



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 03-Oct-2019

Plans List Item Number: 1.

Reason for bringing to committee: An appeal against non-determination of the application has been lodged. The report seeks the committee view on how they would have determined the application.

Location: FORMER JACK ALLEN HOLDINGS LTD, MIDDLEMORE LANE, ALDRIDGE, WALSALL, WS9 8DL

Proposal: OUTLINE PERMISSION FOR 2 DETACHED COMMERCIAL UNITS (B1(A) & B2) WITH ASSOCIATED EXTERNAL WORKS. APPROVAL SOUGHT FOR ACCESS, LAYOUT AND SCALE.

Application Number: 18/1702

Applicant: Mr Tandy

Agent: Grahame French

Application Type: Outline Permission: Major Application

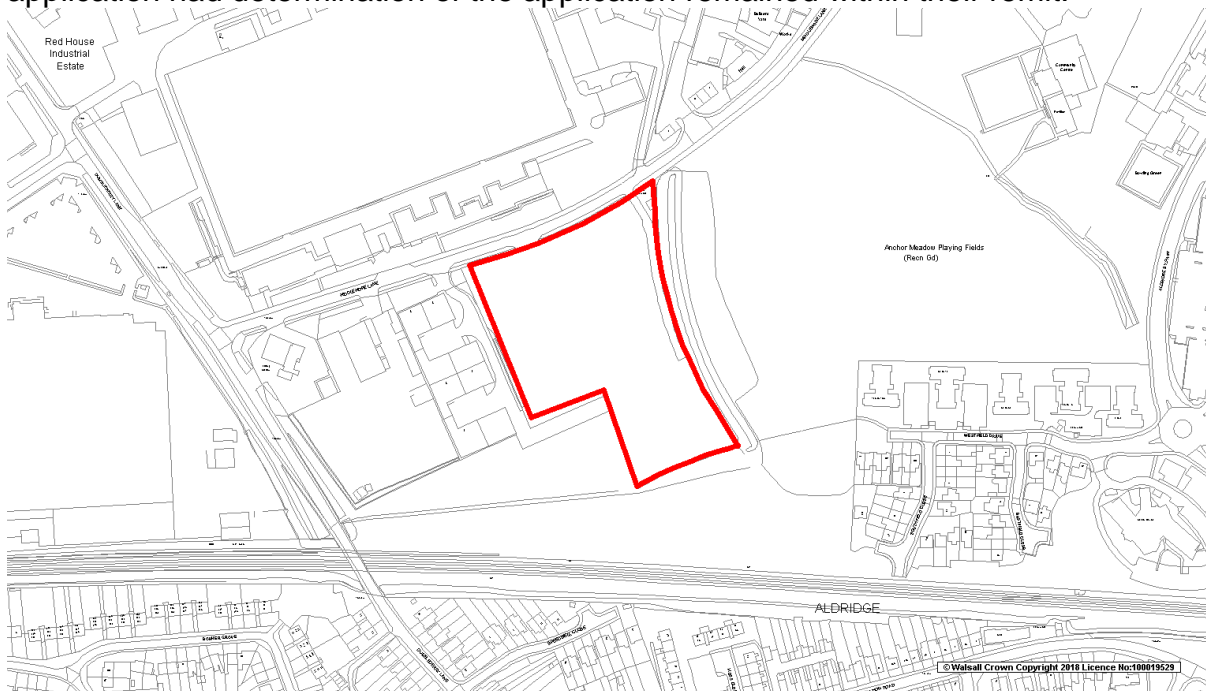
Case Officer: Alison Ives

Ward: Aldridge Central And South

Expired Date: 19-Mar-2019

Time Extension Expiry:

Recommendation Summary: That committee indicate that it would have refused the application had determination of the application remained within their remit.



Current Status

There is a current appeal against non-determination of the application. There is also an appeal for an award of costs which is to follow. Officers are seeking a Committee resolution on how they would have determined the application were the decision within their authority rather than the Planning Inspectorate. The officer's recommendation to committee is to indicate that they would have refused the application. The resolution will be forwarded to the Planning Inspectorate and form part of the appeal documents.

Proposal

This is an outline application for erection of two detached commercial units for a proposed Class B1(a) office and B2 general industrial use with associated external works and seeks determination of access, layout and scale of development.

The submitted plans identify the following:

Unit 1 - Warehouse with two storey offices at the front facing Middlemore Lane

56.5m wide X 88.5m long maximum 9m high with a flat roof

Office section 56.5m wide X 9m deep

Utilises the central access for the staff car parking

81 parking spaces with 3 disabled spaces

Segregated commercial vehicle access from the existing eastern access

8 roller shutter doors in the eastern side elevation

Unit 2 – Warehouse with two-storey offices located at the rear of the site

Offices located within the front north-western corner of the building

59.5m wide X 33.5m deep maximum 9m high with a flat roof

Office section (17m wide X 9.5m deep)

32 parking spaces with 2 disabled spaces

5 roller shutter doors on the eastern half of the front elevation

Parking areas and commercial access share the eastern access.

The application form identifies 1310m² floor space for B1(a) purposes and 6171m² floor space for B2 purposes (total 7481m²). Both buildings comprise insulated cladding panels on a steel frame with aluminium powder coated windows and doors.

It appears the evergreen hedge along the frontage would be removed to accommodate the parking for unit 1. Also that new landscaping is introduced along the side of the eastern access and between the two units.

A Supporting Statement incorporating Design, Access and Planning Statement has been submitted describing the development and its location; covering ecology, drainage and flood risk plus geology and ground conditions; addressing planning policy context and sustainability.

A Coal Mining Risk Assessment has been supplied that identifies coal mining risks including two mineshafts either within the site boundary or within 20m of it that are likely to represent a significant development constraint. Potential risk posed by shallow

underground workings could be mitigated by intrusive investigation. The report suggests the latter could form a condition.

A Transport Statement and Travel Plan have been supplied. The Transport Statement describes the proposals, site and surroundings including the local road network, local amenities and proximity to bus stops and railway stations. It assesses the TRICS data in respect of vehicles arriving/departing in the am/pm peak (am peak: 65.5 arriving, 52.1 departing; pm peak: 27.7 arriving and 60.1 departing). It also assumes vehicle split leaving the site as 35% turning left and 65% turning right (13 turning left and 33.9 turning right in the morning and 21 turning left and 39.1 turning right in the evening). Visibility splays are in accordance with Manual for Streets guidance. No works are considered necessary to reduce accidents in the area. The Travel Plan gives travel targets, management and measures to raise awareness of sustainable travel and promote measures to reduce the need to travel by private car.

A Flood Risk Assessment has been provided. This concludes the site is within flood zone 1 with low probability (less than 1 in 1000 year probability) of fluvial flooding. There is a surface water sewer located in the footway verge of Middlemore Lane that connects to the site. It also describes foul and surface water drains within the site that appear flooded so will need to be attenuated as they are not suitable to serve the proposed development. Some measures to prevent surface water flooding are recommended i.e. floor levels of units raised by 150mm above ground level.

Site and Surroundings

The site is located on the southern side of Middlemore Lane within an employment area yet surrounded to the south and east by open space known as Anchor Meadow. It is currently occupied for storage of vehicles and trailers. There is a tall evergreen hedge behind palisade fencing along the frontage to Middlemore Lane and dense woodland to the east and south of the site separating it from the adjacent open space. There are two accesses to the site, one on the eastern boundary and one just off-centre along the frontage. The entire site is hard surfaced comprising a mix of tarmac and hardcore.

There is a large vacant industrial premises opposite (former McKechnie Brass) plus other industrial premises to the west and north. There is also a football club and a social club with bowling green opposite the site adjacent to the former McKechnie Brass premises. The nearest residential premises are three storey housing and four storey flats in Westfield Drive on the opposite side of the open space at approximately 81m away from the nearest part of the site.

The site covers 1.8 hectares.

The site is 500m to the west of Aldridge district centre.

Relevant Planning History

11/0240/FL - Change of use to a hire depot for secure portable containers and offices – GSC 03/05/2011.

06/1282/FL/E11 - Variation of condition 1 of permission BC64539P to extend the time limit for New industrial units for B1(C) Light Industrial and B2 General Industrial use – GSC 21/09/2006.

05/2181/FL/E5 - Change of use from Industrial land to Storage of incomplete and complete commercial vehicles – GSC 06/02/2006.

02/0257/FL/E5 - Additional car parking spaces for existing commercial vehicle repair and assembly buildings – 28/03/2002.

BC64539P - New industrial units for B1(C) Light Industrial and B2 General Industrial Use – GSC 02/11/2001.

BC56537P - Internal alterations in factory unit to form new first floor offices & new fire exit/escape route – GSC 27/10/1998.

BC49763P - Proposed Flatting Shop – GSC 01/09/1997.

BC49049P - Additional Car/Lorry Parking Area, Installation of 2 Windows in Service Reception Area and New Security Barrier – GSC 26/03/1997.

Plus older applications between 1994 and 1997 relating to minor works at the site for an earlier business operating from the site.

The site was occupied for a short while in 2015 for an unauthorised recycling facility but following successful enforcement action this use ceased.

McKechnie Brass site

17/0485 - A hybrid application for the redevelopment of this site:

- a full planning application for demolition of all buildings and change of use of the land from general industrial (Class B2) to a mixed use of light industrial (Class B1), general industrial (Class B2) and storage or distribution (Class B8) and for the access of Middlemore Lane, the internal road layout and the drainage infrastructure.
- an outline application for construction of up to 22,703sq.m. of new buildings, the provision of associated car parking, servicing and circulation areas, landscaping of the site, SUDs ponds and all other associated works (other than those detailed within the full planning application) – GSC 24/10/2017.

16/0133 - Screening Opinion as to whether an environmental statement is required for B1(c), B2, B8 Industrial development – EIA not Required 16/02/2016.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 55) 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. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

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

National Planning Policy Guidance

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

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act ’) sets out 9 protected characteristics which should be taken into account in all decision making.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development

- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- JP8: Bad Neighbour Industrial Uses
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- TRAN2: Managing Transport Impacts of New Development
- TRAN3: The Efficient Movement of Freight
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

IND2: Potential High Quality Industry
 IND5: New Employment Opportunities
 OS1: Open Space, Sport and Recreation
 EN1: Natural Environment Protection, Management and Enhancement
 EN3: Flood Risk
 M1: Safeguarding of Mineral Resources
 T4: The Highway Network

Supplementary Planning Document

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places

- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

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

Consultation Replies

Officer comments in italics.

Archaeology - The site in the location of Victoria Colliery – a small colliery recorded on the Historic Environment Record as including 2 shafts, loading bay, tramways, and buildings on the 1st Edition Ordnance Survey map of 1886. However, any remains relating to this heritage asset would be of local significance only, and there is a high likelihood of truncation by later activity in this area. For these reasons, it is recommended there would be no archaeological implications for this development.

Coal Authority – Objects. Welcome the submission of a Coal Mining Risk Assessment (CFM/28208, dated 29/03/2019) prepared for the proposed development by GIP Limited. This Assessment has been informed by an appropriate range of sources of information; including geological sheets, historic borehole records and up-to-date coal mining information.

Based on this review of available information, the report author identifies that shallow coal mining may have occurred in the Top Robins Coal seam. Given the estimated depth of this coal seam (39m to the Top Robins Coal seams) and the overall seam thickness of 3.8m including partings, the surface instability risk is considered marginal. However, Section 6 recommends that three rotary open drill holes be sunk across the site to a minimum depth of 45m to establish the depth and the condition of any shallow coal seams and strata above with particular consideration to the Top Robins Coal Seam.

The Assessment also identifies the presence of the two recorded mine entries (one on-site; one off-site) affecting this site. The report author highlights that these mining features represent a significant development constraint and buildings should avoid these mining feature, where possible. As our records confirm the exact location of both mine entries, it is unlikely that the off-site mine entry will affect this development. However this is not the case for the on-site mine entry. The proposed layout, seeking approval as part of this

outline application (Drawing No. (P) 110 – Proposed Site Plan) would result in Unit 1 being built over, or within influencing distance of the on-site mine entry. Therefore this development does not accord with adopted policy:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries> Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. In light of the above, the Coal Authority maintains its objection to this proposal, based on the current layout proposed.

No revisions to the layout have been made, in light of the professional opinions provided by GIP Limited, and no justification has been provided as to why the layout cannot be revised to avoid the mine entry, if this is the case. It is a requirement of NPPF, paragraphs 178-179 that the applicant demonstrates to the satisfaction of the LPA that the application site is safe, stable and suitable for development.

Community Safety – The rear of Unit 2 should be secured with camera coverage and PIR lighting as it backs onto green space which could offer opportunity for attack. Adequate lighting around the site is also recommended and consideration of security fencing.

Environment Agency – No objections.

Fire Officer – The water supplies for firefighting appear to be inadequate as they should meet the guidance given in National Guidance Document on the Provision for Fire Fighting published by Local Government Association and WaterUK. Hydrant details also required. Vehicle access route to meet the requirements of ADB Volume 2, Table 20, noting that WMFS appliances require a carrying capacity of 15 tonnes. The approval of Building Control will be required with regard to Part B of the Building Regulations 2010 (*these are a matter for building control*).

Highways England – No comments.

Historic England – No comments.

Lead Local Flood Authority – No objection subject to a condition to secure a satisfactory surface water design to prevent flooding by ensuring satisfactory storage of/disposal of surface water from the site.

Natural England – No objection.

Network Rail – No objections as does not affect the rail infrastructure.

Police – No objections. A note for applicant regarding secure by design commercial, police approved crime reduction information guidance is provided.

Policy – The site is allocated as potential high quality industry under SAD policy IND2 (site IN12.6). The submitted details are ambiguous about the proposed use. The application description refers to uses B1(a) and B2 but the supporting statement refers to B1/B2/B8. However, the submitted plan shows warehousing (which would be B8) and offices. A B1(a) office is a main town centre use so would not be acceptable for this site unless it was

ancillary to a B2 or B8 use. The submitted plans appear to show that the office use would be ancillary. However, a B2 and/or B8 use would be strongly supported by the SAD policy.

Pollution Control – No objections but recommends conditions to mitigate the effect of noise associated with the proposed use and provides an advisory note concerning contaminated land. The proposed development is located on the site of a former colliery works with subsequent industrial use. The applicant will therefore need to undertake appropriate investigation in order to assess the extent of the ground contamination at the site and inform of any remedial measures that may be required.

With regard to noise the site is within close proximity (<100 metres) of residential properties on the southern and eastern boundaries and the proposal therefore has the potential to cause noise nuisance to the occupants of nearby dwellings. Under such circumstances Pollution Control recommends conditions to protect local amenity. There are no concerns regarding relevant pollutant levels at the proposed site but, with reference to the adopted Black Country Air Quality Supplementary Planning Document (SPD), this is a type 1 application. The applicant therefore needs to install electric vehicle charging points and low NOx boilers in the development.

Public Footpaths – No objections – there are no public rights of way affected by the application.

Public Health – Recommends EV charging points are included as per the Black Country Air Quality SPD.

Severn Trent Water – No objections subject to a condition to secure drainage details.

Sport England – No objection as the proposals do not involve the loss of any sports facility.

Transportation – No objections subject to further clarification and additional information on the following matters relating to the Transport Statement:

- a. An Autotrack drawing shall be submitted demonstrating that the largest vehicle expected to visit the development can safely and satisfactorily; i) enter and leave the commercial vehicle access point on Middlemore Lane and, ii) make a full turning manoeuvre within the service yard of Unit 2
- b. The layout shall be revised to provision of secure, covered illuminated cycle shelters for the use by staff and visitors to both Units
- c. Paras 1.23 and 11.1 of the Transport Statement states that there are no committed developments in the area of the site. This is incorrect. Hybrid planning application 17/0485 for up to 22,703sqm of B1, B2 and B8 of new development on the McKechnie Brass site on Middlemore Lane was approved on the 24th October 2017 for commencement within for 3 years. The Transport Statement will need to factor in and assess this extant permission a revised Statement.
- d. The layout shall be revised to provide continuous pedestrian route/zones to the main building entrances from the highway including dropped kerb crossing and zebra hatching across vehicular routes where necessary.

The application seeks outline consent for two B1(a) Light Industry/B2 General Industry units. The larger unit comprising 1004sqm ancillary office space + 4396sqm warehouse totalling 5400sqm GFA. The smaller unit comprising 306sqm ancillary offices + 1775 sqm warehouse totalling 2081sqm GFA. The development utilises two existing access points. One of the accesses is to be used as access to the staff parking area to the larger unit. The other access is to be used as access to the service yard for Unit 1 and to Unit 2.

UDP T13 Parking Policy

Unit 1 @ 5400 sqm B1(a) = 198 spaces max.
B2 = 63 spaces max.

Proposed = 81 spaces.

Unit 2 @ 2081 sqm B1(a) = 77 spaces max
B2 = 27 spaces max

Proposed = 32 spaces

Whilst the proposed parking for B1(c) for Unit 1 at 81 spaces is significantly below the UDP maximum requirement of 198 spaces there is a significant amount of ancillary office space in this unit. By separating the office space use and applying the UDP T13 office parking standard of 1 spaces per 30sqm to that area, the max requirement comes down to 81 spaces which is what the development is proposing. This is considered a more realistic level of provision for this type of use.

A Travel Plan Statement is also submitted setting out objectives and measures to promote sustainable travel and reduce car borne trips.

Representations

One representation received commenting they have no knowledge of development on the application site.

Determining Issues

- Principle of Class B1(a)/B2 development
- Means of Access
- Layout/Scale
- Relationship to adjacent premises
- Flooding
- Coal
- Ground conditions
- Air Quality
- Security

Assessment of the Proposal

Principle of Class B1(a)/B2 development

The site is allocated as potential high quality industry under SAD policy IND2 (site IN12.6). Whilst there is some discrepancy between the proposed use referred to on the forms, supporting statement and plans the description of development is for Class B2 use with ancillary Class B1(a) offices. A B1(a) office is a main town centre use so would not be acceptable for this site unless it remains ancillary to a B2 or B8 use that could be a condition of any permission. Such a condition would also ensure there remains adequate parking provision. On this basis a Class B2 or B8 use would be strongly supported by the SAD policy.

The site is within the mineral safeguarding area but does not exceed the threshold (5 hectares) for requiring supporting evidence to demonstrate how non mineral proposals will safeguard the mineral resource as required by BCCS policy MIN1.

Means of Access

The means of access to the site retains the existing two access points to serve the two units with commercial vehicles utilising the eastern access only.

The Transportation officer has requested some additional information to demonstrate that the largest type of vehicles can enter and leave the commercial vehicle point on Middlemore Lane and also to demonstrate that the largest commercial vehicle can manoeuvre within the site to serve unit 2. A revised Transport Assessment (TA) is also required to make consideration of the development approved for the McKechnie site opposite and potential cumulative impact on the surrounding highway network. Whilst the Transportation officer has no objections subject to resolving these matters, as they are key issues that determine whether the site can accommodate the level of development utilising the proposed access and have not been addressed they are now recommended reasons for refusal as there is no opportunity for the local planning authority to request them.

The NPPF paragraph 109 states *“development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*. “Policy T4 of Walsall Site Allocation Document identifies that *“development proposals which generates significant transport must be accompanied by a Transport Assessment which considers the accessibility of the development by all modes of transport, including the impact on the highway network in the surrounding area”*. Saved UDP policy GP2 requires consideration of the *“adequacy of the proposed access”* and policy ENV32 requires consideration of *“the proposed vehicular and pedestrian circulation patterns”*. In the absence of evidence to demonstrate that the access is safe and the cumulative impact of the development have resulted in failure to demonstrate the matters in relation to access are satisfactory and would not have a severe impact on highway safety contrary to these policies.

Other matters relating to provision of a cycle store and continuous pedestrian routes throughout the site could be determined by conditions at reserved matters stage.

Layout/Scale

The proposed layout indicates two large units typical of the type of construction evident in the surrounding employment areas. Whilst they are large units their size and scale would not be out of keeping with the surrounding area and to a large extent they will be screened from the wider area by existing trees and woodland. Subject to the appellant demonstrating that the access is acceptable for the scale of development proposed the layout and scale may be acceptable. However in the absence of these details the layout and scale of development proposed cannot be supported and is contrary to saved UDP policies GP2 and ENV32.

Relationship to adjacent premises

The proposed units would be at the far eastern side of the where it adjoins Anchor Meadow. The proposed buildings will be screened from the wider residential area by existing trees and woodland and so would not be overly obtrusive or detrimental to residential amenities. In the event that the proposals could be supported subject to safeguarding conditions. Such conditions would cover construction methodology, operational hours, operations external to the buildings etc. This would accord with saved UDP policies GP2, ENV32 and JP8.

Flooding

The site lies in Flood Zone 1 where there is a medium to high risk of flooding at the site entrance and low risk along the eastern boundary of the site. There is some evidence of flooding along Middlemore Lane to the north-east of the site boundary.

A Flood Risk Assessment (FRA) has now been provided that addresses an initial objection from the Lead Local Flood Officer who now supports the proposals subject to a condition to secure satisfactory surface water design to prevent flooding by ensuring satisfactory storage of/disposal of surface water from the site.

In the circumstances the proposals comply with the provisions of the NPPF and to saved UDP policies GP2, ENV10 and ENV40 and to policy ENV5 of the Black Country Core Strategy.

Coal

A Coal Mining Risk Assessment has been provided that identifies that shallow coal mining may have occurred in the Top Robins Coal seam. Given the estimated depth of this coal seam (39m to the Top Robins Coal seams) and the overall seam thickness of 3.8m including partings, the surface instability risk is considered marginal. However, Section 6 recommends that three rotary open drill holes be sunk across the site to a minimum depth of 45m to establish the depth and the condition of any shallow coal seams and strata above with particular consideration to the Top Robins Coal Seam.

The Assessment also identifies the presence of the two recorded mine entries (one on-site; one off-site) affecting this site. The report author highlights that these mining features represent a significant development constraint and buildings should avoid these mining feature, where possible. The Coal Authority records confirm the exact location of both mine entries, it is unlikely that the off-site mine entry will affect this development. However the on-site mine entry demonstrates that the proposed layout sought would result in Unit 1 being built over, or within influencing distance of the on-site mine entry. Therefore this

development does not accord with adopted policy:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries> Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. In light of the above, the Coal Authority maintains its objection to this proposal, based on the current layout proposed.

In the circumstances the proposed layout fails to take into account any risks arising from land instability from former mining activities or to demonstrate that the application site is safe, stable and suitable for development and consequently not accord with paragraphs 178-179 of the NPPF or saved UDP policies GP2 and ENV32.

Ground conditions

Aside from the coal mining issues referred to above the appellant would need to undertake appropriate investigation in order to assess the extent of the ground contamination at the site and inform of any remedial measures that may be required. This could be secured prior to commencement of any development by an appropriate condition. On the basis the proposals comply with saved UDP policies GP2 and ENV10 in this respect.

