detrimental impact on the visual amenity of an area. They are therefore unlikely to be acceptable:- I. In Conservation Areas. II. Within the curtilage or affecting the setting of a Listed Building, Ancient

Monument or Historic Park or Garden. III. In low-rise residential areas. IV. In other visually sensitive locations”.

Policy ENV2: Historic Character and Local Distinctiveness of the Black Country Core Strategy 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”.

Policy EN5: Development in Conservation Areas of the Site Allocation Document states

“a) The Council will seek to ensure that development preserves or enhances the significance of conservation areas, including their setting, character and appearance, in terms of the requirements set out in national guidance, and will encourage sustainable new development opportunities that enhance or better reveal this significance in line with the NPPF. Consideration will also be given to the following:

- i. The degree of harm, loss of or alteration to buildings, structures or features that make a positive contribution to the character and significance of the conservation area.
- ii. The impact of any new, extended or altered buildings, structures or features on the heritage assets, special townscape and landscape features within the conservation area.
- iii. The scale, massing, siting, layout, design or choice of materials used in any new or altered building, structure or feature.
- iv. The nature of any proposed use and the likely provision of parking, infrastructure, utilities and other paraphernalia, and the anticipated levels of traffic and other activities that would result.

b) Where a building, structure or feature makes a positive contribution to the significance of a conservation area or its setting, the Council will not grant planning permission for demolition unless the following criteria are met:

- i. it can be demonstrated that the substantial harm or loss of significance caused by the demolition is necessary to achieve substantial public benefits that outweigh that harm or loss;
- ii. all reasonable alternatives that would avoid harmful adverse impacts have been fully explored and are not feasible or viable;
- iii. the proposed development is of high quality and designed to reinforce and enhance local character and distinctiveness;
- iv. all options to secure the future of the asset have been fully explored, including grant funding and disposal to a charitable organisation or community group; and
- v. a mitigation strategy has been prepared to minimise harm and provide for an appropriate level of salvage and / or recording.

c) The Council will not permit development within conservation areas that incrementally erodes those special features which the Council wishes to protect and enhance”.

EN7 Great Barr Hall and Estate and the former St. Margaret’s Hospital states

“a) The area of Great Barr Hall and Estate and the former St. Margaret’s Hospital is shown on the Policies Map. The Council will ensure that the issues and constraints relating to the future of this Estate are considered in a comprehensive and long-term manner. Any proposed works within this boundary will need to take the following into consideration:

Overall estate

b) All proposals must provide for and / or demonstrate the following:

i. An assurance that the linkages and relationship between the Hall and the park and garden are retained, including key views both within the park and the wider landscape;

ii. Functionally, visually and environmentally satisfactory arrangements for vehicular access from Queslett Road; the Council will require the developer to meet the costs of necessary off-site highway improvements. Any access from Chapel Lane should be minimised for environmental and traffic management reasons;

iii. The preservation and enhancement of the character and appearance of the Great Barr Conservation Area;

iv. The protection of the areas of the best and most versatile agricultural land 48 where possible;

v. Evidence of how they will contribute and relate to the aim of achieving a comprehensive approach towards the future use and management of the Estate;

vi. Sensitively designed and located development in order to be in keeping with, and minimise the impact upon, heritage assets and / or historic landscape and their settings in line with the NPPF;

vii. The contribution the proposal makes to the aim of achieving a comprehensive approach to the conservation of the significance of the site of Great Barr Hall, the historic landscape of the Registered Park and Garden and the wider setting of the Conservation Area (where applicable).

c) The Council promotes good design that respects the character appearance and quality of the area, it will seek to resist development where any of the following occur:

i. Where buildings are no longer extant and the use has been abandoned;

ii. Poor design that fails to take account of the opportunities available for improving the character, quality and appearance of the area and the way it functions;

iii. Development causing harm to environmentally sensitive areas;

iv. Development that negatively impacts on the openness of the Green Belt or setting of the heritage assets and has a footprint and height exceeding that of the buildings to be replaced. Replacement development shall be designed so that it has less environmental impact than the buildings it replaces.

#### Enabling development

d) Enabling development will be justified only insofar as it is necessary for the restoration and maintenance of the heritage assets and where the likely impact in terms of the Listed Buildings, Registered Park and Garden, Conservation Area and Green Belt policies are outweighed by benefits for securing the future of the estate's heritage assets. If any scheme for enabling development is proposed it should address all of the following:

i. Follow the guidance in the Historic England's Policy Statement 'Enabling Development and the Conservation of Significant Places'<sup>49</sup>, or any further up to date guidance from Historic England;

ii. Consider whether the enabling development could be provided off site

iii. Ensure the economic viability of the proposal is properly tested and market driven. The applicant(s) should make sure that the Council can also test these figures as necessary through the provision of a Financial Assessment. Enabling development must be justified by the inherent lack of viability of the significant place, not the owner's inability to fund a commercially viable scheme; and

iv. Be able to provide for the ongoing maintenance of the hall and the park and garden.

#### Park and Garden

e) The Grade II Registered Park and Garden is a unique feature in the Black Country and provides the setting to Great Barr Hall; any proposals within the park and garden should consider the following:

i. The potential for alternative forms of ownership such as a trust;

ii. The preservation, enhancement and management of the historic landscape, which includes areas of the UK BAP Priority Habitat – Wood Pasture and Parkland; Sites of Importance for Nature Conservation and other areas of nature conservation value, as well as key views;

iii. The reinstatement and re-use of key parkland buildings, structures or features where supported by historic evidence such as:

- The lakes, boat house, bridges and associated structures
- The walled garden
- The park pale or wall, other walls of the estate, gateways and historic pathways
- The reinstatement of planting

f) Where historic evidence has not demonstrated the details of historic buildings, structures or features, an innovative approach to their design should be adopted in accordance with BCCS Policy ENV2 and other relevant policies of the Local Plan.

g) Applicants must demonstrate how schemes will provide for controlled public access to Great Barr Park without detriment to the heritage assets, nature conservation interest, landscape quality, amenity of the site and areas of archaeological interest.

Great Barr Hall and Chapel

h) This is a Grade II listed building which forms the focal point of the park and garden. In considering development of the Great Barr Hall and Chapel any harm caused must be 'exceptional' in line with the NPPF; and should consider the following: i. The potential for alternative forms of ownership such as a trust; ii. The long-term viability for the retention and restoration of the Hall and Chapel; iii. Any development or restoration should be in accordance with the policies of the BCCS, ENV2, ENV3 and UDP Saved Policies ENV27, ENV33; iv. The range of potential new uses and an assessment of harm upon the Hall's significance utilising Historic England's 'Conservation Principles, Policies and Guidance'<sup>50</sup>; v. An assessment of the impact on biodiversity in accordance with SAD policy EN1, relevant UDP Saved Policies, BCCS policy ENV1 and the NPPF".

### Assessment

The current planning application proposes the construction of a temporary 49.35MW battery storage facility to include 44 energy storage container units, associated controls, PCS inverters, cooling and fire safety system, 11 Transformer feeder pillars, two substations and compound, new access off Chapel Lane, dedicated access track with 3 no. track routes, 15 m high comms tower, DNO control room, security fencing enclosing the site and site security system, 22 PCS containers, and high voltage switchgear and intake substation. Intended lifespan of 40 years.

The Conservation Officer's comments are based on the current application as a new application for the above development.

### Conservation Area

The application site sits within Great Barr Conservation Area. The GBCA was first designated in 1976 by Walsall Council. The GBCA includes the historic settlement of Great Barr and the Great Barr Estate. The size of the Conservation area at the time of its original designation was 774.42 hectares. The original GBCA boundary included the application site. The GBCA was amended in January 1996, to include the surrounding countryside and agricultural landscape to the north, east and west, which supported the historic core. The GBCA now comprises the historic core of the estate of Great Barr Hall, together with a large area of the surrounding agricultural landscape. GBCA sits between a number of sub-urban areas of twentieth century housing and busy roads, with the elevated M6 lying to the south. The original Conservation Area boundary encompassed much of the same area as the later designated (1st July 1986) Grade II RPG of Great Barr Hall, the historic centre of medieval Great Barr at Chapel Lane and a number of other farmsteads to the north.

Character area A is further subdivided into two-character areas, the Historic Core of the Great Barr Estate and Netherhall Park Housing Development. Character area A is further split into sub character areas, and the application site sits within



the Chapel Lane and Pinfold Lane & Crook Lane and Old Hall Farm and its setting sub character areas.

## Views

The application site can be seen from views from Chapel Lane through and over the gated vehicular access adjacent the Duckery, through and over the post and wire fence and timber fence fronting the site along Chapel Lane, through the gaps in the vegetation (hedgerow and trees) and in between the gaps in hedgerow that form the sites boundary with Chapel Lane. The site is seen from views from the field to the north of the site, from the public footpath that crosses the field to the north of the application site, and it is also seen from long views from the public right of way at the top of this field, known as Beacon Way and from Pinfold Lane. The site is seen from views from within Great Barr Conservation Area.

From Chapel Lane short and long views towards the Great Barr Hall Registered Park and Garden are available across the site through and over the gated vehicular access adjacent the Duckery, through and over the post and wire fence and timber fence fronting the site along Chapel Lane, through the gaps in the vegetation (hedgerow and trees) and in between the gaps in hedgerow that form the sites boundary with Chapel Lane. Long views of the RP&G and into the RP&G are available from the field to the north of the application site, from the public footpath that crosses the field to the north of the application site, from the public right of way at the top of this field, known as Beacon Way and from Pinfold Lane. The RP&G is seen from views from within Great Barr Conservation Area.

Views towards Old Hall Farm are obtainable from Chapel Lane through and over the gated vehicular access adjacent the Duckery and the top of the site near the stables, through and over the post and wire fence and timber fence fronting the site along Chapel Lane, through the gaps in the vegetation (hedgerow and trees) and in between the gaps in hedgerow that form the sites boundary with Chapel Lane. Views towards Old Hall Farm are also obtainable from the field to the north of the site, from the public footpath that crosses the field to the north of the application site, and it is also seen from views from the public right of way at the top of this field, known as Beacon Way and from Pinfold Lane. Old Hall Farm is seen from views from within Great Barr Conservation Area.

The church is seen from Avenue Lodge, Sutton's Drive, Chapel Lane and the church graveyard. The church, tower and spire are seen from Avenue Lodge, Sutton's Drive, Chapel Lane and the church graveyard. The church spire is seen from the church graveyard, Chapel Lane, from views within the RP&G, the field to the north of the application site, and the public footpath that crosses the field to the north of the application site and from Pinfold Lane. The church is seen from views from within Great Barr Conservation Area.

## Historic England Guidance

Historic England's Historic Environment Good Practice Advice in Planning Note 3: Setting of Heritage Assets states "setting is the surroundings in which an asset is experienced and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not". Paragraph 5 states "consideration of the contribution of setting to the significance of heritage assets, and how it can

enable that significance to be appreciated, will almost always include the consideration of views. The staged approach to taking decisions on setting given here can also be used to assess the contribution of a view, or views, to the significance of heritage assets and the ability to appreciate that significance". Paragraph 6 states "views, however, can of course be valued for reasons other than their contribution to heritage significance. They may, for example, be related to the appreciation of the wider landscape, where there may be little or no association with heritage assets. Landscape character and visual amenity are also related planning considerations. The assessment and management of views in the planning process may therefore be partly or wholly separate from any consideration of the significance of heritage assets".

#### Great Barr Hall Registered Park and Garden

To the southeast and southwest of the site is Great Barr Hall Registered Park and Garden, it is registered at Grade II on Historic England's Register of Parks and Gardens of Special Historic Interest in England. It was designated for its –

- "Group value, the 18th century park being contemporary and providing a setting for Great Barr Hall and Chapel (Grade II listed).
- Design interest of 18th and 19th century design work by Humphry Repton, John Nash, and Gilbert Scott, and possibly William Shenstone.
- Intactness, the overall layout, boundaries and features of the park remain mostly intact, and it retains strong visual links with Great Barr Hall" (Historic England).

Historic England's Heritage at Risk programme allows the state of historic sites in England to be understood. It identifies sites that are most at risk of "being lost as a result of neglect, decay or inappropriate development" (Historic England). The Register allows for registered parks and gardens to be included on the heritage at risk register. The Great Barr Hall RP&G is listed on Historic England's Heritage at Risk Register as being highly vulnerable.

The proposed site is outside of the Registered Park and Garden (RP&G) but sits adjacent to it. The site is within the setting of the RP&G. Within the Registered Park and Gardens sits Great Barr Hall and Chapel, Grade II listed. The bank of trees within the RP&G adjacent the site protects significant views across to Great Barr Hall and Chapel and the lakes. The built features that sit within the RP&G, includes Great Barr Hall and Chapel, lodges, approaches, Sutton's Bridge and the Ha-ha which form the architectural significance of the RP&G.

The historic significance of the RP&G is associated with the Scott family, who had a "long association with Great Barr, were first recorded in the area in 1332" (De Bois Landscape Survey Group, 1985). The Chapel and Manor House of Great Barr can be traced back to 1257, which formed part of the Great Barr Hall Estate. Works at Great Barr Hall and the Estate were undertaken by William Shenstone, Humphry Repton, John Nash and George Gilbert Scott. The RP&G has design associations with the above referenced notable landscape designers and the English Revival Gothic Architect, George Gilbert Scott.

The application site is a parcel of grazing land that forms a rural tranquil setting to the RP&G. This parcel of land has historically been agricultural land that is open in nature, it contributes positively to the setting of the RP&G and to the historic significance of the RP&G. The rural character of the application site and its tranquil quality enhances the setting of the RP&G, it allows the RP&G to be appreciated through its rural setting.



Historically the RP&G was designed to be experienced and appreciated from long views from Chapel Lane, Pinfold Lane and from the agricultural fields to the north and northeast of the Duckery, the application site. Historically there were direct short and long views into the RP&G from Chapel Lane, Pinfold Lane and the agricultural fields to the north and northeast of the Duckery.

Historically there was one public footpath across the arable land to the west of Old Hall Farm that linked Pinfold Lane to Chapel Lane, and another footpath to the north of Old Hall Farm across the pastureland and arable land to the west of Old Hall Farm, that crossed the historic road into the Duckery, across Hall Brook (now Holbrook) to Barr Chapel (now the location of the Church of St Margaret). Historically there was a road from Chapel Lane across the arable land belonging to Old Hall Farm (north of the Duckery) that led into the RP&G. Historically there were views from these footpaths and road into the RP&G.

Historic mapping shows there was a Ha-ha within the RP&G and no planting along the northern boundary of the RP&G, allowing views out from the RP&G across towards the arable agricultural land, the footpaths and road to the north of the RP&G, these views formed a visual relationship from within the RP&G towards these agricultural fields to the north of the RP&G. The parkland with its Ha-ha and no tree planting along the boundary with the agricultural fields to the north of the RP&G was purposefully designed to allow direct long views into the RP&G from these agricultural fields, from the historic paths and roads within these agricultural fields, from Chapel Lane and Pinfold Lane into the RP&G.

The RP&G is now experienced and appreciated from short and long views from Chapel Lane, through direct views across the application site above and in between boundary treatments, through the gaps in the vegetation (hedgerow and trees) and in between the gaps in hedgerow that form the sites boundary with Chapel Lane, from the field to the north of the site, from the public footpath that crosses the field to the north of the application site, from the public right of way at the top of this field, known as Beacon Way, from Pinfold Lane and from views within the Great Barr conservation area.

The proposed BESS site together with the 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing, CCTV posts and cameras and the location of two sub stations to be placed in close proximity to the boundary with the RP&G would introduce incongruous modern alien industrial dominant features, that are utilitarian in appearance, into the rural agricultural and historic landscape that would –

- be out of character with the rural character of the site and harmful to the rural setting of the RP&G.
- eliminate the rural character of the site which is of historic significance to the setting of the RP&G and would obscure those direct open views towards the RP&G from Chapel Lane, in between boundary treatments, the gaps in the vegetation and in between the vegetation along Chapel Lane, the field to the north of the site, and from the public footpath that crosses the field to the north of the application site. The open parcel of land within the setting of the RP&G enhances the ambient quality of the RP&G.

- significantly alter the setting of the RP&G from a rural setting to one of a built-up alien industrial / urban setting, which is out of keeping with the rural character and setting of the RP&G.
- undermine the historic significance of the RP&G and affect the way in which we experience and appreciate the setting of the RP&G
- reduce our ability to appreciate and experience the rural setting of the RP&G.
- destroy the positive visual legibility and setting of the RP&G when viewed from Chapel Lane, above and in between boundary treatments, the gaps in the vegetation and in between the vegetation along Chapel Lane, the field to the north of the site, and from the public footpath that crosses the field to the north of the application site.
- be seen as visually prominent and visually intrusive urban alien development when viewed from Chapel Lane, through views along the gaps in the vegetation, from the field to the north of the site and from the public footpath that crosses the field to the north of the application site.
- be harmful to the rural setting of the RP&G, affecting the way in which we experience and appreciate the setting of the RP&G from Chapel Lane, and through the gaps in the vegetation along Chapel Lane and over and above boundary treatments along Chapel Lane, and especially given its heritage at risk status, being listed on Historic England' Heritage at Risk Register as being highly vulnerable.

In winter, the deciduous vegetation boundary of the site along Chapel Lane would significantly alter the way in which we experience and appreciate the setting of the RP&G, from Chapel Lane, the proposed BESS site together with the proposed 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing would be visually prominent and visually detrimental and would be harmful to the setting of the RP&G.

The proposal is contrary to Saved UDP Policies GP2, ENV30, ENV32, ENV38, Policy ENV2 of the BCCS, Policies EN5 and ENV7 of the SAD.

In accordance with paragraphs 206 and 208 of the NPPF, the BESS site together with the 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing would have less than substantial harm to the significance of Great Barr Hall Registered Park and Garden, I assess the scale of harm to be low to medium due to the proximity to the heritage asset and its prominent position and how the heritage asset is experienced and appreciated. The proposal would need to be weighed against public benefits and optimum viable use.

### Old Hall Farm

The Old Hall Farm sits to the northeast of the application site, the farm includes Old Hall Farmhouse, Grade II listed and the Barn approximately 20m north of Old Hall Farmhouse, Grade II listed. There are modern farm buildings to the south of the listed Farmhouse and the listed Barn. Old Hall Farm was owned by Sir Edman Dollman Scott, the owner of Great Barr Hall, it was the Scott family seat prior to Great Barr Hall having been constructed. Historic mapping illustrates that Old Hall Farm formed part of the wider Great Barr Hall Estate. The fields to the north, east and southeast of Old Hall Farm, which extend to the boundary with the Duckery and the RP&G form an important historic open space.

Edward Allen, tenant of Old Hall Farm used these fields as arable and pastureland. Historic mapping illustrates that there were footpaths and a road present from Old Hall Farm across these fields into the Duckery towards Barr Chapel (now the location of the Church of St Margaret). The listed buildings on the farm sit within a wider agricultural landscape. There are two lines of pylons with overhead wires that run along these fields into the Duckery.

The architectural significance of the Old Farmhouse is within the built form, brick construction with timber framing in square panels and diagonal bracing, except for a band of close studding above the former jetty. The chimney is notable with multiple diagonal shafts. The architectural significance of the listed Barn is within its built form, remains of a timber frame, a brick and tile construction. Windows within the barn are irregularly spaced and there is a door to the left and a pitching hole under the eaves.

The farmstead is prominent in its landscape due to its elevated position and the open nature of the fields surrounding it. The fields to the west and southwest of Old Hall Farm provide an open rural tranquil setting to the Listed Barn and Listed Farmhouse. Long views of Old Hall Farm are obtained from Chapel Lane through and over the gated vehicular access adjacent the Duckery and the top of the site near the stables, through and over the post and wire fence and timber fence fronting the site along Chapel Lane, through the gaps in the vegetation (hedgerow and trees) and in between the gaps in hedgerow that form the sites boundary with Chapel Lane. Views towards Old Hall Farm are also obtainable from the field to the north of the site, from the public footpath that crosses the field to the north of the application site, and it is also seen from views from the public right of way at the top of this field, known as Beacon Way, from Pinfold Lane and from views within the Great Barr conservation area.

Old Hall Farm was designed to be viewed from, experienced from and legible from Chapel Lane, the agricultural fields and the historic footpaths and roads within these agricultural fields. The listed Farmhouse and listed Barn are experienced and appreciated through its rural setting. Historically these fields have always been agricultural fields allowing direct views towards the listed Farmhouse and listed Barn. These open views positively contribute to the setting and historic significance of Old Hall Farm.

The proposed BESS site together with the 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing, CCTV posts and cameras would introduce incongruous modern alien industrial dominant features, that are utilitarian in appearance, into the rural agricultural and historic landscape that would –

- be seen as a visually prominent and intrusive form of industrial alien development when viewed from Chapel Lane, out of keeping with the rural agricultural character of the site.
- undermine the historic significance of the Old Hall Farm, in particular the listed Farmhouse and the listed Barn, destroying the positive visual legibility and setting of the listed Farmhouse and listed Barn when viewed from Chapel Lane, the gaps in the vegetation along Chapel Lane and over and above boundary treatments along Chapel Lane.
- be harmful to the setting of the listed Farmhouse and listed Barn by significantly altering the setting of the site from a rural setting to one of a

built-up alien industrial / urban setting, which would be out of character with the rural character and setting of the listed Old Hall Farmhouse and the listed Barn, affecting the way in which we experience and appreciate the setting of these heritage assets from Chapel Lane, and through the gaps in the vegetation along Chapel Lane and over and above boundary treatments along Chapel Lane.

- eliminate the rural historic character which is of historic significance to the setting of the listed Farmhouse and listed Barn, reducing our ability and affecting the way in which we experience and appreciate the rural setting of Old Hall Farm.
- obscure and impact upon those direct views towards the listed Farmhouse and listed Barn from Chapel Lane, which would be lost forever, affecting the way in which we experience the listed Farmhouse and listed Barn.
- Eliminate the legibility of the listed Farmhouse and listed Barn and impact upon the direct views towards the listed Farmhouse and listed Barn from Chapel Lane.

The proposal is contrary to Saved UDP Policies GP2, ENV27, ENV30, ENV32, ENV38, Policy ENV2 of the BCCS, Policies EN5 and EN7 of the SAD.

In accordance with paragraphs 206 and 208 of the NPPF, the BESS site together with the 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing would have less than substantial harm to the significance of the listed Farmhouse and listed Barn, however, I would assess the scale of harm is weighed as low to medium due to the impact on the setting of the listed Farmhouse and listed Barn and the way these listed building are experienced and appreciated through those long views across the fields. The proposal would need to be weighed against public benefits and optimum viable use.

The proposal is contrary to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### Church of St Margaret

The Church of St Margaret (church) is located on the southern side of Chapel Lane. Church of St Maragret is Grade II listed; it was designed by W. D. Griffin in 1862. The church is constructed from limestone with sandstone dressings. The church comprises “a west tower, nave with north and south aisles under pitched roofs, lower chancel, and north vestry” (Historic England, 1996). The architectural significance of the church is in its built form. The design of the church is early decoration and includes trefoils, quatrefoils, geometry in the tracery. The tower dates from 1677 and in 1983, it was encased in sandstone (Historic England, 1996). The church spire dates from the 1800s, it is a “stone spire with lucarnes is set back behind an embattled parapet with corner pinnacles” (Historic England, 1996).

The historic significance of the church dates to medieval times, where the original medieval settlement is centred around Barr Chapel, where the Church of St Margaret now stands. The Manor House of Great Barr associated with the Scott family (as referenced above) stood to the south of the church. Historically agricultural fields surrounded Barr Chapel (now where Church of St Margaret stands). The church sits on elevated ground on Chapel Lane. The layout and design of the settlement of Great Barr was purposely designed so the church sat

on higher ground, being visually prominent from various views from the surrounding agricultural land and farmsteads. The church would and still is, today, a landmark feature, particularly the spire, which is seen from the above referenced viewpoints from within the conservation area.

The church spire was designed as a landmark feature, a focal point that would have been seen from Old Hall Farm, across the agricultural fields associated with Old Hall Farm, the footpaths and road through these agricultural fields, Chapel Lane and Pinfold Lane. The historic footpaths and road from Pinfold Lane and Old Hall Farm (as referenced above in Old Hall Farm section) and across the agricultural fields of Old Hall Farm would have provided a visual link / destination to the church, as the church spire would be seen from Pinfold Lane, Old Hall Farm, the agricultural fields associated with the farm and the historic paths and road. The church spire would have provided a destination route for parishioners to walk to the church from Pinfold Lane and Old Hall Farm. The church spire would have been seen across the agricultural fields, with lay of the land where the agricultural fields slope downwards towards Hall Brook (now Holbrook), the eye is drawn up towards the church spire from these agricultural fields and footpaths and road. The church spire was designed to be viewed from, experienced from and legible from Chapel Lane, the agricultural fields of Old Hall Farm, and the historic footpaths and roads within these agricultural fields. These agricultural fields form the ambient and tranquil rural setting for the church. The church was and still is experienced, viewed and legible from the field to the north of the application site and the footpath that crosses this field and from views within the Great Barr conservation area.