Air Quality

In accordance with policy ENV8 of the BCCS and the Black Country Air Quality SPD this is a type 1 application where there is a need to install electric vehicle charging points and low NOx boilers in the development in order to reduce emissions and improve air quality. This could be secured by conditions.

Security

The Police and Community Safety teams comments on safety and security of the site and recommend security measures such as CCTV, security fencing and lighting. These measures could be secured by condition and note on any decision notice. This accords with saved UDP policies GP2 and ENV32.

Conclusions and Reasons for Decision

The principle of development for Class B2 general industrial premises with ancillary offices is considered acceptable as the site is allocated as potential high quality industry under Walsall Site Allocation Document policy IND2 (site IN12.6).

The site is within the mineral safeguarding area but does not exceed the threshold (5 hectares) for requiring supporting evidence to demonstrate how non mineral proposals will safeguard the mineral resource as required by BCCS policy MIN1.

Whilst the Transportation officer has no objections in principle some additional information is requested to demonstrate that the largest type of vehicles can enter and leave the commercial vehicle point on Middlemore Lane and also to demonstrate that the largest commercial vehicle can manoeuvre within the site to serve unit 2. A revised Transport Assessment (TA) is also required to make consideration of the development approved for the McKechnie site opposite and potential cumulative impact on the surrounding highway network.

In the absence of evidence to demonstrate that the access is safe and the cumulative impact of the development have resulted in failure to demonstrate the matters in relation to access are satisfactory and would not have a severe impact on highway safety contrary to the provisions of the NPPF, saved policies GP2 and ENV32 of Walsall UDP and policy T4 of Walsall SAD.

Other matters relating to provision of a cycle store and continuous pedestrian routes throughout the site could be determined by conditions at reserved matters stage.

Subject to the appellant demonstrating that the access is acceptable for the scale of development proposed the layout and scale may be acceptable. However in the absence of these details the layout and scale of development proposed cannot be supported and is contrary to saved UDP policies GP2 and ENV32.

The proposed units would be at the far eastern side of the where it adjoins Anchor Meadow. The proposed buildings will be screened from the wider residential area by existing trees and woodland and so would not be overly obtrusive or detrimental to residential amenities. In the event that the proposals could be supported subject to safeguarding conditions. Such conditions would cover construction methodology, operational hours, operations external to the buildings etc. This would accord with saved UDP policies GP2, ENV32 and JP8.

The site lies in Flood Zone 1 where there is a medium to high risk of flooding at the site entrance and low risk along the eastern boundary of the site. There is some evidence of flooding along Middlemore Lane to the north-east of the site boundary.

The Flood Officer confirms the Flood Risk Assessment supplied is acceptable subject to a condition to secure satisfactory surface water design the proposals comply with the provisions of the NPPF and to saved UDP policies GP2, ENV10 and ENV40 and to policy ENV5 of the Black Country Core Strategy.

The Coal Mining Risk Assessment identifies the presence of the two recorded mine entries (one on-site; one off-site) affecting this site. The Coal Authority records confirm the exact location of both mine entries, it is unlikely that the off-site mine entry will affect this development. However the on-site mine entry demonstrates that the proposed layout sought would result in Unit 1 being built over, or within influencing distance of the on-site mine entry. Therefore this development does not accord with adopted policy. In the circumstances the proposed layout fails to take into account any risks arising from land instability from former mining activities or to demonstrate that the application site is safe, stable and suitable for development and consequently not accord with paragraphs 178-179 of the NPPF or saved UDP policies GP2 and ENV32.

Aside from the coal mining issues referred to above the appellant would need to undertake appropriate investigation in order to assess the extent of the ground contamination at the site and inform of any remedial measures that may be required. This could be secured prior to commencement of any development by an appropriate condition. On the basis the proposals comply with saved UDP policies GP2 and ENV10 in this respect.

In accordance with policy ENV8 of the BCCS and the Black Country Air Quality SPD this is a type 1 application where there is a need to install electric vehicle charging points and low NOx boilers in the development in order to reduce emissions and improve air quality. This could be secured by conditions.

The Police and Community Safety teams comments on safety and security of the site and recommend security measures such as CCTV, security fencing and lighting. These measures could be secured by condition and note on any decision notice. This accords with saved UDP policies GP2 and ENV32.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Officers have maintained contact with appellant's agent and in this instance are unable to support the proposal. Whilst there may have been opportunity to continue negotiations with the appellant and address the concerns raised the appeal against non-determination does not allow for this.

Recommendation

That committee indicate that it would have refused the application had determination of the application remained within their remit.

Reasons for Refusal

1. The proposed layout fails to take into account any risks arising from land instability from former mining activities or to demonstrate that the application site is safe, stable and suitable for development and consequently does not accord with paragraphs 178-179 of the NPPF or saved policies GP2 and ENV32 of Walsall Unitary Development Plan.
2. In the absence of any evidence to demonstrate that the largest commercial vehicles can enter and leave the access on Middlemore Lane and manoeuvre safely within the site to serve unit 2 or to take into consideration approved development of the McKechnie site opposite within the Transport Assessment and thereby address the potential cumulative impact of the development on the operation of the highway network the appellant has failed to demonstrate that the level of proposed development can be accommodated on the site without causing an unacceptable impact on the highway network detrimental to highway safety and is contrary to the provisions of the NPPF and to saved policies GP2 and ENV32 of Walsall Unitary Development Plan and policy T4 of Walsall Site Allocations Document.
3. In the absence of evidence to demonstrate that the means of access will not have an unacceptable impact on the highway network detrimental to highway safety it is not possible to consider whether the layout of the site and scale of the buildings can satisfactorily be accommodated on site in terms of the integration of the buildings with the external space around them and adequacy of the means of access and is contrary to saved policies GP2 and ENV32 of Walsall Unitary Development Plan.



Planning Committee

Report of Head of Planning, Engineering and Transportation on 03-Oct-2019

Plans List Item Number: 2.

Reason for bringing to committee: Major application

Location: LAND ADJACENT GURU NANAK TEMPLE, JUNCTION OF SANDWELL STREET AND WEST BROMWICH STREET

Proposal: DEMOLITION OF 145-147 WEST BROMWICH STREET AND 226-248 (EVENS) SANDWELL STREET AND THE ERECTION OF A CHAPEL OF REST FOR FUNERAL CEREMONY AND ASSOCIATED WORSHIP FUNCTIONS AND COMMUNITY ROOM OVER, ERECTION OF SIX DWELLINGHOUSES, AMENDED PARKING AREAS AND LANDSCAPING

Application Number: 17/1264

Applicant: Guru Nank Sikh Temple

Agent: M.A Architectural Ltd

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

Case Officer: Andrew White

Ward: St Matthews

Expired Date: 15-Mar-2018

Time Extension Expiry:

Recommendation Summary: -That Planning Committee resolve to grant permission subject to conditions delegating to the Head of Planning Engineering and Transportation to negotiating and securing the signing of a Section 106 legal agreement for a Full Travel Plan



Proposal

The application proposes the demolition of 12 terraced houses (8.2m high terraced houses with 5.5m high eaves), and two retail shops to make way for six no. three bedroom semi-detached houses with two off-street parking spaces to the side. The houses would be set back from the road by 2m with pitched tiled roof and brick finished walls. Decorative brick headers, corbelling, and stone cills are proposed. 9.3m high, 5.6m high eaves.

A detached chapel of rest and community room proposed on the corner of West Bromwich Street and Sandwell Street to be associated with the neighbouring Guru Nanak Sikh Temple. The 'T' shaped building has front protecting gable with full length windows to the front elevation and both side elevations. It is explained that the windows would be obscured and include patterned glass. The building would be brick and tile finish with brick detailing to window headers and corbelling. The building would be 8m in height with 5.4m high eaves. There would be a chapel at ground floor with toilets and a community room at first floor including a kitchen servery.

The chapel of rest would be open between 10am-4pm Monday to Friday.

The car park to the existing temple would be revised, increasing the amount of parking spaces 86 including eight disabled spaces. A pedestrian link would be provided from the temple car park to the chapel of rest. The existing vehicle access from West Bromwich Street will be widened to 8m and the egress widened to 7m.

The following information has been submitted in support of the application:

Design and Access Statement

- Facing bricks will probably match those used on the temple. With cast stone lintols and cills. Brick corbelling will be incorporated.
- Where there is a death a bereaved family often does not have the facility to cater for the number of mourners from the community. A gathering of the numbers of mourners in the community at the house of the deceased would result in road being blocked and a considerable nuisance being generated.
- Anticipated that a maximum of 100 people would attend the Chapel of Rest facility and these are the same people that would otherwise attend the Temple.
- The following set of events would be followed in the event of a bereavement in the congregation:
 - Coffin will arrive at the Chapel and be placed in the designated Hall. It will remain there for a period of between 30-60mins (currently this takes place at the home of the deceased).
 - After paying their last respects the family and the people would go to the Crematorium.
 - Following cremation all of the congregation member would return to the Temple main building for conclusion of the religious programme.
 - Following the completion of the religious programme, all people would visit the proposed community room to have light refreshments.
- The existing Temple offers facilities for worship and education and includes a canteen.

- The same people who attend the Temple will attend a funeral at the Temple. There are no greater numbers attending in the event of a funeral than would attend the Temple for other specific and special religious occasion.
- The maximum use of the Temple for usual religious activities occurs at weekends and during evenings.
- The majority of funerals take place Monday to Friday between 9am and 4pm.
- In regard to the houses to be demolished:
 - Existing room sizes are not fit for purpose as a modern family home.
 - They have no cavity and no insulation
 - Properties suffer from damp.
 - Absence of off-street parking
- The floor space of the proposed houses would be greater than the current houses.
- The retail unit traded as a ladies dress shop and has been vacant for a considerable time and it not viable as a retail unit.

Highways Technical Notes December 2017

- There are three bus services within 150m of the development site offering a combined peak frequency of 14 buses per hour.
- The Chapel of Rest will not employ any additional staff

Transport Statement September 2018

- Walsall Railway Station is located 1.5km from the site.
- National Cycle Network Route 5 is 300m to the west.
- The existing site access has been widened slightly to facilitate the movement of a coach.
- Proposed residential development will result in a decrease in the number of trips compared to the existing.
- Majority of Sikh worshippers visit Temple weekly. This usually occurs on a weekend, with attendance highest on both a Saturday and Sunday morning between 9am and 1pm.
- The Temple is open through the week with utilisation rates low and limited small prayer groups and a few staff members.
- The Chapel of Rest will accommodate up to 100 mourners, with larger funerals taking place at a different temple with larger facilities.
- The Chapel of Rest will not generate any new trips to the Temple and is an ancillary use to the existing development.
- Data shows that demand at the Temple is at its highest on a Thursday.
- Parking demand is at its highest between 12.00-13.00 when 55% of car parking spaces were occupied – this drops to 44% taking account of the proposed additional parking.
- There is a large local Sikh population living within a reasonable walking and cycling distance reducing the need to travel by private car.
- The objectives and initiatives of the existing Travel Plan is updated to reduce the need to travel by car.
- A Travel Plan Coordinator will be nominated to implement the Travel Plan

Highways Technical Note January 2019

- The Community Facilities and Chapel of Rest will be used solely as an ancillary function to the existing temple for the purposes of funerals.

- As the development will not increase the traffic generation of the site the car parking provision will remain ample in the future.
- Swept path analysis has been undertaken based on the largest vehicle likely to access to the site.
- A Car Park Management Plan will be used to ensure the car park operates safely and satisfactorily, this can be secured by condition.

Acoustic Report

- Satisfactory internal noise levels can be achieved through use of acoustic glazing and trickle ventilator.

Temple Travel Plan May 2019

- As per the terms of the planning consent for the classrooms a Travel Plan Coordinator has been appointed
- Congregation will be spoken to and requested not to park on the local streets
- The use of public transport will be encouraged and route and timetable schedules will be provided at the Temple.
- Use of cycles will be encouraged, with security for cycles provided.
- Enquiries are being made with regard to provision of cycling proficiency courses at the Temple.
- Walking for those in close proximity will be encouraged.

Transport Assessment Addendum May 2019

- At present the body of the deceased goes to a Chapel of rest (off site), from there brought to the crematorium for burial, after burial all mourners go to Guru Nanak Temple for prayer.
- The siting of the Chapel of Rest on site will mean that mourners will go to the Guru Nanak Chapel of Rest, then to Crematorium, then to the Guru Nanak Temple for prayer.
- Mourners will still attend the Guru Nanak Temple after crematorium even if this application is refused.
- Given the type of land use promoted it is highly likely that many attendees will arrive together/car share.
- Robustly assumed that 40% of mourners will drive to the funeral. This suggests there will be an additional 40 vehicles associated with a funeral.
- During a funeral peak 80 cars would be parked on site (including existing non-funeral related vehicles).
- On average 30 funerals per year.
- Numbers of mourners would vary, assessment based on maximum of 100 person capacity.
- Welcome pack for new staff, pupils and visitors to be progressed in future Travel Plan
- Travel information on a notice board to be progressed in future Travel Plan.
- Cycle storage and cycle clothing storage areas to be progressed in future Travel Plan.
- Provision for coach and hearse parking to be reserved within the site during events.

The application has been amended from its original submission which previously proposed an apartment block. Re-consultation has been undertaken on the changes.

Site and Surroundings

The site consists of two retail shops and 12 terraced houses on the corner of West Bromwich Street and Sandwell Street, to the rear is the large two storey Guru Nanak Sikh Temple set behind a car park with two vehicle access points with a one way system in operation through the car park. Along the southern side of West Bromwich Street is a small parade of shops. The area is characterised by on-street parking. Sandwell Street is one way in southerly direction.

The immediate area is characterised by two storey detached houses. To the north of the temple are two block of high rise flats.

The application site is 280m walking distance from Caldmore Local Centre.

The nearest bus stops are along West Bromwich Road, 82m and 100m walking distance away that links Walsall to Halesowen via West Bromwich.

Relevant Planning History

03/0090/FL/W5 - Extension to temple and laying out of car park (on site of Tunley House). GSC 23/6/03.

04/1091/FL/W5 – New building to extend temple and extensions to boundary of site. GSC 7/1/05

05/0780/FL/W5 - New Building to extend Temple (Amendments to 04/1091/FL/W5). GSC 4/7/05

05/1878/FL/W5 - Demolition and rebuilding of existing Sikh Temple. GSC 24/11/05.

07/2631/FL/W5 – Proposed infilling of undercroft and extension of kitchen and creation of food preparation area. GSC 6/2/08.

09/1475/FL - Erection of a single storey storeroom to the rear of existing temple. Granted 8/1/10

13/1297/FL – Proposed new front entrance, relocation of Sach Khand and dome over front entrance. Granted 14/11/13

16/0139 - Proposed construction of 2 no. classrooms over existing plant room at first floor. Granted 21/3/16

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 55) 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. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

- sexual orientation

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement
- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- S6: Meeting Local Needs
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC8: Local Community Facilities

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Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU2: Housing Density, Type and Accessibility
- EMP6: Cultural Facilities and the Visitor Economy
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality
- WM5: Resource Management and New Development

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing

T2: Bus Services

T4: The Highway Network

Supplementary Planning Document

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

- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW6 Legibility
- DW7 Diversity
- 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

Consultation Replies

Highways - no objection subject to the use of recommended conditions in regard to, provision of parking spaces, replacement street nameplates, highway infrastructure works and new vehicular crossings and relocation of existing streetlamp, ancillary use of chapel of rest, car parking management plan, construction methodology statement, cycle shelter and updated Travel Plan secured via a S106.

Highways England- No objections

Pollution Control – no objection subject to the use of recommended conditions in regard to a demolition and construction working plan, electric vehicle charging points, acoustic glazing and ventilation.

Police Designing Out Crime – no objection.

Community safety – recommends secure by design criteria in regard to boundary treatment and door lock standards.

Housing Standards – staircases rise from the share kitchen/living room introduces a fire risk which can be avoided by changing the layout of the staircases to rise from the lounges. *(the drawings show the staircase from the lounge addressing this concern)*

Severn Trent Water – no objection subject to use of recommended drainage condition.

Flood Risk Officer – no objection.

Fire Services – no objection.

Representations

Site notice displayed, advertised in local newspaper and neighbours notified by letter.

49 letters have been received objecting to the application on the following grounds:

- Existing parking inadequate, at weekends the car park could be filled three times over due to the number of functions being held, worshippers leaving cars on pavements, double yellow lines and blocking residents driveways.
- Surrounding areas made up of terraced houses that rely on on-street parking.

- Original planning conditions required off-site parking facilities for 50 vehicles but was never provided.
- Planning approval 16/0139 required measure to encourage sustainable travel, what has been done? *(the applicant explains that students are encouraged to travel by public transport)*
- Existing problem of coaches blocking driveways.
- Needs residents permit parking only
- Proposed service road is very close to the roundabout.
- Proposed additional parking would not be enough
- Parking analysis is out of date and needs to include weekends.
- No area to accommodate parking of coaches.
- Major disruption on a regular basis due to existing activities,
- Concern that chapel or rest and function room could be used at the same time as the other temple facilities.
- Existing noise from activities at the site
- Dust and noise from building works will be an issue for residents.
- Will lead to loss of three homes.
- Houses to be demolished have been allowed to deteriorate
- Houses to be demolished are not in a state of disrepair
- Out of character, apartments will tower over the surrounding properties.
- Façade of Chapel of Rest would be out of place.
- Loss of privacy
- Four stores high will obscure light
- Design is major contrast from the remaining street-scape that adjoins Conservation Area *(Highgate Conservation area is between 70 and 120 metres from the application site with intervening buildings)*
- What will the additional facilities be used for
- Proposed development is not justified as the existing building infrastructure is more than sufficient for catering for a Religious Service or a Funeral Service which will not be happening at the same time as stated
- Proposal needs to be inclusive of the wider community, not just for the needs of the congregation.
- Removal of terraced homes with short term tenants will reduced community spirit.
- Proposal will only result in further tensions
- Children do not feel safe as strangers are using the streets. *(This is outside the scope of the planning legislation and a matter for the Police)*
- Risk for adjoining property of rat infestation. *(This is outside the scope of the planning legislation and a matter for environmental health legislation)*
- Want assurances that the waste management area will only be used for residents not the chapel of rest.
- Want to be assured that developers will engage neighbours about treatment of the boundary
- No plan to support the end house when the adjoining are demolished.
- Where will the funding come from *(not a material planning consideration)*
- Loss of property value *(not a material planning consideration)*

A petition with 89 signatures has been received objecting to the application on the following grounds:

- Significantly further increase traffic in Sandwell Street, west Bromwich Road, West Bromwich Street, Vincent Street, Weston Street, Windsor Street, Redhouse Street and the surrounding areas
- Lead to worsening of the already problematic and chaotic parking problems as there is insufficient capacity in the temple car park.
- Four storey building is inappropriate, imposing, not in keeping with the local and surrounding areas.

Following receipt of amended plans where the design of the chapel of rest changed and the apartments were removed and replaced with proposed houses, 18 letters were received objecting to the application on the grounds previously referred to and the following *additional* grounds:

- Transport Assessment (TA) has been reversed into an existing live application rather than being an integral part of the application as a whole.
- TA has avoided key issue of intensification and contradicts itself, it flawed by using wrong baseline data.
- Where is the provision for coach parking?
- Minibus and staff parking will cause noise and pollution.
- Coaches can't safely move into or out of the site.
- Likely to be a procession of vehicles with the funeral cortege.
- Lack of car space is not justification for demolishing a terraced house.
- Times of Chapel of Rest will clash with school traffic
- Would result in loss of off-street parking.
- One way system has led to traffic queueing on West Bromwich Street and Weston Street.
- Chapel of Rest access is too close to the junction.
- Understand need for a chapel of rest but assurance about parking provision do not accord with realist.
- Small gardens to houses do not lend well to family accommodation.
- Would result in loss of six dwellings
- Semi-detached houses would be out of character
- Gaps between proposed houses would mean the temple would become highly visible from Sandwell Street.
- Welcome reduction in height of proposed dwellings.
- Urge consideration of non-residential area for the additional buildings
- Would remove the footpath link that houses use to put bins out for collection (*applicant confirms there is no right of access*)
- Have not been notified under the Party Wall Act (*The Party Wall Act notification is generally prior to construction. The applicant confirms the resultant exposed wall to 224 Sandwell Street would be insulated and faced in a material to be agreed with by the Local Planning Authority*).
- Not everyone in the area knows what is happening (*application has been subject to detailed consultation*)
- Holding dead bodies on site frightens certain members of the community (*This is not a material planning consideration*)

Following receipt of amended parking layout and highways technical report, further consultation was undertaken. 20 letters have been received objecting to the application on the following *additional* grounds:

- Original consent for construction of the temple required 100 parking space and two coach spaces, proposed 86 spaces is not sufficient given the increase in amount of built development and intensification of use.
- No provision for bin store removed as a result of the cycle rack.
- Recently opened café across the road has put further pressure on on-street parking. *(This is outside the scope of the current planning application)*
- No secure access path to cycle storage.
- Coaches can't exit the site due to on-street parking opposite.
- The hearse or private ambulance should have access from the existing access
- Parking data needs to be collected for worst day for residents not temple users.

Determining Issues

- Principle of use
- Impact upon the character and appearance of the area
- Impact upon residential amenity
- Impact upon highway safety
- Pre-commencement conditions
- Local Finance Considerations

Assessment of the Proposal

Principle of use

The application proposes the demolition of 12 terraced houses and two retail shops to make way for six semi-detached houses and a detached chapel of rest and community room.

When considering the loss of two shops, the NPPF explains that decisions should guard against unnecessary loss of valued facilities and services. Assessing local need across the road is an existing convenience shop and also an off-licence, ensuring local needs are continued to be met.

The NPPF explains the Government's objective of significantly boosting the supply of homes, BCCS policy HOU2 explains there's a need for a range of types and sizes of residential accommodation. It is recognised that the proposal would result in the loss of six terraced houses which the applicant explains are not fit for purpose as a modern family home as they have no cavity and no insulation, suffer from damp and there is an absence of off-street parking. Whilst it is recognised, that the existing houses could be upgraded, there are no planning policies that prevent replacement of high density development with higher quality development. It is considered, in design terms the benefits of the replacement housing would on balance outweigh the issues faced at the current properties.

The NPPF explains planning decisions should plan positively for the provision and use of cultural buildings to enhance the sustainability of communities and residential

environments. BCCS policy EMP6 gives weight to the wide range of cultural and ethnic diversity across the Black Country including the protection of valuable cultural and religious buildings.

The applicant explains, currently mourners visit the home of the deceased prior to attending a service at the crematorium. The proposal seeks to provide one local central community facility for local people which is considered to have greater sustainability benefits. It is considered, that overall, the principle of the development would be in accordance with the provisions of the development plan.

Impact upon the character and appearance of the area

The NPPF says that developments should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the built environment. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character. BCCS Policies CPS4, HOU2, ENV2, ENV3; saved UDP policies GP2, 3.6 and ENV32 and Designing Walsall Supplementary Planning Document, require development to be informed/influenced by their context and reinforce locally distinctive elements.

There is a uniformity to the existing two storey properties that are positioned at the back of the foot path with matching eaves, roof heights and identical proportions.

The proposed three pairs of semi-detached houses would be positioned 2m's from the back of footpath with front gardens being provided. The eaves would be 0.1m higher than the existing houses with the roof height being 1.1m taller. Pitched tiled roof and brick finished walls are proposed including decorative brick headers, corbelling, and stone. Due to the setback, gaps to the side and architectural detailing the increase in height would not be harmful to the local character. The proposed house design would add positively to the local variety in the street.

Whilst there are concerns about views of the temple being opened up it is considered to assist with social interaction. Full details of materials and boundary treatment would be a conditional requirement.

The detached chapel of rest and community room would be on the corner of West Bromwich Street and Sandwell Street. It's a 'T' shaped building with front protecting gable and full length obscurely glazed windows with patterned glass to the front and both side elevations assisting with legibility at the corner of the road. The building would be brick and tile finish with brick detailing to window headers and corbelling. The building would be 8m in height with 5.4m high eaves, which is slightly lower than the buildings it's replacing. The building would be between 1m and 4m from the back of the pavement with hard and soft landscaping proposed in these areas. The architecture of the building would be viewed in the context of the temple building itself which is of an individual design. The height, massing and proportions would be appropriate. Subject to securing precise material details, including the precise detailing to the obscured/patterned glazing the Chapel of Rest building would not cause harm to the character or appearance of the area. Landscaping details would be a conditional requirement.

Impact upon residential amenity

The proposed private amenity space for the six houses is between 40 and 52sqm. Whilst less than Designing Walsall SPD appendix D 68sqm, the proposed houses would reflect amenity space of the existing houses that range between 32 and 55sqm. Whilst the proposed amenity space for the houses is considered acceptable, it is recommended that permitted development rights are removed to ensure sufficient amenity space is retained.

Properties have good access to natural light and for most the rear outlook is across the open car park and service yard of the temple. Whilst plots 3 and 4 are 10m from the corner of the existing temple building, it's where the elevations are angled way, providing sufficient outlook in this instance.

Whilst there's concern about overlooking from the community room, in the Chapel of Rest, the building is set further away from neighbouring properties and proposes obscure glazing. To protect residential amenity further a direct link between the temple car park and the Chapel of Rest has been proposed to minimise the congregation's use of the pavement.

It is recognised that any development, there may be some disturbance during the demolition and construction phases, therefore a Demolition and Construction Working Plan would be required, which can be secured by condition. Pollution Control have no specific requirements for land investigation and remediation.

A noise assessment has been prepared which concludes that satisfactory internal noise levels for the houses can be achieved through the use of acoustic glazing and trickle ventilator. Pollution Control agree with the findings of the report subject to precise details of the measures being provided and installed through a planning condition.

Due to the nature of the Chapel of Rest and its proposed days and hours of use, it is considered that the use of this building would not give rise to noise and disturbance of adjacent neighbours.

In the interests of air quality electric vehicle charging points are required for each dwelling and low NOx boiler to meet the requirements of the Air Quality SPD. Relevant conditions are recommended.

Impact upon highway safety

For the six houses two off-street parking spaces are proposed for each house which meets the requirements of saved UDP policy T13. Sufficient visibility splays are provided. Accordingly the proposed houses would not give rise to severe cumulative impacts.

Neighbours comment, the original planning permission required an off-site car park. The November 2005 Planning Committee report confirmed the temple had use of a Spout Lane site to provide an additional 60 spaces. That report noted the Spout Lane land was not part of the application and not in control of the applicant. Accordingly the retention of the Spout Lane car park did not form part of a planning requirement. The original planning permission did, included 90 parking spaces and was supported by a green travel plan. The infilling of an under croft (planning permission 07/2631/FL/W5) reduced parking to 83 spaces.

Planning approval (16/0139) for the first floor extension to create additional classrooms to accommodate a further 30 pupils in addition to the existing 50 explained that 82 car parking spaces were available. Teaching is controlled by condition 5 to no more than 80 pupils between 9.30am-11.30am on Saturdays and Sundays only. Condition 3 was to implement the Travel Plan, committed to appointing a travel plan coordinator, a welcome pack for new staff, pupils and regular visitors, advertise sustainable travel information on a notice board, promote car share and promote travel by bicycle. The report explained these measures would be monitored. Residents feel this has not been adhered to. Whilst the applicant confirms a Travel Plan Coordinator has been appointed, a number of the measures have yet to be implemented. The Temple is therefore in breach of 16/0139 planning condition 3. The addendum to the TA confirms commitments to sustainable travel measures for the current uses and proposed would be embedded within a future Travel Plan which will be secured via a S106 legal agreement.

The proposed Chapel of Rest would be in use between 10am-4pm Monday to Fridays. The car park to the existing temple would be revised, increasing the amount of parking spaces to 86 including eight disabled spaces. The existing bin store beneath the building would not be effected by these changes. Cycle storage provisions to the front and rear of the Temple would be provided. A pedestrian link would be provided from the temple car park to the chapel of rest. The applicant's supporting statement explains there are three bus services within 150m of the development site offering a combined peak frequency of 14 buses per hour.

The temple is used for weekday morning services which finish by 8.30am, with no on-going religious activities during the day. The temple is currently used for funeral events with a service after the cremation. Currently mourners pay their respects at the family home from which the congregation then travel to the crematorium and afterwards attend the temple for a service. The proposal would result in mourners no longer attending the family home, traveling direct to the temple first, attending the chapel of rest, before traveling to the crematorium and then returning to the temple for the service. The Transport Statement explains the Chapel of Rest will not generate any new trips to the Temple and is an ancillary use to the existing development. Considering the above set of events, this doubles the current vehicle movements at the site.

The Transport Statement data shows, highest demand at the Temple is on a Thursday with parking demand between 12.00-13.00 when 55% of car parking spaces were occupied. The TS explains this drops to 44% of spaces occupied taking account of the proposed additional parking.

The TS explains there is a large local Sikh population living within a reasonable walking and cycling distance reducing the need to travel by private car. It also explains that the objectives and initiatives of the existing Travel Plan are to be updated to reduce the need to travel by car.

The TS explains the Chapel of Rest would accommodate 100 mourners and highly likely that many attendees will arrive together/car share. The TS addendum assumes that 40% of mourners will drive to the funeral, suggesting an additional 40 vehicles associated with a peak funeral and a total of 80 cars parked within the 86 space car park during a peak event. On average there are 30 funeral events at the site currently, this would not change as a result of the chapel of rest.

Residents refer to existing parking problems in the area, providing photos of illegal parking, which are alleged to be users of the Temple during an event, including a coach parked illegally. Whilst the Council cannot corroborate this information or whether this event was a funeral or another event at the Temple, clearly there is existing parking issues in the area.

The Highway Authority have considered the information presented and the current use of the local highway network during the existing events. After consideration of the evidence from the survey during the busiest period and the hours of use, the commitments to sustainable travel including car sharing, it is considered there would be adequate parking capacity on-site to cater for an additional demand as a result of the development. On balance it is considered that the development would not have unacceptable road safety impacts and the cumulative impacts of the development will not be severe.

It is recognised this is a local community facility and mourners currently visit the home of the deceased. Potentially traffic congestion from 100 mourners within the residential streets of the area would be alleviated by having one central accessible location with off-street parking opportunities and sustainable travel options.

The Highways Authority recommend a number of conditions including; provision of parking spaces, replacement street nameplates, highway infrastructure works, new vehicular crossings, relocation of existing streetlamp, ancillary use of chapel of rest, car parking management plan, construction methodology statement, cycle shelter and updated Travel Plan. These conditions are required to make the development acceptable in planning terms. They would meet the Government's six tests and are recommended other than the Travel Plan which is required to be secured by a Section 106 legal agreement. The applicants agent, has confirmed, the applicant is willing to sign up to the Section 106 and cover the Council's costs for drafting the agreement.

On balance, it is considered that the development would not lead to severe cumulative transport implications.

Pre-commencement conditions

In accordance with the Town and Country Planning (Pre-Commencement Conditions) Regulations 2018, the Local Planning Authority has provided 10 working days (expired 24/9/19) for the applicant (agent) to review the proposed pre-commencement conditions. In line with the legislation, no comment to the notification within 10 days is the same as accepting the pre-commencement conditions.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes six new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion

of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

Conclusions and Reasons for Decision

In weighing all of the material planning considerations, including the comments of consultees, neighbours, planning legislation/policies and guidance, it is considered the proposal would on balance be an acceptable use of this land. The proposal would not result in a significant loss of amenity for adjoining neighbours and would provide sufficient amenity for potential residential occupiers. The development would provide a local community facility for the Sikh community. The application details have demonstrated that the proposal would not have severe cumulative impacts on transport grounds subject to safeguarding conditions controlling the days and times of use plus the delivery of the travel plan via a Section 106 legal agreement. On balance, the development is recommended for approval subject to conditions that meet the six tests for conditions.

Safeguarding conditions in regard to asbestos survey, highway works, construction management plan, landscaping, drainage, materials, boundary treatment, electric vehicle charging, noise mitigation, parking provision, cycle storage, car park management, updated travel plan, low NOx boilers, security measures, opening times, use and removal of permitted development rights for the houses are necessary and meet the six tests. Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP4, HOU2, EMP6, TRAN2, TRAN5, ENV2, ENV3, and ENV8 of the Black Country Core Strategy, policies HC2, T2 and T4 of the Walsall Site Allocation Document; saved policies 3.6, GP2, ENV10, ENV32, ENV33, ENV35, T7, T13 and LC8 of Walsall Unitary Development Plan and Supplementary Planning Documents, Air Quality and Designing Walsall.

Positive and Proactive Working with the Applicant

Officers have worked with the applicant's agent, securing amended plans and supporting documentation to enable a positive recommendation to be made.

Recommendation

That Planning Committee resolve to grant permission subject to conditions delegating to the Head of Planning Engineering and Transportation to negotiating and securing the signing of a Section 106 legal agreement for a Full Travel Plan

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. This development shall not be carried out otherwise than in conformity with the application form and following plans and documents: -

- Existing location and block plan (ATC.985.01b) received 18/9/18.
- Proposed location and block plan (ATC.985.02c) received 29/1/19.
- Proposed residential development floor plans and elevations (ATC.985.03d) received 18/9/18.
- Proposed Chapel and Community Room floor plans and elevations (ATC.985.04b) received 18/9/18.
- Proposed street scene (ATC.985.06b) received 18/9/18.
- Topographical survey (MAA.953.07b) received 29/1/19.
- Noise Exposure Assessment received 21/9/17
- Location and block plan with parking arrangements (ATC.985.05e) received 30/7/19.

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

3a. Prior to the commencement of any demolition an intrusive pre-demolition asbestos survey supported by an appropriate mitigation scheme to control risks to future occupiers and detailing method of removal and disposal shall be submitted for written approval of the Local Planning Authority.

3b. The demolition shall not be undertaken other than in accordance with the approved details.

3c. No part of the development hereby approved shall be occupied until a Validation Report confirming the mitigation measures have been implemented has been submitted for written approval of the Local Planning Authority.

Reason: To ensure the proper investigation and risk mitigation of the site, to protect amenities of the locality and the future occupants of the site.

4a. Prior to the commencement of any demolition works of the existing buildings on the site of the proposed Chapel of Rest and Hall, details of the location and specification of two new street nameplates for Sandwell Street and West Bromwich Street shall have been submitted to for written approval of the Local Planning Authority.

4b. Prior to the commencement of the development hereby approved, shall not have been implemented other than in accordance with the agreed details of any demolition.

Reason: To replace the existing street nameplates currently incorporated and attached to the buildings to be demolished in order that the streets and properties therein can continue to be quickly and efficiently located for postal and delivery purposes and in the event of an emergency situation.

5a. Prior to any demolition, engineering, site clearance/preparation, and/or construction works commencing a Demolition and Construction Management Plan, setting out how the works will be undertaken and giving details of arrangements for the control of noise, vibration, dust and debris (including site drag-out), parking and turning facilities for site operatives and construction deliveries, the management of any materials arising from the works and demolition and construction working hours, shall have been submitted to for written approval of the Local Planning Authority.

5b. Prior to the commencement of any part of the development hereby approved, shall not have been implemented other than in accordance with agreed the Demolition and Construction Management Plan and the measures maintained in place until the site is completed.

Reason: In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety and residential amenity.

6a. Prior to the commencement of any part of the development hereby approved, until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority.

6b. Prior to any built development shall not have been implemented other than in accordance with the agreed drainage scheme and thereafter retained.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce of creating or exacerbating a flooding problem and to minimise the risk of pollution.

7a. Prior to the commencement of the Chapel of Rest and Community Room, until details of the following works shall have been submitted for written approval of the Local Planning Authority:

- I. A new vehicular footway crossing to align with the new access point on West Bromwich Street,
- II. The relocation of the existing illuminated traffic sign and existing statutory undertaker apparatus to accommodate the new car park access,
- III. The relocation of the existing tactile pedestrian crossing point across West Bromwich Street to provide adequate separation from the new vehicular access including any highway accommodation works as necessary,
- IV. The removal and reinstatement of all redundant rain water channels across the highway footways.
- V. The widening of the existing dropped kerb egress point on West Bromwich Street and relocation of the existing street lighting column and attached traffic sign

7b. Prior to the first occupation of the Chapel of Rest and Community Room the development shall not have been implemented other than in accordance with the agreed details listed in part a of this planning condition. The agreed details shall thereafter be retained for the life of the development.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2, T7 and T13 and in the interests of highway safety.

8a. Prior to the commencement of the Chapel of Rest and Community Room, until details of a Car Parking Management Plan shall have been submitted for written approval of the Local Planning Authority which sets out how the car park will be managed to ensure safe and satisfactory access and egress for coaches, cars and pedestrians during large events/ceremonies.

8b. From the first occupation of the development hereby approved, it shall not be operated other than in accordance with the approved Car Park Management Plan and thereafter retained for the life of the development.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2 and in the interests of highway safety.

9a. Notwithstanding the details provided and prior to the commencement of development above damp proof course a detailed landscaping scheme for the site including its phased implementation shall be submitted for written approval of the Local Planning Authority.

These details shall include:

- correct botanical names
- numbers/planting densities for each block of planting proposed
- size supplied of all proposed tree and shrubs at time of planting
- details of proposed turf/seeded areas and sowing rates
- topsoil and mulching depths and specifications
- staking details for proposed trees
- Ground preparation measures to be adopted.

9b. The approved scheme shall not have been implemented other than in accordance with the approved phasing and retained for 5 years from the phased implementation. Within this period:

- (i) grassed areas shall be maintained and any areas that fail to establish shall be reinstated;
- (ii) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (iii) any damage to protective fences shall be made good.

Reason: To ensure the satisfactory appearance of the development and protect wildlife.

10a. Prior to the commencement of the Chapel of Rest and Community Room above damp proof course, until details of the proposed cycle shelter, shall have been submitted for written approval of the Local Planning Authority, which shall be covered and illuminated and relocated as close as possible to the main building entrance.

10b. Prior to the first occupation of the Chapel of Rest and Community Room the development shall not have been implemented other than in accordance with the agreed cycle shelter details and shall thereafter be retained for the life of the development 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.

11a. Prior to the commencement of development above damp proof course a schedule of facing materials to be used in the external walls, roofs, windows, doors, rainwater goods, surfacing and details of the glazing finish to the Chapel of Rest building shall have first been submitted for written approval of the Local Planning Authority.

11b. The development shall not have been implemented other than in accordance with the agreed details and thereafter retained.

Reason: To ensure the satisfactory appearance and functioning of the development

12a. Prior to the commencement of development above damp proof course details of boundary treatment shall have first been submitted for written approval of the Local Planning Authority.

12b. Prior to the first occupation of any part of the development hereby approved, shall not have been implemented other than in accordance with the agreed boundary treatments and thereafter retained.

Reason: In the interests of visual amenity and securing the development.

13a. Prior to the commencement of the dwellings above damp proof course details for an electric vehicle charging point, to be provided for each dwelling house shall have first been submitted for approval of the Local Planning Authority.

13b. Prior to first occupation of the each dwelling house the electric vehicle charging point shall not have been installed other than in accordance with the approved details and shall be retained for the life of the development.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.

14a. Prior to the commencement of the dwellings above damp proof course until acoustic mitigation measures in accordance with the findings of the Noise Exposure Assessment received on 21/9/17 shall have been submitted for written approval of the Local Planning Authority.

14b. Prior to the first occupation of the dwellings until a written validation report including pictures shall have been submitted for written approval of the Local Planning Authority demonstrating the agreed acoustic measures demonstrating have been installed. The agreed acoustic mitigation measures shall thereafter be retained for the life of the development.

Reason: To protect the amenity of future occupiers.

15. Prior to the first occupation of any new dwelling fronting Sandwell Street, shall not have been constructed other than in accordance with each dwelling being provided with off road parking spaces being consolidated, hard surfaced and drained so that surface water run-off from these parking spaces does not discharge onto the highway or into any highway drain. The parking spaces shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2, T7 and T13.

16. Prior to the first occupation of any new dwelling fronting Sandwell Street, a vehicle footway crossing(s) to align with the new access point(s) shall have been installed and thereafter retained.

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

17. Prior to the first occupation of the Chapel of Rest and Community Room, the parking area shall have been consolidated, hard surfaced and drained so that surface water run-off from this area does not discharge onto the highway or into any highway drain. This parking area shall thereafter be retained for the life of the Chapel of Rest and Community Room development and used for no other purpose other than parking of funeral vehicles only.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2, T7 and T13

18. Prior to the first occupation of the Chapel of Rest and Community Room the development shall not have been implemented other than in accordance with the revised Temple car parking layout shown on the Proposed Location and Block Plan with Parking Arrangements (ATC.985.05d) received 29/5/19, including the clear demarcation of all parking bays and clear signage of the one-way access and egress arrangement. The works shall thereafter be retained for the life of the development

Reason: To ensure the satisfactory completion and operation of the development, in accordance with UDP Policy GP2, T7, T13 and in the interests of highway safety.

19. No boilers shall be installed and used in the development hereby approved, save for boilers which have maximum NO_x emissions no greater than 56 mg/kWh for gas and liquefied petroleum gas (LPG) boilers and a maximum of 120 mg/kWh for oil-fired boilers.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

20. Notwithstanding the details as submitted, the development shall not be constructed otherwise than in accordance with the following minimum security measures and thereafter retained as such;

- All ground floor windows and any accessible windows should be fitted with BS EN 356 grade P1A glass this includes French doors and patio doors
- PAS 24:2016 doors should be on all entrance and exit doors.

- A minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond standard certification should be used on all door locks
- Where thumb turn locks are to be installed these should be those that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.
- No Lead or metal should be used on the ground floor, this includes outside taps to the front of properties as the West Midlands is suffering high levels of metal theft where possible lead substitute products should be used.
- Suitable intruder alarm, with a siren box front and back, and should have dual or quad technology sensors and auto dialler function.
- All gates should have access control measures, be self-closing with hinges mounted to the rear of the public side and located as close as possible to the front building line. The security measures shall thereafter be retained for the life of the development

Reason: To ensure the safety and security of the development and its occupiers in accordance with BCCS policy ENV3.

21. The Chapel of Rest and Community Room shall not be available for use other than between 10.00 and 16.00 hours on Monday to Fridays.

Reason: To define the use of the development, to accord with the details contained within the submitted Transport Statement, in the interests of the free flow of traffic along the public highway and to highway safety.

22. The access gate between the Guru Nanak Temple car park and the hereby approved Chapel of Rest building as shown on approved drawing proposed location and block plan with parking arrangements (ATC.985.05d) received 29/5/19 shall be retained and kept unlocked during the hours of use of the Chapel of Rest.

Reason: In the interests of pedestrian safety and residential amenity.

23. The Chapel of Rest and Community Hall shall remain ancillary to the main temple building use and shall not, at any time, operate independently.

Reason: To define the use of the development, to accord with the details contained within the submitted Transport Statement, in the interests of the free flow of traffic along the public highway and to highway safety.

24. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or succeeding Orders, the dwellings hereby permitted shall not be altered or enlarged to deprive them of a drive or off road parking area in accordance with the approved plans for the life of the development.

Reason: To ensure the satisfactory provision of off-street parking.

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no additional side facing windows or doors other than those approved by this permission, and no enlargements, additions or other alterations, as defined by Classes A and E of Part 1 of Schedule 2 of the Order, shall be constructed or added for the life of the development.

Reason: To ensure sufficient amenity space is retained for the dwellings.

Notes for Applicant

Highways

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

The applicant will be expected to either enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.

Pollution Control

Acoustic measures – Acoustic insulation between residential and residential premises is an issue for Building Control Approved Document E – Resistance to Sound. The Applicant shall consider British Standard BS 8233:2014 ‘Guidance on sound insulation and noise reduction for buildings’ and ‘Professional Practice Guidance (ProPG) on Planning and Noise’, May 2017, by Association of Noise Consultants (ANC), Institute of Acoustics (IOA), and Chartered Institute of Environmental Health (CIEH).

Pollution Control cannot verify that the actual glazing and ventilation has been or will be installed as per manufacturer’s instructions or as stated in drawings that may be supplied by the applicant. It is recommended that such confirmation be obtained from a suitable third party, such as a Building Control Inspector or the acoustic performance verified by a person or organisation certified for the purposes of sound insulation testing by either by the Association of Noise Consultant (ANC) or the United Kingdom Accreditation Service (UKAS).

Air Quality - Minor Developments require Applicants to implement Type 1 mitigation measures that include Electric Vehicle Charging Points and installation of low NOx boilers.

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

- An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.
- Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.
- Each charging unit to be supplied by its own independent radial circuit.
- Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:
 - West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
 - Black Country Air Quality Supplementary Planning Document (SPD),
 - General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),

- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

PETITION

Petition summary and background	<p>The Guru Nanak Sikh Temple is proposing to demolish properties in Sandwell Street/West Bromwich Street - numbers 226 to 248 Sandwell Street and 145-147 West Bromwich Street. They are proposing to erect a Chapel of Rest with congregation hall for funeral ceremony and associated worship function and the erection of a four storey flats with parking and rooftop gardens. Application number 17/1264.</p>
Action petitioned for	<p>Sandwell Street is currently being changed to a one way street in a southerly direction.</p> <p>We, the undersigned, respectfully petition Walsall Council to reject the plans proposed by the Guru Nanak Sikh Temple. We believe the planning proposal will significantly further increase traffic in Sandwell Street, West Bromwich Road, West Bromwich Street, Vincent Street, Weston Street, Windsor Street, Redhouse Street and the surrounding areas, both today and in the future. The proposed planning will lead to worsening of the already problematic and chaotic parking problems that local residents are having to deal with as there is insufficient capacity in the temple car park. The proposed 4 storey building is completely inappropriate as it will be imposing and will not be in keeping with the local and surrounding areas.</p>

Printed Name	Signature	Address	Comment	Date
		11 Westbrom Rd	Parking is Rediculus	18-1-18
		47 Pollyhouse Lane	Parking with Problems	18-1-18
		3 Foulhouse Close	Parking problems are present and increasing. Possible plans are not suitable for the area	14/01/18
		3 Foulhouse Close	Parking problems, proposed plans are unsuitable in this area	14/01/18
		3 Pollyhouse Close	Consistent parking problems. No consideration for traffic	14/01/18
		2 Pollyhouse Close Vincent St	Constant parking problems	14/01/18
		16 Vincent St	Parking problems	15/1/19
		20 Vincent St	TOO MANY PROBLEMS TO LIST. MANY ISSUES ALREADY	
		18 Vincent St	Parking problems + above mentioned	15/1/18
		22 Vincent St	Parking problems	15/1/19



Planning Committee

Report of Head of Planning, Engineering and Transportation on 03-Oct-2019

Plans List Item Number: 3.