Today, the church is seen from Avenue Lodge, Sutton's Drive, Chapel Lane and the church graveyard. The church, tower and spire are seen from Avenue Lodge, Sutton's Drive, Chapel Lane and the church graveyard. The church spire is seen from the church graveyard, Chapel Lane, from views within the RP&G, the field to the north of the application site, and the public footpath that crosses the field to the north of the application site and from Pinfold Lane. The church spire is seen from within the conservation area as a local prominent landmark feature.

The church spire is appreciated and legible from Chapel Lane and Pinfold Lane. From Chapel Lane, opposite Chapel Farm the church and church, tower and spire are visible. The church sits on land that is set at a higher level than the Duckery. Chapel Lane, from the church slopes downwards towards the Duckery and towards Hall Brook (Holbrook), it sits levels for a small section of Chapel Lane past the vehicular access to the site (adjacent the Duckery), and then steadily rises towards the junction with Crook Lane. From Chapel Lane near the junction with Crook Lane, and when travelling / looking back towards St Margaret's Church along Chapel Lane, as there are clear, direct and prominent views of the church spire, these views are focused views due to the layout and design of Chapel Lane, which draw the eye towards the church spire, especially as this part of Chapel Lane aligns with the church spire, providing an axial view of the of the spire as a destination / arrival view / point. The views from this part of Chapel Lane towards the church spire are even more prominent in the winter, when the deciduous trees along Chapel Lane and within the Duckery are not in leaf. When travelling down this part of Chapel Lane the eye is immediately drawn to the church spire as a prominent landmark.

The church is on an axial position with Chapel Lane and the visual impact survey from the De Bois survey undertaken in 1985 references the church being



“beautifully set in the landscape, particularly in views from Chapel Lane”. The survey also highlights a “fine view along road, aligned to give view of church”, along Chapel Lane adjacent the agricultural fields associated with Old Hall Farm.

The church spire along Chapel Lane is viewed and experienced from the rural setting of Chapel Lane and the fields either side of Chapel Lane (in particular the fields to the east of Chapel Lane), which provide an axial view of the of the spire as a destination / arrival view / point.

The church spire is seen from the field to the north of the application site, which is set at a higher level than the application site, and from the public footpath that crosses this field. There are clear and direct views of the church spire from these locations. The church spire stands out as a prominent landmark. The pylon design of an open lattice frame and the overhead wires in the agricultural field are features that can be seen through, over and around, so they are not distinguishable, whereas the church spire, on the other hand is a dominant built form that cannot be seen through. The BESS equipment would be equally dominate, blocking out and interrupting views of the church spire.

The application site forms the rural setting to the church. The church is appreciated, viewed and legible from the field to the north of the application site and the footpath that runs across it.

Historic England’s Historic Environment Good Practice Advice in Planning Note 3: Setting of Heritage Assets states “being tall structures, church towers and spires are often widely visible across land- and townscapes but, where development does not impact on the significance of heritage assets visible in a wider setting or where not allowing significance to be appreciated, they are unlikely to be affected by small-scale development, unless that development competes with them, as tower blocks and wind turbines may. Even then, such an impact is more likely to be on the landscape values of the tower or spire rather than the heritage values, unless the development impacts on its significance, for instance by impacting on a designed or associative view”. In my view, the proposed BESS site together with the proposed 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing is not classed as small-scale development, it is a major development. My comments above refer to the church spire being a designed view from Chapel Lane, the field to the north of the application site, the public footpath across the field to the north of the application site, Old Hall Farm and Pinfold Lane.

The proposed BESS site together with the 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing, CCTV posts and cameras would introduce incongruous modern alien industrial dominant features, that are utilitarian in appearance, into the rural agricultural and historic landscape that would –

- be seen as a visually prominent and intrusive form of industrial alien development that would be out of keeping with the rural agricultural character of the site and harmful to the setting of the listed church when viewed from the field to the north of the site and from the public footpath that crosses the field to the north of the application site.
- undermine the historical significance of the listed church and eliminate the rural historic character which is of historic significance to the setting of the listed Church of St Margaret, reducing our ability and affecting the way in

which we experience and appreciate the rural setting of the listed church from the field to the north of the site and the footpath that crosses it.

- distract and interrupt the historic designed, axial and channelled view of the church spire from Chapel Lane, reducing our ability and affecting how the church is experienced and appreciated from Chapel Lane.
- be harmful to the setting of the Church of St Margaret by altering the setting of the site from a rural setting to one of a built-up alien industrial / urban setting, which would be out of character with the rural character and setting of the listed church and which would reduce our ability and affect the way in which we experience and appreciate the rural setting of the church.
- interrupt, dominate and block views towards the church from the field to the north of the application site and the footpath that crosses this field, affecting how we experience the setting of the church, and the legibility of the church from this field and footpath, as it would alter the views towards the listed church.

The proposed 15m high mast would be juxtaposed along Chapel Lane, the eastern side, travelling down Chapel Lane from the junction with Crook Lane towards the church, where the proposed BESS site together with the 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing, CCTV posts and cameras would interrupt the church views and our ability to appreciate and experience the church from Chapel Lane.

The proposal is contrary to Saved UDP Policies GP2, ENV27, ENV30, ENV32, ENV38, Policy ENV2 of the BCCS, Policies EN5 and EN7 of the SAD.

In accordance with paragraphs 206 and 208 of the NPPF, the BESS site together with the 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing would have less than substantial harm to the significance of the listed church, however, I would assess the scale of harm is weighed as low to medium due to the impact on the setting of the listed church and the way the church is experienced and appreciated through views across the fields and the public footpath and from Chapel Lane. The proposal would need to be weighed against public benefits and optimum viable use.

The proposal is contrary to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Enhancing and Preserving the Character and Appearance of Great Barr Conservation Area

The Site is within Great Barr Conservation Area. The Great Barr Conservation Area was designated on 17th December 1976. The site does not contribute to the architectural or artistic interest of the Conservation Area.

The historical significance of Great Barr includes the historic settlement of Great Barr, the historic core of medieval Great Barr and the Great Barr Hall Estate and the links to the Scott family (and the above referenced historical links). As the estate developed, a number of farms developed in surrounding area, many of which are still present and are now heritage assets in their own right. This rural agrarian surroundings to the Hall explain its historic development, as a settlement.

Historic mapping illustrates the site has always been an open field, utilised for agricultural use / pastureland associated with Old Hall Farm. The Great Barr Conservation Area is appreciated in its current form and use as agricultural land that contributes to the historic interest of the Conservation Area. The current land use of the site is pastureland, reflecting the sites historic use. The use of the site is applicable to the rural agrarian community the Conservation Area seeks to preserve.

The proposed BESS site together with the 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing, CCTV posts and cameras would introduce incongruous modern alien industrial dominant features, that are utilitarian in appearance, into the rural agricultural and historic landscape that would –

- eliminate the agricultural land use and replace it with industrial development that is out of character with the historic rural agricultural character of the site, affecting our ability to appreciate and understand the historical significance and character of the conservation area and the rural agricultural site.
- remove the rural qualities of rural agriculture, which would be harmful to the historic significance of the conservation area.
- harmful to the historic significance and character of the conservation area.
- affect our ability to appreciate the historical significance of the site and our understanding of the historic agricultural origins of the site and our appreciation of the rural hinterland and the relationship with the wider agricultural land use.
- be visually dominant, detrimental and harmful to the historic rural character of the conservation area, undermining the historic significance and character of the conservation area.
- be seen as visually dominant and prominent industrial features when seen from and along Chapel Lane towering above the existing boundary treatments and vegetation, and visually dominant prominent from the field to the north of the application site and the footpath that runs across this field which would be harmful to the historic significance of the conservation and affect our ability to appreciate the historic significance of the conservation area.
- have a cumulative visual impact on the character and appearance of the Conservation Area, failing to enhance and preserve the character and appearance of Great Barr Conservation Area.

The proposal is contrary to Saved UDP Policies GP2, ENV30, ENV32, ENV38, Policy ENV2 of the BCCS, Policies EN5 and EN7 of the SAD.

In accordance with paragraph 205 of the NPPF, in assessing the impact of the proposed development on the significance of the conservation area, great weight has been given to the conservation of Great Barr Conservation Area.

In accordance with paragraphs 206 and 208 of the NPPF, the BESS site together with the 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing would have less than substantial harm to the significance of Great Barr conservation area, however, I would assess the scale of harm is weighed as low to medium due to the impact the proposal would have on our ability to understand and appreciate the historical significance and character of the



Conservation Area, as a rural agricultural land use. The proposal would need to be weighed against public benefits and optimum viable use.

The proposal is contrary to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Mast

The submitted plans showing the location of the mast within the site are unclear. The mast would be seen from Chapel Lane, from the vehicular entrance adjacent the Duckery, over and above and in between existing boundary treatments along Chapel Lane, from the field to the north of the site and the public footpath across this field. The mast together with the proposed development would eliminate the agricultural land use and replace it with an alien incongruous industrial landform and use which is out of character with the historic rural character of the site, which would affect our ability to appreciate and understand the historical significance, character and form of the conservation area and the site.

#### CCTV

Four CCTV posts are shown on the location plan. The CCTV posts and cameras along with the proposed BESS site, 15m high communications mast, acoustic fencing, palisade fencing, deer fencing, and other fencing would have a harmful and cumulative impact on the historic significance of the conservation area. The CCTV together with the proposed development would eliminate the agricultural land use and replace it with an alien incongruous industrial landform and use which is out of character with the historic rural character of the site, which would affect our ability to appreciate and understand the historical significance, character and form of the conservation area and the site.

#### New Access and proposed tracks in the site.

A new access into the site from Chapel Lane is proposed and where this access is proposed the site is 700mm higher. No details including cross section plans have been submitted illustrating how this access will be created, how the land would be graded to allow heavy vehicles into the site during the construction phase, whether any grading into the site will be required and whether any retaining features will be required to retain the site bank and how the access would be surface finished. There are no details as to how the proposed three access tracks will be created, and surface finished. There are no details as to whether any turning head space for vehicles will be required, which would require the creation of further hard surfacing within the site. It is, for example, unclear whether vehicles expected to reverse back into the highway. These details are required to consider the cumulative impact of the overall development in respect of the harm to the significance of designated heritage assets and whether these works enhance and preserve the character and appearance of the Great Barr Conservation Area.

#### Landscaping

The landscaping plan and visibility plans are unclear, in order to fully understand the impact upon the rural character and appearance of Great Barr conservation area.

## Fencing

There are discrepancies between the plans and documents regarding the proposed fencing and it is unclear the extent of the impact upon the rural character and appearance of Great Barr conservation area.

## Noise Assessment

The noise assessment only includes data taken from the nearest noise sensitive receptors, those being residential properties. Historic England's Historic Environment Good Practice Advice in Planning Note 3: Setting of Heritage Assets refers to the way "in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places". Noise from the development has not been considered from the RP&G.

## Signage

It is not clear whether any signage on fencing is proposed warning of the dangers of the site. Signage details would be required to fully understand the impact upon the rural character and appearance of Great Barr conservation area.

## Connection

It is not clear to whether the connection point of the BESS site, c.615m south of the site will be through the RP&G, details would be required in order to fully understand the impact to the Registered Park and Garden.

## Conclusion

The proposed BESS site together with the 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing, CCTV posts and cameras would be harmful to the significance of Great Barr Hall Registered Park and Garden, Old Hall Farmhouse, and the Barn approximately 20 metres north of Old Hall Farmhouse and the Church of St Margaret. It would introduce incongruous modern alien industrial dominant features into their setting, that are utilitarian in appearance, into the rural agricultural and historical landscape, that would be visually dominant and detrimental, and which would alter the rural character of the site effecting the way in which we experience and appreciate these heritage assets thereby causing less than substantial harm. Furthermore, the development would tower above existing boundary treatments and would be seen as modern alien industrial dominant features from views from within the conservation area, failing to enhance and preserve the character and appearance of Great Barr Conservation Area, thereby causing less than substantial harm. The proposal is contrary to the National Planning Policy Framework, paragraphs 206 and 208, Saved UDP Policies GP2, ENV27, ENV30, ENV32, ENV38, Policy ENV2 of the BCCS, Policies EN5 and EN7 of the SAD, and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## 5. Design and Character

The proposed development consists of several buildings and structures within or just outside three compounds as well as ancillary works including security fencing, a new access off Chapel Lane, an internal access route, 15 metres high comms tower and a solid acoustic barrier. The structures are generally of an industrial style appearance finished in both grey and green colours, with a maximum height of 15 metres for the tower and the heights of the other structures ranging from 2.4 to 3.5 metres.

The Ecological Impact Assessment dated September 2022 states at table 7.1 that the Site would not be lit and the Design and Access Statement comments that no artificial lighting will be required for the proposed security systems. There are no other details provided in respect of artificial lighting of the Site and the locations of the proposed 4 metres high CCTV poles and cameras have not been shown on the Elevation View shown on drawing no. C0002457\_06 Rev. B, *(this drawing was submitted as Rev. C but states on the plan it is Rev. B) nor identified on the Site Layout Plan drawing no. C0002457\_02 Rev. J.*

Section 12 of the NPPF refers to design. Achieving well-designed places and in particular the creation of high-quality buildings and places is fundamental to the aims of the planning process. It states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

The proposals are considered would appear as an intrusive and contrasting element to the existing rural character of the field and surrounding area. There are high voltage overhead powerlines and pylons nearby, but these elements are set as features above the ground plane and although not scenic in appearance are considered to be less intrusive within the landscape context than the proposed BESS.

The long views of the proposed 15 metres high comms tower from Chapel Lane and the surrounding area are considered would add to the clutter of the Site.

The current enlarged BESS Site and additional development over and above that of the earlier proposal is considered would have a significant additional and detrimental visual impact and would be harmful to the character of the area and fail to accord with the aims and objectives of saved UDP policies GP2 ENV32 and ENV38 and BCCS policy CSP4. The mitigation planting is not considered to address the significant landscape change at the Site and in the surrounding area.

## 6. Landscape Assessment

Walsall Council appointed Ryder Landscape Consultants to consider the submitted scheme and supporting documents in February 2024 and they have provided the following comments on the current proposal.

### Site and Surrounding's Landscape Character

The Site is part of a pasture field that is set to horse grazing. The size of the red line application area is given on the application forms as 3.185ha with the overall

field measuring slightly larger at 3.38ha. The original field form was larger still at 6.65ha and included the field to the north as defined by hedgerows rather than the mixed fence line that has now sub-divided the old field into two. The scale of the fields is medium, and their general regular boundaries suggest that they are part of late enclosure.

The Site is put to improved pasture that is currently heavily grazed by horses with some evident bare patches and poaching (trampling) around feed locations and the stabling that stands to the north-west corner of the field. Topographically the Site slopes from the north to south towards the Duckery itself which forms part of the Great Barr Hall Registered Park and Garden (RP&G):

The Site is roughly triangular in shape with the curving southern and eastern boundaries flowing into each other. It is bounded by the following apparent boundaries.

- North – mixed fence that appears semi-dilapidated;
- South and East – tree line of Great Barr Hall Registered Park and Garden combined with domestic styled concrete post and panel fence with the trees of The Duckery part of the Registered Park and Garden beyond that; and
- West – Mixed of gappy hedgerow with mixed fencing and flicker tape to the Chapel Lane Road corridor.

Set above the field run two rows of overhead power cables (OPC) that are part of the National Grid power distribution network. They are supported by pylons with one being set to the north-east side of the Site field.

The landscape context is the area surrounding the Site that it contributes to and is judged with. Taking the cardinal points around the Site its immediate context is:

- North – Up to Pinfold Lane as it runs east near Foxhill Fishery;
- East – The ridge line of Barr Beacon that Old Hall Lane runs up towards Barr Beacon School;
- South – Great Barr Park and specifically The Duckery woodland and the Chapel Lane corridor leading up to the older properties including and around Church of St Margaret; and
- West – Land to west leading up to Great Barr Golf Course.

There are no public footpaths on the Site itself but the Beacon Way, a locally promoted long distance walk between beacons (high ground) in the Black Country runs to the west of the Site on and off Chapel Lane. There are numerous paths within Great Barr Hall RP&G as well.

The Site is not subject to any landscape designations for its scenic value but is designated as part of the Great Barr Conservation Area along with the RP&G and wider rural setting for its cultural history value. The RP&G is immediately adjacent to the Site to its east and south sides, its Historic England Listing No. is 10001202 and it is Grade II registered.

The RP&G and Conservation Area contain a series of Listed Buildings and the Site is considered in their wider setting. The council's consultant has commented that they do not consider the Site as a valued landscape in terms of NPPF 180 a) because it lacks its own high quality, or distinguishable landscape characteristics, but it does however act as the immediate setting to the RP&G as a valued

landscape and contributes to the current Conservation Area. However, as a piece of rural landscape it is considered that the Site does have intrinsic value and beauty in terms of NPPF 180 b) as countryside.

With regards to published landscape character information there are two sources the council's consultant is aware of:

- Black Country Historic Landscape Characterisation -2009 (BCHLC); and
- Great Barr Conservation Area Appraisal and Management Plan (GBCAAMP) – unpublished.

The BCHLC places the Site within the WL09 area that is titled Barr Beacon Aldridge Fields and the summary for this area, which also includes all of the Great Barr Hall RP&G is set below:

### “Summary

This area is the most rural landscape in Walsall, with field systems covering more than two thirds of its surface (although recreational land is also important). Four fifths (80%) of the area dates to before 1900. It is bounded on almost all sides by settlement, an in the north-east and south-east by the boundaries with Staffordshire and Birmingham respectively.”

The GBCAAMP locates the Site in A1 – Old Hall Farmhouse and Barn.

### Proposals for the Site

The application proposals are outline in nature and indicate the main elements of the scheme as follows:

- A single point of vehicular access from the west side of the Site taking an access road from Chapel Lane across the current field before it splits into three to service the main battery yard, the customer's sub-station and the DNO sub-station;
- The main battery yard is set to the north of the Site with 44 No. Sungrow Battery Racks set in tandem to 22No. PCS and Transformers to change the AC supply to DC for the battery storage and back again when demand is made;
- Also set in the battery yard are three conjoined small buildings titled BESS Control Room, Sub-station control room and 33kV Switch Room;
- Set to the south side of the battery yard are the two sub-stations required to draw down the supply current from the National Grid;
- The smaller of the two is the Customer sub-station, the larger the DNO sub-station which is set closest to the south of the field and the Great Barr Hall RP&G;
- To the west of the DNO sub-station is a further small building / large kiosk that is the DNO sub-station control room and a 15m high communications tower presumably for telemetry equipment to allow the BESS to be controlled and monitored remotely;
- In addition there is fencing with each of the three principle parts (battery yard, customer sub-station and DNO sub-station) fenced in with ;
- The fence types are varied with a 2.8m high acoustic barrier set also the way around the battery yard,

- Set at a distance of 1.5m is a shown a deer fence running around the battery yard which is labelled in the key as a security fence;
- The third type of fencing shown on the layout plan is a stock-proof fence which appears to sub-divide the remaining field and keep stock away from the pair of sub-stations;
- The council's consultant comments that a fourth type of fencing is missing from the site layout key and that is metal palisade security fence shown on the 132kv Substation Plan & Sections & Fence Detail – C0002457\_06 Rev C. The sections show it as a typical 2.0m high fence but also states 1.8m and 2.5m high versions are alternatives. There is a black line set around the sub-stations on the plan and this could be the security fence required by the Electricity Safety, Quality & Continuity Regulations (ESQC);
- None of the existing dilapidated fencing set around the field's edges appears to be identified for improvement on the layout plan;
- CCTV equipment is shown in the key but camera positions are not marked on the Site Layout plan; and
- Stabling titled as 'Rough Wooden Stables' on the north-west corner of the field is shown as retained.

A specific section on fencing is set below as it forms a large part of the proposals;

Acoustic barrier as per the Typical Acoustic Fence Detail C0002457\_09 Rev A is a laminated fence with rock wool included in its fabrication set between steel I-beams, the drawing is somewhat confusing as it does not confirm what the outer clad face is e.g. feather edged lapped timber boards or vertically striped as the elevation shown.

The deer security fence is not a particular secure fencing type and is relatively easy to cut through its wide gauge mesh. Of late it has been used as a typical fencing detail for solar parks and other energy facilities in rural locations as it is considered 'rural' in function, it is also a cheap form of relatively tall fencing. Its lifespan is typically 10 years, and it would likely need to be replaced throughout the operational life of the BESS if consented. The lack of security that it provides will also mean that the acoustic barrier set behind it could be easily targeted by graffiti artists which is currently absent from the area and more akin to urban locations.

Narrow strips of land set between two fence lines are notoriously difficult to maintain free of weeds or windblown litter as there is no ready access to maintain them by mowing, grazing or by hand. They have the potential to become areas of tall, ruderal species or rough grass set around the battery yard and pair of sub-stations adding an unsightly strip to the base of the fence lines.

None of the fences whether steel or timber appear to be stained or painted to better fit into their contextual landscape with palisade fencing being a particular urbanising feature when set in a rural location. Its very presence attracts the eye to the feature it is set around seeking to protect. One reference to painting the security fence green in the Landscape Visual Impact Assessment (LVIA) is recognised.

The palisade fencing will likely have warning signage set upon them to explain the risk of electrocution and emergency contact information adding to their overall urban character.



Finally, regarding fencing the palisade fence shown on the C0002457\_06 Rev C. could be 2.0m high or 1.8m or possibly up to 2.5m high. The ESQC standards suggest that 2.4m high fencing is typically provided to prevent trespass into the sub-station compounds. The Applicant may wish to clarify which height is definitive.

Turning briefly to the landscape mitigation proposals shown on Stantec Landscape Strategy drawing LN-LP-06 Rev D that forms Figure 6 of the LVIA.

There are the following landscape actions proposed:

- Native hedgerow planting with trees set to the Chapel Lane boundary;
- The hedgerow species and proposed tree types are acceptable as native stock;
- Native hedgerow set next to deer fence running in an apparently arbitrary fashion to the south-east side of the proposals sub-dividing the field and separating a horse grazing area from one sown with tussock forming grass sward;
- Four types of grass management with continued horse grazing for parts, general purpose meadow mixture, tussock mixture and a specific mixture to plant under the planted hedgerows;
- Gravel to surfaces of the battery yard and pair of sub-stations.

### Landscape Effects

The proposals will appear as an intrusive and contrasting element to the existing rural character of the field and surrounding area. None of the elements of the BESS as proposed other than the landscape mitigation have any rural characteristics. The colour, uniformity of the battery rack cabins, and the multitude of high fencing and acoustic barriers are without any form of precedent within the local landscape that is described by the BCHLC (WL09 Barr Beacon Aldridge Fields) as the most rural landscape in Walsall.

There are high voltage overhead powerlines and pylons nearby, but these elements are set as features above the ground plane and although not scenic in appearance are less intrusive and acceptable within the landscape context than the proposed BESS.

The overhead powerlines place a significant constraint on which part of the field development can take place in which forces the BESS layout to the west of the Site to a more prominent location nearer Chapel Lane. The tallest piece of equipment is the 15m high communications mast which although is not as large as the nearby pylons will add cumulatively to the effect of tall, steel features within the area.

In terms of other tall equipment, the height and industrial character of the two sub-stations are placed in arguably the most sensitive part of the Site which abuts Great Barr Hall RP&G. The telemetry mast will also introduce another vertical element into the field and act as a marker within the landscape.

The landscape mitigation and fencing proposals, particularly the proposed hedgerow and deer fence to the south-east of the development will further break up the field's open space and reduce its contribution to the rural field pattern to

the north and west of the Site. With the proposed landscape and fencing the remaining field will appear fragmented and broken up.

The proposals cannot be considered as taking into consideration or respecting the intrinsic qualities or beauty of this area of countryside with its elevated sensitivity derived from it being an integral part of a Conservation Area, the immediate setting to the Great Barr Hall RP&G and positioned centrally to the most rural remaining landscape in the Borough. The contemporary nature of the proposals, combined with the multitude of fencing and other paraphernalia such as the telecommunication mast, control kiosks and CCTV cameras will remove the remaining sense of time depth experienced in this part of the Conservation Area.

The access point is believed to be through an unhedged section of the field boundary, but it is unclear how much hedge, if any, must be removed to accommodate sightlines for vehicles leaving the Site. It is the remnant hedge to the south that may be affected rather than the one to the north that is largely missing. The change in level between Chapel Lane and the Site field is approximately 700mm with the field at the higher level. This change of level would need to be managed by either retaining structures or grading the field back either side of the entrance track.

The mitigation planting is not considered to address the significant landscape change at the Site and in the surrounding contextual area. The planting proposals are considered to deliver a minor landscape benefit in terms of the Chapel Lane hedgerow restoration and possibly an area of wildflower meadow to the west of the sub-stations if this area is left ungrazed.

In terms of balancing the minor positive landscape effects against the significant adverse ones that arise with the insertion of this incongruous features there are clear, adverse landscape effects that should count against the proposals in the planning balance.

### Visual Effects

Visibility has been assessed from my Summer and Spring visits with the latter having trees and hedges effectively without leaf cover. The Applicant's LVIA photography is from October 2021 when canopies are still effectively in a state of full leaf but tinged with Autumn colours. The submitted LVIA has taken 12 No. representative viewpoints from publicly accessible locations that appear fair and reasonable in terms of positioning.

In the Landscape Consultants opinion, the key viewpoints from which to judge the visual effects of the proposals from are:

- From Chapel Lane whilst travelling south towards Great Barr
- From Chapel Lane when travelling north away from Great Barr;
- From the Beacon Way to the side of Chapel Lane;
- From within the Great Barr Hall RP&G looking north towards the proposals;\*
- From the Church Yard of the Church of St Margaret in Great Barr village; \*
- Old Hall Lane leading up to Barr Beacon School; and
- Barr Beacon Country Park.\*



Those locations marked with an asterix do not currently have any views to the Site and are unlikely to have any in the future with or without the equipment of the proposed development. The reason for the lack of any views is primarily down to the depth of intervening planting between the viewer and the proposed Site.

It would have been beneficial to have visualisations supplied with the development application to illustrate the extent of change and character of the scheme. Guidelines for Landscape and Visual Effects' (GLVIA3) at §8.16 provides guidance that *'predicted changes must be described in the text but should also be illustrated by means of visualisations showing ...how the changes in the view will appear.'* Even some indicative images from other similar developments as described at GLVIA3 §8.34 would be helpful to illustrate the overall collection of the scheme's component parts.

One location that the council's consultant advises they would have liked to have taken is the view to the proposed Site from is Footpath ALD-43 that runs from Chapel Lane near the Site's stable block north across the open field to connect with Pinfold Lane. It has been physically blocked on both visits to Site.

Visual effects are defined in the Guidelines for Landscape and Visual Effects' (GLVIA3) Glossary as *'Effects on specific views and on the general visual amenity experienced by people.'*

The visual change that would be experienced would arise from amongst other factors:

- The insertion of industrial type equipment and containers within the views particularly taller elements that rise above surrounding fencing and acoustic barriers;
- The acoustic barrier that will form an apparent solid compound within the middle of a rural field;
- The range of other fences set around the Site;
- The telecommunication mast, albeit there is more of a visual precedent for this last item with pylons in the local views; and
- Potentially the access off Chapel Lane depending on its final character, how it manages the change in level between the road and the field, sightlines leading to hedge removal and form of gate.

The views from Chapel Lane are moderately open given the gappy nature of the roadside hedge and this will allow views across the field to the energy infrastructure beyond. The proposal to plant a new native hedgerow with hedgerow trees along the Chapel Lane boundary will reduce the ability to see the BESS as the hedge establishes over the 8 to 10 years after planting but it will not remove all views to the development. There will still be sight through the access gate and through the hedge for car users in winter months when a stroboscopic type of effect occurs, and the brain builds up a picture of the facility beyond through the leafless gaps.

One element of the proposals that will affect the view from Chapel Lane, with or without the hedge is the telecommunication mast. This at 15m tall cannot be screened by the hedge and would only be removed from people's sight by trees of a comparable size planted around it. The view looking south down Chapel Lane towards the spire of the church of St. Margaret was considered by the council's consultant as more scenic than others along the lane with the church

spire set at the end of a straight section of the road in an axial fashion. It allows the position and visual amenity of the church in the rural landscape to be appreciated. The telecoms mast would be juxtaposed to the east of the lane and become a competing and discordant additional feature in the view.

Whilst travelling the other way on Chapel Lane the view from the top of the dip down to the Holbrook stream (formerly known as Hall Brook) is highly scenic and acts as an arrival view into a more rural area. The proposals, apart from the top of the telecoms mast will not be seen in the view given the intervening tree cover in The Duckery woodland part of the RP&G. Then when past The Duckery wood there is a sense of the view opening again to pleasant tree fringed rural fields, but this time the BESS facility would be suddenly revealed within the roadside field marring the visual amenity of the area and perception of travelling through a scenic rural landscape.

Walkers on the Beacon Way either walk on Chapel Lane itself or on an off-road section of path set to the west side of the road. If walkers stick to the lane their slower walking speed will give them a longer duration to see and form an opinion about the proposals. If they walk the off road stretch a roadside hedge between the path and the lane is currently high enough to restrict most of the views east towards the Site. However, as this is a highway hedge, presumably in highway ownership it will be maintained in a regular fashion by tractor mounted flail that will reduce its height and likely open up views to the development.

Views from Old Hall Lane are likely to be peripheral in nature and given the distance it is only likely walkers on the lane who will have the duration to see and recognise the form of the BESS in these mid-range views.

There are currently no views to the Site from Barr Beacon, and it is anticipated that there would be no change in the long views southwest from this popular viewpoint with the proposals built out.

The submitted LVIA considers that for Chapel Lane users there would be a Moderate, Adverse effect at Year 1 declining to Minor, Adverse and Permanent visual effect at Year 15. The council's consultant thinks this is an under assessment of visual effects from this close-range viewing position and consider at Year 1 a *Major/Moderate, Adverse* effect would take place and with the development of the proposed roadside hedge this would diminish to a *Moderate, Adverse and Permanent* effect. The submitted LVIA does not appear to consider the 15m telecommunications mast in its description of the development used to base the visual effects on.

### Landscape Policy Compliance

The landscape orientated planning policies that need to be considered are from the Black Country Core Strategy 2011-2026 (BCCS), Walsall's Site Allocation Document, 2019 (SAD) and the NPPF as set down below. The council's consultant has advised that they have only considered the landscape strands of these policies and you will need to consider the whole policy and conclude whether on balance the proposals comply or conflict with it.

## **Black Country Core Strategy 2011-2026**

### *CSP3 – Environmental Infrastructure - Conflict*

Due to the proposals not respecting the special character and historic aspects of the locally distinctive elements of this part of the Black Country. The locally distinctive elements in this case include the Great Barr Hall RP&G and the rural character of the WL09 area that has been assessed as being the most rural in the Borough of Walsall.

#### ENV2 – Historic Character and Local Distinctiveness - Conflict

The proposals cannot be considered to preserve or enhance local landscape quality, nor do they sustain or reinforce the special character of the area including the setting of Great Barr RP&G and the Great Barr Conservation Area.

### **Walsall Site Allocation Document – adopted January 2019**

#### GB1 - Control of Development in the Green Belt

Recognising that the Green Belt policy is not strictly a landscape related policy there are two landscape factors to consider as you review the effects on the Green Belt;

- That even though the Application is termed temporary, at 40 years this is effectively permanent development. 40 years is half the average lifespan of a person, or two generations of people growing up and living with this loss of openness in the Green Belt. In landscape terms any effect with a duration of over 15 years is usually perceived and judged as a permanent one.
- That cumulative effects of proposed and existing development need to be taken into account and the cumulative effect of placing extensive ground-based energy infrastructure, next to the twin overhead powerlines would tip the character of the wider Site field from being part of a rural, open area to one that is fundamentally being utilised for power infrastructure.

#### EN5 – Development in a Conservation Area - Conflict

New development should respond positively to and respect the character of the Great Barr Conservation Area which at this location is one of rural, pasture fields. The council's consultant also considers that the proposals conflict with **part iii** of EN5 given their scale, massing, siting, layout, design and choice of materials and colours for the various features.

#### EN7 – Great Barr Hall and Estate - Conflict

For the same reasons as EN5 there is conflict with EN7 particularly in a landscape dimension for the policy **part iii** which is the preservation and enhancement of the character and appearance of the Great Barr Conservation Area and **part iv** that seeks sensitive design in order to minimise the impact on historic landscapes such as Great Barr Hall RP&G in line with the NPPF. The council's consultant would consider the RP&G a valued landscape in terms of NPPF 180 a).

### **National Planning Policy Framework (NPPF) 2023**

#### NPPF 180 a) – Valued landscape

The site is not considered a 'valued landscape' so this part of the NPPF is **not applicable**. However, the adjacent Great Barr Hall RP&G is considered a valued landscape, and the proposals have an adverse effect on the immediate rural area in which it is currently experienced and judged.

### NPPF 180 b) – Intrinsic value of the countryside

The intrinsic value of the Site as a piece of countryside is not retained and there is **conflict** with this part of the framework that needs to be considered in the wider planning balance.

The current enlarged BESS Site and additional development over and above that of the earlier proposal are considered would have an unacceptable level of harm on the immediate setting to the Registered Park and Garden as a valued landscape along with its intrinsic value and beauty in terms of NPPF para 180(b). The proposals will appear as an intrusive and contrasting element to the existing rural character of the field and surrounding area. In terms of balancing the minor positive landscape effects against the significant adverse ones that arise with the insertion of this incongruous features there are clear, adverse landscape effects that should count against the proposals in the planning balance

## 7. Agricultural Land

The submitted Agricultural Quality of Land survey report 1896/2 identifies that the site contains grade 1, 2 and subgrade 3a agricultural land. The Guide to Assessing Development Proposals on Agricultural Land, updated 5/2/21 advises that Best and Most Versatile agricultural land is graded 1 to 3a <https://www.gov.uk/government/publications/agricultural-land-assess-proposals-for-development/guide-to-assessing-development-proposals-on-agricultural-land#alc>

The proposal, which includes the development of part of the field would have an impact on all three stated agricultural land classifications forming Best and Most Versatile agricultural land as demonstrated on Map 2- Agricultural Land Classification dated 9/6/23 included in the submitted Agricultural Quality of Land off Chapel Lane Great Barr Survey, report 1896/2 dated 02/10/23. Furthermore, historic mapping illustrates this land was originally utilised for agricultural purposes.

The NPPF defines Best and Most Versatile agricultural land as Land in grades 1, 2 and 3a of the Agricultural Land Classification.

Paragraph 180 of the NPPF states that “Planning policies and decisions should contribute to and enhance the natural and local environment by:

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland”.

Saved UDP policy GP2: Environmental Protection states that “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. Policy GP2 states that the following consideration will be taken into account in the assessment of the development proposals:

XI. The effect on the best and most versatile agricultural land”

Furthermore, saved UDP Policy ENV6: Protection and Encouragement of Agriculture states:

*“(a) The Council will seek to protect, wherever possible, the best and most versatile agricultural land from loss to inappropriate development or other uses.”*

The proposal would result in the loss of c.64ha (excluding access tracks across Grade 1 land) of agricultural land classified as Best and Most Versatile agricultural land for a period of 40 years, if approved. It is considered that whilst the Site is currently used for horse grazing it is important to consider the potential necessity of food security as well as energy security.

Whilst the planning statement comments at para. 6.6.3 refers to the agricultural land classification document and considers the development would not lead to any degree of harm which the council does not agree with. The Site is not lower quality agricultural land, and it is considered that this proposal would have an unacceptable impact by building over part of this agricultural land and removing the future use of this Best and Most Versatile agricultural land for 40 years and would be contrary to NPPF paragraph 180(b) and saved UDP policies GP2 (xi) and ENV6.

## 8. Alternative Sites

The Alternative Sites Assessment submitted in support of this application is dated to “September 2023” appears to be largely the same as the one submitted in support of a previous application (reference no. 21/1720), this is particularly noted in the description of the development which does not match that of the existing application citing 28 energy storage container units, 14 Transformer feeder pillars (current application is for 11) and 15 low voltage cabins (current application features 44 energy storage units, 11 transformer feeder pillars and 22 PCS containers).

This means that it has not used the most up to date versions of the SHLAA, Brownfield Land Register, Black Country Plan or Employment land datasets that were published in 2022, so some sites that should have been included, such as those in the Reg 18ii consultation of the Black Country Plan are absent.

However, work on the Black Country Plan ended in October 2022, so the sites proposed through that plan are not currently allocated through any local plan documents, which means that the sites ruled out in section 3.19 should not have been omitted from the assessment since they are no longer critical to the Plan.

The alternative sites that have been considered are predominantly taken from lists of housing sites so would not be considered suitable for a battery storage site under both the existing planning policy and the land use considerations set out in the assessment itself which consider residential areas to be incompatible with a BESS. The assessment has ruled out locating the BESS in an industrial area due to the high energy consumption requirements of industrial uses but has not provided any evidence on capacity or viability to support this.

The Local; Planning Authority (LPA) do not understand why the applicant has decided that it is not appropriate to consider land allocated in the local plan and sites proposed in the emerging plan (at the time the alternative sites assessment



was produced), despite the methodology agreed with the council asking for these sites to be included.

The LPA notes that an alternative site selection approach was proposed as part of Planning Policy Team's comments on the applicant's previous application for this site (planning reference no. 21/1720). The applicants have not taken up the council's offer to explore this approach.

With regard to the constraints identified in the study, the LPA are concerned that Registered Park and Garden has been omitted from both the list of constraints and Figure 3.51 Heritage Constraints Map, both because this is a National Heritage List for England designation at the same level as Listed Buildings, and because of the application Site being located directly adjacent to the Grade II Registered Park and Garden of Great Barr Hall.

It is also unclear why table 1: Summary of Black Country Strategic Housing Land Availability Assessment (SHLAA) sites includes Flood Zone 1 as an environmental constraint on a number of sites when this is not considered to be a constraint in any other planning assessments since it comprises everything that is not in Flood Zones 2 or 3. It is also unclear why Green Belt is included in the list of constraints when the application Site itself is located in the Green Belt.

The Alternative Sites Assessment states that a grid connection point which will connect the BESS to Bustleholm substation has already been agreed, but the applicants have not made it clear as to where this is. The report also states that the Site needs to be located near powerlines as the "BESS require a minimum of a 132kV powerline to ensure an appropriate connection can be made into the substation." However, as this connection is not shown on any the plans that form part of the application, we are unable to confirm that it is required.

The applicants have raised the need to have off site connections to the existing grid in their planning statement and alternative sites assessment. However, the point of connection has not been confirmed other than being on Chapel Lane some distance from the Site so there is not sufficient evidence to justify the use of this location.

The Alternative Sites Assessment (ASA) refers to various development plan evidence documents to justify the selection of this Site. However, the approach was flawed since many of the documents listed in the ASA had been replaced by more up to date versions in some cases over a year prior to the date of the ASA. Additionally, many of the documents used (such as the SHLAA) were prepared by the council to identify sites suitable for different uses to those prepared in this application. As such, their use for this exercise is not appropriate and are considered carry little weight.

It is therefore considered that the Alternative Sites Assessment does not provide sufficiently robust justification or provide a very special circumstance for the use of this Site for the industrial style facility in the Green Belt, Conservation Area and near to other heritage assets, above any other potentially less sensitive sites in Walsall.

## 9. Amenity of Neighbours

The nearest noise sensitive uses to the Site are located approximately 230 metres to the southwest of the Site (no. 121 Chapel Lane), 270 metres to the north of the Site (Old Hall Court), 280 metres to the east of the Site (Old Hall Farm) and 345 metres to the east of the Site (Barr Beacon School).

A Noise Assessment has been submitted in support of the proposed development along with a Technical Note which is considered separately under the noise heading of the report.

The proposed submission states that the Site would not be lit in the Ecological Impact Assessment and no details of Site lighting have been provided. The Design and Access Statement advises that there would be no artificial lighting required for the proposed security system which would remove concerns of light pollution affecting neighbouring residents which could be conditioned, if approved.

Residents have raised concerns regarding the likely disruption caused during the construction period if the proposal is approved. This would be for a limited period of time of 36 to 40 weeks and the impacts could be managed by a construction environmental management plan to mitigate the impacts on resident's amenity.

The occupier of a neighbouring property on Chapel Lane has objected to the proposal as the view from their property would be harmed. There is however no right to a private view in current planning legislation.

## 10. Highways

The Local Highway Authority (LHA) has commented that the application Site is located south of Chapel Lane, within a remote and rural part of Walsall that is not easily accessible to residential areas or sustainable transport modes.

The LHA advise that Chapel Lane is an adopted rural carriageway and vehicles can pass simultaneously in vicinity of the Site. Chapel Lane is subject to a 30mph speed limit and is subject to a 7.5 tonne weight restriction except for access purposes.

The LHA have commented that a new priority-controlled access via Chapel Lane is proposed on the north boundary of the Site, this will be sufficient to accommodate 16.5m articulated vehicles. Vehicles for the duration of the construction period will be able to access the Site utilising this access.

Visibility splays of 88m west and 118m east are achieved at the Site access which is more than adequate for a 30mph road as advised by the LHA. The LHA raises concerns with the visibility splay to the west of the access, the visibility splay is not shown to the kerb line and existing hedgerow is shown within the visibility splay.

The welfare, car parking and turning areas will be on temporary, stabilised ground. These stabilised areas are created using Terrafirma matting and stone where required.

The highest increase in average two-way daily traffic movements is expected during the construction phase.

During the operational phase, traffic movements are expected to be minimal. Operational traffic would comprise one van accessing the Site twice per month i.e. two two-way vehicle movements per month.

Due to the proximity of the application Site to the Strategic Road Network it is likely that commercial vehicle movements in the vicinity of the Site are sufficiently high that an increase of one two-way weekly vehicle movement will be imperceptible against background traffic to cause a disturbance to other users.

On completion of construction period, construction traffic would cease. There would therefore be no residual traffic related impacts arising from the temporary construction phase of the proposed development.

The Design and Access Statement suggests a construction period of 26 to 30 weeks, while the Transport Statement and Traffic Management Plan suggest 36 to 40 weeks however the agent has confirmed that a period of 36 to 40 weeks is considered more likely although this could vary slightly. The planning agent has advised that the applicant would seek to deliver the works as quickly as possible, and the works would be appropriately managed.

A Traffic Management Plan has been submitted. There will be up to a total of 189 deliveries to the Site. This equates to approximately between 0.87 and 0.78 deliveries per day on average over the proposed 36 to 40 week construction period.

In addition to the HGV movements, there will also be a small number of construction movements associated with smaller vehicles such as the transport of construction workers and sub-contractors.

Reversing will not need to be undertaken as HGVs will drive on to Site in forward gear and turn within the turning area and then leave in forward gear.

In the 23/1286 application original comments Highways requested an amendment to the Visibility Splay shown in drawing 04 Revision C and drawing 05 and stated that until such time those amendment had been made Highways could not support the application.

On 2nd August 2024, a revised Plan drawing no. 2108013-06 Rev. A was submitted by the LPA to Highways for consideration. This addressed the Highway concerns over the (SSD) Stopping Sight Distance, and a response was sent to the LPA to confirm acceptance of the revision and remove any holding objection. This only took into account the Highway safety aspect and not any other material consideration that would form part of the determination of the application.

The amended visibility splay drawing no. 2108013-06 Rev. A was not accepted by the LPA and nor formally consulted upon. (This plan does not correlate with other drawings of the access as the suite of plans were not updated).

The LHA considers the development 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 National Planning Policy



Framework December 2023 paragraph 115 subject to acceptance of drawing no. 2108013-06 Rev. A and the inclusion of planning conditions.

Subject to drawing no. 2108013-06 Rev. A being accepted the Planning Inspectorate has been advised that the LPA will withdraw the highways reason for refusal.

## 11. Public Rights of Way

A Definitive Public Right of Way known as Footpath Ald43 Walsall runs between Chapel Lane and Pinfold Lane, on land to the north of the application Site. In addition, the Beacon Way long distance promoted route runs along Chapel Lane, opposite the development Site. There are restricted views of the application Site from these pedestrian routes, and no development is proposed to take place within, or directly adjacent. The visual impacts of the proposal on public rights of way are considered in greater detail under the report heading Landscape Assessment.

In consideration of the above, the council's public rights of way officer (PROW) have advised that they have no public rights of way objections to the proposed development. The inclusion of an informative note to the applicants on any planning decision notice if approved in respect of any potential unrecorded public rights of way on the application Site is recommended.

The council's PROW has commented that during a routine site inspection on 15/6/23 of footpath Ald43 it was noted that the footpath had been obstructed to create horse enclosures, preventing pedestrian access and the land where the obstruction was recorded is within the application Site. This matter has been reported to Highways Enforcement as the public right of way remains in place regardless of whether this is blocked or not.

## 12. Ecology

The council's Ecologist has commented that whilst the current application is a resubmission of the planning application reference no. 21/1720, refused permission and then withdrawn at appeal stage, numerous changes have been made since the previous proposal, and a full ecological review of the new application has been undertaken.

The consultation assessment and comments included below are based solely on information provided by applicant within this current application. However, where technical information was provided in relation to best practice guidance for fire safety by technical consultants as part of the previous application, this information has been used to provide a thorough assessment.

To assess the ecological impacts and mitigation for the development that applicant submitted:

- Ecological Impact Assessment (EclA) including Biodiversity Net Gain Calculations using Metric 4.0 report dated September 2023;
- Fire Safety Strategy dated November 2023;
- Landscape Strategy plan dated 16th November 2021

- Visibility splay with vegetation to be removed dated 11th December 2023; and
- Site layout plan dated 18th August 2023.

### Application Site (Development and Onsite Habitats)

The development would look to install a Battery Energy Storage System (BESS) Facility with associated infrastructure and access from Chapel Lane.

The facility / application site lies within an agricultural field bordered by Chapel Lane to the northwest, agricultural fields to the northeast and the Duckery, a Site of Importance for Nature Conservation (SINC), to the south and east, respectively.

The field, in agreement with the EclA submitted, comprises modified grassland of moderate condition with unmanaged hawthorn dominated hedgerows, along the northwestern site boundary. The field while showing some species diversity has been impacted by heavy grazing and poaching through existing management, reducing its flora and structural diversity. The native hedgerows are considered to be a habitat of principle of importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act.

While the site does not hold a statutory or non-statutory designation itself. The site has been identified as a Potential Site of Importance (PSI). PSIs are areas identified using aerial imagery that could potentially support species of note or hold ecologically important semi-natural habitat.

The Local Site Partnership strongly recommends that local site assessments are considered whenever there is a proposal to develop a PSI. On this occasion, while the site holds a strong core position in respect to the ecological connectivity within the wider landscape and is bordered by a non-statutory protected site, the habitats as a whole, are of low ecological value. As such it is unlikely that it would meet the criteria of a non-statutory site following guidelines set out in the Birmingham and Black Country Local Sites – Guidance for Selection. While the undertaking of a local site assessment at pre-application stage would have been preferred, the level of compensation provided as part of the proposal, should it be deemed deliverable and management secured for the prescribed 10 years, would mitigate and compensate for the habitat loss on site.

### Adjacent and Nearby Non-Statutory Protected Sites / Protected Species

Walsall Borough holds numerous protected sites at international, national and local level. The sites protected at local level are protected under policy ENV1 of Black Country Core Strategy are identified as Sites of Importance for Nature Conservation (SINC) and Sites of Local Importance for Nature Conservation (SLINC).

Policy text states:

*'Development within the Black Country will safeguard nature conservation, inside and outside its boundaries by ensuring that:*

*Development is not permitted where it would harm internationally (Special Areas of Conservation), nationally (Sites of Special Scientific Interest and National*

*Nature Reserves) or regionally (Local Nature Reserve and Sites of Importance for Nature Conservation) designated nature conservation sites;*

*Locally designated nature conservation sites (Sites of Local Importance for Nature Conservation), important habitats and geological features are protected from development proposals which could negatively impact upon them;*

*The movement of wildlife within the Black Country and its adjoining areas, through both linear habitats (e.g. wildlife corridors) and the wider urban matrix (e.g. stepping stone sites) is not impeded by development;*

*Species which are legally protected, in decline, are rare within the Black Country or which are covered by national, regional or local Biodiversity Action Plans will not be harmed by development.*

*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.*

*Where, exceptionally, the strategic benefits of a development clearly outweigh the importance of a local nature conservation site, species, habitat or geological feature, damage must be minimised. Any remaining impacts, including any reduction in area, must be fully mitigated. Compensation will only be accepted in exceptional circumstances. A mitigation strategy must accompany relevant planning applications.'*

As noted within the EclA, the application site lies adjacent to The Duckery SINC. The Duckery SINC as a whole contains semi-natural broadleaved woodland which slopes down to Holbrook stream (formerly known as Hall Brook). Alongside the stream lies an area of flat topography, which appears to flood on a regularly basis with inundated areas, indicating water likely floods and pools within the woodland during storm events. This central area of flat ground is dominated by wet woodland with numerous streams running through out suggesting the Holbrook stream while having one main channel divides into smaller channels within this area, prior to re-connecting on the southern edge of the SINC.