Reason for bringing to committee: Called In by Councillor Douglas-Maul, stating significant community interest.

Location: LIVING AREA ABOVE, 317, CHESTER ROAD, ALDRIDGE, WALSALL, WS9 0PH

Proposal: RETENTION OF NEW DOORWAY, WINDOW AND EXTERNAL STAIRCASE TO FIRST FLOOR FLAT

Application Number: 19/0468

Applicant: Simon Khera

Agent: Mr Doug Somerfield

Application Type: Full Application: Minor Use Class C2 (Residential Institutions)

Case Officer: Barbara Toy

Ward: Streetly

Expired Date: 26-Jun-2019

Time Extension Expiry: 16-Aug-2019

Recommendation Summary: Refuse



Current Status

At your meeting on 11th July 2019 Members deferred determination of this application to allow consultation with West Midlands Fire Service and Building Control and to find a suitable alternative privacy screen for the staircase.

Consultation Responses: (*Officer comments in italics*).

West Midlands Fire Service – Flats not fitted with fire mains should have vehicle access for a fire appliance not more than 45m from all points within each dwelling, measured on a route suitable for laying a hose. The direct distance is reduced to two thirds to allow for internal layout. If this cannot be met a fire main should be provided. The approval of Building Control will be required to Part B (Fire Safety) of the Building Regulations 2010. (*Not a material planning consideration, will be dealt with under Building Regulations*)

Building Control – Following Planning Committee on 11th July the applicant was advised that a Building Regulations application was required for the works that have been undertaken. A Building Regulations application for regularisation of the unauthorised works was submitted on 7th August 2019. A site meeting with the applicant's agent took place in early September and the agent was advised of the works that will need to be done to comply with Regulations. The existing means of escape is not acceptable and the external staircase does not comply with Building Regulations in various aspects. Plans to show the works required have not been received at this time.

Alternative privacy screen for the staircase

Whilst Members asked for consideration of a more suitable privacy screen for the staircase to replace the temporary bamboo screen, it is considered that any alternative would remain unacceptable in terms of visual amenity. The staircase and any screening is fully visible from Chester Road above the garage roof of No 317a Chester Road as well as from the rear windows and rear garden of the property. It is considered that any form of screening structure suitable to ensure privacy to the occupiers of 317a would maintain the existing poor outlook and loss of amenity to the occupiers of 317a and maintain the existing adverse impact on the visual amenity of the area.

During the course of the application the case officer discussed alternative proposals to provide independent access to the flat with the applicant's agent, but no response or amended plans have been received.

The report below remains unchanged and the recommendation remains as refuse.

Proposal

This application proposes the retention of a new entrance door and window on the side elevation of the two storey wing of this building and an external metal staircase to the rear of the premises which provides independent access to the first floor residential accommodation. Independent access has been sought to overcome security issues associated with the ground floor post office use.

The staircase is situated towards the right hand side of the property and the design includes a landing across the width of the property, across an existing single storey flat

roofed structure below, leading to a short run of stairs, a further landing and a further longer run of stairs into the back yard area of the premises.

The works were completed in March 2019 and since then a bamboo screen approx. 2m in height has been added to the outer side of the staircase which sits approx. 1m above the height of the staircase handrail. The bamboo is attached to the staircase with wooden posts and cable ties. The handrail of the staircase measures 1m in height. The staircase sits within 1m of the angled boundary with 317a Chester Road and sits approx. 2.7m beyond the existing extensions to the rear of the shop.

The total length of the staircase including the top landing area is 8.7m and the maximum height of the handrail is 4.6m and the overall maximum height with the screening 5.6m.

This application has been submitted following a complaint and subsequent investigations by an enforcement officer.

Site and Surroundings

The site comprises a retail shop at ground floor with a flat above. A single storey flat roofed extension is set to the side of the two storey wing with further single storey flats roofed elements to the rear which includes an access door to the rear elevation. A gated yard area is situated to the rear and is used to park a single vehicle. A large beech tree protected under TPO 25 of 1976 is situated to the rear on the boundary between the site and 315.

It is understood that the first floor flat was previously accessed internally via the shop unit.

The shop is situated within a block of 6 retail units situated on the corner of Chester Road and Hardwick Road, with a parking area on the frontage around the highway junction. A service yard is situated to the rear of the shops. It appears that the shops all have accommodation at first floor.

315 has an external staircase to the rear that is angled across the rear of the property.

317a is a semi-detached house immediately adjacent to the boundary with the site with an angled boundary. The house has a single storey side flat roofed garage and a small triangular rear garden. The occupier has added 0.8m of trellis with plastic foliage to the top of the original 1.8m high boundary fencing, since the installation of the staircase, giving a total height of 2.6m.

Relevant Planning History

None other than tree applications.

Relevant Policies

National Planning Policy Framework (NPPF)

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

The NPPF sets out the Government's position on the role of the planning system in both

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plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

Key provisions of the NPPF relevant in this case:

- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 55) 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. 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.

Reducing Inequalities

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

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

- DW3 Character
- DW9 High Quality Public Realm
- Appendix D

Consultation Replies

Tree Officer – Objection. Further information is required of the foundation and installation method for the staircase in order to accurately access the long-term health and condition of the protected Beech tree.

Representations

One objection received

- The staircase that has been erected causes a privacy issue and a security risk

Determining Issues

- Impact on the amenities of the surrounding occupiers
- Impact on the visual amenity of the area
- Impact on a protected tree

Assessment of the Proposal

Impact on the amenities of the surrounding occupiers

The staircase sits at a high level adjacent to the angled boundary with 317a, a semi-detached house.

A bamboo screen has been attached to the outer side of the staircase since the installation (projecting 1m above the handrail height) to try and prevent loss of privacy to the occupiers of 317a. The occupiers of 317a have also added 0.8m high trellis with plastic foliage attached to the top of their original 1.8m high fence to provide further screening along the boundary.

317a has a very small triangular rear garden and the staircase sits alongside the angled boundary. The two landing areas within the staircase provide a high level platform for users to overlook the rear garden of 317a. The top landing sits at a height of 3.1m and the middle landing at 2.3m. Whilst the bamboo currently provides some screening, this is not considered a suitable permanent solution to the overlooking and loss of privacy that the staircase creates as it is likely to deteriorate over time, or be damaged by severe weather. The method of fixing the bamboo (cable ties) represents a temporary fix, not a permanent one, but any structure in this location would be obtrusive.

317a has a large first floor bedroom window on the rear elevation, the staircase conflicts the 45 degree code with a separation distance of 7m from the centre of the window to the staircase.

Due to its height and proximity it is considered that the staircase and platform and bamboo screen has an adverse impact on the amenities of the occupiers of 317a, having an overbearing impact on the living conditions of the bedroom through loss of outlook and privacy.

Impact on the visual amenity of the area

The height and location of the bamboo screen means that it is visible from Chester Road over the flat roofed garage of 317a, providing an obtrusive, alien feature with poor visual appearance out of character with the surrounding pattern of development.

It is considered that the bamboo screen is likely to deteriorate over time and could be damaged by severe weather exacerbating the poor appearance.

Impact on a protected tree

The mature protected Beech tree at the site sits on the boundary between 317 and 315 and has a radial root protection distance of between 9.6 and 10.8m. The new staircase therefore sits within the root protection area of the tree. The foundations and method of construction will determine whether the staircase will be detrimental to the long term health and condition of the tree, but no significant dieback is noted to date. Objections raised by the tree officer subject to the submission of the foundations and installation method of the staircase to accurately access the long term health and condition of the tree.

Conclusions and Reasons for Decision

The staircase has been installed without the benefit of planning consent in order to provide independent access to the first floor flat above the shop.

The staircase sits immediately adjacent to the angled boundary with 317a Chester Road and given the two landing areas in particular has resulted in overlooking and loss of privacy to the residential occupiers at No 317a. The bamboo screening has been added to the outside of the staircase since installation to address overlooking issues, but this is considered a temporary solution not a permanent one. The occupiers of 317a have also found it necessary to add additional 0.8m high trellis (with foliage) to the top of their fencing to improve their privacy. This too has been installed without the benefit of planning consent.

The proposals fails to demonstrate that the development has no detrimental impact on the long term health and condition of the protected mature Beech tree.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal and enforcement action taken to secure the removal of the staircase.

Positive and Proactive Working with the Applicant

The case officer has spoken with the applicant and their agent to advice that the retention of the staircase cannot be supported and discussed alternative proposals for the provision of a staircase to allow for independent access to the first floor flat. No amended plans have been received.

Recommendation

Refuse

Reasons for Refusal

1. The external staircase as installed has an adverse impact on the amenities of the occupiers of 317a Chester Road having an overbearing impact on their living conditions through loss of outlook and privacy. The bamboo screening attached to the staircase is also visible from Chester Road and results in an obtrusive, alien feature with poor visual appearance, out of character with the surrounding pattern of development. As such the proposals are contrary to the aims and objectives of the National Planning Policy Framework, policies ENV2, ENV3 and CSP4 of the Black Country Core Strategy, saved policies GP2 and ENV32 of Walsall Unitary Development Plan.
2. The application fails to accurately demonstrate that the staircase installation will not be detrimental to the long term health and condition of the mature Beech tree protected under Tree Preservation Order 25/1976. As such the proposals are contrary to the aims and objectives of the National Planning Policy Framework, policy ENV3 of the Black Country Core Strategy, saved policies GP2, ENV18,

ENV32 of Walsall Unitary Development Plan and policies NE7 and NE8 of
Supplementary Planning Document Conserving Walsall's Natural Environment.



Walsall Council

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 03-Oct-2019

Plans List Item Number: 4.

Reason for bringing to committee: Significant Community Interest

Location: GARAGES ADJACENT TO NO 7, FEREDAY ROAD, WALSALL WOOD

Proposal: ERECTION OF 5 NO DWELLINGS (3 TERRACED AND 2 SEMI-DETACHED PROPERTIES).

Application Number: 19/0666

Applicant: WHG

Case Officer: Barbara Toy

Ward: Aldridge North And Walsall Wood

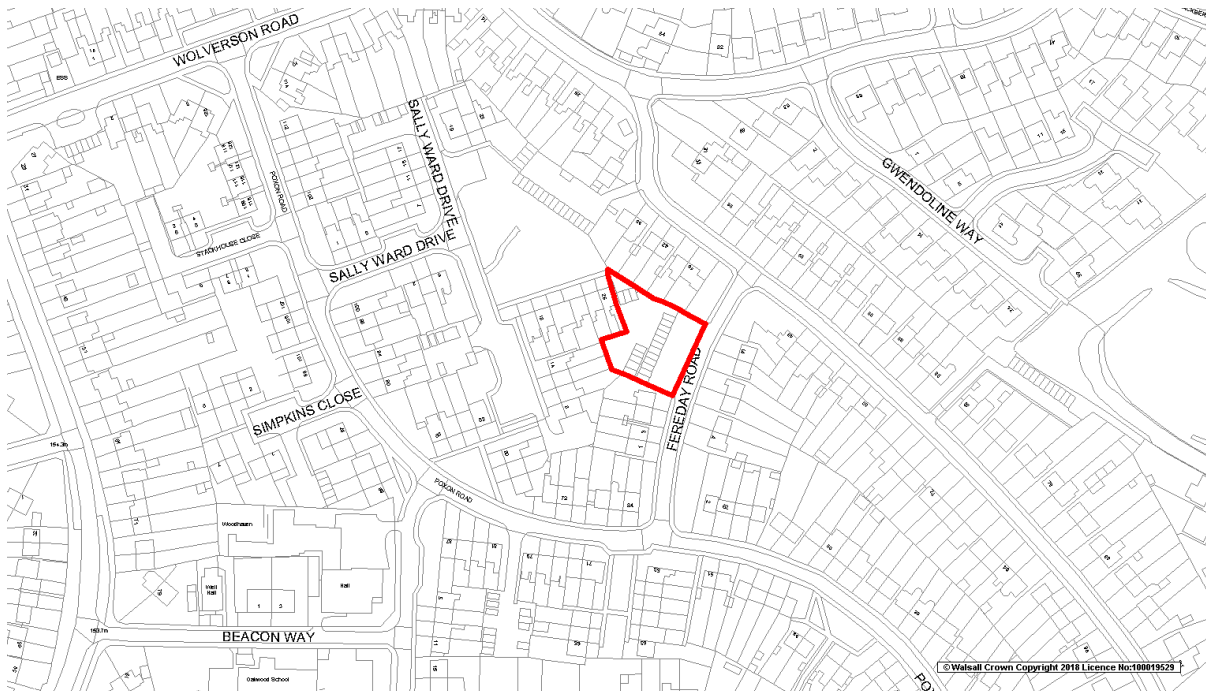
Expired Date: 26-Jul-2019

Time Extension Expiry: 10-Oct-2019

Agent: Ms Izzy Kendrick-Jones

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

Recommendation Summary: Grant Permission Subject to Conditions



Proposal

This application proposes the erection of 5 x 3 bed two storey houses, a pair of semis and 3 terraced houses on the site of 19 former lock up garages.

The houses would be set back from the pavement by 10m, with a small landscaped area and driveway parking for 2 cars and rear private gardens varying in size from 64m² to 85m². Bin storage, garden shed and rotary dryers would be provided in each garden.

This site forms part of a large project by the applicant to redevelop former garage courts to provide new homes, utilising the efficiencies and benefits of AMC (Advanced Methods of Construction). This means that the majority of house construction takes place in a factory using a hybrid of pods and panels. The central pods containing the kitchen and bathrooms are structurally formed from LSF (lightweight steel frame) to which a series of LSF panels wrapped in insulating material with the uPVC windows and composite doors inserted in the factory. The entire unit would be wrapped in brick slips, render or cladding, which can be varied to be site specific. On site the central pods would be placed on the foundations and the panels then fixed to the pods to provide the finished house, ready to move in to. The pitched, tiled roofs (with solar panels) would also be brought to site in panels and put together on site.

Each house would have a footprint of 5.2m x 8.9m with a maximum height of 8.5m and would have no side facing windows. At this site the brick slips would be multi red with grey roof tiles.

The existing gated private right of way between Fereday Road and Sally Ward Drive would be retained as part of the development, with an entry provided to the rear of the houses to provide access for bins to the public highway.

The proposals would result in the loss of 3 trees across the centre of the site however at least one tree would be provided in each of the new rear gardens.

The scheme has been amended since submission to remove a proposed play area at the rear of the houses, retain the gates to secure the private right of way, provide an extended rear access and amend the proposed parking layout for each house to ensure a gap between footway crossings.

Site and Surroundings

The site is situated on the western side of Fereday Road and comprises a former court of 19 lock up garages. The garages have already been demolished and site secured with hoardings. A gated private right of way sits along the northern end of the site.

To the north of the site are semi detached houses fronting Holly Lane, with rear gardens at rights angles to the existing gated private right of way. To the east on the opposite side of Fereday Road are further semi detached houses set back off the road with further semis to the immediate south of the site. To the west of the site are terraced houses in Sally Ward Drive.

The site sits in a long established residential area comprising a mix property styles in both WHG and private ownership.

Relevant Planning History

None

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) 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. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- ENV2: Historic Character and Local Distinctiveness

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- ENV3: Design Quality
- ENV8: Air Quality

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing

Supplementary Planning Document

Designing Walsall

- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings
- Appendix D

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

Consultation Replies

Transportation – No objections subject to conditions relating to surfacing and drainage of parking areas and modifications and reconstruction of footway crossings along Fereday Road. The proposals provides 2 off street parking spaces for each dwelling in line with Policy T13.

Pollution Control – No objections subject to conditions to ensure compliance with Black County Air Quality SPD, intrusive site investigation to assess potential ground contamination and ground gas and construction management plan.

Fire Officer – Requirement to comply with Building Regulations Part B

West Midlands Police – No objections to the amended scheme, secured by design recommended.

Public Rights of Way Officer – No objections, there is no definitive public right of way across or adjoining the site. The private right of way would benefit from lockable gates to ensure private access and security of the existing and proposed residents.

Severn Trent Water - No objections subject to a drainage condition and note to applicant re public sewers

Representations

Five objections received relating to the original scheme and three objections received relating to the amended plans.

Objections to original proposals:

- Loss of pedestrian and vehicle access to the rear of the property since the garages demolished
- A number of houses in Sally Ward Drive have access gates onto the site to rear gardens, since the houses were built, which will be lost, loss of access for bins.
- Removes access for emergency services to the rear of the houses
- Loss of escape route to the rear
- Two storm drains to the rear of existing properties that require access
- Safety and security to surrounding properties will be compromised
- Will existing boundary treatment be retained or replaced?
- No objections to houses being built just to the loss of rear access
- The play area will encourage anti social behaviour, the reason the access was originally gated

Objections to the amended proposals:

- Road not big enough to take extra traffic
- Quiet road everyone knows each other
- There were problems to neighbours when the garages were demolished.
- Revised plans appear to honour existing rear access
- Storms drains within the site which have not been cleared since the site was secured, concern about future maintenance to stop water running into adjacent gardens (photos provided)
- Previous concerns about rear access not resolved, access rights have been altered for some properties in Sally Ward Drive but not No 10, concerns regarding this expressed direct to WHG
- Loss of rear access for bins, repairs and fire safety
- No objections to building of house, but existing rear access rights should be maintained the same as neighbours.
- Who will be living there? (not a material planning consideration)
- Property devaluation (not a material planning consideration)

Determining Issues

- **Principle of the proposed use**
- **Design and Layout**
- **Impact on the amenities of the surrounding occupiers and the street scene**
- **Access and Parking**
- **Local Finance Considerations**

Assessment of the Proposal

Principle of the proposed use

The site comprises previously developed land situated in a well-established residential area, within walking distance of the local shops at Streets Corner local centre which is less than 500m from the site. Regular bus service are situated within walking distance of the site. The site is considered to be in a sustainable location.

The principle of the provision of five further residential properties at the site is considered appropriate and in line with both national and local policies.

Design and Layout

The surrounding properties comprise a mix of semi detached and terraced two storey houses in facing brickwork with a mix of both gable and hipped roofs. The proposed houses with a brickwork face and gable roofs would pick up on the characteristics of the properties in the immediate vicinity. The proposed window design would however provide a more modern appearance to the properties which is considered appropriate. The width of the properties and plot sizes are considered appropriate and compatible with the character of the area.

The advanced method of construction proposed would provide modern, efficient, high standard, affordable housing with a short on site construction period.

The houses would be characteristic of others in the area, addressing the street, with front gardens/driveways and private rear gardens. Whilst Plot 3 would have a rear garden of 64m², just below the 68m² required by Appendix D of Designing Walsall, the other four plots would have gardens exceeding the 68m². One garden just below the requirement is considered appropriate in this case as it is characteristic of other properties in the area. The layout is considered appropriate for its location.

The amended scheme shows that the existing private gated access would be retained and extended to the rear of the proposed houses, with access rights for surrounding residents secured through WHG. It is considered impractical to provide any further extension to the access due to the length of the route to the public highway. The applicants (WHG) have carried out consultation with the surrounding residents to try and alleviate any concerns and resolve access issues. Whilst the proposals would result in the loss of 3 trees across the centre of the site, at least one tree would be provided in each of the new rear gardens in mitigation.

The design and layout of the development is considered appropriate and in compliance with policy.

Impact on the amenities of the surrounding occupiers and the street scene

The proposed layout means that the new houses and gardens would back on to and sit at an angle to the ends of rear gardens of houses in Sally Ward Drive, the houses themselves however would be no closer to the existing properties than the original garages. The relationship between the proposals and the existing houses is considered appropriate and characteristic of other properties within the area.

It is considered that the houses would integrate well into the existing street scene. The separation distance between the rear of 44 and 46 Holly Lane to the north of the site to the blank side elevation of unit 5 would meet the 13m required by Appendix D of Designing Walsall, with the private gated access set within the gap.

The applicants have been made aware of objectors concerns regarding the future maintenance of the storm drains and a construction management plan is recommended to control disturbance to neighbours during the construction period.

It is considered that the proposals would have no adverse impact on the amenities of the surrounding occupiers.

Access and Parking

The proposals would provide 2 off street parking spaces for each house in compliance with Policy T13. Each property would have its own driveway with new vehicle access and the private gated access to the side and rear of the site would be retained. Transportation have raised no objections to the amended layout that separates the driveways to the houses to allow for pedestrian refuse between each footway crossing.

Whilst the loss of the former garages has reduced the level of parking available for the existing residents, the site has already been cleared and secured, not available for use for some months. A number of the existing properties within the vicinity have their own off street parking facilities and for the remainder there are no parking restrictions within the local streets so on-street parking is available.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes 5 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

Conclusions and Reasons for Decision

This is a previously developed site situated in a residential area in a sustainable location. The principle of residential development of the site is therefore considered appropriate and complies with Policies HOU2 and CSP4 of the BCCS, Policy HC2 of the SAD and H3 and ENV14 of the UDP.

The layout is considered acceptable and in compliance with policies GP2, ENV32 and T13 of the UDP and Appendix D of Designing Walsall.

The design of the new properties is considered appropriate and picks on key characteristics of the surrounding properties and would comfortably fit within the street scene, in compliance with policy ENV32 of the UDP. The advanced method of construction proposed would provide modern, efficient, high standard, affordable housing with a short on site construction period.

Access and parking arrangements would comply with policies GP2 and T13 of the UDP.

It is considered that the development would have no adverse impact on the amenities of the surrounding occupiers in compliance with policies GP2 and ENV32 of the UDP and Appendix D of Designing Walsall.

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

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised regarding the play area, gated access and parking, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Grant permission subject to 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 shall not be carried out otherwise than in accordance with the following approved plan:

Site Location Plan Drawing L(00)001 Rev P2 submitted 31st May 2019

Existing Site Plan Drawing L(00)002 Rev P2 submitted 31st May 2019

Proposed Site Plan Drawing L(00)101 Rev P3 submitted 19th July 2019

Proposed Ground Floor Plan Unit 1 to 5 Drawing L(01)001 Rev P2 submitted 31st May 2019

Proposed First Floor Plan Unit 1 to 5 Drawing L(01)002 Rev P2 submitted 31st May 2019

Proposed Roof Plan Unit 1 to 5 Drawing L(01)003 Rev P2 submitted 31st May 2019

Unit 1 to 5 Elevation A Drawing L(02)001 Rev P2 submitted 31st May 2019

Unit 1 to 5 Elevation B Drawing L(02)002 Rev P2 submitted 31st May 2019

Unit 1 and 2 Elevation C Drawing L(02)003 Rev P2 submitted 31st May 2019

Unit 1 and 2 Elevation A – Colour Render Drawing L(02)004 Rev P2 submitted 31st May 2019

Design and Access Statement submitted 31st May 2019

Groundsure Screening and Coal Authority Coal Mining Report submitted 31st May 2019

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

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

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

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved UDP policies GP2, ENV10 and ENV14.

4a. Prior to the commencement of development, including demolition a Construction Working Plan shall be submitted for written approval of the Local Planning Authority. The plan shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors

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- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

4b. The approved Construction Working Plan shall be implemented upon commencement of works and shall be maintained until the site is completed.

Reason: To protect the amenities of the surrounding occupiers and minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway due to the access constraints to the site, in the interests of amenity and highway safety in accordance with Policy GP2, ENV32, T7 and T13 of the UDP.

5a. Prior to the commencement of the development hereby approved 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 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 shall thereafter be retained.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

6a. Prior to the first occupation of any dwelling on the development, the parking spaces serving that dwelling shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

6b. The parking spaces shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2, T7 and T13.

7. Prior to the first occupation of any dwelling on the development, the required modification of the footway crossings to align with the individual driveways, shall be installed in accordance with the Council's footway crossing specification SD11/8 dated

January 2008. All works within the public highway shall be in accordance with all statutory requirements.

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

8a. Prior to the first occupation of any dwelling written details shall be submitted to and approved in writing by the Local Planning Authority on how the requirements of the Black Country Air Quality SPD will be implemented.

8b. The agreed measures shall be implemented prior to occupancy and a written validation statement shall be submitted to the Local Planning Authority.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy

Notes for Applicant

Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to either enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.

Air Quality SPD

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

The electric vehicle charging point provision for residential premises is a charging point per residential premise or Units with unallocated parking e.g. apartments – 1 charging point per 10 spaces, complying with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw. Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

Ultra-low NOx boilers discharge NOx at or below 40mg/kWh. The latest models are future-proofed to the European

Union's Energy-related Products Directive 2018 NOx levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NOx, and may be eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

Contaminated Land

CL1

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 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); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

When making assessments of any contaminants identified as being present upon 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.

CL3

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

CL4

The desk study and site reconnaissance shall have regard to previous unknown filled ground and materials used and processes carried on. A further detail on the matters to be addressed is available in 'Model Procedures for the Management of Contamination' (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

Severn Trent Water

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made

with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. Alternately you can call the office on 01902 793851.

West Midlands Police

I refer the applicant to crime prevention and home security advice contained within SBD New Homes.

Please see:

https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NE_W_version_2.pdf



Walsall Council

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 03-Oct-2019

Plans List Item Number: 5.

Reason for bringing to committee: Significant Community Interest

Location: 67, WOOD LANE, STREETLY, SUTTON COLDFIELD, B74 3LS

Proposal: REPLACEMENT 5 BEDROOM DETACHED DWELLING, WITH BASEMENT AND REAR PATIO WITH STEPS.

Application Number: 19/0635

Applicant: Mr & Mrs Patrick Lambe

Agent: Mrs Laura McMullan

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

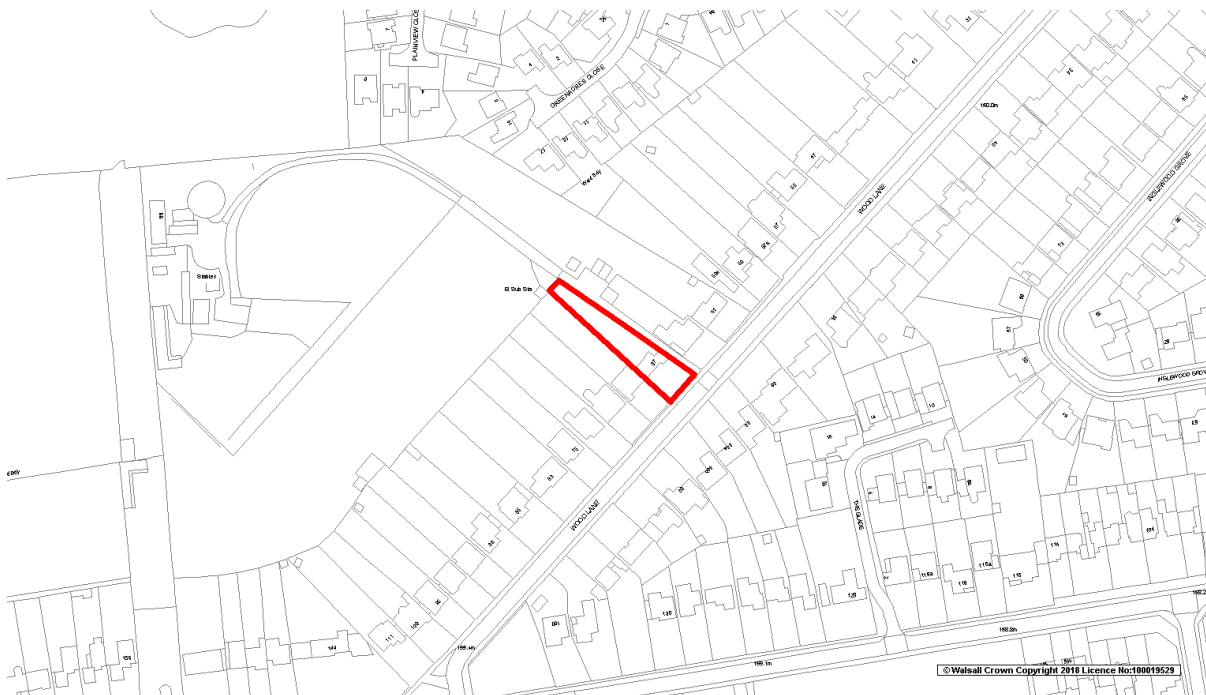
Case Officer: Helen Smith

Ward: Streetly

Expired Date: 07-Aug-2019

Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Proposal

This application seeks consent for a replacement 5-bedroom detached house arranged over three floors and including a basement area. The proposal would;

- 12.7 metres wide
- 11 metres deep (*excluding front gable projection*)
- Proposal would be built up to the side boundaries with a 0.7 metres wide gap between 67 and 69 wholly within the boundary of 69.
- Front gable would be 6.9 metres wide by 5.8 metres deep at ground floor and 4 metres deep at first floor
- 7.4 metres high (*the plans indicate the existing house is 7 metres high*)
- Gable roof design
- Split level to the rear to include a basement games room/cinema with secondary steps to this level from the rear garden
- Set back into the plot 7.5 metres
- No side facing windows other than two roof lights at first floor
- Flat roof across ground floor garage element and front entrance
- Single storey rear extension with a flat roof incorporating a lantern roof
- Existing patio level raised by 1 metre
- New 2 metres high boundary fencing adjacent to the boundary with 69 Wood Lane
- Brick, cladding and concrete roof tiles are proposed along with upvc windows and aluminium folding doors
- Rear garden would be 39.8 metres long
- Off-street parking for at least 3 cars would be available

The application is supported by a Preliminary Bat Roost Assessment prepared by Woolley Ecology dated 6/8/19.

A street scene drawing has been included.

Site and Surroundings

Wood Lane is a residential street consisting of detached houses and bungalows of varying age and individual design. There are a number of neighbouring houses with examples of two storey front gable features including no. 69 Wood Lane and there are first floor gaps between houses of varying width. The existing two storey element of no. 67 is built up to the shared side boundary with 69 Wood Lane.

The ground level to the rear of the application house slopes down from the property. There are stables and open space to the rear of the application plot on designated Green Belt land which are accessed, along with 65 Wood Lane, via a driveway located between the application plot and 63 Wood Lane.

There is a stepped front building lines fronting Wood Lane particularly to the north-east of the application plot. There is a telegraph pole adjacent to the existing application house.

The neighbouring houses include;

63 Wood Lane

No. 63 sits to the north-east of the application plot and is a detached bungalow located on the opposite side of the access drive to 65 Wood Lane to the application plot. This property has front and rear facing habitable room windows. There would be a separation distance of between 3.4 and 3.8 metres between the bungalow and the application plot.

65 Wood Lane

This property is located to the rear of the application site with a separation distance in excess of 180 metres.

69 Wood Lane

No. 69 sits to the south-west of the application plot and is a detached house with a single storey rear extension and front and rear facing habitable room windows. This house has a Leylandii tree next to the rear garden boundary with the application plot.

88A Wood Lane

No. 88A faces the application plot from the opposite side of Wood Lane. There would be a habitable room window to window separation distance of 33 metres between the proposed new house and 88A.

Relevant Planning History

None for the application property

63 Wood Lane

18/0370 - Removal of existing conservatory and extend existing kitchen to provide kitchen / family room – GSC 24/5/18

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

On **planning conditions** the NPPF (para 55) 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. 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.

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Walsall Site Allocation Document (SAD) was adopted in January 2019. The policies detailed below have not been replaced by the SAD and full weight can be given to these policies.

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

Designing Walsall

- DW3 Character

Consultation Replies

Transportation – No objections subject to a planning condition in relation to surface water run-off on driveways and parking areas along with informative notes in respect of the highway.

Pollution Control – No objections

Fire Officer – No objections

Severn Trent Water – No objections subject to the inclusion of an informative note as there may be a public sewer located within the application site.

Representations

(Officer's comments in italics)

Objections have been received from five residents and a representative, acting on behalf of one of these residents, on the following grounds;

- No's 61, 63 and 65 Wood Lane have a right of access along the private driveway at the side of the proposal site whilst no. 67 does not have access *(this is a civil matter between land owners rather than a material planning matter)*
- The access must be preserved and provide unrestricted access at all times *(this is a civil matter between land owners rather than a material planning matter)*
- Concerns that building on the boundary will mean the access will be compromised as large horse boxes pass along the access and any compromise due to foundation excavation will have an impact on vehicles being able to pass *(this is not a material planning consideration and the application form and plans indicate all building works would be on land within the applicants' ownership)*
- Concerns that the wall of 63 Wood Lane may be hit by a vehicle trying to pass a trench *(this is not a material planning consideration)*
- No encroachment on the access and they are not sure the owners have taken measurements *(A plan showing measurements of the access has been provided for information and is included on the Council's website)*
- Impact on outlook and light
- Forward of the building line in direct contrast to advice given by a Building Inspector in 2010 *(the comments made by an Independent or Local Authority Building Inspector are not known to the Local Planning Authority however each planning application is assessed on its own merits by planning officers)*
- Impact of proposed basement on the structure of no. 69 and would like a specialist surveyor to monitor and record prior to the start of the building and throughout and for the cost to be the responsibility of the owners of 67 Wood Lane *(This is not a material planning consideration and this request would be a private matter between neighbours, potentially via the Party Wall Act)*
- No weekend working *(hours of construction cannot be conditioned as there is third party environmental legislation to deal with noise and disturbance)*
- Building line next to no. 69 and not no. 63 the bungalow should be maintained
- Building line extended in front would be unsightly
- Occupiers of no. 65 have an enduring right to pass and re-pass along the access drive with rights available to the occupiers of 61 and 63 Wood Lane and access to a substation *(private rights of way are civil matters and not a planning consideration)*
- No details of boundary treatments any part of the building which crossed the boundary line would be an infringement of the rights of the joint owners and users of the access *(Boundary treatments can be conditioned if the application is approved. Infringements across boundary lines or impacting on the rights of neighbours is a civil matter and not a material planning consideration)*
- Submitted drawings fail to identify the legal boundary line between 67 Wood Lane and the shared access *(it is unclear what definition of legal boundary is being stated as a planning application boundary can relate to land not in the applicants' ownership subject to the correct ownership being submitted. The Planning Authority has to take what is submitted on face value)*

- A plan showing the existing boundary features and their distances from the existing side wall of no. 67 should be provided to avoid trespass in the ground and air (*A plan showing measurements of the access has been provided for information*)
- The applicants should be required to confirm the clear width of the shared drive before and after in relation to boundary structures (*this can be deduced from the submitted drawings*)
- Notices under Party Wall etc. Act 1996 would be required (*this is private legislation for neighbours to utilise and outside the scope of the planning legislation*)
- Boundary disputes are a civil matter but not boundary and building design which are planning matters (*the Local Planning Authority is required to accept plans as presented and at face value*)
- Most of the right side of the new house would form the boundary with land which is not in the applicants' ownership or control and is a material planning consideration as the Council may consider there should be space separation. (*Land ownership is a private civil matter and outside the scope of the planning legislation*)
- Correct approach by the Council could avoid a boundary dispute in the future (*the position of boundaries is a private civil legal matter between landowners*)
- The Council need to consider the position of the basement away from the shared access (*the Local Planning Authority is required to assess proposals as presented*)
- Amended plans fail to show the width of the existing drive (*A plan showing measurements of the access has been provided for information and is published on the Council's website*)
- External steps appear to trespass onto the access (*the floor plans show a slight encroachment which is considered likely to be a drafting error and considered de minimis. All other drawings that form part of this application do not show any encroachment. Should everything else be acceptable, a planning condition can be imposed confirming the steps should remain within the applicant's land ownership*)
- How will the Council ensure the proposed development will remain on land belonging to no. 67? (*any building works, if approved, would be required to be in accordance with the approved plans, which based on the application and ownership certificates, the applicant suggests the development is on land they control*)
- No permission can be given beyond the boundary as no users of the shared access have given their permission (*the plans do not indicate this would be the case. In planning terms, subject to the correct ownerships being completed and served*)

Determining Issues

- Design and Character of the Area
- Amenity of Nearby Residents
- Protected Species
- Access and Parking

Assessment of the Proposal

Design and Character of the Area

The proposed scale of the new dwelling is considered would reflect the existing scale and mass of the existing and neighbouring houses whilst retaining the existing space to the boundary with 69 Wood lane. The proposed new dwelling would have a simple design and the front gable feature would reflect the design of neighbouring properties.

PAGE 73 OF 134

There is a stepped building line to the north east of the application plot and the adjacent bungalow, no. 63 sits forward of properties to the south west including the footprint of the existing house at no. 67. The planning agent has revised the design of the proposal to reduce the depth the proposed first floor front gable feature from 5.1 metres deep to 4 metres to lessen the impact on the street scene. This would bring the first floor of the proposed new dwelling in line with the front elevations of properties to the north east. It is considered that as a result of this revision the proposal would integrate with the street scene.

The ground floor gable feature would extend 1 metre forward of the front elevation of no. 63, which sits on the opposite side of the access drive to no. 65. It is considered the ground floor extension would have a limited additional impact on the street scene.

The height of the proposed new dwelling would increase by 0.4 metres but as this would still be lower than the neighbours' roof at 69 Wood Lane it is considered the new proposal would integrate with the street scene.

The basement would be accessed from within the house and also from steps at the rear of the new dwelling. The proposal includes 1.3 metres high walls added to the patio for safety. This addition is considered would have little additional impact on the appearance of the dwelling especially as it's not visible in the street scene.

The proposal has provided limited material information and a planning condition can be included to require a more detailed schedule of materials along with details of boundary treatments.

There is a telegraph pole with cables across the application site and it would be for the landowner to resolve with the appropriate authority.

Amenity of Nearby Residents

The proposed new dwelling would meet the separation distances recommended in Designing Walsall SPD, Appendix D, between facing habitable room windows in 65 and 88A Wood Lane. It is considered the separation would not cause any significant harm to the residential amenities of neighbouring properties in terms of outlook, privacy or daylight.

The proposed new house would meet the Council's 45-degree guidance, as referred to in Appendix D, in relation to the adjacent houses 63 and 69 Wood Lane. This advice is the Council's tool to guide development and planning applications in relation to neighbour's light and outlook.

A 1m high raised patio is proposed with steps located on the opposite side of the plot to 69 Wood Lane nearer to the access drive which would limit any potential for overlooking. The rear garden of no. 67 is lower than the floor of the proposed house and a 2 metres high fence alongside the neighbours' patio is proposed. It is considered the orientation of no. 69, to the south west of the proposed new house, would limit the impact on this addition on neighbours' existing light and would protect residents' privacy.

Side facing roof windows would be to the front of the property in the public realm and as these would be angled upwards it is considered any additional impact on neighbours' privacy would be limited.

A survey of the existing access has been undertaken by the planning agents so that there is a drawing in place prior to any works commencing if the development receives planning permission.

The proposed rear private amenity space would be 39.8 metres in length and is considered would provide adequate space for the new dwelling and is similar to the existing garden space provided.

Conditions to restrict the hours of construction and engineering works cannot be imposed as there is third party environmental legislation should the works become a noise nuisance.

The replacement dwelling is considered would not have a significantly greater impact, over and above those of the existing dwelling house.

Protected Species

The Preliminary Bat Roost Assessment prepared by Woolley Ecology dated 6/8/19 concludes that the existing building has a low potential to support roosting bats and no evidence of bats was identified during the survey and the potential roost features within the building were limited in number and only large enough for use by single bats (possibly as transitional roost or opportunistically). Habitats within the surrounding landscape were considered 'High' for foraging and commuting bats. No further surveys are required at this stage.

The survey report recommends precautionary measures are taken during construction and dependent upon the time of building, if the application is approved, a roost detection survey may be necessary.

The report has recommended the inclusion of a safeguarding condition and opportunities to enhance bat roosting opportunities within the site.

Access and Parking

There is space to accommodate at least 3 off street parking spaces which would meet the requirements of UDP parking policy T13 which requires the provision of 3 off street parking spaces to serve a dwelling of 4 or more bedrooms. The Local Highway Authority has no objections to the proposal and recommend the inclusion of a planning condition in respect of hard surfacing and informative notes in relation to keeping the highway free of debris and surface water.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed new house would reflect the design of properties around the area. The proposal is considered would have a limited additional impact on the character of the wider area and the amenity for neighbouring occupiers. The use of safeguarding conditions in respect of the materials to maintain its appearance will further ensure that the neighbours' amenity is protected and that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework (para 127), policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2, ENV23 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Documents Designing Walsall and Conserving Walsall's Natural Environment.

Taking into account the above factors it is considered that the application should be recommended for approval. The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment.

Positive and Proactive Working with the Applicant

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

Recommendation

Grant permission subject to 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: This development shall not be carried out other than in conformity with the following approved plans: -

- Location Plan, drawing no. A001, deposited 06/06/19
- Block Plan, drawing no. A002 Rev. A, deposited 06/08/19
- Proposed Site Plan, drawing no. A003, deposited 22/08/19
- Proposed Floor Plans, drawing no. PL100 Rev. A, deposited 06/08/19
- Proposed Elevations, drawing no. PL101 Rev. A, deposited 06/08/19
- Proposed 3D views, drawing no. PL104, Rev. A, deposited 06/08/19
- Proposed Street Scene, drawing no. PL104 Rev. A, deposited 06/08/19
- Existing Floor Plans, drawing no. X001, deposited 06/06/19
- Existing Elevations, drawing no. X002, deposited 06/06/19
- Preliminary Bat Roost Assessment, dated 06/08/19 by Woolley Ecology, deposited 13/08/19

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: a) Notwithstanding the information included on the deposited plans and the application form no development above damp proof course shall commence until a schedule of facing materials to be used in the development has been submitted to and agreed in writing by the Local Planning Authority.

3: b) The development shall not be implemented other than in accordance with the approved schedule of materials and retained thereafter.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policy ENV32 of Walsall's Unitary Development Plan.

4: Bat survey work has a low risk that bats may be present within the building but cannot be entirely ruled out and all work is carried out carefully with the expectation that bats may be found. The following precautions shall be taken when implementing the planning permission;

1. Contractors undertaking demolition works shall be made aware that bats may be present and instructed on actions to be taken if bats are discovered
2. Work completed on the roof shall be carried out during winter months when bats are less active (November to April)

If no bats or evidence of bats are found during these operations, the approved works can continue.

(b) If bats or evidence of bats are found during these operations:

1. Bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.
2. No further destructive works shall be carried out to the building until the need for Natural England licence has been established.
3. Within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation.
4. Work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England Licence issued.

Reason: To conserve local bat populations

5: Prior to the first occupation of any part of the development hereby approved, a single bat box shall not have been installed other than in accordance with page no's 19 and 20 of Woolley Ecology report dated 06/08/19 and thereafter be retained for the life of the development with the bat box access openings maintained free of obstructions at all times.

Reason: To conserve local bat populations

6: (a) No external lighting scheme shall be installed other than in accordance with the requirements set out below;

- There shall be no direct illumination of the new bat box installed
- Any lighting installed shall be low wattage sodium down lights to provide security and safety lighting which will be set no higher than head height
- Any security lighting shall use PIRs to ensure they turn off automatically once movement has ceased

(b) All external lighting shall not be carried out other than in accordance with the above requirements and retained thereafter.

Reason: To conserve local bat populations

7: Notwithstanding the information provided and prior to the development first coming into use, the driveways and parking areas shall be consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP saved policies GP2, T7 and T13.

8 Notwithstanding the information shown on submitted plans, the development hereby approved shall not be constructed otherwise than to meet the following minimum security measures and thereafter the security measures shall be retained;

- doors and easily accessible windows shall be certified to PAS24; 2016 or STS202 BR1 standard

Reason: To ensure the safety and security of the development and its occupiers in compliance with saved policy ENV32 of Walsall's Unitary Development Plan.

9: a) Notwithstanding the information provided and prior to the development first coming into use until details of the proposed application plot boundary treatments, and boundary treatments adjacent to the the private drive between 63 and 67 Wood Lane shall have been submitted to and agreed in writing by the Local Planning Authority.

9: b) The development shall not have been implemented other than in accordance with the approved schedule of materials retained thereafter.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policy ENV32 of Walsall's Unitary Development Plan.

10: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no front boundary treatments, shall be installed in any part of the front of this development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policy ENV32 of Walsall's Unitary Development Plan.

Notes for Applicant

1. The Applicant must ensure that no soil or other debris is washed or placed within the highway. Failure to prevent this incident could result in an offence and a notice being served on the Applicant under Section 151 of the Highways Act 1980.
2. The Applicant must ensure that no water is discharged onto the highway. Failure to prevent this discharge could result in an offence and a notice being served on the Applicant under Section 163 of the Highways Act 1980.
3. Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent. Please note if you wish to respond to this email please send it to Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. Alternately you can call the office on 01902 793851.
4. There is a Leylandii tree in the rear garden of 69 Wood Lane which is not subject to a Tree Preservation Order and the applicant should ensure that this tree is not destabilised as a result of the proposed works or removed without the prior agreement of the owner of the tree.



Planning Committee

Report of Head of Planning, Engineering and Transportation on 03-Oct-2019

Plans List Item Number: 6.