In addition, historical and more recent records (2023) of White Clawed Crayfish have been identified within Holbrook immediately downstream of the development site. White Clawed Crayfish, protected under the Wildlife and Countryside Act 1981 (as amended) and listed as Endangered on the global IUCN Red List of threatened species is known to be significantly affected by poor water quality.

While the EclA provides mitigation measures for the construction phase and details how the reduction in grazing in close proximity of the woodland will prevent poaching and further eroded material reaching the Holbrook stream from surface water run-off, during the operational phase. The report does not include any mitigation measures to be used during the operational phase in respect of surface water run-off during or after a potential fire incident.

The fire safety report provided by the applicant states that the fire safety design complies with NFPA855 and includes an automatic detection and suppression

system, in built spacing between units to reduce the potential for fire spread and a gas extinguishing system. While water is not used directly on the fire, the report does note that water will be used to reduce the temperature of the surrounding equipment and dampen any nearby vegetation to avoid spread.

This aligns with information provided by the West Midlands Fire Service, that while water could be used to suppress fire, it is usual practice, as water will not stop thermal runaway, to allow the fire to burn itself out. However, water through the use of a cooling high-water mist will be used on any adjacent BESS systems and vapour clouds, if present, to prevent the spread of fire and / or reduce air quality issues.

Therefore, while it is understood that a controlled burn procedure will be used rather than large quantities of water. The cooling mist procedure will still involve the use of water as part of a fire incident, bringing concerns in relation to surface water runoff (containing heavy metals and chemicals) during fire incidents entering the SINC and Holbrook. In addition, to the fire incident itself causing the breakup of equipment which could introduce loose particles of heavy metals to the ground and bare surface, which during rainfall could be leached into the soil and ground water.

The Environment Agency (EA), has provided the following guidance note, 'West Midlands area – Guidance Note for Developers and Local Planning authorities, Battery Energy Storage Systems (BESS)' (July 2024) which states:

*'The 'general advice applies to all BESS pre-planning and planning applications where we are not providing a bespoke response'.*

*Under normal operation BESS developments do not present significant risks to groundwater or surface water. There is, however, potential for pollution of the water environment due to abnormal and emergency situations at BESS developments, in particular: fires. There is a risk that highly polluting chemicals in batteries could enter groundwater in firewater or rainfall. Applicants should assess risks to groundwater and the water environment, and ensure robust mitigation is in place for containment of this water. Where possible the applicant should ensure that there are multiple 'layers of protection' to prevent the source-pathway-receptor pollution route occurring.*

*The site must be able to accommodate an appropriately sized water storage for these events.*

*We would encourage the council and developer to ensure that appropriate space is available on site for firefighting water storage and containment. We would suggest that the surface water drainage system incorporates suitable measures to prevent pollution of the water environment from firefighting run-off, in the event of a fire. For example, 'containment' through tanks or appropriately sealed containment drainage (lagoons tanks or storage) systems, on impermeable surfaces to hold firewater. Use of shut off valves. Spill kits and drainage covers.'*

Following the EA guidance above, the proposed development, based on the proposed site layout and the fire safety report, has not provided sufficient mitigation from the potential of contaminated surface water runoff during a fire incident.

Therefore, a significant negative impact on Holbrook stream, the Duckery SINC and White Clawed Crayfish remains to be addressed. As such the council's Ecologist is required to object to the current proposals in accordance with Black Country Core Strategy Policy ENV1, Walsall Unitary Development Plan Policy ENV23 Policy GP2, Walsall Site Allocations Document Policy EN1, Conserving Walsall's Natural Environment SPD and Management and Enhancement and Wildlife and Countryside Act 1981

### Deliverability of Biodiversity Net Gain

The Ecological Impact Assessment (EclA) including Biodiversity Net Gain Calculations using Metric 4.0 report dated September 2023 provided details on the proposed habitat enhancement and creation based on landscape strategy plan (Drawing No LN-LP-06) provided by the Applicant. While the application was submitted prior to the mandatory 10% biodiversity net gain being brought forward, the application is still required to meet the requirements set in paragraph 180 and 185 of the National Planning Policy Framework. This requirement looks to ensure developments achieve measurable net gains in biodiversity.

The applicant while exempt, has chosen to show measurable net gain on site utilising the biodiversity net gain metric. The development, as stated by the EclA, will achieve a 18.19% net increase in habitat units and a 678% net increase in hedgerow units. With the site subject to biannual monitoring over 10 years and management for the life of the proposal.

From a review of the plans provided with the application, number of discrepancies have been noted, that could impact the level of hedgerow removal and planting and the proposed management of the grassland.

In respect to hedgerows, the Landscape Strategy plan shows a straight agricultural style entrance with the existing hedgerow being retained in full, while the Visibility Splay Plan (Drawing No. 2108013-05) shows a splayed entrance with a section of the existing hedgerow removed. As such it is unclear how much hedgerow is to be lost and the level of which the existing hedgerow will be impacted. This impact is not identified within the EclA.

The proposed wildflower grasslands and grazing land are shown within the landscape strategy plan, with these areas being bordered by fencing except for the wildflower meadow, which is bordered by fencing and native hedgerows. The fencing ensures that the horse grazing does not occur within the wildflower meadows as heavy pressure grazing is known to reduce sward and structural diversity. Upon referring to the site layout (Drawing No. C0002457\_02) the post and wire fencing denoting the boundaries of the grassland are not present, although all other fencing has been shown. This discrepancy is troubling, due to the impact it could have on the grassland proposed achieving net gain, and due to the current location of the horse stable, which would provide easy access for grazing to the area allocated to wildflower grassland.

Until the discrepancies in the plans are addressed and a biodiversity net gain metric supplied, it is not possible to assess the potential biodiversity net gain on site and the deliverability of the proposed compensatory habitat.



## Ecological Conclusion

At the current time, there are still two significant issues yet to be addressed within the application. These are:

- The potential significant negative impact to the Duckery SINC, Holbrook stream (formerly known as Hall Brook) and White Clawed Crayfish from surface water runoff during a fire incident; and
- Discrepancies between plans submitted by the applicant impacting the assessment of the proposed compensatory habitat and deliverability of biodiversity net gain.

Therefore, the council's Ecologist is required to object to the proposed planning application.

The Birmingham & Black Country Wildlife Trust (BBCWT) have commented that even by temporarily developing a part of the Green Belt that this would lead to an interruption to the permanence of the Green Belt and consequently any development of the Green Belt will result in a negative change to its essential character and should be resisted.

The BBCWT comment that there appears to be no tangible link between the management prescriptions given in the Biodiversity Management Plan and the aspirational Condition of the habitats on site post-development. The management plan should lay out what criteria influence the Condition of the individual habitats (as laid out in relevant Defra guidelines) and demonstrate how management will ensure that these criteria are achieved.

## 13. Flood risk / Drainage

Staffordshire County Council Flood Risk Management Team have confirmed that they are satisfied with the proposals and have no objections subject to the inclusion of planning conditions to secure the implementation of the proposed scheme in accordance with the submitted documents.

The applicants have indicated in their appeal statement of case that they wish to make a proposed change to the development to make minor changes to the layout to accommodate a surface water attenuation swale/pond. This proposal would be located towards the southern end of the Site between the main BESS area and the site boundary.

No details of this amended proposal have been provided at this stage and the LPA would require details of the proposed location, full details of construction and details of outflow. The amendment is considered would be a substantial change and full planning permission would be required.

The planning agent advises that revised plans and documents will be submitted and whether this proposed change can be accepted as part of this process will be a matter for the Planning Inspector.

## 14. Fire

Concerns about the potential fire and explosion risk of lithium-ion batteries has been raised by objectors and the difficulty to extinguish a fire should one occur and the risk of explosion.

In August 2023 in response to concerns about fire safety of BESSs, the government updated its planning practice guidance to encourage developers and local planning authorities in England to consult their local fire and rescue service in preparing and deciding on planning applications for BESSs. (<https://www.gov.uk/guidance/renewable-and-low-carbon-energy#contents> *Renewable and Low Carbon Energy*, last updated August 2023. Paras 34-35)

The updated guidance advises operators of BESSs to install “an effective and appropriate method” to detect faults and thermal runaway and fire suppression systems to prevent or limit the spread of fire.

A Freedom of Information request was sent to West Midlands Fire Service (WMFS) who provided a methodology which is/would be used by WMFS when faced with a fire at a BESS site. This includes risk information, reference to a controlled burn, cooling adjacent BESS systems with a high-water mist, no removal of any BESS structures that are in thermal runaway or imminently starting and considering positive pressure ventilation for removing off-gassing. The methodology refers BESS systems with no obvious flames advising that consideration should be given to explosive risk, immediate evacuation of the area should be prioritised, setting up of a cordon, applying cooling high pressure mist and Positive Pressure Ventilation to assist with dissipating vapour cloud/off-gassing.

Notwithstanding the significant concerns raised regarding fire hazards and health and safety issues, it is not considered that there is sufficient evidence to justify refusal on these grounds, as no objection has been raised by WMFS. WMFS require the proposal, if approved, to meet all the functional requirements stated within B5: Access and facilities for the fire service of Approved Document B Volume 2: Building other than dwellings, 2019 edition incorporating 2020 and 2022 amendments – for use in England. These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

Environmental Protection Officers have commented that the Anesco Fire Safety Strategy document advises that the applicant needs to engage with Local Fire Rescue Services to develop a comprehensive risk management process leading to the creation of robust Emergency Response Plans which may be required to consider water supply and drainage in emergency situations.

As previously advised the applicants indicated in their appeal statement of case that they wish to make a proposed change to the development to make changes to the layout to accommodate a surface water attenuation a fire water storage pond. This proposal would be located towards the southern end of the Site between the main BESS area and the site boundary.

No details of this amended proposal have been provided and the LPA would require details of the proposed location, full details of construction and details of outflow. The amendment is considered would be a substantial change and full planning permission would be required. The Statement of Case advises that

revised plans and documents will be submitted and whether this proposed change can be accepted as part of this process will be a matter for the Planning Inspector.

## 15. Site Security

The planning statement advises that there would be a dedicated access track and security fencing enclosing the Site. A security system is required to prevent unauthorised access into the battery storage system, and this will consist of 2.4 metres high palisade fencing and either 4 metres high column CCTV or a security beam system installed around the fence perimeter. The proposed site would be unmanned, and effective security arrangements would be essential to protect the site and human health. The proposed positioning of the CCTV poles has not been identified on the site plan or within the key.

The proposed metal palisade security fence shown on the 132kv Substation Plan & Sections & Fence Detail – C0002457\_06 Rev C is missing from the key on the Site Layout drawing C0002457\_02 Rev. J.

The sections show it as a typical 2.0m high fence but also states 1.8m and 2.5m high versions are alternatives. There is a black line set around the sub-stations on the plan and this could be the security fence required by the Electricity Safety, Quality & Continuity Regulations (ESQC). No details of the proposed gates into each compound have been provided nor any gates proposed at the entrance to the Site off Chapel Lane.

None of the existing dilapidated fencing set around the field's edges appears to be identified for improvement on the layout plan. Notwithstanding the information provided it is considered that security details could be secured by planning conditions if all other matters are considered acceptable.

## 16. Trees / Protected Trees

The conclusion of the applicant's arboricultural report dated 23/11/23 Rev. 01 states that none of the trees and hedges on Site will need to be removed to accommodate the proposals and that all the retained trees and hedges can be adequately protected in accordance with 'BS 5837: 2012 Trees in Relation to Design, Demolition and Construction – Recommendations' of 09/11/23, throughout any construction phase until completion.

The tree officer has advised that they note that a hedge (H14 in the arboricultural report) situated to the south-west of the proposed access route is within the visibility splay of this proposed new vehicular access and a section of this hedge (and the bank it grows upon) would need to be removed to provide adequate visibility for highway safety.

The tree officer has advised that the hedge comprises predominantly of a single line of Hawthorns which has been left unmanaged for some time and which has some gaps and some dead trees within. Using BS 5837: 2012 categories, this hedge has been classified as 'C' in the submitted arboricultural report dated 23/11/23 Rev. 01, which are trees of low quality with a life expectancy of at least 10 years.



Category 'C' is considered an accurate appraisal and the removal of a section of this hedge is considered acceptable, if the planning application is approved, and there is considered adequate space available to plant a replacement hedge further back in the Site to mitigate for its loss.

Consequently, the council's tree officer has confirmed that there are no arboricultural objections to the application provided the recommendations and guidelines as detailed in the arboricultural report and BS 5837: 2012 are complied with as other than the loss of the section of hedge (which is recommended to be replaced further into the site) none of the other trees and hedges on Site would be affected by the proposals.

Planning conditions have been recommended by the council's tree officer in respect of tree protection measures and replacement hedge planting, if approved.

## 17. Ground Conditions and Environment

The council's Environmental Protection Team have advised that the applicant has not confirmed whether the 15 metres high comms tower is a mobile phone type tower. If the latter is the case, then the applicant would be required to demonstrate that the phone mast and associated equipment would be ICNIRP compliant.

The Environment Agency (EA) have provided a Guidance Note for Developers and Local Planning Authorities with regards to Battery Energy Storage Systems (BESS) with Lithium-ion batteries last updated July 2024. This guidance post-dates the submission of this planning application. The risks to the environment are identified as:

- They could be at risk of flooding.
- Pollution risks (including fire-related risk) to surface water and groundwater.
- The links between flood risk and pollution risk.
- Management of end-of-life batteries.

The Site lies within a designated Flood Zone 1 which signifies areas with the lowest probability of flooding. The local Planning Authority consulted Staffordshire County Council Flood Risk Management Team have confirmed that they are satisfied with the submitted proposals and have no objections to the proposals.

The EA advise that under normal conditions BESS developments do not present significant risks to groundwater or surface water. Their guidance states that there is however the potential for pollution of the water environment due to abnormal and emergency situations at BESS developments and where possible the applicant should ensure multiple 'layers of protection' to prevent the source-pathway-receptor pollution route occurring

The guidance comments that in the event of a fire at a BESS, it is accepted best practice to let the containers on fire burn out, it is likely water will be used to cool neighbouring containers. This water could enter burning containers through surface run off or directly from spray cooling neighbouring containers.

Furthermore, during or following a fire at a BESS development, water could enter exposed containers through rainfall during the period of time it takes to remove, or cover burnt out containers. The Site must be able to accommodate an appropriately sized water storage for these events.

The EA guidance encourages the council and developer to ensure that appropriate space is available on Site for firefighting water storage and containment. They suggest that the surface water drainage system incorporates suitable measures to prevent pollution of the water environment from firefighting run-off, in the event of a fire.

The submitted Fire Safety Strategy states that an aerosol suppression system (Stat-X) would be incorporated which does not involve liquids. Whilst an aerosol suppression system would be used in respect of the batteries, the proposal does not address how in the event of a large-scale fire how would firefighting water that is used to reduce the temperature of surrounding equipment and dampen any nearby vegetation as referred to in the Fire Safety Strategy be contained to avoid the risk of pollution of the water environment as advised in the EA Guidance.

The Anesco Fire Safety document indicates that once completed the Site will be subject to a Fire Safety Order, which will include a requirement for a fire risk assessment. The Anesco document also advises about NFCC Grid Scale BESS Planning Guidance document and NFPA 855 Standard for the Installation of Stationary Energy Storage Systems 2020. Environmental Protection officers are not familiar with either of these documents and have advised that they are therefore unable to validate or advise on the suitability of any actions to conform to the guidance or documents.

The Anesco document advises that the applicant needs to engage with local Fire Rescue Service to develop a comprehensive risk management process, leading to the creation of robust Emergency Response Plans. Based on the comments received from the Fire Service it appears that the applicant may not have fully engaged with them at this stage and developed a robust emergency plan, which may be required to consider water supply and drainage in emergency situations.

No specific information has been seen that appears to address the Environment Agency concerns, i.e., assess risks to groundwater and the water environment, and ensure robust mitigation is in place for containment of this water. Where possible the applicant should ensure that there are multiple 'layers of protection' to prevent the source-pathway-receptor pollution route occurring. Considering that the EA comments are quite recent, and the applicant's comment on safety, it is recommended that the applicant provide information in writing to the Local Planning Authority that details their emergency safety arrangements and details how they will conform to the EA BESS Guidance note. In the absence of this information the planning application is considered fails to accord with the aims and objectives of BCCS policy ENV1, SAD policy EN1, saved UDP policies GP2, ENV10 and ENV23 and is recommended for refusal.

## 18. Noise

The nearest noise sensitive uses to the Site are located approximately 230m to the southwest of the site (121 Chapel Lane), 270m to the north of the site (Old Hall Court), 280m to the east of the Site (Old Hall Farm) and 345m to the east of the Site

(Barr Beacon School). A Noise Assessment has been submitted in support of the proposed development along with a Technical Note.

Following previous consultation responses on behalf of Environmental Protection in regard to the above, this application has been subject to an internal review on behalf of the Environmental Protection team to take account of on-going and emerging concerns that have arisen relating to the development of Battery Energy Storage Systems, and in particular regarding the appropriateness of acoustic impact studies for what amounts to relatively new technology.

The attached technical commentary and critique addresses the **Noise Impact Assessment accompanying planning application prepared by BWB on behalf of Anesco Ltd., reference MCA2206 August 2023**. The comments and conclusions arising from review (see below) are additional to previous consultation responses on the part of Environmental Protection and take precedence.

Extract from commentary and critique.

### Observations and Conclusions

The Noise Impact Assessment is presently inadequate for determining the suitability of the planning proposal and does not sufficiently evaluate the significance of likely impacts.

The requirements of policy have not been met and the suitability of the site for development is not established. This is required to ensure an effective use of land in while safeguarding and improving the environment and ensuring safe and healthy living conditions. Local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies the NPPF.

Information provided to date does suitably support safeguarding of amenity for neighbouring noise-sensitive development. It is considered there are a number of deficiencies in the methodology and reporting and the conclusions cannot at this time be relied upon.

Acoustic impacts require more detailed and extended examination, along with requisite validation. Mitigation measures cannot be evaluated until a more robust noise impact assessment is provided.

The Noise Impact Assessment is inadequate for determining the suitability of the planning proposal and does not sufficiently evaluate the significance of likely impacts and does not support safeguarding of amenity for neighbouring noise sensitive development. The proposal would be contrary to saved UDP policies GP2 and ENV10

## 19. NPPF Consultation 2024

The proposed NPPF changes are currently only a consultation and should have little if any weight at present, at least for the purpose of determining planning applications.

By way of comparison, the transitional arrangements for local plans propose that plans already submitted for examination will continue to be assessed under the current or previous NPPF. The same principle is considered to apply to current planning applications and appeals.

Paragraph 163 of the NPPF has three clauses a) to c) and it is considered that the first part of the paragraph and clause a) are relevant. The track change version, with the proposed changes, states:

~~“In determining planning applications~~ Local planning authorities should support planning applications for all forms of renewable and low carbon development. When determining planning applications<sup>59</sup> ~~for renewable and low carbon~~ these developments, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the proposal’s contribution to renewable energy generation and a net zero future: “

It is considered that both the current and proposed wording only refer to renewable and low carbon development and they do not refer to the transmission or storage of energy. The proposed addition to clause a) is considered more explicit about this in that it uses the term ‘generation’ rather than ‘development’.

There is no certainty that the proposed batteries would be used to store electricity generated from only renewables as they could store energy from coal or gas power stations as well as from renewable sources forming an ‘energy mix’.

The preceding paragraph (164 in the December 2023 version and 163 in the proposed version) states (in relation to low carbon improvements to existing buildings) *“Where the proposals would affect conservation areas, listed buildings or other relevant designated heritage assets, local planning authorities should also apply the policies set out in chapter 16 of this Framework.”* Little change is proposed to this paragraph, and it is considered that supporting or giving significant weight does not meet that all other planning policy considerations should be set aside.

It is considered that proposed development breaches the policy that is proposed to be revised.

## Planning Balance

The submission includes a list of 11 no. public benefits that the applicants consider are relevant. These are referred to in paragraph 7.2.5 of the planning statement and are considered in turn below:

1. Renewable energy generation in the context of a declared UK climate emergency and stated government objectives to achieve net zero by 2050.

The applicant has stated that the proposed BESS will help to support the delivery of this ambitious net-zero target.

The council recognises the policy support for the delivery of renewable and low carbon energy to mitigate climate change. However, the proposal is not a renewable energy project, although it is considered that it would provide enhanced energy resilience in the National Grid. While the energy to be stored in the proposed BESS would be generated by both renewable and non-renewable energy it has the potential in time to provide greater support for renewable energy production.

Proposals of this type are supported by government policy, and this is given significant weight in assessing the proposal in relation to the Green Belt and any other harm. Paragraph 157 of the NPPF states that *'The planning system should support the transition to a low carbon future in a changing climate..... It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure'*

Paragraph 163 of the NPPF states that *"when determining planning applications for renewable and low carbon development, local planning authorities should: a) not require applicants to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions; b) approve the application if its impacts are (or can be made) acceptable."*

Renewables such as wind and solar power cannot adjust for demand from consumers as easily as fossil and nuclear power can. Therefore, the government has said a decarbonised power system will need to be supported by technologies that can respond to fluctuations in supply and demand, including energy storage (*House of Commons Library Research Briefing – Battery Energy Storage Systems dated 19/4/24*). Therefore, these issues are accorded substantial weight.

2. The fact this project can connect to the grid in the short to medium term and contribute to national and local energy security in the short to medium term.

This comment is noted and is considered forms part of the consideration of point no. 1 above.

3. The proximity of the grid connection, being within 615 metres of the site, meaning that relatively limited infrastructure works are needed to enable the grid connection compared with other sites a greater distance from the point of connection.

Whilst noting that there is a need for such energy supply facilities to meet national and local need particularly with the current uncertainty over energy supplies it is considered that insufficient evidence has been provided to justify why the proposal should be located on this Site.

Documents submitted with the application however indicate that the connection point into the grid is located c.615m south of the site, but the documents (planning statement and plans) fail to specify the location of this connection point.

This statement is afforded limited weight as the evidence is not sufficient to demonstrate that the BESS could not be provided in a less harmful location elsewhere in the locality.

4. Very significant Biodiversity Net Gain (BNG) onsite, with the potential to also improve offsite habitat through the benefits of removing horse grazing close to the watercourse.

When considering BNG this does need to be measurable and meet paragraph 180 and 185 of the NPPF. The proposals appear to meet this however there are discrepancies between the plans provided questioning the deliverability and the level of proposed habitat or biodiversity gain therefore the LPA gives this offer little weight as this may not be delivered.

The mitigation planting is not considered to address the significant landscape change at the Site and in the surrounding contextual area. The planting proposals are considered to deliver a minor landscape benefit in terms of the Chapel Lane hedgerow restoration and possibly an area of wildflower meadow to the west of the sub-stations if this area is left ungrazed. This is not considered to be a “very significant BNG gain by the LPA.

Wildflower meadow areas will also be created, including a fenced-off tussocky area between the Site and ‘The Duckery’ woodland; not only will this provide habitat of intrinsic value, but it will reduce the levels of ‘poaching’ (ground disturbance) caused by horses in this part of the Site, with resulting improvements in water quality within the small watercourse that flows through ‘The Duckery’.

The heavy poaching of the ground within the field could be causing increased levels of eroded materials entering the stream. Keeping the horses further away from the woodland is designed to prevent this. This would provide an improved water quality benefit and benefit to White Clawed Crayfish, a protected species, and is considered would be a localised important benefit rather than a wider public benefit.

5. The contribution the site can make to supporting more productive uses of brownfield land (for employment and housing development, for example), on the basis that if the BESS were located within the urban areas, it would prevent other uses for which there is significant development pressure.

The applicant’s comments are noted however this statement displays a lack of understanding of how the fifth purpose of the Green Belt set out in NPPF Paragraph 143 (e) “*to assist in urban regeneration, by encouraging the recycling of derelict land and other urban land*” is applied. The aim of this Green Belt purpose is to ensure that derelict and urban land is used instead of areas of land in the green belt regardless of the type of development proposed. This statement is therefore given little weight in the planning balance.

6. Lasting Landscape, planting visual and environmental benefits resulting from the proposed landscaping strategy which will remain after the development

The council’s landscape consultant considers that the proposed landscape mitigation and fencing proposals would break up the field’s open space and reduce its contribution to the rural field pattern to the north and west of the Site. The remaining proposed landscape and fencing will appear fragmented and broken up resulting in visual harm. This is an area of the borough that people love, enjoy and use. It is



popular with walkers and horse riders, and it is considered that the proposal would have significant visual impact on the existing rural landscape resulting in a limited public benefit. Paragraph 180(b) of the NPPF recognises the intrinsic character and beauty of the countryside.... including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland and it is considered that this site should be preserved.