Reason for bringing to committee: Called in by Councillor Wilson stating significant community interest

Location: 11, PORTLAND ROAD, ALDRIDGE, WALSALL, WS9 8NS

Proposal: RETROSPECTIVE APPLICATION FOR USE OF THE ENTIRE PREMISES AS A CHIROPRACTIC CLINIC AND RETENTION OF CAR PARK TO THE REAR.

Application Number: 19/0838

Applicant: Richard Taylor

Agent: Design Construction Management Services

Application Type: Full Application: Change of Use

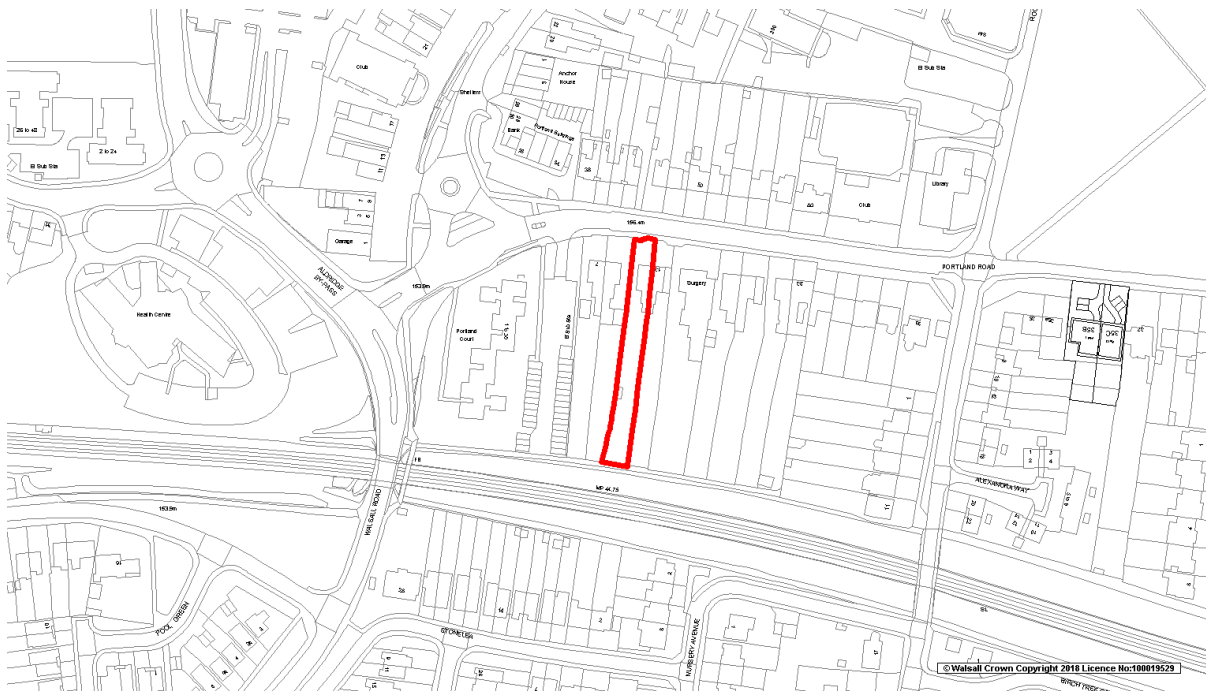
Case Officer: Barbara Toy

Ward: Aldridge Central And South

Expired Date: 21-Aug-2019

Time Extension Expiry:

Recommendation Summary: Refuse



Proposal

This is a retrospective application for the use of the entire premises as a chiropractic clinic and for the retention of the car park in the rear garden.

Planning consent was granted in 2015 for use of part of the premises as a chiropractor and part for residential. There is however evidence dating back to March 2017 that the whole of the premises has been used for the chiropractic business with no residential element.

The current accommodation comprises:

Basement – storage of patient records etc

Ground Floor – Large reception/waiting room, consulting room, WC, Kitchen and staff room (with doors out to the rear parking area)

First Floor – Rehabilitation room, 3 treatment rooms and a shower/WC

Second Floor (roof space) – office and ensuite

The application forms indicate opening hours of 0800 – 2000 hours Mon – Fri, whilst a sign adjacent to the front entrance door also indicates Saturday opening 0800 – 1700 hours and the chiropractor indicated that the opening hours were 0815 – 1830 hours Mon, Wed and Thurs, 1500 – 1810 hours Tues and Closed on a Fri (admin only).

The application forms indicate 3 full time and 1 part time member of staff, however during the site visit the chiropractor indicated that there were in fact 2 part time members of staff.

The clinic operates on an appointment basis only with new clients appointments 45 mins to 1 hour and existing client appointments 20 – 30 mins. The rehabilitation room on the first floor can accommodate up to 3 clients at any one time and is supervised by one of the assistants (advised by the chiropractor during the site visit).

The rear parking area was created in 2017 without the benefit of planning consent. An area approx. 29m in length and the full width of the plot has now been tarmacked and is used for parking, with a smaller gravelled area beyond. Whilst the submitted layout plan shows space for 8 cars in a chevron layout, the layout on site shows 1 disabled space at right angles to the boundary fencing, with no other spaces marked. The submitted plan therefore does not currently represent how parking is laid out on site. The car park is accessed via a gated entry to the side of the property.

The following have been submitted in support of the application:

Noise impact Assessment

This concludes that traffic noise is noticeable across the site and at surrounding dwellings. Noise levels from within the clinic are not expected to be excessive, noise would be restricted to the car park activity. The noise levels at the nearest dwellings from the activities in the car park would be below the existing ambient and background sound levels.

Planning Statement

This discusses the planning policy context and a sequential test approach.

Site and Surroundings

The site is situated on the southern side of Portland Road just to the east of the junction with Anchor Road. The premises comprises a traditional semi-detached two storey house with a basement and loft conversion, it has a large ground floor bay window to the frontage and two storey and single storey wing to the rear. The property has a front driveway for parking and vehicle access to the side to the rear garden. The property has a current consent for use as a chiropractic clinic and residential accommodation.

No 13, the other half of the semi is a house and 7 and 9 to the west are a similar pair of semi-detached houses. Opposite are residential properties. No 21 is a semi-detached house with a lawful use as a dental practice.

A Blue Atlas Cedar tree in the rear garden of No 13 sits in close proximity to the boundary with the application site and is protected under TPO 34 of 2008.

The property sits just outside the Aldridge district centre and Portland Road itself is a bus route.

Relevant Planning History

BC39334P, change of use to day nursery with car parking facilities refused 02-12-93

BC41736P, subdivision of semi detached house into 4 bedsits, refused 01-08-94

BC42759P, subdivision of semi detached house into 2 self contained flats, granted subject to conditions 03-01-95.

15/0208/FL - Retrospective application for partial change of use of residential property to chiropractic clinic .GSC 30/05/15.

Condition 3:

The premises shall operate with no more than two consulting rooms in use at any one time.

17/1308, erection of single storey detached building to rear to be used as a chiropractic clinic, refused 28-03-19

Reasons for refusal:

- 1. The application site is outside of the district centre and fails to demonstrate that there would not be an impact on the vitality and viability of the centre through the submission of a sequential test, in addition no evidence has been provided that the demonstrates there is a local need to justify the expansion of the use in this location. For this reason the scheme is contrary to NPPF paragraphs 88 and 89, BCCS policies CEN6, CEN7 and HOU5 and UDP saved policies S1, S3 and S5*
- 2. The provision of a large exercise room with a reception area providing 6 seats for visitors, a desk with 2 seats for staff, examination room, x-ray room, and the provision of a large car park to the rear in close proximity to the neighbouring gardens at numbers 9 and 11 would significantly increase the comings and goings causing noise and disturbance not in keeping with the character of the predominantly residential neighbouring houses with private rear gardens, in particular the use of the car park would result in noise and disturbance including car*

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doors slamming, car radios, people talking, car lights and pollution etc resulting in loss of amenity to these neighbouring occupiers which would cause significant loss of amenity to residents to the NPPF paragraph 127, policies CSP4 and ENV3 of the BCCS and saved policies GP2, ENV32, and ENV10 of the UDP and Policy DW3 of Designing Walsall SPD

3. *The design which includes a large single storey building without a street frontage, the large hard surfaced parking area, combined with the expansion of the Chiropractic use would result in a development out of character with the predominantly residential setting and development pattern which characterises this part of Aldridge. For these reasons the application is contrary to the National Planning Policy Framework, the Black Country Core Strategy policies HOU2 and ENV2 and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document, Designing Walsall.*
4. *The application fails to demonstrate adequate fire service access due to the following design limitations:*
 - i. *Access to proposed building not within 45 m from a pumping appliance*
 - ii. *The dead end is greater than 20 m in length and does not have an appropriate turning facility for a pump appliance*
 - iii. *The access roadway is not the required minimum of 5.5 m in width and the application does not demonstrate the minimum carrying capacity required of 15 tonnes*

For these reasons the application is contrary to the National Planning Policy Framework paragraph 95, Unitary Development Plan, in particular policies GP2 and ENV32.

The Priory Dental Practice 21 Portland Road:

18/0870 - Part single, part two storey rear extension to dental surgery, single storey detached garage plus additional car parking at rear. Refused 16/10/18 for the following reasons:

1. *The proposal fails to demonstrate that customer base of the existing dental practice is local and within a catchment area. It would appear that the increase in the number of surgeries by three and the additional parking spaces proposed that the existing dental practice now would serve more than a local need. There is no evidence to show that the local provision could not be better met by investment in a nearby centre.*
2. *The proposed rear parking area and vehicle manoeuvring area abutting the side boundary of number 23 Portland Road and in close proximity to number 19 Portland Road would result in vehicle movements' adjacent neighbouring rear gardens and habitable rooms. The use of the car park would result in noise and disturbance including car doors slamming, car radios, people talking, car lights and pollution etc resulting in loss of amenity to these neighbouring occupiers. Furthermore, the hardsurfaced area to provide the car parking area and to serve the detached garage would mean that in its entirety the whole rear garden would in effect be a car park and as such detrimental to the character and setting of the residential nature of Portland Road.*

3. *The proposed rear parking arrangement, with perpendicular bays would make it difficult for drivers to utilise in practice as there is insufficient reversing aisle width to enable cars to manoeuvre in and out of the parking bays safely and satisfactorily contrary to the safe and satisfactory operation of the development. Furthermore, the proposed parking arrangement requires a total width of 10.8m and only 9.2m is available so adequate space cannot be achieved.*
4. *The width of the existing access point onto Portland Road is considered to be of insufficient width to accommodate two-way vehicle movements required as a result of the intensification of the access, necessary to minimise the potential of vehicles waiting on the main carriageway of Portland Road, a Local Distributor road, whilst a vehicles are exiting the site, contrary to the free flow of traffic along the public highway and to highway safety.*

19/0819, part single and part two storey rear extension to dental surgery, current application awaiting determination.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 55) 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. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments

that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV32: Design and Development Proposals
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S7: Out-of-Centre and Edge-of-Centre Developments
- T7 - Car Parking T13: Parking Provision for Cars, Cycles and Taxis
- AL1: Primary Shopping Area
- AL2: Environmental Improvement

Black Country Core Strategy

- HOU5: Education and Health Care Facilities
- CEN2: Hierarchy of Centres
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services
- CEN7: Controlling Out of Centre Development
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- CSP4: Place Making

Walsall Site Allocation Document 2019

T4: The Highway Network

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW5 Ease of Movement
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

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

Consultation Replies

Pollution Control – No objections

Transportation – No objections subject to condition subject to condition to ensure that the parking and manoeuvring area is retained for no other purpose.

Public Health – No facilities for staff/clients using a bike.

Strategic Planning Policy – Objection. The site is situated on an edge of centre location, but the submission fails the sequential test required by the NPPF and BCCS policy CEN6.

Tree Officer – No objections to the rear parking area. The impact of the tarmaced parking area on the TPO tree in the adjoining garden is not significant to warrant a refusal of the application. The gravel parking area beyond the tarmaced area has been in situ for some time and there are no signs of ill-health to the tree, therefore the impact on the tree from the gravelled area has been minimal.

Representations

Six objections have been received from residents in Portland Road

Objections:

- Change the character of the road, the road should remain residential
- Portland Road is a residential street, more businesses means more traffic
- Longer opening hours means more traffic for longer, day and evening
- More vehicles parked on the road, means it is difficult for larger vehicles to get through and this causes hold ups.
- The opening hours on the application are inaccurate, the clinic is already open 0800 – 2000 Mon – Fri
- Vehicles queue to get into the car park, which impacts on this busy road
- Vehicles park on the frontage with engines running and lights shining into houses opposite, similarly lights from cars exiting the rear car park shine into houses opposite
- There are empty business premises in the centre which should be used, only a few minutes' walk away
- Adversely impact on the quality of residents lives
- This is a busy practice with patients arriving throughout the day and early evening, driving into the back garden car park
- Proposals will add to the capacity and extend the hours, adding to the existing burden on neighbours
- Set a precedent for more commercial premises in the area
- The chiropractor has broken the rules from the onset, despite the 2015 approval for part commercial/part residential the premises has only operated as a business, no one has lived at the premises, when the alarm goes off in the middle of the night the chiropractor has to come from home to sort it.
- Loss of privacy to rear gardens from the parking area
- Noise of cars and radios adjacent to boundary

- There is only a small space to manoeuvre cars which has resulted in damage to the fence
- Garden ripped up and turned into a car park without an consultation or consent
- No other business in Portland Road has a rear car park
- When hot and windows open can hear staff/clients talking about treatment
- No respect to neighbours from clients using the car park
- There are 4 staff that use the car park as well as patients, up to 8/10 cars can be parked at any one time
- Gardens are for residential use not for cars, with noise and fumes evenings and weekends
- Think he will sell the business if he gets permission
- Property devaluation (not a material planning consideration)

Determining Issues

- **The Principle of the Use**
- **Impact on the amenities of the surrounding occupiers**

Assessment of the Proposal

The Principle of the Use

The site is a former semi detached house in a predominantly residential street which has consent to operate in a mixed use of chiropractic clinic and residential. There are other lawful long established non residential uses within the road including a dental practice at No 21, and a social club and library on the opposite side of the road to the east. The site sits just outside the Aldridge district centre (26m) and therefore has good access to public transport and other facilities and services. The development is therefore a town centre use operating in an edge of centre location.

Whilst there are three other long established non-residential premises within Portland Road, none of these have any parking set to the rear of the premises, in each case the garden area or green space surrounding the premises has been retained. Indeed a recent application at the dental surgery at 21 Portland Road to provide a car park area to the rear was refused (see history above). It should also be noted that the social club and the library are situated within the district centre boundary.

The chiropractic clinic is a use that falls within Use Class D1 (non-residential institutions) which is defined within Policy S1 of the UDP as a Town centre Use. Policy HOU5 of the BCCS states that health care facilities should be directed towards centres and well related to public transport facilities.

Policy CEN6 of the BCCS supports new small-scale facilities outside of defined centres of up to 200m2 provided the scheme meets the requirements set out by the policy. Paragraph 4.53 of the BCCS includes health facilities and explains that the use is subject relevant tests for out of centre development.

UDP Policy S3 states that development on the edge-of-centre should be:

- (a) I) of a scale and nature appropriate to the size and function of the centre concerned and

II) Be sensitively integrated, in functional and visual terms with the Primary Shopping Area (PSA) and other land uses, pedestrian routes, car parking provision, public transport facilities, servicing arrangements, traffic circulation, and the local townscape.

The 2015 consent was granted on the basis that the use could be controlled to prevent further expansion to ensure it is of an appropriate scale for the location. The proposal was retrospective and had been operating from this location without complaints from surrounding residents. This application proposes an increase and intensification of the use previously approved, by use of all 4 floors within the building for the chiropractic clinic. The proposals would increase the use from the approved 2 consulting rooms to 4 consulting rooms and an additional rehabilitation room that allows up to 3 patients to be supervised at any one time. This is considered to be a substantial increase in the scale of the operation which is likely to be detrimental to local amenity which is considered below. Records indicate that the premises have been operating under the current layout since at least 2017, without the benefit of planning consent.

The applicant has provided a sequential assessment with their submission, however the findings of the assessment are considered to be inaccurate. The assessment has taken the full site area of 550m² into consideration rather than the floorspace of the combined staff, storage and consulting space within the building which equates to 124m². Whilst their search for available premises found no sites capable of accommodating the size and the required parking, this is considered inaccurate as the wrong floorspace was researched. The Council have undertaken an independent search and found 3 separate premises of a suitable size, 2 within the Aldridge district centre and 1 within the nearby Lazy Hill local centre.

The Planning Statement indicates that a retail premises would not be suitable for the use due to privacy requirements, but it should be recognised that a number of other uses that require privacy operate from retail units, for example a dentist, opticians, beauty, with privacy provided through internal private treatment rooms.

It is considered that this is an edge of centre site but the applicant has failed to satisfy the sequential test as required by the NPPF and Policy CEN6 of the BCCS. The planning statement submitted contains some factual errors and inconsistencies in respect of the content of the NPPF and the size and type of premises required.

Indeed the application as a whole includes a number of inaccuracies and inconsistencies relating to the car park layout, the staffing numbers and the hours of opening of the clinic, compared with other evidence and works on site.

The proposal does not visually link to the Primary Shopping Area but is well linked visually to the district centre boundary and there are a number of other centre uses nearby including a dentist, club and library. The site has strong pedestrian links to the centre and public transport links meaning the site is in an accessible location and well located to allow for linked trips. However the application has failed to justify the location and under these circumstances it is considered that the proposal does not meet the requirements of policies S3 and S7 of the UDP and HOU5 of the BCCS.

Impact on the amenities of the surrounding occupiers

Use of the whole building as a chiropractic clinic has significantly increased the intensity and capacity of the premises in terms of the number of patients on the premises at any one time and the increase in the comings and goings of patients and vehicles to the site, to the detriment of the amenities of the surrounding residential occupiers. The use now operates 4 consulting rooms and an additional rehabilitation room that can accommodate up to 3 patients at a time. This is a significant increase over the previous 2015 approval that restricted the use to 2 consulting rooms, to ensure no adverse impact on the amenities of the surrounding occupiers. The 2015 application only attracted one letter of concern, this application now has 6 letters of objection, with comments based on the current intensified operation of the premises.

The rear parking area has been installed without the benefit of planning consent. The parking spaces immediately adjoin the side boundary with the rear garden of No 13 (the residential property that is the other half of the semi) and the vehicle access and manoeuvring area immediately adjoins the side boundary with No 9. The car park provides space for 8-10 vehicles which results in vehicle movements adjacent to the neighbouring rear gardens. The use of the car park results in noise and disturbance including car doors slamming, car radios, people talking, car headlights, pollution etc resulting in loss of amenity to these neighbouring occupiers. Furthermore the extent of hardsurfacing created to provide the parking area is considered detrimental to the character and setting of the residential nature of Portland Road.

There are a discrepancies between the submission, the evidence on site and the information provided by the chiropractor during a site visit regarding the opening hours of the clinic, but it would appear that the premises is open 0800 – 2000 hours Mon – Fri with possibly some Saturday opening. This results in comings and goings to the premises by patients and cars into the evening, outside of normal business hours (later than the dental practice at 21 Portland Road that has no rear parking) causing disturbance to residents into the evening. A use requiring evening opening should be directed to a centre, where it would not adversely impact on the amenity of residents to the same degree.

Conclusions and Reasons for Decision

This is a town centre use in an edge of centre location and the submission fails to demonstrate that the intensification of the use does not have an adverse impact on the vitality and viability of the Aldridge district centre through a valid sequential assessment and no evidence has been submitted to demonstrate a local need to justify the expansion of the use in this location. Contrary to the NPPF, policies CEN6, CEN7 and HOU5 of the BCCS and policies S1, S3 and S5 of the UDP.

The use of the entire premises as a chiropractic clinic and opening hours into the evening represents a significant intensification of the use above that of the authorised use of the premises, out of character with the residential character of Portland Road and detrimental to the amenities of the surrounding residential occupiers. Contrary to policies CSP4 and ENV3 of the BCCS and policies GP2, ENV32, and ENV10 of the UDP.

The use of the car park to the rear immediately adjoining the side boundaries with the gardens of 9 and 13 Portland Road has an adverse impact on the amenities of the adjoining residential occupiers in terms of noise and disturbance from comings and goings

of vehicles. Furthermore the extent of hardstanding to provide the car park is considered detrimental to the character and setting of the residential nature of Portland Road. Contrary to policies CSP4 and ENV3 of the BCCS and policies GP2, ENV32, and ENV10 of the UDP.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal and the case passed enforcement to seek authorisation to take enforcement action against the unauthorised use of the premises and unauthorised car park.

Positive and Proactive Working with the Applicant

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

Recommendation

Refuse

Reasons for Refusal

1. The application site sits outside of the Aldridge district centre and the submission fails to demonstrate that there would not be an impact on the vitality and viability of the centre through a sequential test, in addition no evidence has been provided that the demonstrates there is a local need to justify the expansion of the use in this location. For this reason the scheme is contrary to NPPF paragraphs 88 and 89, BCCS policies CEN6, CEN7 and HOU5 and UDP saved policies S1, S3 and S5.
2. The use of the entire premises as a chiropractic clinic and opening hours into the evening represents a significant intensification of the use of the premises out of character with the residential character of Portland Road and detrimental to the amenities of the surrounding residential occupiers. As such the proposal is contrary to the NPPF, policies CSP4 and ENV3 of the BCCS and saved policies GP2, ENV32, and ENV10 of the UDP and Policy DW3 of Designing Walsall SPD.
3. Use of the car parking area to the rear, adjoining the rear gardens of Nos 9 and 13 Portland Road has an adverse impact on the amenities of the adjoining residential occupiers in terms of noise and disturbance from comings and goings of vehicles. Furthermore the extent of hardstanding to provide the car park is considered detrimental to the character and setting of the residential nature of Portland Road. As such the proposal is contrary to the NPPF, policies CSP4 and ENV3 of the BCCS and saved policies GP2, ENV32, and ENV10 of the UDP and Policy DW3 of Designing Walsall SPD.



Walsall Council

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 03-Oct-2019

Plans List Item Number: 7.

Reason for bringing to committee: Significant Community Interest

Location: 39 LODGE ROAD, PELSALL, WALSALL, WS4 1DE

Proposal: TWO STOREY SIDE EXTENSION, TWO STOREY REAR EXTENSIONS WITH GABLE WINDOW AND BALCONY AT FIRST FLOOR, PLUS SINGLE STOREY REAR EXTENSIONS.

Application Number: 19/0298

Applicant: Mark Jeffers

Agent: Mr Seera

Application Type: Full Application:
Householder

Case Officer: Alison Ives

Ward: Rushall-Shelfield

Expired Date: 31-May-2019

Time Extension Expiry: 04-Oct-2019

Recommendation Summary: Grant Permission Subject to Conditions



Proposal

The application is for single storey rear and two storey side and rear extensions to a detached house.