The landscape mitigation and fencing proposals, particularly the proposed hedgerow and deer fence to the south-east of the development will break up the field's open space and reduce its contribution to the rural field pattern to the north and west of the Site. With the proposed landscape and fencing the remaining field will appear fragmented and broken up.

In terms of balancing the minor positive landscape effects against the significant adverse ones that arise with the insertion of this incongruous features there are clear, adverse landscape effects that should count against the proposals in the planning balance. The existing landscape benefits and importance of the site to residents are considered to have substantial weight when considering the planning balance.

7. That any adverse effects (such as Green Belt, landscape and heritage, for example) are temporary and entirely reversible impact once the BESS is decommissioned.

The proposed BESS would be in situ for a period of 40 years. This time period would extend 14 years beyond the net-zero carbon emissions of 2050. The submission states that the development would then be decommissioned, and the land returned to its former condition.

Whilst it is noted that this development would be reversible it is considered the adverse effects of this proposal would be experienced over a significant time period and the suggested temporary nature of 40 years is not considered to mitigate the harmful impacts upon the Green Belt and historic environment. This therefore is accorded limited weight.

8. Financial, investment and economic benefits in delivering and operating the BESS

These benefits are considered to be limited as the Site would be unmanned and subject to only occasional maintenance. There would be job opportunities during construction and decommissioning but as this is likely to be carried out by specialist operatives, which are not necessarily to be from the locality, any benefits to the local economy are therefore given limited weight. No evidence has been provided to support this statement.

9. Direct employment during the construction and operational phases, and job creation in the supply chain during these stages.

The planning agent suggests that the proposal will provide benefits in the form of new jobs both from the operation of the BESS facility and throughout the stages of the development. These benefits are considered to be limited as the Site would be unmanned and subject to occasional maintenance. There would be job opportunities during construction and decommissioning but as this is likely to be carried out by specialist operatives which are not necessarily to be from the locality. The benefits to the local economy are therefore given limited weight.



10. Suitability of the site for BESS, given the relatively unconstrained nature of the site when compared to other Green Belt sites in the authority.

Planning applications are assessed on their own individual merits and the applicant's comment that this is a relatively unconstrained site when compared to other Green Belt sites in the Authority are given little weight in the planning balance. The applicant considers that the Site is suitable for BESS however this may be beneficial for commercial reasons.

11. The fact the proposals avoid Best and Most Versatile agricultural land.

The submitted Agricultural Quality of Land survey report 1896/2 identifies that the Site contains grade 1, 2 and subgrade 3a agricultural land. The Guide to Assessing Development Proposals on Agricultural Land, updated 5/2/21 advises that best and most versatile agricultural land is graded 1 to 3a so this statement is incorrect, and the proposal would be located on Best and Most Versatile agricultural land which is considered would offer no public benefit in this instance.

There are significant concerns about setting a precedent for other similar sites to come forward as BESS development sites particularly as the Site was chosen in part for its proximity to the point of connection to the Grid.

In view of the above concerns raised it is considered that the current proposal would have a significant and unacceptable level of harm to Green Belt, heritage assets, Best and Most Versatile Agricultural Land, ecology and landscape character arising from this larger development proposal. This harm is considered to outweigh the benefits of energy storage on this site.

Careful consideration has been given to the benefits of the proposal in meeting national and local policies in respect of aiding the transition to the delivery of renewable and low carbon energy to mitigate the impacts of climate change. However, in this instance it is considered that the proposed development is unacceptable in this location and is recommended for refusal.

The following table considers the weightings given when considering the planning balance:

Benefit	Weight
Renewable energy generation	Significant but application is not for renewable energy generation so afforded less weight
Green Belt	Significant
Very Special Circumstances	Significant
Heritage	Significant great weight
Protected Species	Significant
Landscape	Significant
Alternative Sites Assessment	Significant
Biodiversity Net Gain	Significant

## Heritage Balance

The above public benefits do not outweigh harm to the designated heritage assets.

When considering weighing public benefit and optimal viable use, it is considered that whilst the proposal would provide a public benefit by providing enhanced energy resilience in the National Grid and has the potential in time to provide greater support for renewable energy production however the detrimental and lasting physical and visual harm that this proposal would cause to designated heritage assets is considered to outweigh any public benefit gained from this proposal at this sensitive location as their benefits would be lost forever.

### **Green Belt and Very Special Circumstances**

The above public benefits do not outweigh harm to the Green Belt and there are no very special circumstances to justify the harm to the Green Belt.

### **Landscape**

The above public benefits do not outweigh harm to the rural landscape.

### **Ecology**

The above public benefits do not outweigh harm to ecology and protected species

### **Development Plan**

The above public benefits do not outweigh the breach of the Development Plan.

### **Overall Planning Balance**

The proposal is not for renewable energy generation. The proposed development results in harm to designated heritage assets, the Green Belt, the rural landscape and has unacceptable ecological impacts and breaches development plan policies. There are no public benefits that outweigh the harm as outlined above.

## **Conclusions and Reasons for Decision**

The proposed development is considered would represent inappropriate development within the Green Belt and would, by definition, substantially harm the Green Belt.

The proposal would be contrary to NPPF chapter 13, BCCS policies CSP2, SAD policy GB1 and UDP saved policies GP2, ENV6 and ENV7 as the development can only be permitted where very special circumstances exist.

The spatial and visual effects of the proposal when combined are considered would result in the substantial loss of openness and would encroach into the countryside and an area valuable landscape character. The Very Special Circumstances provided to justify the proposal has highlighted national policies supporting such proposals which carry some weight in assessing the proposal.

However, it is considered that the harm to the Green Belt, the loss of openness and other harm to the character and appearance of the area by eroding the open rural appearance of the area, unacceptable impact on the conservation area, risks to ecology, impact on landscape character and harm to heritage assets by the

introduction of an industrial form of development are not outweighed by other considerations in supporting the transition to renewable forms of energy generation or storage in this instance. The proposal is for the storage of an 'energy mix' rather than from sustainable renewables and seems to lean towards resilience of the National Grid rather than sustainability.

In addition, whilst the current scheme is for a larger scale development with a greater harmful impact than the previous proposal it is considered that the previous refusal reasons have not been overcome as outlined in this report.

On balance it is considered that the identified harms of the proposed development do not outweigh the benefits of energy storage in this sensitive location and therefore the application is recommended for refusal.

## **Positive and Proactive Working with the Applicant**

Officers are unable to support the proposal in this instance for the reasons given and following the refusal of an earlier proposal for BESS.

## **Recommendation**

The officer recommendation is to resolve that the Council would have refused permission and resists the appeal.

## **Reasons for Refusal**

1. The proposal is inappropriate development in the Green Belt for which no very special circumstances are advanced which outweigh the harm to the Green Belt and any other harm. The proposal is therefore contrary to NPPF paragraphs 152, 153 and 156, BCCS policy CSP2 and ENV7, SAD policy GB1 and UDP saved policies GP2, ENV6 and ENV7.
2. The proposed development, by virtue of its loss of a sensitive area of open land would result in significant harm to the character and appearance of this valuable rural area and would fail to respect the intrinsic qualities or beauty of this area of countryside. The proposal is therefore contrary to NPPF paragraph 180(b), BCCS policies CSP3 and ENV2, SAD policies GB1 and EN5 and saved UDP policies GP2, ENV6, ENV7 and ENV30 and Designing Walsall SPD.
3. The replacement of an open agricultural field with this development and associated infrastructure (including but not limited to the multitude of fencing types and other paraphernalia such as the 15 m high telecom mast, substation, control kiosks and CCTV cameras on 4 metres high posts) would significantly reduce the contribution the site makes to the character and appearance of the Conservation Area. Moreover, the development would reduce the contribution the site makes to the significance of the Great Barr Hall Registered Park and Garden listed buildings contrary to BCCS policies CSP3 and ENV2, SAD policies GB1 and EN5 and saved UDP policies GP2, ENV6, ENV7 and ENV30 policy and s.66 and 72 Planning (LB & CA) Act 1990.

4. The planning application fails to demonstrate that the visibility splays are shown to the kerb line and that the existing hedgerow obstruction has been addressed on the submitted plans to ensure adequate visibility at the proposed new site access. The proposal would be contrary to BCCS policy TRAN2 and SAD policy T4.
5. The proposed development would result in the loss potential use of agricultural land classified as Best and Most Versatile agricultural land for a period of 40 years which could potentially support future food security. Furthermore, historic mapping illustrates this land was originally utilised for agricultural purposes. This proposal is considered unacceptable and would be contrary to NPPF paragraph 180(b) and saved UDP policies GP2 (xi) and ENV6.
6. The proposal fails assess risks to groundwater and the water environment, and ensure robust mitigation is in place for containment of fire-fighting water in the event of a fire nor includes details of multiple 'layers of protection' to prevent the source-pathway-receptor pollution route occurring. Contaminated surface water run-off and ground water could have a potentially significant detrimental impact on the Duckery SINC, Holbrook stream (formerly known as Hall Brook) and protected species White Clawed Crayfish during a fire incident. In addition, to the fire incident itself causing the breakup of equipment which could introduce loose particles of heavy metals to the ground and bare surface, which during rainfall could be leached into the soil and ground water resulting in significant harm to the natural environment. The application fails to demonstrate engagement with local Fire Rescue Service to develop a comprehensive risk management process leading to the creation of robust Emergency Response Plans to consider water supply and drainage in emergency situations. The proposal fails to accord with the aims and objectives of BCCS policy ENV1, SAD policy EN1, saved UDP policies GP2, ENV10 and ENV23, Conserving Walsall's Natural Environment SPD and the Management and Enhancement and Wildlife and Countryside Act 1981.
7. Saved UDP policy ENV13 states that development for uses other than industry or warehousing will not normally be permitted in close proximity to high voltage electricity transmission lines, substations or transformers. As the proposed use is not for industry or warehousing this proposal fails to meet the requirements of this policy, which also requires the appropriate operational safe clearances to be met. The policy justification text sets out a required zone of separation of at least 50 metres from pylons and overhead cables. The Site is within the 50m zone of separation as the power lines run through the middle of it and the compounds for the battery storage units and substation are directly adjacent to the power lines and the proposal is contrary to saved UDP policy ENV13.
8. The proposed BESS site together with the 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing, CCTV posts and cameras would be harmful to the significance of Great Barr Hall Registered Park and Garden, Old Hall Farmhouse, and the Barn approximately 20 metres north of Old Hall Farmhouse and the Church of St Margaret. It would introduce incongruous modern alien industrial dominant features into their setting, that are utilitarian in appearance, into the rural agricultural and historical landscape, that would be visually dominant and detrimental, and which would alter the rural character of the site effecting the way in which we experience

and appreciate these heritage assets thereby causing less than substantial harm. Furthermore, the development would tower above existing boundary treatments and would be seen as modern alien industrial dominant features from views from within the conservation area, failing to enhance and preserve the character and appearance of Great Barr Conservation Area, thereby causing less than substantial harm. The proposal is contrary to the National Planning Policy Framework, paragraphs 206 and 208, Saved UDP Policies GP2, ENV27, ENV30, ENV32, ENV38, Policy ENV2 of the BCCS, Policies EN5 and EN7 of the SAD, and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

9. The Noise Impact Assessment is inadequate for determining the suitability of the planning proposal and does not sufficiently evaluate the significance of likely impacts and does not support safeguarding of amenity for neighbouring noise sensitive development. The proposal would be contrary to saved UDP policies GP2 and ENV10

## **End of Report**



## Planning Committee 05 Sep 2024

### Plans List Item 2

Report of Head of Planning and Building Control

### Reason for reporting to the planning committee.

- 1) Major applications contrary to Planning Policy
- 2) Departure from the Development Plan

### Application details.

**Application reference:** 21/1797

**Site location:** LAND NORTH OFF, NORTHFIELDS WAY, CLAYHANGER

**Application proposal:** Outline planning application for a residential development to include up to 55 dwellings, public open space, together with landscaping and associated infrastructure. All matters are reserved for subsequent approval except for access.

**Application type:** Outline Permission: Major Application

**Link to application documents:** <https://go.walsall.gov.uk/planningapps?id=21/1797>

**Applicant:** Ellie Liggins Silverbrick (Clayhanger) Ltd, Vesey House, 5-7, High Street, Sutton Coldfield, B72 1XH

**Planning agent:** Michael Robson Cerda Planning, Vesey House, 5-7, High Street, Sutton Coldfield, B72 1XH

**Ward:** Brownhills



## Red line location



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## Recommendation

### Refuse

At the 7th September 2023 Planning Committee meeting, this application was withdrawn from the agenda at the request of the applicant to submit further information in support of the application. The Chair advised the Committee that Plans List Item 3 - Application 21/1797 – Land North of Northfields Way, Clayhanger - was withdrawn from the agenda and deferred for consideration at a future meeting.

The following section of this update report will set out the changes since the original report (which follows), including matters to be addressed which were contained within the previous supplementary paper.

There is no change to the recommendation.

### Any Other Updates

The applicants' agent advised when the application was withdrawn from the September 2023 Planning Committee Agenda that they would submit additional information to support the proposal.



No further supporting information has been received to date. In addition, the site falls within the Zone of influence for the Cannock Chase SAC, Policy EC2 of the Black Country Core Strategy applies and an additional reason for refusal has been included for the lack of a SAC assessment and mitigation. This is discussed further in the SAC Chapter of this report.

The applicant's agent has subsequently submitted a viability assessment, and the draft findings of the independent review have been agreed. These are as follows.

**The calculations are set out below:**

The S106 sum is £630,000 with an average unit value of £284,464. 30% of £284,464 is £85,339. £630,000 / £85,339 is 7.38 units equivalent to 13% affordable.

There is an option of on-site affordable or off-site contributions of £630,000. The number of affordable on-site units are not confirmed at this stage as the application is in outline only and the proposal is for up to 55 dwellings but if the affordable housing is provided on site it could potentially equate to 14 dwellings.

## **Site and surroundings**

The application site is situated on the North side of Northfields Way Clay hanger, Brownhills. The site is opposite a housing estate and is situated on Green Belt Land within the 15km zone of influence for the Cannock Chase SAC. The site is in a low-risk area for legacy coal mining development and is in Flood Zone 1 but is adjacent to the Wryley and Essington Canal which is in Flood Zone 2 as defined on the Environment Agency Flood Map for Planning.

## **Relevant planning history**

06/1114/FL - Renewal of Planning Consent BC38310P (as amended by planning consents BC61417P and BC63841P) for the erection of licensed premises including restaurant, car park, double garage, landscaping, and diversion of public footpath. - Appeal dismissed 15 March 2007.

BC63841P -Renewal of Planning Consent BC38310P (as amended by Planning Consent BC61417P) for the Erection of Licensed Premises including Restaurant, Car Park, Double Garage, Landscaping and Diversion of Public right of way – Swing Bridge Farmhouse Clayhanger Lane – Granted 15 July 2002

## Relevant policies

### 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". The NPPF is a material consideration in the determination of a planning application.

A draft text of the NPPF for consultation has been published on the 30th of July 2024 the consultation period expires on the 24 September 2024.

### Human rights and reducing inequalities

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

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 Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

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.

## **Consultee comments (planning officer's summary)**

### **Strategic Planning Policy**

Policy Comments on the revised draft NPPF text for consultation - Potentially the recently proposed NPPF revisions would allow the site to be considered as 'grey belt' land. However, if so, that would also mean that the development would have to provide for 50% affordable housing and different viability considerations. The NPPF consultation is asking about options for these, but it states that the government is particularly interested in the impact of setting benchmark land value at the lower end of the spectrum.

Object. The proposal represents inappropriate development in the Green Belt. Whilst the site was proposed for allocation for housing in the draft Black Country Plan, a very large number of representations were made in response to consultation on this draft. The Black Country authorities subsequently resolved in October 2022 to cease work on the Black Country Plan (BCP).

Walsall only has a three-year housing land supply based on the current national standard method and has failed the housing delivery test. However, NPPF paragraph 11d), read with footnotes 7 and 8, states that policies in the NPPF that protect against inappropriate development in the Green Belt continue to apply in such circumstances.

The current adopted (December 2023) NPPF states at paragraph 145 that authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process.

The new government is currently (July to 24 September 2024) consulting on changes to the NPPF that would alter this wording. The proposals include allowing individual planning applications for development in the Green Belt on so-called 'grey belt' land that could include the current application site. However, given that the proposals are only at the consultation stage and are likely to attract significant objections, they have very little weight at present. Furthermore, even if they were to be introduced, the proposals states that where land is released from the Green Belt through plan preparation or through development management, housing schemes should include at least 50% affordable housing, and new or improved green spaces that are accessible to the public should be incorporated.

## **Conservation Officer**

No objections.

## **Archaeologist**

Recommends conditions as there is the potential for Roman archaeology within the site.

## **West Midlands Fire Officer**

Recommends the development shall be carried out in accordance with Regulations B5 Fire Safety of the Building Regulations.

## **Highways**

Concerns have been raised regarding the proposed development regarding drainage, access, and ground contamination.

## **Environmental protection**

The Applicant will be required to agree and implement a Construction Environmental Management Plan to control local impacts such as noise, dust, and debris drag-out. The Applicant needs to implement a Demolition Construction Environmental Management Plan, to include a procedure to deal with potential animal burial, undertake additional intrusive contaminated land investigations and agree remediation measures, and agree measures to comply with the Black Country Air Quality SPD.

## **Public Health**

No objection but wish to see affordable housing and a travel plan to inform of the proposed walking/cycling routes and identified amenities within distance for this site.

## **Canal and River Trust**

Concerns raised, and conditions advised regarding the need for a construction environment management plan, installation of bat and bird boxes.

# Police Architectural Liaison Officer

No objections

## Local Access Forum

Concerns raised the item which stands out is the general vagueness of the existing Right of Way, (BRO32), on the new plan. We think we need to have it confirmed that the ROW will remain along the same route as at present and that any steps to maintain its ongoing presence are unlikely to cause any issues to current and future residents, (i.e. clear lines of sight, illumination as necessary, prevention of access by motorbikes, etc.).

## Lead Local Flood Authority

No objections conditions advised.

## Natural England

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

## Public Rights of Way

Public rights of way object to the proposed outline planning application, due to insufficient information which means that:

- the impacts of the proposed development on Footpath 32 Brownhills cannot currently be determined.
- delivery of the proposed Stopping Up and Diversion Order, and delivery of new diverted pedestrian links cannot currently be verified.
- The Stopping Up and Diversion Order must be made and come into effect before commencement of the development and therefore details are required at the early stages of the planning process.

## Network Rail

Has no comments to make.

## Housing

No comments received.

# Neighbour and interested parties' comments (planning officer's summary)

## Support

1 letter received with comments that the third party is in support of proposal.

## Objection(s)

37 comments received objecting to proposal for the following reasons:

- Inappropriate development in the Green Belt
- Highway safety
- Congestion/additional traffic
- Residential amenity
- Insufficient capacity for schools/doctors
- Loss of privacy
- Loss of green space
- Impact on wildlife
- Harm to pedestrians
- Loss of hedgerow will impact nesting birds
- Noise/disturbance
- Land is a former pig farm/pollution potential
- Impact on adjacent property which will be surrounded by the new development.
- Concerns regarding impact on existing business at Swing bridge Farmhouse.
- The Hedge should be retained.
- Deer graze on the land/foxes live on the land.
- A park would be a better than more housing. (The planning authority has to assess what is before it, which at this time is an outline planning application for housing)
- There is no need for any more houses in an already busy village.
- The green space would not be available for local people to use.
- The new vehicle access road on Northfield Way will seriously impact the vehicle access to the whole of the current estate.
- There is not the infrastructure to cope with more housing in the area.
- strongly object to this plan going ahead.

## Determining issues

- 1) Principle of development
- 2) Green belt assessment
- 3) Heritage assessment
- 4) Cannock chase SAC and HRA
- 5) Design, layout, and character
- 6) Amenity of neighbours and future occupiers
- 7) Highways
- 8) Ecology

- 9) Flood risk / Drainage
- 10) Trees / Protected trees
- 11) Ground conditions and environment
- 12) Planning obligations
- 13) Other key determining issues

## **Assessment of the proposal**

### **Principle of development**

The site is largely undeveloped land situated within the Green Belt to the North of Northfield Way. The application is for outline planning permission with all matters reserved but including permission for access for the erection of up to 55 dwellings. An affordable housing statement has been provided advising that the development will incorporate 25% affordable housing which could equate to approximately 14 on site dwellings.

All other matters are reserved for a later application, but a revised indicative master plan has been provided to demonstrate how the site could be developed. Access is proposed from Northfields Way., it includes an illustrative layout. Private driveways are shown along the northern boundary next to mature trees on the adjacent land. Whilst the layout is illustrative, there are concerns with the layout overall and as illustrated, the scheme could cause potential damage to existing trees and their roots.

The amended master plan shows a proposed swale along the Northfields Way frontage. A swale is a depressed area designed to flood in wet weather. This may mean the driveways and front gardens may lie in dips and access to the houses could be cut off in severe weather events. It is considered the position of swale is poorly thought out contributing to the council's overall concerns about the applicant's illustrative layout. It appears to the council, that the application site boundary follows the existing road line rather than that illustrated in the application. The applicant has not yet clarified this point.

### **Housing Need**

Policy H4 states that sites will be considered suitable for an element of affordable housing provision unless developers can demonstrate to the Council's satisfaction that this provision would be inappropriate. Factors to be taken into account include the level of need for, and provision, of affordable housing in the local area, any abnormal development costs associated with the site which in combination with the inclusion of an element of affordable housing would prejudice the viability of the development and the need to provide for a mix of housing types and sizes, which offer a choice of housing and lifestyle and help to create mixed and balanced communities. The applicant has indicated in the submission that affordable housing is intended to be provided on site. However, the number of affordable units is not known at this stage as the proposal is in outline only with an indicative layout at this stage.



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. Whilst the lack of 5-year housing land supply affords additional in support to the proposal, when considering the Framework as a whole, and in this instance, it is considered the delivery of some additional housing would not outweigh the harm the proposal has on the Cannock Chase SAC and Green Belt.

Revised policy comments from the Strategic Planning Policy Officer advise of the following;

The proposal represents inappropriate development in the Green Belt. Whilst the site was proposed for allocation for housing in the draft Black Country Plan, a very large number of representations were made in response to consultation on this draft. The Black Country authorities subsequently resolved in October 2022 to cease work on the Black Country Plan (BCP).

Walsall only has a three-year housing land supply based on the current national standard method and has failed the housing delivery test. However, NPPF paragraph 11d), read with footnotes 7 and 8, states that policies in the NPPF that protect against inappropriate development in the Green Belt continue to apply in such circumstances.

The current adopted (December 2023) NPPF states at paragraph 145 that authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process.

The new government is currently (July to 24 September 2024) consulting on changes to the NPPF that would alter this wording. The proposals include allowing individual planning applications for development in the Green Belt on so-called 'grey belt' land that could include the current application site. However, given that the proposals are only at the consultation stage and are likely to attract significant objections, they have very little weight at present. Furthermore, even if they were to be introduced, the proposals states that where land is released from the Green Belt through plan preparation or through development management, housing schemes should include at least 50% affordable housing, and new or improved green spaces that are accessible to the public should be incorporated.

## **Green belt assessment**

NPPF paragraphs 137 and 138 advise the following.

137. (Draft NPP consultation paragraph 139) The government attaches great importance to Green Belts. 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.

138. (Draft NPPF consultation paragraph 140 ) Green Belt serves 5 purposes:

- (a) to check the unrestricted sprawl of large built-up areas.
- (b) to prevent neighbouring towns merging into one another.
- (c) to assist in safeguarding the countryside from encroachment.
- (d) to preserve the setting and special character of historic towns; and
- (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Work has ceased on the Black Country Plan (BCP). The policies in the BCCS and the Saved Walsall UDP still apply to this application together with the advice in the NPPF Chapter 13 Protecting Green Belt. The Government has consulted on proposed changes to the NPPF to state that Green Belt boundaries are not required to be reviewed and altered if this would be the only means of meeting the objectively assessed need for housing over the plan period. As such, the proposal remains inappropriate development in the Green Belt. No very special circumstances have been demonstrated to justify the development. The proposal would be contrary to the guidelines in the National Planning Policy Framework 2023 Protecting the Green Belt, and the Saved UDP Paragraphs 3.2 to 3.5 The Countryside and Green Belt and CSP2 Development outside the growth network of the BCCS and GB1: Green Belt Boundary and Control of Development in the Green Belt in the Walsall Site Allocation Document.

#### NPPF Draft Text for consultation

A draft consultation is underway in respect of the revised changes proposed to the NPPF by the incoming government. The main changes are an addition to paragraph 150 (147 of the draft revised NPPF) where it adds to the existing text "Where Green Belt land is released for development through plan preparation or review, development proposals on the land concerned should deliver the contributions set out in paragraph 155 below."

The paragraph numbers in relation to green belt are proposed to be changed to paragraphs 140 to 157.

NPPF Consultation Draft Paragraph 149 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

NPPF Consultation Draft Paragraph 151 g limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.

NPPG Consultation Draft Paragraph 152 In addition to the above, housing, commercial and other development in the Green Belt should not be regarded as inappropriate where: a. The development would utilise grey belt land in sustainable locations, the contributions set out in paragraph 155 below are provided, and the development would not fundamentally undermine the function of the Green Belt across the area of the plan as a whole; and b. The local planning authority cannot demonstrate a five year supply of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 76) or where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years; or there is a demonstrable need for land to be released for development of local, regional or national importance. c. Development is able to meet the planning policy requirements set out in paragraph 155.

NPPG Consultation Draft Paragraph 155 Where major development takes place on land which has been released from the Green Belt through plan preparation or

review, or on sites in the Green Belt permitted through development management, the following contributions should be made: a. In the case of schemes involving the provision of housing, at least 50% affordable housing [with an appropriate proportion being Social Rent], subject to viability; b. Necessary improvements to local or national infrastructure; and c. The provision of new, or improvements to existing, green spaces that are accessible to the public. Where residential development is involved, the objective should be for new residents to be able to access good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces.

NPPG Consultation Draft Paragraph 156 Regarding the provision of green space, development proposals should meet local standards where these exist in local plans, for example local planning policies on access to green space and / or urban greening factors. Where no locally specific standards exist, development proposals should meet national standards relevant to the development. These include Natural England standards on accessible green space and urban greening factor and Green Flag criteria.

NPPG Consultation Draft Paragraph 157 Additional guidance on viability considerations for development in the Green Belt is provided in Annex 4. Viability in relation to Green Belt release. (This annex refers to land which is released from Green Belt and does not apply to the current application as the land is not released for development and the advice is in draft form and so is given little weight).

## Heritage Assessment

The application site is an irregular parcel of land located on the northern side of Northfields Way. It also forms the boundary with part of Clayhanger Lane, at the junction of Northfields Way and Clayhanger Lane. To the northwest of the site is community woodland and to the Northeast is the Wryley and Essington Canal. The site sits abutting the canal along the north.

Cooper's Bridge is a locally listed asset, which is near the site. The canal is also regarded as a non-designated heritage asset and identified as an area of high historic townscape value. Beyond the community woodland is a Grade II Listed railway bridge, approx. 100m SE of Backs Bridge, Pelsall Road.

The proposed layout illustrates dwellings that would face towards the canal and whilst this is an outline application, the design of any dwellings facing towards the canal would need to be high quality and respect the high historic townscape value of the Wryley and Essington Canal. The design, scale, height, and massing of the proposed dwellings, together with of the proposed landscaping and proposed pathway would be assessed at reserved matters stage.

The wider setting of the Grade II Listed Railway Bridge includes a woodland, areas of open space within that woodland, residential development, a canal, and a highway, Pelsall Road. The Listed Railway Bridge is experienced from the canal and from views along Pelsall Road, to the north of the Listed Bridge and would still be experienced from these viewpoints. The proposed development would not harm the significance or setting of the Listed Railway Bridge.

Comments from the archaeology officer advise that the site may be affected by the presence of archaeology from the Roman Period. Whilst conditions for further investigation are advised, in this instance, given the outline nature of the application, the planning authority would advise the applicant carries out further due diligence work regarding archaeology before any approval could be considered, as there may need to change to the proposal depending on what may be found in the ground.

The Conservation Officer does not object to the proposal and subject to further details to be submitted at a later stage advises that there are no objections in principle to the proposal in accord with relevant policies, GP2 (General Principles), ENV18 (Existing woodlands, Trees and Hedgerows) ENV25 (Archaeology), ENV28 (The Local List of Buildings of Historic or Architectural Interest), ENV32 (Design and Development Proposals), ENV33 (Landscape Design) of the saved Walsall UPD and ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) of the BCCS.

## **Cannock Chase SAC and HRA**

This proposed application is located within the 15km zone of influence of the Cannock Chase SAC and proposes a net increase of 55 dwelling(s). The Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations") place a duty on competent authorities (in this case Walsall Council) to consider the potential for effects upon sites of European importance prior to granting consent.

The proposed application is situated with the 15km from Cannock Chase SAC and proposes a net increase of 55 dwellings. This development would result in an increase in recreational disturbance resulting in significant harm of the SAC and should progress directly to Stage 2 the undertaking of an Appropriate Assessment.

While Walsall Council, as the Competent Authority, will carry out HRA Stage 2: Appropriate Assessment, which will include the consultation of key stakeholders including Natural England, it will be the responsibility of the applicant to provide and secure suitable mitigation on which to base the Appropriate Assessment. Suitable mitigation should be in the form of the necessary mitigation payment.

A mitigation payment per each net new dwelling of £344.01 is required in accordance with Black Country Core Strategy Policy EQ2 and the Habitat Regulations. The payment is non-negotiable.

The applicant has not agreed to provide the SAC mitigation. The application cannot therefore be supported as it is considered to be contrary to the Black Country Core Strategy Policy EQ2 and the Habitat Regulations.

## **Design, layout, and character**

The application is in outline only, but the submission includes a site master plan to demonstrate an indicative layout. Comments have been made from consultees regarding the indicative layout which has changed to reflect the proposed comments from highways regarding the access points and vehicular arrangements and other matters raised regarding the public right of way and layout arrangements.

Notwithstanding the changes, the site is fundamentally unacceptable in principle, due to the green belt status of the land. In addition, some of the illustrated layout is poor and would raise issues around safety and security for future occupiers and users of the adjacent PROW and canal.

The illustrative layout would require significant amendment before the planning authority would be able to support it. However other policy concerns in relation to the principle of development are set out in the relevant chapters of this report.

Relevant policies in this regard are with the adopted development plan policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, DW3 Character, and DW5 Ease of movement of the Designing Walsall urban design document. Together with the design advice in Chapter 12 of the NPPF Achieving well-designed places. Together with the SPD Policies in Designing Walsall DW1 Sustainability, DW2 Safe and Welcoming Places, DW3 Character and DW10 Well Designed Sustainable Buildings

## **Amenity of neighbours and amenity of future occupiers**

There are a number of comments from third parties regarding the loss of the open space and amenities of the locality. The site is divorced from the other dwellings in the locality separated from the main road Northfields Way.

Comments have been received from the existing farmhouse. Raising concerns regarding the use of the land for additional housing, loss of amenity and privacy by being surrounded and raising concerns about the previous use of the land and its suitability for residential development. As the proposal is an in-principal application including access further details of the layout would be required in a later reserved application should the principle of residential be acceptable.

As stated earlier the illustrative layout would require further amendment to make it an acceptable if in the future it were to be submitted for approval, given the concerns the layout would have on the amenities of future occupiers. However, relevant planning policies in this regard would confirm the proposed development is contrary to the Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), and ENV3 (Design Quality) Designing Walsall SPD in particular policies DW1 Sustainability, DW3 Character and DW9 High Quality Public Realm, and the advice in appendix D Guidelines for residential development and policies, together with Together with the design advice in Chapter 12 of the NPPF Achieving well-designed places.



# Highways

The Highway Authority raise concerns around the proposed design / arrangements for the amended master plan in relation to the Northfield Way / Allerdale Road priority junction. The proposed arrangement gives priority to the Allerdale Road arm by way of simple lining and hatching. No vertical features are proposed across the wide, 3 lane junctions, to deter speeding drivers along Northfields Way such as more deflection. Further discussions are required with the Highway Authority to come up with an acceptable junction design. The proposed highway junction arrangement is unacceptable to the Highway Authority at present.

The red line boundary fails to include the full extent of the areas of highway improvement to be improved under a S278 highway works agreement. The proposed highway junction arrangement is unacceptable to the Highway Authority at present.

The dwellings fronting Northfields Way (Plot no.17 – no.35) are proposed within the Highways Extent (see Highways Extent attached). A stopping up order will be required.

Details of the width, alignment and construction of the new proposed diverted section of footpath 32 Brownhills are required. This information must be in place before the Order is made and is required at planning stages to demonstrate that the stopping up and diversion order and in turn that the development can be delivered on highway. Given that there are protected trees in the new proposed diverted path and construction of a tarmac path in this area could damage tree roots details need to be provided by the applicant as a priority. Details of improvements to the area of footpath 32 Brownhills along the original farm track that is to be retained on its current alignment are required. Details must show a level and inclusive tarmac surface, path width, footpath signs and way markers, the old field gate and stile nr 80 Northfields Way are to be removed and replaced with bollards set to 1.5m pedestrian gap.

There is insufficient information provided on the driveways proposed in relation to the PROW/Shared surfaces these need to be shown on a drawing. The PROW may not be possible to adopt due to the shared surfaces/driveways. The TRO on Northfields Way would require revocation to allow for the access to vehicles from Northfields Way. This would be at the developer's expense.

Details of current/proposed pedestrian links to and from the site would require the submission of further information to clarify in relation to a Section 247 Order. Cycle and pedestrian access should be provided from the current Northfields Way turning head through the proposed estate roads to the towpath at Coopers Bridge. Further information is necessary in relation to existing links between the proposed development and the LNR canal towpath and Clayhanger Common and how they will be upgraded/provided. Within the proposed development there are several private pathways shown on the amenity space area further details would be required to demonstrate that these are not a public right of way and will be locked/gated for residents use only.

The public rights of way officer objects to the proposal and advises that despite earlier requests for details on proposed changes to footpath 32 Brownhills which lies within the red edge and will be affected by the proposal, only limited information has been provided. These relate to the delivery of the proposed stopping up and diversion order and the proposed new pedestrian links cannot be verified. These details are required at early stages of the planning process and must come into effect prior to the commencement of the development.

Northfields Way was originally intended to form part of the Clayhanger Bypass, the concept of which was being driven by the Council's Transportation Team.

The by-pass scheme is no longer being pursued but the construction of Northfield Way was managed and supervised by the Transportation team. The reason why the road abruptly comes to an end is because a sizeable swine fever burial pit was uncovered at relatively shallow depth. From a highway maintenance perspective, it is advised not to allow a road to be built on the embankment, or any affected access roads within the estate without first removing the pig remains and backfilling with suitable material in accordance with Design Manual for Roads and Bridges. If the remains are left in place there is a high risk that the carriageways will settle, not to mention the health risk to construction workers and future residents. From a Highway Authority point of view the application simply looks to build within the red line boundary and does not look at the wider aspects of 'access' in terms of the nature and suitability of the Northfields Way as a residential street, which is effectively what it would become. Northfields Way originally designed and built to be part of a strategic by-pass proposal for Clayhanger which is reflected in its wide street geometry and junction design with Allerdale Road.

The proposal is contrary to relevant policies regarding highway safety "saved policies" T7 - Car Parking T13: Parking Provision for Cars, Cycles and Taxis, and the Black Country Core Strategy Policy TRAN2: Managing Transport Impacts of New Development and the NPPF 2023.

## Ecology

The Council's ecologist objects to the application on the grounds of the ecological assessment submitted with the application is over 2.5 years old and is out of date. Ecological reports and surveys are only valid for 18 months. The drainage strategy for the site is not up to date and there is no information provided as to how surface water run-off will be managed so it does not enter the Wyrley and Essington Canal. The Application site lies at a pinch point along an ecological corridor following Wyrley and Essington Canal linking Clayhanger SSSI, Brownhills Common SINC and Clayhanger Village SLINC. Noted to be part of the core landscapes within the Black Country Local Nature Recovery Map and Strategy. The proposal will further narrow the wildlife corridor reducing its ability to act in this way. A revision to the proposals to include a greater level of greenspace along the northern boundary and greater connection of the native planting to the eastern offsite woodland. Insufficient information is provided to adequately assess the ecological impact of the development in relation to Ecological Impact contrary to BCCS Policy ENV1 Nature Conservation, ENV4 Canals, ENV5 Flood Risk Sustainable Drainage and Urban Heat Islands, and UDP Policies ENV16 Black Country Urban Forest, ENV23 Nature



enhancement, EN2 Ancient woodland, EN4 Canals, and Supplementary Planning  
Document Conserving Walsall's Nature Environment.

## **Flood Risk / Drainage**

The application site lies in Flood Zone 1 at the lowest risk of flooding as defined on the Environment Agency Flood Map for Planning and at low risk of surface water flooding. Suitable conditions to secure means of sustainable drainage would be necessary to ensure that the development does not result in an increase of flood risk or surface water flood risk to adjacent sites. Based on the illustrative layout, it is likely there would need to be changes to the layout to accommodate a sustainable drainage scheme rather than what has been illustrated. In accord with Black Country Core Strategy ENV5: Flood Risk, Sustainable Drainage Systems, Urban Heat Island and NPPF Paragraph 14.

Paragraph 154 of the National Planning Policy Framework requires that new development should be planned for in ways that avoid increased vulnerability from flood risk to the range of impacts arising from climate change, and care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure. Whilst most of the built development is not proposed within the flood risk areas, flood risk is an issue that should be considered carefully as the development would result in a "more vulnerable" use of the site. In this proposal, removing the swale from front gardens and driveways to another part of the site is likely to be a key change to the development. If it isn't, there is a risk that future occupiers may fill in the swale in front of their house, defeating the reason for adding a swale. Details of surface water, flood risk and drainage can be secured by appropriate conditions.

## **Trees / Protected trees**

Further information would be required regarding the protection/impact of the proposal on existing trees and landscaping in any future development. If the application was recommended for approval conditions could be imposed to secure this. However, as the application is recommended for refusal, this will form an additional reason due to insufficient information. The relevant policies are the Unitary Development Plan Policies ENV14 (Development of Derelict and previously developed sites), ENV18 (Existing Woodlands, Trees and Hedgerows) and ENV23 (Nature conservation and new development). BCCS ENV16 Black Country Urban Forest, and the Supplementary Planning Document Conserving Walsall's Nature Environment.

## **Ground conditions and environment**

The application site is situated in an area at low risk of legacy coal mining with no further investigation required. The proposal lies on an area of land previously used as livestock farming and further investigation may be required regarding the potential for contamination. No information is provided on this matter. Contrary to The NPPF Paragraph 189 and saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

## **Planning obligations**

The Affordable Housing SPD and Saved Policy H4 of the UDP requires all residential developments of 15 units or more to provide a 25% affordable homes element. The SPD also identifies a shortfall in affordable housing. In this case, If the LPA were minded to support the application a section 106 agreement would be required to secure contributions for Affordable Housing preferably on site in the first instance, on or off site if this cannot be achieved, and in addition Open Space Contributions to be secured. The type and details of the dwellings are not determined at this stage so a calculation for open space would need to be considered in the future as the type of dwellings are not included at this outline stage. This together with a SAC Mitigation Contributions of £18920.55 at the current rate of £344.01 per dwelling for 55 dwellings. Notwithstanding a draft agreed figure for viability of £630,000 The applicant has not agreed to any contributions or a section 106 at this stage, so this would form a reason for refusal.

## **Conclusion and reasons for decision**

This application has failed to demonstrate / fail to provide sufficient information regarding its impact on the Green Belt, SAC, Mitigation, Highway Safety, Ecology, affordable housing and open space contributions and on balance, this application is does not accord with local and national planning policies and guidance as set out in this report. Officers have spoken with the applicant's agent and advised of concerns in relation to the proposal as set out in the reasons below. In this instance officers are unable to support the proposal due to the inappropriate development within the Green Belt with no special circumstances demonstrated to override the policy concerns. No HRA and agreement to pay mitigation costs for the Cannock Chase SAC. The Council resolved in September 2022 that housing proposals within the 15km zone of influence of the Cannock Chase Special Area of Conservation (SAC) zone of influence will be required to fund mitigation against the impact of the proposals on the SAC.

The material planning considerations weigh against the proposal such that it is recommended for refusal.

## **Recommendation**

### **Refuse**

1) This application falls within the 15km zone of influence relating to the Cannock Chase Special Area of Conservation (SAC) and has failed to provide any information in relation to likely impacts on the SAC arising from the proposed addition of 55 dwellings and has failed to provide any potential necessary mitigation measures.

This proposal is therefore contrary to the Conservation of Habitats and Species Regulations 2017, Black Country Core Strategy Policies CSP3 (Environmental Infrastructure), CSP4 (Place-Making) & ENV1 (Nature Conservation), EQ2 (Cannock Chase Special Area of Conservation), UDP Saved Policy ENV23 (Nature Conservation), SAD Policy EN1 (Natural Environment Protection, Management and Enhancement) and the NPPF.

2) The proposed outline development of up to 55 dwellings including access in the Green Belt is inappropriate development for which there are no very special circumstances put forward to outweigh the Green Belt Policy. The proposal is contrary to The National Planning Policy Framework 2023, policy CSP2 Development outside the growth network of the Black Country Core Strategy, Saved Policies 3.2 to 3.5, GP2, and ENV7 Countryside Character of the Walsall UDP, Policies GB1 and EN1 of the Walsall Site Allocation Document.

3) The proposed development would trigger the need for affordable housing contributions the applicant has failed to provide sufficient information in relation to affordable housing contributions and has not agreed to a Planning Obligation under Section 106 to secure the funds required by the development. Contrary to Policy H4 of the UDP, BCCS policy HOU3 and the Affordable Housing SPD and the National Planning Policy Framework 2023.

4) The proposed development would trigger the need for open space contributions the applicant has failed to provide any information in relation to open space contributions and has not agreed to a Planning Obligation under Section 106 to secure the funds required by the development. Contrary to Policies OS1 Qualifying Development and OS2 Planning Obligations Supplementary Planning Document Urban Open Space. The Walsall Unitary Development Plan and the National Planning Policy Framework 2023.

5) Insufficient information has been put forward to demonstrate the likely impact existing trees within the site and the submitted Arboricultural assessment does not provide sufficient information to inform the proposal regarding the impact on existing trees/landscaping contrary to the Unitary Development Plan Policies ENV14 (Development of Derelict and previously developed sites), ENV18 (Existing Woodlands, Trees and Hedgerows) and ENV23 (Nature conservation and new development).

6) Insufficient information has been put forward to demonstrate the likely impact of the proposed development on the safe and free flow of traffic on the highway network Relevant policies regarding highway safety are “saved policies” T7 - Car Parking T13: Parking Provision for Cars, Cycles and Taxis, of the Walsall Unitary Development Plan April 2006 and the Black Country Core Strategy Policy TRAN2: Managing Transport Impacts of New Development and paragraph 115 of the National Planning Policy Framework 2023 .

7) Insufficient information is provided to adequately assess the ecological impact of the development in relation to Ecological Impact contrary to BCCS Policy ENV1 Nature Conservation, ENV4 Canals, ENV5 Flood Risk Sustainable Drainage and Urban Heat Islands, and UDP Policies ENV16 Black Country Urban Forest, ENV23

Nature Conservation and New Development, ENV24 Wildlife Corridors, Walsall Site Allocation Document EN1 Natural Environment Protection, management and enhancement, EN2 Ancient woodland, EN4 Canals, and Supplementary Planning Document Conserving Walsall's Nature Environment.

**End of report**



## Planning Committee 05 Sep 2024

### Plans List Item 3

Report of Head of Planning and Building Control

#### Reason for reporting to the planning committee.

- 1) Called in by a Councillor Tim Wilson on the grounds
- 2) Detrimental to the character and visual amenities of the area due to poor design
- 3) Causes noise and disturbance to nearby occupiers
- 4) Design/layout/siting/appearance detrimental to the character of the surrounding area

#### Application details.

**Application reference:** 23/1583

**Site location:** LAND AT FORMER WEST MIDLANDS BRIGHT BAR LTD, MIDDLEMORE LANE, ALDRIDGE, WALSALL, WS9 8SP

**Application proposal:** Demolition of existing buildings and erection of 22 new Industrial Units (Class E, B2 & B8 Uses), car parking and landscaping

**Application type:** Full Application: Major Use Class B2 (General Industrial)

**Link to application documents:** <https://go.walsall.gov.uk/planningapps?id=23/1583>

**Applicant:** Charlton Haynes Ltd, Charlton Haynes Ltd Charlton Haynes Ltd, Harley House, 29 Cambray Place, Cheltenham, GL50 1JN

**Planning agent:** Jack Chamberlain, Kedd Limited Kedd Limited, Fox Studio, King Street, Much Wenlock, TF13 6BL

**Ward:** Aldridge Central And South

## Red line location



## Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and to secure a s106 to secure a travel plan, and subject to:
  - a. No new material considerations being received within the consultation period.
  - b. The amendment and finalising of conditions.
  - c. No further comments from a statutory consultee raising material planning considerations not previously addressed.

## Site and surroundings

The application site is an existing B2 industrial site that has been used previously for metal working. The proposal is to Demolition of existing buildings and erection of 22 new Industrial Units (Class E, B2 & B8 Uses), car parking and landscaping. The site is situated in flood zone 1 as defined on the Environment Agency Flood Map for Planning. The area is at low risk of legacy coal mining development. The site may be contaminated. The site is in a tree consultation area. The site is situated in the Cannock Chase SAC zone of influence.

## Relevant planning history

1. 03/1073 Extension in length of steam boiler flue by 1m – Granted 23 July 2003.



# Relevant policies

## 1. 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". The NPPF is a material consideration in the determination of a planning application.

A draft text of the NPPF for consultation has been published on the 30th of July 2024 the consultation period expires on the 24 September 2024.

## 2. Human rights and reducing inequalities

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

## 3. Walsall Council Development Plan

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 Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

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.



## **Consultee comments (planning officer's summary)**

1. Archaeological Officer  
There are no archaeological implications for this proposal.
2. Community Protection  
No comments received.
3. Ecology  
No comments received.
4. Local Highway Authority  
Support the proposal and recommend conditions in relation to parking, turning and access to the site to be implanted prior to occupation.
5. Environmental Protection  
No objections and recommends conditions in relation to the agreement of an acoustic design statement and a phase two contamination report with mitigation and validation measures to be submitted and agreed with the local planning authority.
6. Police Architectural Liaison Officer  
Recommends Secured by design principles.
7. Lead Local Flood Authority  
No objection recommends a drainage condition to secure SUDS.
8. West Midlands Fire Officer  
Comments received in relation to requirement B5: Access and facilities for the fire service.
9. Waste Management  
No comments received.

## **Neighbour and interested parties' comments (planning officer's summary)**

1. 13 letters of comment objecting to the proposal on the following grounds:
  - Contaminated land
  - Highway safety
  - Residential amenity
  - Noise/disturbance
  - Congestion
  - Loss of trees
  - Additional traffic/parking in the area
  - Overdevelopment of the site
  - Proximity to residential properties

- Size and height of buildings
- Replacement of trees required
- Buildings should be single storey
- Loss of value to homes (Officer comments this is not a material planning consideration.)

## Determining issues

1. Principle of development
2. Heritage assessment
3. Cannock chase SAC and HRA
4. Design, layout, and character
5. Amenity of neighbours and future occupiers
6. Highways
7. Ecology
8. Flood risk / Drainage
9. Trees / Protected trees
10. Ground conditions and environment
11. Planning obligations

## Assessment of the proposal

### 1. Principle of development

The site is previously developed land situated within the built-up area of Aldridge. The site is 300m from Aldridge District Centre and this and the immediate industrial area is relatively small.

The proposal is for the Demolition of existing buildings and erection of 22 new Industrial Units (Class E, B2 & B8 Uses), car parking and landscaping. The existing floorspace was 1798 m2 and was used for steel bar manufacturing. This application proposes a creation of 1800 m2 of internal floorspace. Pre application discussions were undertaken between the LPA and the applicant.

The site was bounded by boundary fencing. The site lies close to existing residential properties.

The site may be contaminated due to its previous industrial use.

Paragraph 8 of the NPPF relates to achieving sustainable development and seeks to ensure that new development is sustainable in terms of the economy, social objectives, and environmental objectives. Paragraph 10 provides for the presumption in favour of sustainable development. In terms of the location of the proposed development there are no objections in principle to the development for the reuse of the site in this location for B2 and B8 uses.

The site is allocated by SAD policy IND3 as retained local quality employment land, part of site reference IN12.7. The policy states that the provisions of BCCS policy EMP3 and UDP saved policy JP8 will apply. Proposals for non-

industrial uses will not be permitted except where, allowed by BCCS policy EMP3.