Single storey rear extension

4.6m long

3.7m wide

Flat roof with parapet facing the rear and two roof lights (2.8m high with 2.9m high parapet)

No side facing windows

Large sliding external doors facing the rear garden

Forms part of the large kitchen/dining/living area

Two-storey side/rear extension

Removal of side garage and conservatory

Draws level with the front elevation of the dwelling

12.6m long

2.5m wide (2m wide towards rear) along the side elevation

4.9m wide across the rear elevation where it projects 4.6m from rear elevation

Creates snug, office, utility, large kitchen/dining/living area at ground floor with enlarged bedroom, master bedroom and shower room above

Front facing windows to snug (ground floor) and bedroom (first floor)

Side facing office window and utility door facing no 37

Rear facing sliding doors to kitchen/dining/living area 5.9m wide

Hipped roof over side extensions to match the main dwelling 4.8m high to eaves, 6.8m high to ridge

3 no roof lights along the side roof elevation

Rear projecting gable with 3.55m wide gable full height window/doors with glazed Juliet balcony

Gable is 4.8m high to eaves and 6.8m to ridge (sits hidden behind roof of side extensions)

Side facing roof light facing no 41

Rear facing roof light in main roof

Changes from a 3 bed to 4 bed property

The application has been amended since its original submission to reduce the width of the side extensions, amend the roof design and to remove a roof terrace beyond the rear bedroom extension.

Supporting information has been provided explaining the design principles of the proposals and explaining the pre-application advice they have reviewed online. They also enclose a chronology of the application processing and amendments made.

The applicant has also commented on neighbour representations received which is summarised as follows:

- One objector is over 60m away and screened from views
- Proposals comply with 45 degree code guidelines
- Size of extensions has been reduced to accommodate the case officer requests
- Other properties have increased in size so it is not disproportionate
- Applications are assessed on a case by case basis
- Some extensions could be completed using permitted development

- Minimal impact on neighbouring properties
- Comment relating to blocking 90% of light is unjustified
- Not overbearing as not building to site boundaries
- Completion of the answers on the application form was correct at time of submission – the client took trees down that did not require permission beforehand
- The loss of the tree has improved light for neighbouring properties
- There are remaining trees in the garden to help water retention but the client is willing to plant two small trees to help if this is an issue

Site and Surroundings

The application property is a traditional inter-war detached house constructed of brick with tiled hipped roof and has a two-storey bay window to front and single storey garage and lean-to extensions to the side and large detached store building within the rear garden. It is positioned near the bend in the road and there is a large driveway to the front with lawn area.

No 37 is also a detached house angled around the bend in the highway and has an original outhouse on the boundary in line with the current rear elevation of no 39 and kitchen window beyond plus a conservatory on the opposite side of the rear elevation of the house. There is a first floor side facing window (landing) and also a garage and lean-to extension along the side of the house. There is a roof light window serving a bathroom in the rear part of the roof facing no 39 but unusually no first floor rear window on this side of the house. No 37 is at a marginally higher ground level than no 39.

No 41 was originally a mirror of no 39 but has a two storey flat roof extension to the side. There is also a conservatory extension to the rear of this dwelling. The nearest first floor window is a bedroom window. There is a low fence forming the boundary between the two dwellings.

The area comprises dwellings in large plots with mature rear gardens.

Relevant Planning History

None relevant for application site so assumed existing garage and lean-to constructed using permitted development allowances.

37 Lodge Road – no history so assumed lean-to and conservatory constructed under permitted development.

41 Lodge Road

05/0514/FL/H4 – Conservatory – GSC 3/5/2005

07/0356/FL/H5 – Detached Garage – GSC 12/04/2007

EAB2170 – Additional Bedroom – GSC 10/09/1969

Relevant Policies

National Planning Policy Framework (NPPF)

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

The NPPF sets out the Government's position on the role of the planning system in both

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plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

Key provisions of the NPPF relevant in this case:

- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

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National Planning Policy Guidance

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

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act ’) sets out 9 protected characteristics which should be taken into account in all decision making.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV3: Design Quality

Walsall Site Allocation Document 2019

M1: Safeguarding of Mineral Resources

T4: The Highway Network

Supplementary Planning Document

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

Designing Walsall

- DW3 Character
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Consultation Replies

None.

Representations

13 letters from 3 households objecting to the original and amended plans. These are summarised as follows (officer comments in italics):

:

- Out of proportion with other residential extensions in the area
- Two-storey rear extension uncharacteristic in the area
- Extensions too large – over 50% of the original house
- Long uncharacteristic high wall along boundary
- Out of keeping with the area
- Projects beyond the rear of neighbouring properties
- Loss of property value (*not a material planning consideration*)
- High wall along boundary resulting in loss of light
- Loss of light to conservatory and garden of no 41
- Loss of daylight/sunlight to property at no 37 including conservatory and bathroom velux roof light
- Overshadowing
- Doesn't meet 45 degree code guidelines
- Overbearing in terms of size and scale and proximity to neighbours
- Loss of views from neighbouring property (*not a material planning consideration*)
- Maximum of 4m is allowed for rear extensions (*this refers to permitted development but the proposal is a full application*)

- Application form incorrect as trees have been felled (*the proposals do not affect any existing protected trees and the hedge along the boundary is also not protected*)
- The felled tree fell on neighbouring property causing distress (*not a material planning consideration*)
- Loss of trees affects water retention in the ground (*not a material planning consideration*)
- Sets a precedent for similar extensions (*each case is assessed on its own merits*)
- No discussion of the proposals with the applicants prior to submission (*not a material planning consideration*)
- Amendments not publicised (*latest amended plans publicised on 29 August 2019 and consultations expired 12 September 2019*)
- As there are more than 3 objections the proposals should be considered by Planning Committee
- Amendments do little to address concerns

Determining Issues

- Design and Character
- Impact on neighbouring properties
- Access and parking
- Protected Species
- Mineral Safeguarding

Assessment of the Proposal

Design and Character

The proposed two-storey extensions to the side of the dwelling maintain a gap to the side of the plot and mirror the design of the original dwelling with matching windows and roof design. This is considered in keeping with the design of the original dwelling and does not harm the character of the area. The dwelling is set back over 11m from the highway so the extensions do not appear overbearing in the street scene.

The proposed single and two-storey extensions to the rear are not visible within the street scene so do not harm the character of the area. Although they are significant extensions this is a large plot which widens within the rear garden so the proposals are considered not to be disproportionate to the original dwelling. Whilst the rear extensions may be larger than others evident in the immediate vicinity as they are not visible within the street scene they are considered acceptable. The new gable and dormer window facing the rear are hidden from views from the public realm behind the main roof.

The rear elevations take on a modern appearance with large glazed areas but despite this being different from the character of the original dwelling, it is considered acceptable given these elevations are not viewed from the public realm and take advantage of this large scale plot and its outlook onto the garden. The properties at the rear are over 60m away and so will not be adversely affected by overlooking.

Neighbours are concerned that proposed extensions are too large and are uncharacteristic of the area projecting beyond the rear of other dwellings. The impact of the rear proposals on the design and character of the original dwelling however is considered to be

acceptable given the size of this plot and other matters in relation to the impact on neighbour's amenities is discussed below.

Given the above comments the proposals are considered to accord with the saved UDP policies GP2 and ENV32 and SPD Designing Walsall.

Impact on neighbouring properties

The proposed single storey rear extension complies with the 45 degree code guidelines in respect of the nearest habitable room window in the rear elevation of no 41 which is a ground floor conservatory and first floor bedroom. The proposed two-storey extensions also comply with the 45 degree code guidelines in respect of this neighbour at no 41.

The proposed two storey side/rear extensions comply with the 45 degree code guidelines in respect of the nearest habitable room windows in the rear elevation of no 37 including the kitchen and conservatory. There is no first floor rear window near to no 39 but there is a roof light bathroom window in the roof element that faces the proposals. A bathroom is not classed as a habitable room for the purposes of considering the impact on light or outlook so has been discounted in terms of assessing the potential impact on light or outlook.

The 45 degree code guidelines are the Council's tool for assessing the relationship between existing dwellings and proposed extensions in order to protect neighbour amenity in terms of potential loss of light, outlook and privacy. As the proposals comply with the guidelines in respect of both neighbours the proposal is considered not to harm residential amenities and complies with Council policy.

The proposed two-storey extensions are 12.6m long and project 4.6m beyond the rear of the original dwelling. Whilst this is a large extension it does splay away from the boundary with no 37 where a gap of between 1.9m and 4.1m is maintained. This is considered appropriate to prevent the proposals being overbearing. There is only a hall window in the gable of no 37 and the bathroom roof light as mentioned so the outlook or impact on potential loss of light to these windows is not material to the determination of the application as they are not habitable rooms. Also as the new gable wall is largely masked by the existing dwellings it will not be visible within the street scene.

The nearest neighbours in Mill Road to the rear are over 60m away and therefore the proposed extensions comply with separation distances (24m) advocated in Annex D of SPD Designing Walsall and protect neighbours privacy.

Objections relating to loss of trees and potential impact on water retention in the ground are not material planning considerations as the trees were not protected and Building Regulations approval will be required to ensure that the proposed new extension is structurally sound.

Taking account of the above assessment the proposals are considered to respect neighbour's outlook, daylight and privacy and comply with the Council's saved UDP policies GP2 and ENV32 and SPD Designing Walsall and 45 Degree Code.

Access and parking

The proposal increases the size of the dwelling from a 3 bed house to a 4 bed house. Saved UDP policy T13 requires 3 spaces for 4 bed houses and above. There is ample space on the front driveway to accommodate this provision for off-street parking

Protected Species

The site falls within an area that may require a bat survey, however the dwelling is well maintained and there are no apparent gaps in the roof, eaves or soffits that could form a suitable habitat. Also an application nearby in Mill Road found there was insufficient green infrastructure to support protected species and no bat survey was required. Likewise the proposals do not affect any existing trees on site that could support protected species. The proposals are considered in compliance with saved UDP policy ENV23.

Mineral Safeguarding

The site is within the mineral safeguarding area but does not exceed the threshold (5 hectares) for requiring supporting evidence to demonstrate how non mineral proposals will safeguard the mineral resource as required by BCCS policy MIN1.

Conclusions and Reasons for Decision

The proposed two-storey extensions to the side of the dwelling are considered in keeping with the design of the original dwelling and do not harm the character of the area. The proposed single and two-storey extensions to the rear are not visible within the street scene so do not harm the character of the area. Although the proposed extensions are significant this is a large plot and the proposals are considered not to be disproportionate to the original dwelling. Given the above comments the proposals are considered to accord with the saved UDP policies GP2 and ENV32 and SPD Designing Walsall.

The proposed extensions comply with the 45 degree code guidelines in respect of both neighbour's at no 37 and no 41 so will not have a detrimental impact on outlook, privacy or daylighting to these properties. Properties at the rear are over 60m away so also not adversely affected. The code applies to habitable rooms only and the neighbour's concerns relate to the outlook from a bathroom which is not a habitable room for the purposes of assessing the code.

Objections relating to loss of trees and potential impact on water retention in the ground are not material planning considerations as the trees were not protected and Building Regulations approval will be required to ensure that the proposed new extension is structurally sound.

Taking account of the above assessment the proposals are considered to respect neighbour's outlook, daylight and privacy and comply with the Council's saved UDP policies GP2 and ENV32 and SPD Designing Walsall and 45 Degree Code.

There is adequate off-street parking to comply with saved UDP policy T13.

The proposals do not affect any potential habitats for protected species and so are considered in compliance with saved UDP policy ENV23.

The site is within the mineral safeguarding area but does not exceed the threshold (5 hectares) for requiring supporting evidence to demonstrate how non mineral proposals will safeguard the mineral resource as required by BCCS policy MIN1.

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

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised regarding the size of the two-storey side extensions, roof design and rear roof terrace amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Grant permission subject to 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: This development shall not be carried out otherwise than in conformity with the following approved plans: -

- Location Plan and Layout as existing (076-105) received 05/04/2019
- Block Plan, Proposed Floor Plans and Elevations (076-5-7) received 02/07/2019

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 walls and roof of the extension shall not comprise facing materials other than those that match, in size, colour and texture as those which are used in the existing building and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

Notes for Applicant

Low Risk Coal – standard text on decision notice



Planning Committee

Report of Head of Planning, Engineering and Transportation on 03-Oct-2019

Plans List Item Number: 8.

Reason for bringing to committee: Application called in Councillor Abdus Nazir no planning reason for calling provided.

Location: 6, FOLLYHOUSE LANE, WALSALL, WS1 3EL

Proposal: RETROSPECTIVE TWO STOREY SIDE AND REAR EXTENSIONS PLUS SINGLE STOREY REAR EXTENSIONS AND LOFT CONVERSION. AMENDMENT TO 18/0140.

Application Number: 19/0173

Applicant: Mr M Azam

Agent:

Application Type: Full Application:
Householder

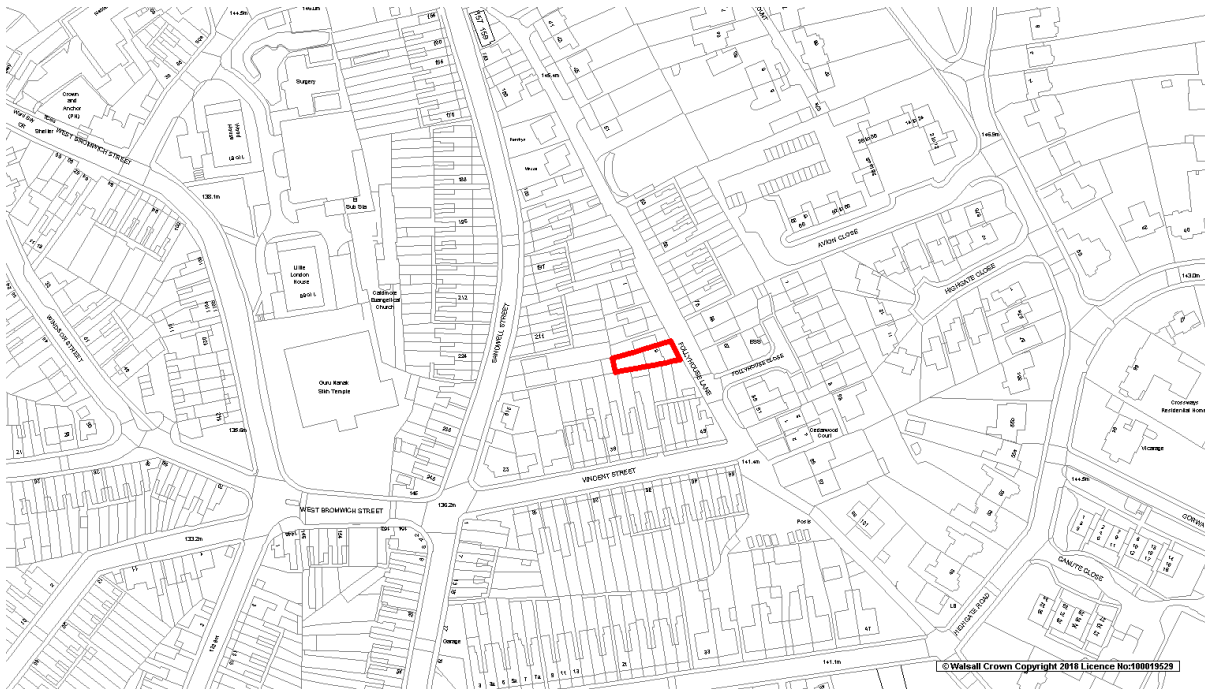
Case Officer: Baljinder Kaur

Ward: St Matthews

Expired Date: 01-Apr-2019

Time Extension Expiry: 28-May-2019

Recommendation Summary: Refuse



Proposal

Applicant seeks approval for retrospective two storey side and rear extensions plus single storey rear extensions, application is an amendment to previously approved application 18/0140. The works to the single storey extension have already started and the amendments are to assess the further two storey extension to the side to enlarge 2no bedrooms. Therefore this report would assess the changes to the previous application.

Two storey rear/ side extension

- Two storey side extension would be 2.6m wide at the front of property and 1.6m to rear following the property boundary.
- Proposed two side extension would not be set back at first floor as per previous application.
- Two storey rear extension would be 3.5m deep, narrowest point being 4.2m wide and 4.7m at the widest point.
- Extension would extend to the side boundary.

Site and Surroundings

The property in question is a semi- detached dwelling within a residential area. The property is set back from the road with a drive 6m at the deepest point and 4.5m at the narrowest point to the front of the property. The street consists of semi-detached properties of a similar age and style.

The neighbouring houses include:

5 Follyhouse Lane

No.5 is located to the north of the application site the proposed changes would be to the opposite side of the application address.

87 Follyhouse Lane

No.87 is located to the east of the application address and is located opposite the application address with a separation distance of 22.5m.

85 Follyhouse Lane

No.85 is located to the east of the application address and is located opposite the application address with a separation distance of 21m.

83 Follyhouse lane

No.83 is located to the east of the application address and is located opposite the application address with a separation distance of 21m.

49 Vincent Street

No.49 sits to the south of the application address and located to the rear with a separation distance of 17m.

47 Vincent Street

No.47 sits to the south of the application address and located to the rear with a separation distance of 16.5m.

45 Vincent Street

No.45 sits to the south of the application address and located to the rear with a separation distance of 17m.

43 Vincent Street

No.43 sits to the south of the application address and located to the rear with a separation distance of 17m.

41 Vincent Street

No.41 sits to the south of the application address and located to the rear with a separation distance of 10m.

39 Vincent Street

No.39 sits to the south of the application address and located to the rear with a separation distance of 16m.

37 Vincent Street

No.37 sits to the south of the application address and located to the rear with a separation distance of 12m.

Relevant Planning History

18/0140- Granted 21/03/18
08/0515/TR- Granted 28/04/08
04/0086/FL- Granted 18/03/04

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

Key provisions of the NPPF relevant in this case:

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

On **planning conditions** the NPPF (para 55) 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. 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.

Reducing Inequalities

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

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

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

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

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp

instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Walsall Site Allocation Document (SAD) was adopted in January 2019. The policies detailed below have not been replaced by the SAD and full weight can be given to these policies.

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

Designing Walsall

- DW3 Character

Consultation Replies

None.

Representations

Councillor Abdus Nazir called in application no planning reason provided for call in.

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents

Assessment of the Proposal

Design of extension and Character of Area

The proposed changes to the roof would be visible from the street and would consist of changing the already approved hipped roof to a gable roof. The application address is part of two semi-detached properties. Therefore, the proposed changes to the roof would not be considered to maintain the character and appearance of the street. The distinctiveness of the area has been maintained with the pairs of semi-detached properties located along Follyhouse Lane, maintaining the symmetry between the pairs.

Therefore it would be considered that changing the approved hip roof to a proposed gable would have a detrimental impact on the character and appearance of the street and would unbalance the symmetry between the adjoining semi, forming an incongruous addition to the street scene. The amended proposal would also remove the set back at first floor which would further imbalance the symmetry between the two pairs of semi's and would not be in accordance with the Council's SPD guide.

The proposed two storey rear extension would be located to the rear and therefore not considered to have a harmful impact on the street scene due to the size, scale and location.

Amenity of nearby residence

The proposed two storey rear extension would extend along the side boundary and would no longer maintain a gap to the boundary at first floor. The propose extension would be adjacent to neighbouring gardens 41-47 Vincent Street, the proposal is not considered to have a harmful impact on neighbouring properties due to the size, scale and location. The proposed two storey rear extension would still be in accordance with the Council's 45 degree from neighbouring property No. 5 and therefore not considered to have a harmful impact on neighbour amenity.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance, it is considered that the proposed removal of the first floor set back to the front elevation and the changes to roof would unbalance the symmetry between the two pairs of semis and therefore considered to have a detrimental impact on the character and appearance of the local area.

As such the development is considered fails to meet the aims and objectives of the National Planning Policy Framework (paras 133-147), policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

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

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Requests have been made to the applicant to amend the proposal in accordance with the national and local planning policies and requested for proposed first floor extension to be in accordance with the Councils SPD guide maintaining the set back at first floor and maintaining a hipped roof to maintain the symmetry between the pairs of semi-detached properties. Amended plans received however still not in accordance with recommendation made and applicant has requested that the proposal is reverted back to the original scheme and application to be called in by Councillor.

Recommendation

Refuse

Reasons for Refusal

1. The proposed first floor front extension and the changes to roof would introduce an incongruous addition to the street scene and would unbalance the symmetry between the pair of semi-detached properties therefore would have a detrimental impact on the character and appearance of the local area to the detrimental impact of local neighbouring amenity. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; The Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and the Council's 45 degree code included in Designing Walsall SPD.



Walsall Council

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 03-Oct-2019

Plans List Item Number: 9.

Reason for bringing to committee: Significant Community Interest

Location: 111, SANDRINGHAM AVENUE, WILLENHALL, WV12 5TG

Proposal: GROUND FLOOR REAR AND FIRST FLOOR SIDE AND FRONT EXTENSIONS AND GARAGE CONVERSION TO HABITABLE ROOM.

Application Number: 19/0887

Applicant: Mr P Singh

Agent: ASB Property Consultants Limited

Application Type: Full Application:
Householder

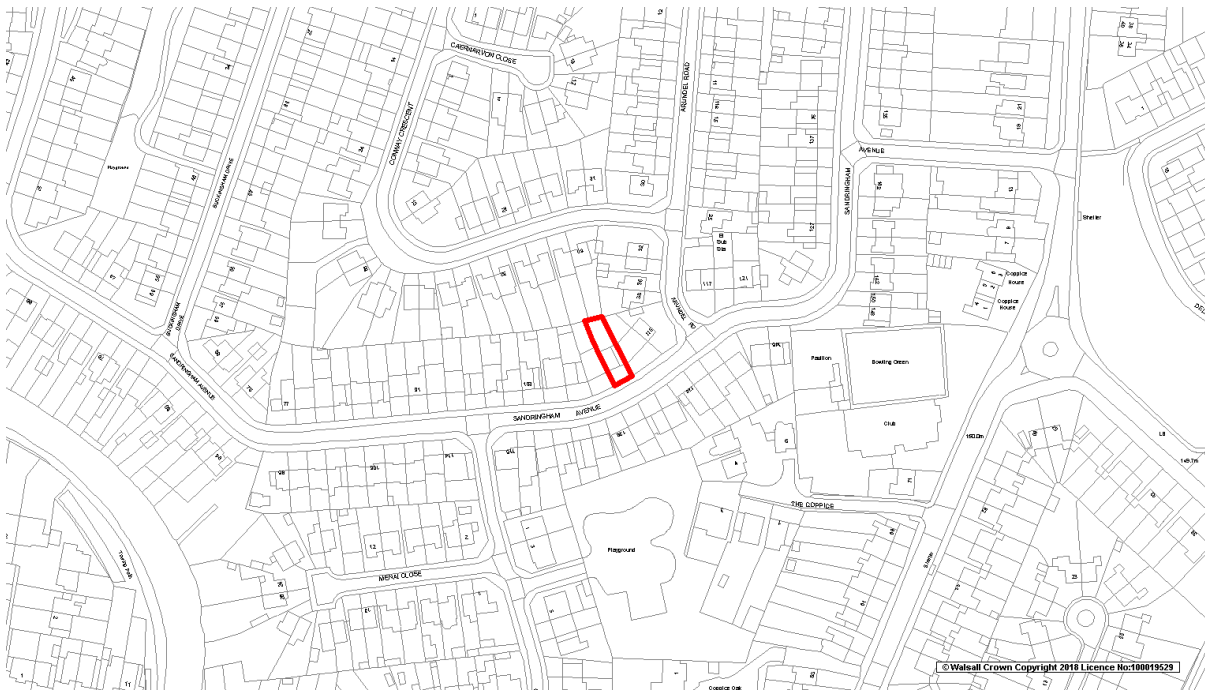
Case Officer: Jenny Townsend

Ward: Willenhall North

Expired Date: 11-Sep-2019

Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Proposal

This application is for extensions to a semi-detached house that would convert the existing garage to a study and add a sitting room and WC on the rear at ground floor and at first floor enlarge the existing front bedroom above the existing porch and add a 4th bedroom, dressing area and en-suite shower room at first floor level above the existing garage and kitchen.