BCCS policy EMP3 states that local quality employment areas are characterised by a critical mass of industrial, warehousing and service activity in fit for purpose accommodation with good access to local markets and employees. These areas will

provide for the needs of locally based investment and will be safeguarded for the following uses:

- Industry and warehousing
- Motor trade, including car showrooms, garages and vehicle repair
- Haulage and transfer depots
- Trade wholesale retailing and builders' merchants
- Scrap metal, timber, construction premises and yards
- Waste collection, transfer and recycling uses as set out in Policy WM4

BCCS policy EMP5 states that planning obligations will be negotiated with the developers and occupiers of major new job creating development to secure initiatives and/or contributions towards the recruitment and training of local people. The training schemes should offer help particularly to disadvantaged groups, so that they may obtain the necessary skills to increase their access to job opportunities.

#### Main Relevant Saved UDP Policies

##### GP2: Environmental Protection

Lists considerations that will be considered in the assessment of development proposals.

##### GP3: Planning Obligations

These will be used, as appropriate, to secure the provision of any on or off-site infrastructure, facilities, services, or mitigating measures made necessary by a development.

##### ENV32: Design and Development Proposals

Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

##### T7 and T13: Car Parking Standards

Upgrading the site for employment uses is strongly supported. There is a need for a substantial additional supply of land for employment, especially in use classes B2 and B8. The site has a long-established use which appears to be in class B2 given that it was a wire manufacturer.

Such use has the potential to cause conflict with the adjacent housing, although both uses appear to have co-existed since before the second world war. Redevelopment for a light industrial use would reduce the potential for any future conflict. However, a

class E use should be restricted to sub-class E(g)(ii) or (iii) given that most of the other uses in class E are main town centre uses that should be accommodated in centres in accordance with the sequential test in the NPPF.

Given the above and the comments from the Environmental Protection Officer the hours of use for the site need to be agreed in advance by condition with the applicants together with a restriction on the E use class as advised by the planning policy section. The use should be restricted therefore to Classes B2 General Industrial; B8 Storage and Distribution and E Classes should be restricted to sub-class E(g)(ii) or (iii) given that most of the other uses in class E are main town centre uses that should be accommodated in centres in accordance with the sequential test in the NPPF Class E(g), (ii) the research and development of products or processes, or (iii) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit

## 2. Heritage assessment

The application is not accompanied by a heritage assessment. The site is not situated near any known heritage assets either designated or non-designated.

## 3. Design, layout, and character

The factory unit that was on the site was a low-level saw tooth building with a larger metal clad building approximately 6.5 metres high to the ridge. The site was surrounded by palisade fencing. Car parking and 2 No accesses were to the site frontage with Middlemore Lane.

The proposed replacement buildings are units comprising of blocks of 7, 8 and 5 units in separate blocks arranged around the site in a courtyard setting. The height of the buildings are approximately 6.6 metres high to the ridge and the largest block of 8 units is 55.5 metres long by 11.4 metres wide. The smaller blocks of 7 and 5 units are approximately 48.5 metres and 34.7 metres, by 11.4 metres wide and 12 metres respectively by 6.6 metres high. The block with 2 units is 16.7 by 12 meter by 6.6 metres high. The proposed materials are steel clad sheeting in Goosewing Grey and Upvc windows in Grey, with metal roller shutter doors in Merlin Grey.

The proposed development is considered to accord with ENV32, Design and Development Proposals of the Walsall Unitary Development Plan.

## 4. Amenity of neighbours and amenity of future occupiers

Saved Policy GP2, Environmental Protection of the Unitary Development Plan states that “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”

There are a number of objections received regarding the loss of trees along the boundary with neighbouring properties that provided screening. The trees were not the subject of a preservation order within the site, so the LPA are unable to control the removal of the trees. In addition, third parties have expressed concern regarding noise, odour, contamination, and traffic generated from the resulting development.

A noise report has been submitted with the current application and the Environmental Protection Officer advises that noise mitigation plan is submitted and agreed in writing with the LPA. The application site should also have agreed hours of opening in the interests of the amenities of the locality. The submitted noise information advises that the units would typically operate between 08:00 – 18:00 weekdays and Saturday mornings with limited overnight activity. The operation of the site overnight would not be acceptable in relation to the amenities of the existing locality. The planning statement conflicts with this information and advises working hours to be between 07:00-19:00 with no mention of the days of work.

The proposed buildings are approximately the height of 6.6 metres high to the ridge and the nearest neighbouring residential and some commercial properties are numbers 82-100 Leighswood Road and 9 and 7 Middlemore Lane. These properties on Leighswood Road have long back gardens of approximately 32 metres (from the nearest property). Due to the landscape buffer, there is an approximate distance of 4 metres between the rear boundaries of these properties and the proposed buildings. It is considered the overall separation distance of approximately 36 metres means the proposal would not result in an unduly oppressive outlook from rear windows and would not be overbearing as to limit the enjoyment of the rear gardens.

Due to the north east orientation of the properties on Leighswood Road, shading to the rear gardens would occur approximately late afternoon. It is considered on this basis, the shading would not result in a detrimental impact on the enjoyment of these rear gardens.

The relationship of the proposed buildings with no. 9 Middlemore Lane is similar to the existing site layout with a proposed separation distance of approximately 7.5 metres between the two including the landscape buffer. Due to the south east orientation of this property, shading would occur to the rear garden approximately late afternoon. It is considered on this basis, the shading would not result in a detrimental impact to the enjoyment of these rear gardens.

The Environmental Protection officers advises that the above measures are secured by conditions, together with a Construction Environmental Management Plan and a contaminated land report with mitigation measures. A condition requiring an acoustic noise assessment/mitigation scheme is recommended to ensure that the proposal accords with Saved UDP Policy GP2, Environmental Protection and ENV10 Pollution of the Unitary Development Plan.

A phase one investigation report for contaminated land has been provided. Environmental Protection are satisfied with the report and conclude that the application needs to undertake a phase 2 exploratory investigation to inform the foundation design and for contamination and ground gas.

The EP officer is advising conditions but recommends that the above are highlighted to the applicant for consideration regarding noise issues. Conditions are advised in respect of contamination and noise impact including a request for a validation statement and an acoustic design statement.

Subject to conditions to the agreement of suitable hours of operation and noise and contamination mitigation measures the application can be supported in accordance with Saved UDP Policies GP2 Environmental Protection and ENV10 Pollution of the Walsall Unitary Development Plan.

## 5. Highways

The highways officer supports the proposal subject to conditions in relation to the submission of a CEMP which shall include wheel washing facilities, parking and turning during construction and measures to prevent mud from spreading to the highway.

In addition, a condition in relation to the provision of access, parking, manoeuvring and turning facilities shall be provided prior to occupation. Together with details of cycle parking facilities/shelter and a travel plan for staff which would need to be secured by a section 106 agreement. To encourage sustainable travel modes, in accordance with BCCS policy TRAN2 and UDP Policy T10.

The proposal is considered to accord with Policy T7 – Car Parking and T13; Parking Provision for Cars, Cycles and Taxis of the Walsall Unitary Development Plan and National Planning Policy Framework paragraph 115.

## 6. Ecology

A phase one ecological assessment has been submitted with the application the findings of which indicate that the site is likely to be limited for the presence of protected species. Demolition has taken place on the site and the removal of trees therefore any potential roosting sites for birds/bats may be lost. Mitigation measures are proposed to provide bird and bat boxes and creation of grass/scrub and planting of four replacement trees within the site. A landscape corridor is proposed to the north boundary where the trees were removed adjacent to the residential properties. In addition, an area of landscape to the site frontage with Middlemore Lane is proposed. The application was submitted prior to the requirement for a 10% net gain in biodiversity. It is considered that a revised landscape and planting plan should be sought to include more trees of an appropriate native species other than the four proposed in the site frontage landscape area proposed as this is insufficient to overcome the loss of trees to the site.

Conditions are therefore advised to ensure that the ecological impact of the proposal is minimised and that an appropriate landscape scheme is achieved. The Ecology officer has not commented on this application but did advise in the pre application stage that a phase one ecological assessment should be undertaken.



Subject to a condition to secure a revised satisfactory landscape and ecological mitigation measures to accord with BCCS, ENV1 Nature Conservation, ENV17 New Planting of the Walsall Unitary Development Plan. ENV24 Wildlife Corridors, Walsall Site Allocation Document January 2019 and Saved UPD policies GP2 Environmental Protection.

## 7. Flood risk / Drainage

The Lead Local Flood Authority do not object to the proposal but advise that a drainage condition should be secured to ensure that the site is drained by a SuDS sustainable drainage system so that surface water and foul water are dealt with so as not to cause pollution or run off to other sites. The site is situated in Flood Zone 1 as defined on the Environment Agency Flood Map for Planning. To accord with the Unitary Development Plan Policy ENV40 Conservation, Protection and Use of Water Resources and GP2 Environmental protection.

## 8. Trees / Protected trees

The trees that have been removed from the northern boundary were not protected trees on private land and therefore the LPA have no control over their removal. Subject to a condition to secure a revised satisfactory landscape and ecological mitigation measures the proposal can be supported with conditions to accord with the BCCS, ENV1 Nature Conservation, ENV17 New Planting of the Walsall Unitary

Development Plan. ENV24 Wildlife Corridors, Walsall Site Allocation Document January 2019 and Saved UPD policies GP2 Environmental Protection.

## 9. Ground conditions and environment

The Council's Environmental Protection Officer is concerned that the demolition of the buildings has been undertaken prior to the completion of the planning/consultation process. The site may have been affected by asbestos contamination and a condition would normally be advised to ensure that any asbestos contamination can be properly mitigated however demolition is normally carried out in accordance with building regulations requirements.

In addition, it is recommended that conditions are advised in relation to ground gas and any potential contamination as well as the mitigation measures for the foundations due to the previous use of the site as a metalwork/wirework facility. This should be carried out by a suitably qualified person. Planning conditions are considered necessary, to provide mitigation measures for contamination and ground gas. These measures should include a remediation and validation statement. To ensure that any potential for ground gas and contamination can be effectively dealt with to accord with Saved Policy GP2, Environmental Protection and ENV10 pollution of the Unitary Development Plan.



## 10. Planning obligations

A planning obligation Section 106 is to be required to secure the Staff Travel Plan. To accord with Policy T7 – Car Parking and T13; Parking Provision for Cars, Cycles and Taxis of the Walsall Unitary Development Plan and National Planning Policy Framework paragraph 115.

## Conclusion and reasons for decision

On balance, this application is considered acceptable when assessed against the local and national planning policies and guidance as set out in this report.

The proposed development aligns with planning policies, it contributes to continuing employment land supply. The proposal retains a similar scale and appearance, with modern finishes and sustainable technologies.

In summary, while the proposal demonstrates alignment with various planning policies, conditions are necessary to address

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

## Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and to secure a s106 to secure a travel plan, and subject to:
  - a. No new material considerations being received within the consultation period.
  - b. The amendment and finalising of conditions.
  - c. No further comments from a statutory consultee raising material planning considerations not previously addressed.

## Conditions and reasons

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 hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:
  - Location Plan KD.ALD.1.D.001 received 11 January 2024.
  - Proposed elevations KD.ALD.1.D 005 received 11 January 2024
  - Transport Statement Received 11 January 2024
  - Proposed site plan KD.ALD.1 D 003 Rev C received 24 June 2024
  - Biodiversity net gain assessment received 11 January 2024
  - Design and access statement received 11 January 2024

- Drainage assessment received 11 January 2024
- Noise Assessment received 11 January 2024
- Phase One Environmental Report received 29 January 2024
- Preliminary ecological appraisal received 11 January 2024
- Transport note received 29 May 2024.

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. The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been hard surfaced and drained /permeable surfaced and no loose stone. The access, turning area and parking facilities shall not be used for any purpose otherwise than for access, turning and parking respectively.

Reason: To reduce the need for on street parking in the interest of highway safety and ensure surface water does not run onto the highway and to avoid increased surface flooding to comply with the Walsall Unitary Development Plan saved policies GP2 and ENV40.

4. The development hereby permitted shall not be open to customers otherwise than between the hours of 07:00 hours to 18:00 hours Mondays to Fridays and 08:00-13:00 on Saturdays and shall not be open on Saturdays, Sundays, Bank and Public Holidays

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

5. Notwithstanding the provisions of Class E of the Town and Country (Use Classes) Order 1987 (as amended) or any subsequent re-enactment thereof the premises shall only be used as B2 General Industrial, B8 Storage and distribution and Uses E(g) ii the research and development of products or processes, and/or iii any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Reason: To define the permission, to ensure the satisfactory functioning of the development and to safeguard neighbours, amenity to accord with the Walsall saved Unitary Development Plan Policy GP2.

6. Prior to the occupation of the development hereby approved full details of the proposed cycle shelter, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the cycle shelter shall be fully implemented in accordance with the approved details.

6b) The cycle shelter facility shall thereafter be retained and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

7. No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

- a) No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area in accordance with saved policies GP2, ENV11 and ENV32 of the Walsall Unitary Development Plan.

8. The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been hard surfaced and drained /permeable surfaced and no loose stone. The access, turning area and parking facilities shall not be used for any purpose otherwise than for access, turning and parking respectively.

Reason: To reduce the need for on street parking in the interest of highway safety and ensure surface water does not run onto the highway and to avoid increased surface flooding to comply with the Walsall Unitary Development Plan saved policies GP2 and ENV40.

9. Prior to the commencement of development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

- a) Construction working hours
- b) Parking and turning facilities for vehicles of site operatives and visitors
- c) Loading and unloading of materials
- d) Storage of plant and materials used in constructing the development
- e) A scheme for recycling/disposing of waste resulting from construction works
- f) Temporary portacabins and welfare facilities for site operatives
- g) Site security arrangements including hoardings
- h) Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- i) Measures to prevent flying debris
- j) Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- k) Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- l) Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
- m) ADD re-covering of holes, escape from holes, tree/hedgerow protection, newts, bats etc

9b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties

and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

10a) Prior to commencement of the development hereby permitted a site survey to identify any potentially hazardous materials and contamination including ground gas, shall be carried out and a Method Statement detailing actions to be taken and timescales for the taking of such action to prevent localised contamination shall be submitted in writing to and approved in writing by the Local Planning Authority.

10b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved Method Statement.

10c) Following demolition of the building hereby permitted and removal of the demolition material but prior to any building or engineering operations a validation report shall be submitted in writing to the Local Planning Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials and the building and to verify that the approved Method Statement has been carried out.

Reason: To prevent potential contamination of the ground due to any potentially hazardous materials associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

11a) Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

11b) The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.

11c) The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

12a) Prior to commencement of the development hereby permitted details of landscaping phased in relation to any phasing of the development including both hard and soft landscape works and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.

12b) Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

12c) If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: In the interests of the visual amenities of the area in accordance with saved policies ENV17 and ENV33 of Walsall's Unitary Development Plan.

13a) Prior to commencement of any building operations above the damp proof course of the development hereby permitted details of the proposed finished floor levels, ridge and eaves heights of the buildings hereby permitted shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding properties.

13b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: In the interests of the amenities of the area in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

14a) No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

14b) No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan.

15) No storage of goods materials or equipment shall take place within the parking/turning/vehicle manoeuvring/bin storage areas/open areas / outside the buildings

Reason: To ensure the satisfactory functioning of the development and in the interests of highway/pedestrian safety and the prevention of the potential for pollution, in accordance with the saved Walsall's Unitary Development Plan policy GP2, T7, T13, ENV10 and ENV32.

16a) Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

16b) The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 Walsall's Unitary Development Plan.

17a) All workers on the site shall be made aware that bats may be present and shall not undertake demolition works including the dismantling of roofs, soffits, gables or in the vicinity of cracks and crevices otherwise than with the use of hand tools. All roof tiles, flashing and ridge tiles shall be listed carefully (and not dragged or slid) and the undersides examined for bats or bat droppings.

17b) If during the construction period bats or evidence of bats or their roosts are found:

- bats shall not be handled or touched.
- the vicinity of the roost shall be immediately reinstated.
- no further destructive works shall be carried out until the need for Natural England licence has been established.
- Within one week of finding bats or evidence of bats or their roosts, a written report by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy shall be submitted in writing to and approved in writing by the Local Planning Authority. The report shall record what was found, and propose appropriate mitigation measures, including a timetable for their implementation.
- Work shall not continue otherwise than in accordance with the approved mitigation measures and the approved timetable.

Reason: To conserve local bat populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

18a) Prior to the commencement of development hereby permitted details of noise mitigation measures including an Acoustic Design Statement shall be submitted to and approved in writing by the Local Planning Authority.

18b) The agreed Acoustic Design Statement shall be implemented prior to the occupation of the development.

18c) Noise from external plant and flues shall not exceed a Noise Rating of NR45, one metre from habitable room window, between the hours of 23:00 and 07:00 and NR60 between the hours of 07:00 and 23:00.

18d) Doors and windows facing residential properties shall remain closed when the units are operational except for access and egress purposes.



18e) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: To protect the amenities of nearby occupiers in accordance with the saved UPD Policy GP2 Environmental Protection.

19a) Prior to the commencement of the development hereby approved a travel plan statement for staff in relation to the operation of the site shall be submitted to and agreed in writing with the Local Planning Authority, drawn up in accordance with Government Good Practice Guidelines.

19b) Delivering Travel Plans through the Planning Process' shall be submitted for approval in writing by the Local Planning Authority.

19c) Upon first occupation of the development, the measures and incentives to promote the development's sustainability credentials and encourage non car borne travel modes shall be implemented in accordance with the submitted Travel Plan Statement for the lifetime of the development.

Reason; Reason: To encourage sustainable travel modes, in accordance with BCCS policy TRAN2 and UDP Policy T10.

## Notes for applicant

### Coal Authority standing advice. - Development Low Risk Area

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 0345 762 6848.

Further information is also available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](https://www.gov.uk/government/organisations/the-coal-authority)

### Environmental Protection Standard Notes

#### 2.CL1

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2018; British Standard BS10175: 2011+A2:2017 '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); Land contamination risk management (LCRM) 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.

#### 3.CL2



When making assessments of any contaminants identified as being present upon and within 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.

#### 4.CL3

Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority and the persons/business responsible for the Building Regulation compliance. For example, photographs of earthworks, 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. The Validation Report shall be written by a Technically Competent person/company.

### Highways Notes

- 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 or 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 <https://go.walsall.gov.uk/roadsparking-and-travel/roadworks-and-road-maintenance/get-a-dropped-kerb-foryour-Home>
- 3) The applicant will be expected to enter into an agreement under S38/278 of the Highways Act 1980 or obtain a Road Opening Permit, whichever is the most appropriate, with the Highway Authority for all adoptable highway works and works within the existing public highway.

For further advice please contact Highway Development Control Team at [Stephen.Pittaway@walsall.gov.uk](mailto:Stephen.Pittaway@walsall.gov.uk)

- 4) 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 report



## Planning Committee 05 Sep 2024

### Plans List Item 4

Report of Head of Planning and Building Control

### Reason for reporting to the planning committee.

1. Partial Council owned land and the Council is the applicant.

### Application details.

**Application reference:** 23/1287

**Site location:** WALSALL TOWN ARM CANAL BRIDGE SOUTH OF, WOLVERHAMPTON STREET, WALSALL

**Application proposal:** New pedestrian and cycle bridge over Walsall Town Arm Canal with ramp, steps, planting and lighting

**Application type:** Regulation 3: Minor Application (SI 1992/1492)

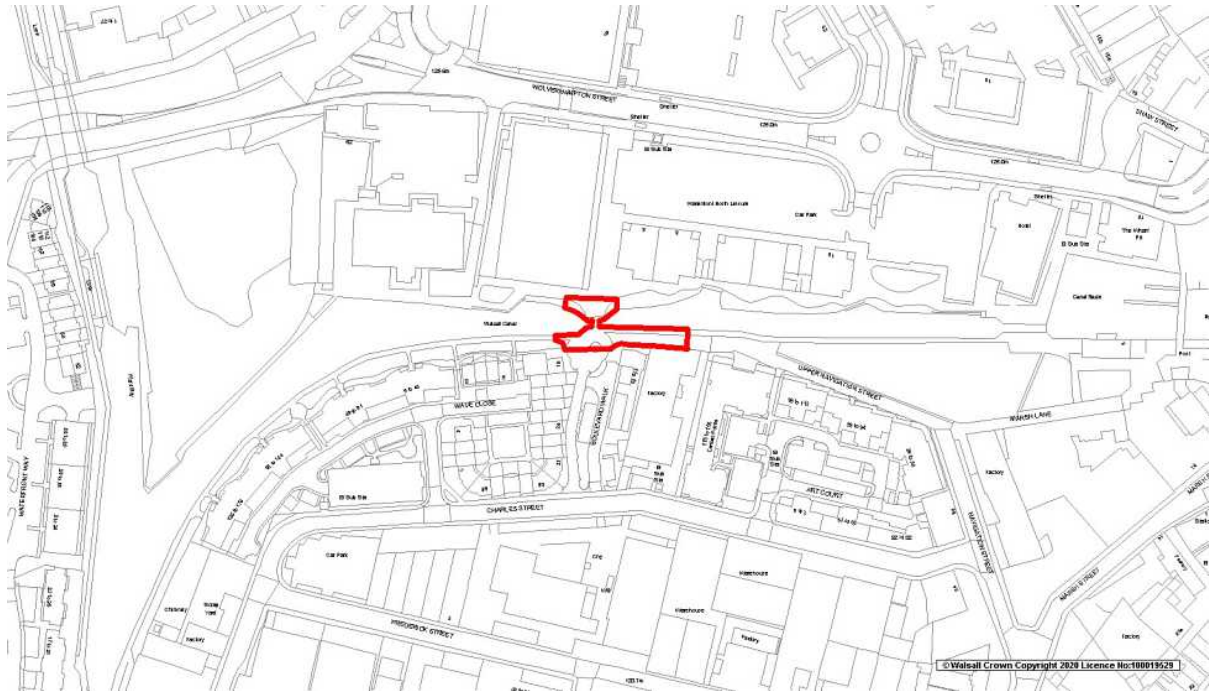
**Link to application documents:** <https://go.walsall.gov.uk/planningapps?id=23/1287>

**Applicant:** Richard Ackerley, Mr Richard Ackerley Walsall Council, Construction Director ( Town Centre ) Regeneration and Economy, Walsall Council, Civic Centre, Walsall, West Midlands, WS1 1TP

**Planning agent:** Mark Martin, Mr Mark Martin ONE Creative environments Ltd., Unt 5, Wildwood Drive, Worcestershire, WR5 2QX

**Ward:** St Matthews

# Red line location



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## Recommendation

1. Planning Committee resolve to delegate to the Head of Planning and Building Control to Grant Planning Permission Subject to Conditions, and subject to
  - a. No new material considerations being received within the consultation period;
  - b. The amendment and finalising of conditions;

## Site and surroundings

The application site is level and comprises a mix of towpath and footway either side of the Walsall Town Arm Canal, where the canal narrows at Boulevard Walk and Crown Wharf, approximately 0.5 mile from Walsall Town Centre. To the north of the site is a mix of leisure and retail uses (the Crown Wharf Retail Park) whilst to the south are residential apartments. To the east and west of the site is the canal.

1. The site is located within the Walsall Locks Conservation Area.

## Relevant planning history

1. No relevant planning history.

## Relevant policies

1. 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". The NPPF is a material consideration in the determination of a planning application.

## 2. Human rights and reducing inequalities

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

## 3. Walsall Council Development Plan

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 Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

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.

# Consultee comments (planning officer's summary)

## 1. Archaeology

No objection, there are no archaeological implications for this proposal.

## 2. Canal and River Trust

No objection subject to conditions in relation to a method statement and detailed specifications in relation to ramp alignment, the design of the underside of the bridge, the ground level understorey hard landscaping layout and materials, and the means of collecting surface water from the bridge deck and ramps.

3. Coal Authority  
No objection, the site lies within the Coal Authority's defined Development Low Risk Area. On this basis there are no specific comments.
4. Conservation Officer  
No objection subject to conditions in relation to details of the materials and the street furniture.
5. Ecology Officer  
No objection subject to conditions in relation to the submission of a Construction Environment Management Plan and a lighting strategy.
6. Environmental Protection  
No objection subject to conditions in relation to the submission of an Environmental Construction Management Plan.
7. Historic England  
No objection, no further comments.
8. Local Highways Authority  
No objection.
9. West Midlands Fire Service  
No objection.
10. West Midlands Police  
Concerns about anti-social behaviour and an additional escape route for criminal behaviour from the north commercial side and Crown Wharf Retail Park.

## **Neighbour and interested parties' comments (planning officer's summary)**

1. One comment received in support of proposal for the following reasons:
  - a. 'Please support this development'.
2. Three comments received objecting to proposal support for the following reasons:
  - a. Additional noise disturbance
  - b. Vandalism
  - c. Litter
  - d. Anti-social behaviour
  - e. No need for a bridge

## **Determining issues**

1. Principle of development
2. Heritage assessment
3. Design, layout, and character
4. Amenity of neighbours and future occupiers
5. Ecology

# Assessment of the proposal

## 1. Principle of development

The proposed pedestrian and cycle canal bridge forms part of a wider Walsall public realm design proposal for Gallery Square, Park Street, the Connected Gateway and beyond, known as the Active Public Spaces (APS) project. The Walsall Canal pedestrian and cycle bridge project consists of identifying and delivering a new bridge that will assist in improving connectivity, active travel and economic prosperity within the town centre. The route of the new bridge is along an area of the canal known as the “Walsall Town Arm”. Funding for the bridge is part of the successful bids by Walsall Council for Future High

Streets Fund (FHSF) and the Towns Fund which form the Town Investment Plan (TIP). As such the principle of development would comply with Walsall Town Centre Area Action Plan 2019 - Policy AAPLE4: Walsall Canal.

## 2. Heritage assessment

The proposed development would have less than substantial harm to the significance of Walsall locks Conservation Area, the scale of harm would be weighed as low. The proposal would need to be weighed against public benefits and optimum viable use.

The proposed works would link the town and provide a safe mode of transport for pedestrians. The design of the proposed bridge is acceptable and would not detract from the character and appearance of the Walsall Locks Conservation Area. Subject to conditions in relation to details of the materials and the street furniture, there are no objections from a heritage viewpoint and the scheme would comply with policy ENV29 (Conservation Areas) of the Saved Walsall Unitary Development Plan.

## 3. Design, layout, and character

The proposed pedestrian bridge is a “fixed” bridge following consultation with the Canal and River Trust (CRT). The bridge design has been developed to reflect the industrial heritage of Walsall and the basin, and the scheme has been revised following feedback from CRT and other stakeholders to cater for both pedestrians and cyclists, but not vehicles.

The bridge would allow narrowboats to pass below with a minimum clearance of 3.09 metres above water level for this section of canal. The minimum clearance between the towpath and the bridge base would be 2.4m. Working to this specification requires a large ramp proposal to both the North and South and includes a curve to accommodate the length needed to keep the scheme accessible to all users.

A bridge span of seven metres has been allowed for to ensure clearance can be achieved and foundations sit away from canal wall. Following site investigation it was determined that the foundations will be a minimum of 750mm away from the canal edge. The width of the bridge will be



approximately 2.5 metres to allow users to pass each other comfortably and the design would be inclusive and allow for full accessibility including ramp and step access from the south bank.

Lighting would be incorporated to increase use and functionality. As well as feature lighting within the bridge handrail, two lighting columns, with the ability to attach CCTV have been introduced following response from the police liaison officer.

The arced design of the bridge adds visual impact to the scheme, whilst improving clearance for canal boats to pass underneath, creating a gateway for entering and exiting the Walsall Canal Basin. The railings to the bridge would have a natural branch-like appearance to reflect the natural environment the bridge is located in. Proposed LED lighting would be integrated within the bridge handrails to help wayfinding at night-time, extend the use of the bridge in the evenings as well create a focal point.

The proposed development is considered to accord with ENV32, Design and Development Proposals of the Saved Walsall Unitary Development Plan.

#### 4. Amenity of neighbours and amenity of future occupiers

There are residential apartments to the south of the proposed bridge structure with the nearest apartments sited approximately 2.5m away from the ramped element of the structure. There would be a landscaped buffer provided between the residential development and the ramp to help mitigate the potential impact on amenity. On balance, whilst undoubtedly the ramp/bridge would be viewable from nearby apartments it is considered residential amenity would not be unduly harmed by the proposed scheme. The bridge would be a positive feature within the streetscene and would enhance the residential environment for the surrounding residents. The bridge would be visually permeable which would help it to integrate with its surroundings and decrease impacts in terms of light and shading on nearby areas.

Given the proximity to the canal and nearby apartments, a condition is recommended for Environmental and Construction Management Plan to ensure that local impacts, noise, dust, debris, construction working hours, and other impacts during construction of the bridge can be agreed and controlled. The proposed development is considered to accord with ENV32, Design and Development Proposals and GP2, Environmental Protection of the Saved Walsall Unitary Development Plan.

#### 5. Ecology

A revised planting plan was submitted to include the greater use of native species and there are no ecology objections subject to conditions relating to the submission of a Construction Environment Management Plan and a lighting strategy.

The proposed development is considered to accord with Black Country Plan policy ENV1, Saved Unitary Development policy ENV23, National Planning



## Conclusion and reasons for decision

On balance, this application is considered acceptable when assessed against the local and national planning policies and guidance as set out in this report. The bridge has been designed to be inclusive and accessible and would promote sustainable active travel through walking and cycling and would improve connectivity, active travel and economic prosperity within the town centre.

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

## Recommendation

1. Planning Committee resolve to delegate to the Head of Planning and Building Control to Grant Planning Permission Subject to Conditions, and subject to
  - a. No new material considerations being received within the consultation period;
  - b. The amendment and finalising of conditions;

## Conditions and reasons

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

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Drawing No P1324-ONE-ZZ-XX-DR-L-0001 P08 – Bridge Design  
Drawing No P1324-ONE-ZZ-XX-DR-L-0002 P15 – Bridge Masterplan  
Drawing No P1324-ONE-ZZ-XX-DR-L-0006 P03 – Planting Plan  
Drawing No P1324-ONE-ZZ-XX-DR-L-0007 P04 – Location Plan  
Drawing No P1324-ONE-ZZ-XX-DR-L-0008 P03 – Block Plan  
Drawing No P1324-ONE-ZZ-XX-DR-L-0009 P03 – Existing Site Plan  
Drawing No P1324-ONE-ZZ-XX-DR-L-0010 P02 – Sections  
Drawing No P1324-ONE-ZZ-XX-DR-L-0011 P02 – Section/Elevation  
P1324-ONE-ZZ-XX-RP-L-0006 P04 – Revised Design and Access Statement

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).

3a. Prior to the commencement of the development hereby permitted, Method Statement to demonstrate that any construction operations within 15metres of the canal will not impose additional loading onto the canal bank and as a result adversely affect its stability or structural integrity, shall be submitted in writing to and agreed in writing by the Local Planning Authority. The statement shall include:

- a. detailed cross sections of the proposal in relation to the canal wall,
- b. details of the foundations of the proposal,
- c. details of surface water disposal (during and following construction),
- d. arrangements for undertaking mitigation measures as may be necessary to ensure that the risk of damage to the canal structure is adequately minimised (for example, vibration monitoring if piled foundations are proposed, or works to strengthen the existing canal bank to accommodate increased loads).
- e. details of where materials will be stored demonstrating that they are at least 15m away from the canal wall.

3b. The development shall not be carried out otherwise than in accordance with the approved details.

Reason: In the interests of minimising the risk of creating land instability arising from earthmoving, excavations or any other construction works which would adversely affect the structural integrity and/or water quality of the adjacent Walsall Canal in accordance with Policies EN4 and LC5 of the Walsall SAD 2019; Policy ENV4 of the Black Country Core Strategy, the advice and guidance on land stability contained in the National Planning Policy Framework and in the National Planning Practice Guidance: Land Stability.

4a. Prior to the commencement of the development hereby permitted full details of the design of the bridge shall be submitted in writing to and agreed in writing by the Local Planning Authority. The design shall include details of:

- a. the ramp alignment as it lands (below landing level +125.71) adjacent to the canal towpath.
- b. the design of the underside of the bridge, ramps and steps.
- c. the ground level understorey hard landscaping layout and materials.
- d. the means of collecting surface water from the bridge deck and ramps.
- e. the proposed lighting and CCTV.

4b. The development shall not be carried otherwise than in accordance with the approved details.

Reason: In the interests of protecting existing users/ecology of the adjacent Walsall Canal in accordance with Policies EN1, EN4 and LC5 of the Walsall SAD 2019; Policies ENV1, ENV3 and ENV4 of the Black Country Core Strategy, along with the advice and guidance contained in the National Planning Policy Framework and the Walsall Town Centre Area Action Plan 2019 - Policy AAPLE4: Walsall Canal.

5a. Prior to the commencement of building operations of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces, including the furniture, shall be submitted in writing to and approved in writing by the Local Planning Authority.

5b. The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 Walsall's Unitary Development Plan.

6a. Prior to the commencement of the development hereby permitted, a landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall correspond with the planting plan (P1324-one-zz-xx-DR-L-0006 P03) and shall include the following.

- a. Description of features to be managed.
- b. Ecological trends and constraints on site that might influence management.
- c. Aims and objectives of management.
- d. Appropriate management options for achieving aims and objectives.
- e. Prescriptions for management actions.
- f. Preparation of a work schedule.
- g. Details of the body or organisation responsible for implementation of the plan.
- h. Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured for 5 years by the developer with the management body(ies) responsible for its delivery.

6b. The development shall not be carried out otherwise than in accordance with the approved details agreed.

Reason: To preserve and enhance the natural environment and safeguard any protected species in accordance with Black Country Plan policy ENV1, saved Unitary Development policy ENV23 and Supplementary Planning Document Conserving Walsall's Natural Environment.

7a. Prior to the commencement of the development hereby permitted a Construction Environment Management Plan (CEMP) shall be submitted in writing to and approved in writing by the Local Planning Authority. The plan should include:

- a. Risk assessment of potentially damaging construction activities; including piling location and frequencies;
- b. Pollution Prevention measures;
- c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d. Sensitive Lighting scheme to avoid light spill to protect bats, detailing the provision of lighting across the site, in accordance with guidance outlined in Note 08/18 bats and artificial lighting in the UK, Bats and the Built Environment Series, BCT, 2018;
- e. Responsible persons and line of communication.
- f. The role and responsibilities onsite of an ecological clerk of works (ECOW) or similarly competent person;
- g. Use of protective fences, exclusion barriers and warning signs.
- h. Construction working hours
- i. Loading and unloading of materials
- j. Parking and turning facilities for vehicles of site operatives and visitors
- k. Measures to prevent flying debris
- l. Dust mitigation measures

- m. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
- n. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)

7b. The development shall not be carried otherwise than in accordance with the approved details.

Reason: To preserve and enhance the natural environment and safeguard any protected species in accordance with Black Country Plan policy ENV1, saved Unitary Development policy ENV23, National Planning Policy Framework and Supplementary Planning Document Conserving Walsall's Natural Environment.

8a. Prior to the commencement of the development hereby permitted a lighting strategy for the operational and construction phase of the development should be submitted in writing to and agreed in writing by the Local Planning Authority, detailing the provision of lighting across the site, in accordance with guidance outlined in Note 08/18 bats and artificial lighting in the UK, Bats and the Built Environment Series, BCT, 2018. It should include:

- a. Details of foundation;
- b. Lighting specification;
- c. Height luminance;
- d. Hours of operation; and
- e. Angling and cowls used to direct the lighting.

8b. The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained for the lifetime of the development.

Reason: To preserve and enhance the natural environment and safeguard any protected species in accordance with Black Country Plan policy ENV1, saved Unitary Development policy ENV23 and Supplementary Planning Document Conserving Walsall's Natural Environment.

## Notes for applicant

### Canal and River Trust

1. The applicant/developer is advised to contact the Canal and River Trust's Estates Team to discuss the use of our land adjacent to the canal with the Trust as this would require a commercial agreement with the Trust. Please contact Jeff Peake, Estates Surveyor, at [Jeff.Peake@canalrivertrust.org.uk](mailto:Jeff.Peake@canalrivertrust.org.uk) or by telephone 0303 040 4040.
2. The applicant/developer is advised to contact the Canal & River Trust in order to ensure that any necessary consents are obtained, and the works are compliant with the Trust's current "Code of Practice for Works Affecting the Canal and River Trust". For further advice please contact Shomsur Khan, Works Engineer in the first instance on [Shomsur.Khan@canalrivertrust.org.uk](mailto:Shomsur.Khan@canalrivertrust.org.uk) or by telephone 0303 040 4040.

### End of report



## Planning Committee 05 Sep 2024

### Plans List Item 5

Report of Head of Planning and Building Control

### Reason for reporting to the planning committee.

Public petition with over 10 signatures.

### Application details.

**Application reference:** 24/0077

**Site location:** 188, WALSALL WOOD ROAD, ALDRIDGE, WALSALL, WS9 8HB

**Application proposal:** Change of use from residential dwelling Class (C3) to a children's day nursery Class E(f) for a maximum of up to 37 children.

**Application type:** Full Application: Change of Use

**Link to application documents:** <https://go.walsall.gov.uk/planningapps?id=24/0077>

**Applicant:** Rahman, Rahman Investments Ltd Reman Investments Ltd, 810, Walsall Road, Great Barr, B42 1EU

**Planning agent:** Raymond Henry Ashall MRTPI, Mr Raymond Henry Ashall MRTPI Ashall Town Planning, Stratford House, 5 Cortland Avenue, Ecclestone, Chorley, PR7 5FP

**Ward:** Aldridge Central And South



# Red line location



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## Recommendation

Committee to delegate to the Head of Planning and Building Control to grant subject to the amendment and finalising of conditions and no new material considerations.

## Site and surroundings

The application site is an existing detached dwelling known as 188 Walsall Wood Road. The application site is situated at the junction of Walsall Wood Road, Lancaster Avenue and Lazy Hill Road. The site is an existing dwellinghouse and is currently unoccupied. The dwelling is circa 1970's construction and the site is a corner plot with an integral garage and vehicular access from Lancaster Avenue with the principal elevation facing Walsall Wood Road. The garden/amenity space is mainly to the front of the site and is currently laid to lawn with an approximately 0.5m to 1-metre-high brick-built boundary wall. The site levels slope upwards from Lancaster Avenue to Walsall Wood Road by approximately 0.5 to 1 metre. An existing highway tree is situated at the corner of Walsall Wood Road and Lancaster Avenue. The tree is not within the red edge of the application site. To the front of the site are Zig Zags from a nearby Zebra pedestrian crossing.

The application site is situated in Flood Zone 1 as defined on the Environment Agency Flood Map for planning. The site is also situated in the 15km zone of



influence for the Cannock Chase SAC and is a low risk area for legacy coal mining development.

## Relevant planning history

None

## Relevant policies

### 1. 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". The NPPF is a material consideration in the determination of a planning application.

A draft text of the NPPF for consultation has been published on the 30th of July 2024 the consultation period expires on the 24 September 2024.

### 2. Human rights and reducing inequalities

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

### 3. Walsall Council Development Plan

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 Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

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.

## **Consultee comments (planning officer's summary)**

1. Education Walsall  
No comments received.
2. Environmental Health  
Comments raised in relation to noise impact conditions advised in relation to an acoustic fence and the number of children shall be restricted to 8 in the external areas at any one time.
3. Environmental Protection  
Advise conditions in relation to the provision of a 2-metre-high acoustic fence barrier and no more than 8 children to use the external activity areas at any one time.
4. Housing Standards  
No comments received.
5. Local Highways Authority  
Supports the proposal subject to conditions in relation to parking and turning areas provided prior to the occupation of the site and the provision of the details of the cycle shelter.
6. Strategic Planning Policy  
No objection.
7. PQMS, Training  
Supports the application.
8. Social Services  
No comments received.
9. West Midlands Fire Officer  
No objection
10. West Midlands Police Architectural liaison officer  
No objection

## **Neighbour and interested parties' comments**

1. 30 comments received in support of proposal for the following reasons:
  - Need for more nursery provision in the area
  - Creation of jobs
  - Support for working parents
  - Support for local employment/business
  - Bus route nearby
  - Another opportunity for employers to take on apprenticeships
  - Useful local service.
2. 47 comments received objecting to proposal for the following reasons:
  - Parking and highway safety issues near shops/businesses and other residential properties
  - Danger to pedestrian safety/at pick up drop off times
  - Increase in traffic
  - Capacity of the drainage system to cope with additional commercial use
  - Insufficient parking/drop off areas available on the site front garden for parents/visitors/staff
  - Antisocial behaviour
  - Not a nice place to put a nursery next to a pub
  - Speed of traffic
  - Litter and glass outside the premises which is unsuitable for children
  - Loss of a residential property would not be acceptable
  - Parking will cause major issues in the street
  - Difficulties for disabled people/pedestrians to pass on the footpath due to inconsiderate parking on the footpath
  - Nursery places are needed but this is not the right location
  - Noise and disturbance/impact to nearby residents/loss of amenity
  - The site is close to a junction and the street is poorly lit and it is difficult to see during the hours of darkness
  - Limited outdoor space for the children to play
  - Potential loss of a tree in the public highway
3. Petition  
Petition with over 10 signatures objecting to the proposed development.

## Determining issues

1. Principle of development
2. Design, layout, and character
3. Amenity of neighbours and future occupiers
4. Highways
5. Flood risk / Drainage
6. Trees / Protected trees
7. Ground conditions and environment
8. Planning obligations
9. Other key determining issues

# Assessment of the proposal

## 1. Principle of development

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

The application site is situated on Walsall Wood Road Aldridge. The site is an existing dwelling situated on a junction with Lancaster Avenue. The vehicular access is situated on Lancaster Avenue.

The site is situated in a mixed use/residential area with some commercial properties adjacent to the application site. Immediately adjacent to the application site is a residential property at 2 Lancaster Avenue to the West of the application site. To the north of the application site is a public house and shop.

A number of concerns were raised about the proposal from third parties in respect of additional traffic/congestion and amenity concerns. These issues have been addressed and the highways authority/Environmental Health Officer supports the proposal subject to conditions.

## 2. Design, layout, and character

The proposal involves the change of use of the existing building for use as a nursery for up to 37 children.

The site is a detached property with most of the amenity space is to the site frontage with a small area of amenity space to the rear of the property.

The rear amenity space abuts other residences and a commercial shop. The rear enclosed amenity space proposes an indoor area of 17.5m<sup>2</sup>. Adjacent to the indoor play area is outdoor amenity space some of which is enclosed by a proposed canopy and a 2.0-metre-high timber acoustic fence.

The internal rooms are proposed to be re- arranged to provide indoor play areas and office/wc on the ground floor and wc/kitchen/storage and play areas on the first floor.

Provision for the play accommodation is broken down into 17.5m<sup>2</sup> for children under 2 years old. 41.4 m<sup>2</sup> for children aged 2-3 years and 36.8m<sup>2</sup> for children aged 3 to 5 years. The ratio of children ranges is 5 no.0-2-year, 16 no. 2-3 years and 16 no. 3 to 5 years.

In addition to the side elevation of the building is an outdoor area enclosed for use as bin/cycle/pram storage. This is adjacent to the office and staff room area.

The proposal is considered to accord with Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, and DW3 Character. NPPF Chapter 2 Achieving Sustainable Development.

### 3. Amenity of neighbours and amenity of future occupiers

A significant number of objections has been raised by third parties as set out in the Interested Party Comments Section of this report. These concerns relate mainly to the potential for additional traffic and parking provision for the proposed nursery and the use of the adjacent highway by existing road users who allegedly park inconsiderately causing issues for residents. In addition, the issues also raised are noise and disturbance from the resulting use and comments/concerns are also raised relating to the site being located next to a public house and its proximity to the nursery. In addition, a 98-signature petition was lodged with the LPA objecting to the proposal. There are also 30 of supporting comments from third parties who consider the development will provide more nursery provision in the area, create jobs, support working parents, support local businesses, is near a bus route, is a useful local service and is a potential opportunity for the nursery to provide apprenticeships for local people.

The Environmental Health Officer advises that they support the proposal subject to conditions and the provision of a 2-metre-high acoustic timber fence around the play areas as well as restrictions on the number of children to 8 at any one time in the outdoor play area.

The proposal is considered to accord with Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, and DW3 Character. NPPF Chapter 2 Achieving Sustainable Development.

### 4. Highways

In addition, highways had previously expressed concerns regarding the level of information provided initially on parking and turning provision to the site. Additional information has been provided in support of the application to address the highway concerns. The highways officer has now confirmed that they have no objections to the proposal subject to conditions in relation to the provision of the parking and turning areas prior to the occupation of the site and the provision of further details for the cycle shelter.

The Highway Authority considers the development 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 UDP policy GP2, T4, T7 and T13, and the Black Country Core Strategy TRAN4,

NPPF December 2023 paragraph 115. Which states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposals are considered to accord with the development plan policies and paragraph 109 of the National Planning Policy Framework.

## 5. Flood Risk / Drainage

The application site is situated in flood zone one as defined on the Environment Agency Flood Map for planning. The proposed use will involve the use of the existing drainage network which the property is already served by. Some third-party comments advise that the site may not be able to support an increase in the drainage capacity. As the site involves the use of an existing building the property will already be connected to the drainage system. The proposed development is acceptable in terms of flood risk and drainage and the proposal is considered to accord with Black Country Core Strategy ENV5: Flood Risk, Sustainable Drainage Systems, Urban Heat Island and NPPF Chapter 14 of the revised NPPF December 2023.

## 6. Trees / Protected trees

An existing tree is situated outside the red edge of the site within the highway verge. This tree is a highway tree and is within the control of the highway authority. Any work to the tree would require consent from the highway authority. The application description does not include any works outside the control of the of the red edge.

## 7. Ground conditions and environment

The application site is in an area at low risk of legacy coal mining development. The proposed use is for an existing dwelling to be changed to a nursery and therefore no further action is necessary. There are no objections from the Coal Authority. Standing advice is advised. The proposal is considered to accord with "Saved"

Unitary Development Plan Policy ENV10: Pollution and The Black Country Core Strategy ENV8 Air Quality.

## 8. Other key determining issues

There is substantial community support for the proposal on the basis that the development will provide additional opportunities and jobs within the community. There are also significant objections to the proposal on the grounds of highway safety and amenity. These matters have been addressed in the submission to the extent that the application can now be supported when weighed in the planning balance against the planning policies the application is considered acceptable and in compliance with the relevant development plan policies.



# Conclusion and reasons for decision

On balance, this application is considered acceptable when assessed against the local and national planning policies and guidance as set out in this report on balance, this application is considered acceptable when assessed against the local and national planning policies and guidance as set out in this report. Officers have worked with the applicant/agent to overcome the concerns regarding highway safety, and amenity. Considering the above factors, it is considered that the application should be recommended for approval.

## Conditions and Reasons

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

- Drawing number 3000-401-03 Rev B existing and proposed site plan, block plan, location plan.
- Drawing number 3000-401-02 Rev C Proposed Plans and Elevations. All received 20 March 2024.
- Noise Assessment AN/1248/24/309/ V4. 0 dated 22 April 2024.
- Highways Supporting information received 20 March 2024.
- Noise Supporting information received 20 March 2024.

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. The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been hard surfaced and drained /permeable surfaced and no loose stone. The access, turning area and parking facilities shall not be used for any purpose otherwise than for access, turning and parking respectively.

Reason: To reduce the need for on street parking in the interest of highway safety and ensure surface water does not run onto the highway and to avoid increased surface flooding to comply with the Walsall Unitary Development Plan saved policies GP2 and ENV40.

4. The proposed extension and alterations to the development hereby permitted shall comprise facing materials that match, in size, colour and texture, those which are used in the existing building and the facing materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

5a. No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

5b. No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area in accordance with saved policies GP2, ENV11 and ENV32 of the Walsall Unitary Development Plan.

6. No loading and unloading of goods or storage of goods materials or equipment shall take place within the parking/turning/vehicle manoeuvring/bin storage areas/open areas / outside the building.

Reason: To ensure the satisfactory functioning of the development and in the interests of highway safety and to prevent pollution in accordance with the saved Walsall Unitary Development Plan policy GP2, T7, T13, ENV10 and ENV32.

7. The development hereby permitted shall not be open to customers otherwise than between the hours of 07:30 hours to 18:00 hours Mondays to Fridays and shall not be open on Saturdays, Sundays, Bank and Public Holidays

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

8. Notwithstanding the provisions of Class E of the Town and Country (Use Classes) Order 1987 (as amended) or any subsequent re-enactment thereof the premises shall only be used as a crèche or day nursery for the care of children under Use Class E(f).

Reason: To define the permission, to ensure the satisfactory functioning of the development and to safeguard neighbours, amenity to accord with the Walsall saved Unitary Development Plan Policy GP2.

9. The Nursery shall operate with no more than 37 children on site at any one time.

Reason: To ensure the satisfactory functioning of the development and in the interests of highway safety and to prevent pollution in accordance with the saved Walsall Unitary Development Plan policy GP2, T7, T13, ENV10 and ENV32.

10. No more than eight children shall be permitted to use the external activity areas at any one time.

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

11a) Prior to the occupation of the development hereby approved full details of the proposed cycle shelter, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the cycle shelter shall be fully implemented in accordance with the approved details.

11b) The cycle shelter facility shall thereafter be retained and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

## **Notes for applicant**

### **Coal Authority Standing Advice - Development Low Risk Area**

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 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

**End of report**