The existing garage door is to be replaced by a wall and window to the proposed study. These would be in the same position as the garage door.

The proposed first floor extension above the porch would be:

- 1 metre deep
- 2.8 metres wide
- Have a flat roof the same height as the flat roof over the existing first floor bay window
- Have a window to the bedroom inserted in the front

The proposed first floor side extension would be:

- In line at the front with the existing first floor wall (but set back 0.9 metres from the front of the proposed first floor front extension)
- 2.5 metres wide
- In line at the rear with the existing two storey part of the house
- Have the existing gable roof continued over
- Have a window to the bedroom at the front and a window to the en-suite in the rear elevation
- The side elevation is to be blank.

The proposed single storey rear extension would be:

- 2.7 metres deep
- Across the full width of the house
- Have a sloping roof between 2.5 and 3.5 metres high
- Have windows and doors to the sitting room and a window to the WC on the rear elevation
- Both side elevations are to be blank.

Site and Surroundings

The application site is in a residential area which comprises mainly semi-detached houses that are of a similar design and have gable roofs. Many have been extended at both the front and rear and there is a variety of additions to the frontages with a mix of materials. The application house, like many of the nearby houses, has a flat roofed double bay window on the front and a sloping canopy over the existing porch and garage. The first floor bay window is finished in Upvc cladding with a brick finish to the rest of the house.

Number 109, the other half of the pair has added a first floor side extension but has not extended the existing front bedroom out over the porch to be in line with the bay window. The bay window at this house is tile hung and the window design of the front windows differ. Both houses have solar panels over the whole of the front roof slopes.

At the rear, number 109 has a single storey extension which is approximately 2 metres deep.

Number 113 is to the east of the site and angles slightly away from the application house. At the front number 113 has a garage adjacent the boundary which projects forward from the front of the application house. The first floor part of 113 is set in at least 4 metres from the boundary with a landing window at first floor in the side elevation facing towards the application house. At the rear houses are approximately in line with a door and window to a utility room closest to the boundary on the rear of number 113.

The rear garden backs onto the rear gardens of numbers 58 and 60 Conway Crescent. There is an outbuilding in the rear garden of the application house which is the full width of the boundary and screens the ground floors of these houses from view. Numbers 58 and 60 also have sheds along their rear boundaries as do most of the nearby houses.

The separation between the rear of the proposed single storey extension and the rear first floor windows of the houses in Conway Crescent would be approximately 32.5 metres.

The whole of the frontage is paved and is wide and long enough to provide three parking spaces.

Relevant Planning History

None.

Relevant Policies

National Planning Policy Framework (NPPF)
www.gov.uk/guidance/national-planning-policy-framework

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

Key provisions of the NPPF relevant in this case:

- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) 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. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

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

National Planning Policy Guidance

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

Reducing Inequalities

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- ENV3: Design Quality

Supplementary Planning Document Designing Walsall

- DW3 Character

Consultation Replies

Canal and River Trust – No objections.

Representations

Five responses from neighbours in relation to the application, three objecting to the proposal and two in support.

The three objections are on the following grounds:

Overlooking and loss of privacy;

Visual impact on character of area;
Impact on light;
Previous letter regarding a garden structure at the site;
Present extension is an eyesore, covers most of their rear garden and is not shown on the current application;
Outlook from their back garden will be totally rubbished.

One neighbour says that if the enormous cladded building were reduced to a much smaller scale, they would be happy to withdraw their objection.

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Assessment of the Proposal

Design of Extension and Character of Area

The design of the two storey side extension would be compatible with the existing house and the front first floor extension would reflect the existing flat roofed section of the house. The materials would match with the existing.

The front of the side extension would be set back from the front of the existing house and whilst the roof would be the same height as the existing, it is considered that a lower ridge height (as is usually required) would not reflect the extension added at number 109 and would unbalance the pair of houses. Most of the first floor side extensions that have been added nearby have kept the same ridge height to the roof so the proposal would be in keeping with this existing character. Similarly, there are a number of garage conversions nearby (number 107 is the nearest) and therefore the proposal would be in keeping with this existing character.

The space that would remain to the side of number 113 above the wide ground floor garage would prevent the proposed extension from creating a terracing effect. Even if number 113 were to build above the garage, there are already a number of places in the immediate vicinity where the gaps between the houses at first floor have been closed.

Amenity of Nearby Residents

The front first floor extension would not project beyond the front of the existing bay window and is considered would have little impact on the light or outlook of the occupiers of number 109.

The proposed side extension would be to the west of number 113 and would be set back from the front of this house. The side wall would be blank and although this would be closer to the boundary, the first floor part of number 113 is set in from the boundary and the window in the side elevation is to a non-habitable room.

At the rear the first floor side extension would not project beyond the rear of number 113 and the new window on the rear would be to an en-suite shower room. A condition for this window to be obscurely glazed and any opening section to be at least 1.7 metres above

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the floor level of the room is recommended to avoid overlooking to the rear garden of 113 and vice versa.

The separation to the side of number 113 and the orientation of the side extension is considered means that there would be little impact on the light, outlook or privacy of the occupiers of number 113.

The proposed single storey rear extension would project approximately 0.7 metres beyond the rear of 109 and would comply with the 45 degree code measured from the mid-point of the patio doors on the rear of number 109. This code is used to assess impact on light and outlook of neighbours.

Next to number 113, the single storey extension would project 2.7 metres and would comply with the 45 degree code measured from the mid-point of the kitchen window of this property as this is set in from the boundary.

The rear windows and doors of the ground floor extension would be screened from the ground floor rear windows of the houses in Conway Crescent by the outbuildings belonging to both numbers 58 and 60 and the application house which are positioned each side of the boundary fence.

The separation between the first floor windows of numbers 58 and 60 and the doors and windows of the ground floor extension would exceed the minimum 24 metres required by policy to protect the amenity of neighbours. The new first floor window is to a non-habitable room and is further away.

With regards to the neighbours comments, the separation between the rear of the neighbouring houses and the windows and doors in the proposed extensions would exceed policy requirements to protect privacy and amenity, the proposal is similar to other extensions in the immediate vicinity, the separation between the application house and houses at the rear is sufficient to prevent any loss of light to the rear windows or gardens of the neighbours. The existing outbuilding does not form part of the application and is therefore not required to be shown on the plans and is not an extension. Aerial photographs show that many of the nearby houses have added extensions on the rear and have sheds or outbuildings in the rear garden resulting in a similar reduction of garden space. The proposal is considered would be in keeping with this emerging character.

Parking

The plans show three parking spaces provided on the paved frontage of the house. This would accord with policy for a house with 4 or more bedrooms.

Conclusions and Reasons for Decision

The design of the proposed first floor front and side extensions are compatible with the existing house and whilst there is no set down to the ridge line, this is in keeping with a number of first floor side extensions that have been added nearby and would balance with the extension at number 109 Sandringham Avenue, the other half of the pair. Similarly the proposed garage conversion would be in keeping with the existing character of the area as there are some garage conversions nearby. Therefore it considered that the proposal

would have little impact on the appearance or character of the area and would comply with saved policies GP2 and ENV32 of Walsall's UDP and DW3 of Designing Walsall SPD. The proposal is considered would have little impact on the light, outlook or privacy of neighbours and would comply with saved policy ENV32 of Walsall's UDP and Designing Walsall SPD, Appendix D.

There is space for three parking spaces on the frontage of the house which would comply with saved policy T13 of Walsall's UDP for a house with 4 or more bedrooms.

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

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Grant Permission Subject to 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: This development shall not be carried out otherwise than in conformity with the following approved plans: -

Location plan deposited 8 July 2019;
Existing floor layout plans drawing ASB715-01 deposited 8 July 2019;
Existing front, side and rear elevations drawing ASB715-02 deposited 8 July 2019;
Proposed floor layout plans drawing ASB715-03 deposited 8 July 2019;
Proposed front, side and rear elevations drawing ASB715-04 deposited 8 July 2019;
Block plan drawing ASB715-05 deposited 17 July 2019.

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: Before the development is brought into use, the rear first floor en-suite shower room window is to be obscurely glazed to at least Pilkington privacy level 4 and any opening part of the window must be at least 1.7 metres above the floor level of the room. Once installed the frame and glazing are to be retained thereafter.

Reason: To safeguard the amenities of the occupiers of adjoining premises and the application house and to comply with policy GP2 of Walsall's Unitary Development Plan.

4: The walls and roof of the extension shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

5: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.



Planning Committee

Report of Head of Planning, Engineering and Transportation on 03-Oct-2019

Plans List Item Number: 10.

Reason for bringing to committee: Called in by Councillor Statham who considers that the proposal is 'not minimal'

Location: 78, IRVINE ROAD, BLOXWICH, WALSALL, WS3 2DY

Proposal: CHANGE OF USE OF COUNCIL OWNED GRASS VERGE TO CREATE DROP KERB AND DRIVEWAY SERVING 78 IRVINE ROAD.

Application Number: 19/0651

Applicant: Mr Jeffrey Clare

Agent:

Application Type: Full Application: Change of Use

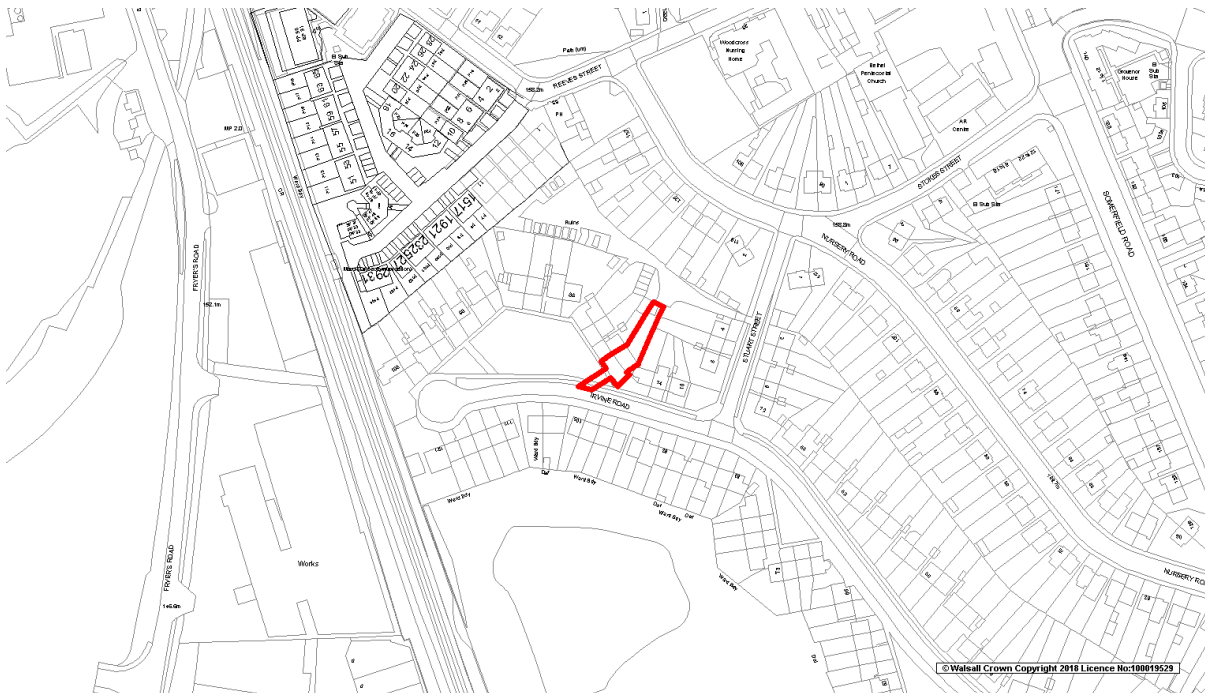
Case Officer: Jenny Townsend

Ward: Bloxwich East

Expired Date: 28-Oct-2019

Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions.



Proposal

This application is to change the use of part of a Council owned grass verge to private land and provide a driveway and dropped kerb access to allow vehicular access to the front of number 78 Irvine Road. The 1.0 metre high brick wall across the front garden of the dwelling is to be removed to accommodate parking within the curtilage of the dwelling.

The application site is at the edge of the verge and the proposed driveway would be approximately 10 metres long, 4 metres wide the dropped kerb on Irvine Road approximately 5 metres wide. The driveway would cross two footpaths around the grassed area.

The application house had vehicular access at the rear via a driveway leading to garages owned by WHG. However WHG have now denied occupiers access to this area.

Site and Surroundings

The site is in a residential area and faces onto a large triangular piece of grass verge in front of numbers 78 to 104 Irvine Road with a footpath around the edge of the land adjacent to the front gardens of these houses. The verge is owned by the Council.

There are other grass verges in Irvine Road but these are smaller than the one in front of the application house. Across two of the other verges, tarmaced driveways leading to numbers 24 and 30 and one leading to number 53 have been constructed. The one leading to number 53 has concrete bollards along each side of the driveway.. All three driveways are visible on aerial photographs taken in 2004. No planning permission has been granted for these existing driveways but due to the passage of time these are now lawful and immune from any planning enforcement action. The long driveway leading to 100 Irvine Road also has concrete bollards along each side but was granted planning permission in January 2018 with a personal licence to the current owners for use of the driveway but this would cease should they sell the property.

Relevant Planning History

None for application site. .

100 Irvine Road

17/0768 - Change of Use of part of Council owned grass verge to retain vehicular access across to no. 100 Irvine Road – GSC 05/01/2018. Committee resolved to support due to the exceptional personal circumstances of the applicants.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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development”.

Key provisions of the NPPF relevant in this case:

- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) 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. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

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

National Planning Policy Guidance

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

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act ’) sets out 9 protected characteristics which should be taken into account in all decision making.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- LC1: Urban Open Spaces

Black Country Core Strategy

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV6: Open Space, Sport and Recreation

Supplementary Planning Document

- **Designing Walsall**
- DW3 Character

Consultation Replies

Transportation – No objection subject to conditions regarding the vehicle crossover, construction of the driveway and drainage.

Asset Management -Raise no objections to the proposal provided the applicant is made aware that an easement or licence from the landowner (The Council) for which there would be a cost, would be required prior to development commencing and that the driveway would be to allow access only and not for parking. A condition for this is recommended.

Representations

None.

Determining Issues

- Character and Appearance of Area
- Loss of open space
- Transportation

Assessment of the Proposal

Character and Appearance of Area

The proposed driveway would be positioned almost at the edge of the triangular verge. The proposal would be much shorter than the driveway leading to 100 Irvine Road and a condition for the driveway to be constructed using grasscrete blocks or similar would maintain the appearance of the grassed area.

It is acknowledged that there are already tarmaced driveways nearby and over the same verge, however it is considered necessary in this instance to specify the materials for the driveway as due to the closure of the access and parking areas to the rear of the houses there is likely to be more applications for similar developments across the verge. These materials are considered would prevent the driveway having a detrimental impact on the appearance of the verge and to protect the character of the area including in the future were more applications to come forward.

On balance and in this context the proposal is considered would not harm the appearance of the area.

Loss of open space

Policy LC1 resists the development of open space (including change of use) unless the land is surplus to requirements or replacement provision is made. No special circumstances have been put forward to demonstrate that the development of the land for a private garden can be considered as an exception to these policies. In January 2018 Planning Committee approved the driveway leading to number 100 Irvine Road which is much longer than this proposal and has concrete bollards each side. The reason given was the exceptional circumstances of the applicant. Although no exceptional circumstances have been put forward for this proposal at no 78, it is considered that as this proposed driveway is much shorter and a condition for the driveway to be constructed using grasscrete or cellpave blocks is to be added so that the appearance of the grassed

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area would be maintained the proposal can be supported. On balance the relatively short length of driveway positioned at the very edge of the verge and with materials to blend in with the grass, it is considered that the proposal would not have a severe impact on the use of the open space.

Transportation

The Highway Authority does not object to this proposal as this vehicle crossing would not have an unacceptable impact on highway safety nor result in a severe cumulative impact on the road network.

Other than the dropped kerb directly onto Irvine Road the majority of this proposed vehicular crossing will not cross the public highway.

Conclusions and Reasons for Decision

The proposed driveway is considered would have minimal impact on the appearance of the area as it would be positioned at the edge of the triangular verge and is relatively short. Furthermore the use of grasscrete blocks (or similar) would look similar to the grass and prevent a detrimental impact on the appearance of the area. This would comply with saved policies GP2, ENV32 and LC1 of Walsall's UDP and DW3 of Designing Walsall SPD.

The vehicle crossing would not have an unacceptable impact on highway safety nor result in a severe cumulative impact on the road network and would comply with saved policy T7 of Walsall's UDP.

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

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant that the submitted details are acceptable and no further changes have been requested.

Recommendation

Grant Permission Subject to 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: This development shall not be carried out otherwise than in conformity with the following approved plans: -

Location plan deposited 2 September 2019;

Block plan deposited 2 September 2019;
Layout plan deposited 21 August 2019.

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

3: Prior to the parking area first coming into use, a vehicle footway crossing to align with the new access shall be installed. The new crossing shall not exceed five 900mm flat kerbs and two 900mm taper kerbs. All works within the public highway shall be in accordance with all statutory requirements.

Reason: To ensure the satisfactory completion and operation of the access, in accordance with UDP Policy GP2 and in the interests of highway safety.

4: Prior to the development first coming into use, the driveway and parking area shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2, T7 and T13.

5: The materials to be used for the proposed driveway should be grasscrete or cellpave blocks or similar to maintain the appearance of grass. Once installed the blocks shall be retained thereafter.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

6: At no time shall the driveway be used for parking. Parking is restricted to the front garden of the property only.

Reason: To define the permission.

Notes for Applicant

You will need to contact Asset Management to negotiate a separate licence or easement to allow the right to cross the Council's land. There is a cost for this consent. Please contact Asset Management on 01922 652662 for further details.



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 03-Oct-2019

Plans List Item Number: 11.

Reason for bringing to committee: Significant Community Interest

Location: 6, THREE CROWNS CLOSE, WALSALL, WS5 3AL

Proposal: FIRST FLOOR EXTENSION ABOVE GARAGE WITH GABLE ROOF.

Application Number: 19/0224

Applicant: Steve Nar

Agent: Mistry Design Services

Application Type: Full Application:
Householder

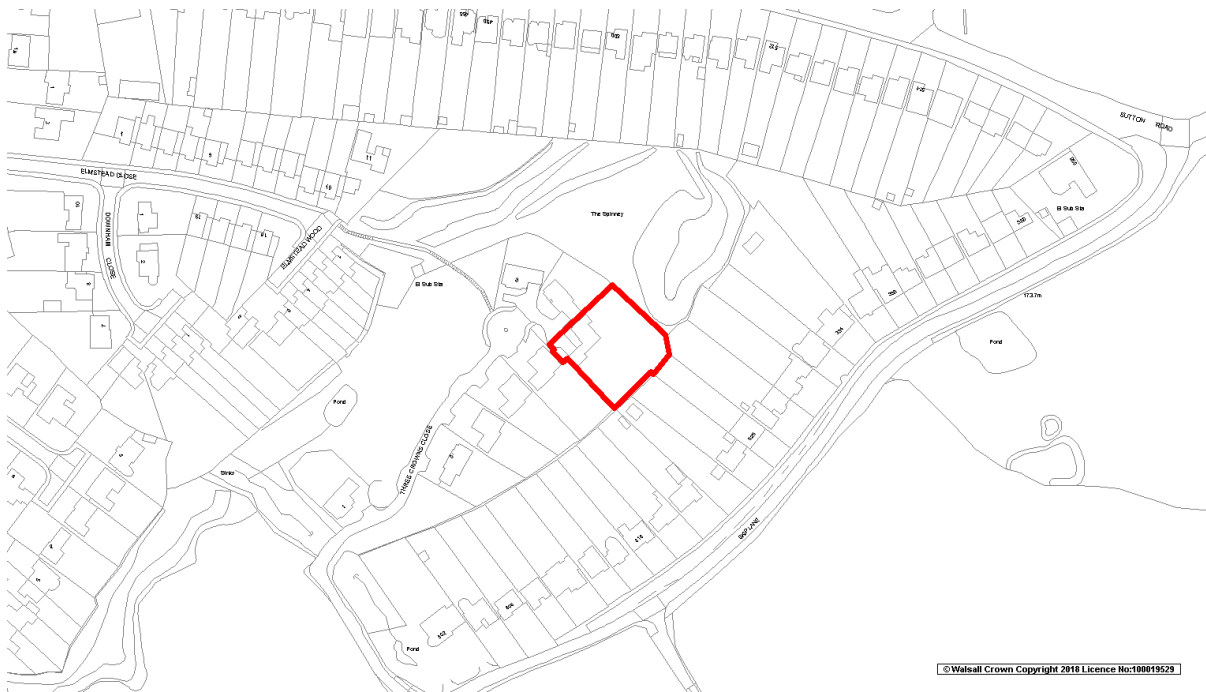
Case Officer: Baljinder Kaur

Ward: Pheasey Park Farm

Expired Date: 12-Jun-2019

Time Extension Expiry: 12-Sep-2019

Recommendation Summary: Grant Permission Subject to Conditions



Status

Whilst this planning application was recommended for refusal as there were no very special circumstances for the disproportionate additions to the dwelling forming inappropriate development in the green belt, the 11th July planning committee resolved; *That planning application 19/0224 be deferred to enable all parties to negotiate an amendment to overcome the Refusal.*

The applicant has now amended the proposal removing windows from the first floor extension, whilst raising the eaves by 0.6 metres, changed the hipped roof to a gable roof, they have increased the height of the roof by 0.2 metres from the original. Given the changes still would be considered inappropriate development in the green belt, on balance it is considered the changes are now sufficiently small enough maintain the character of the green belt and the existing dwelling. Based on the changes, it is considered on balance that the proposal can now be recommended for approval subject to the following planning conditions.

Recommendation: Grant subject to conditions

- 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.

- This development shall not be carried out other than in conformity with the following approved plans: -

Block plan deposited 15/02/19.

Existing plans & elevations (Drawing No. 201905/1) deposited 15/02/19.

Proposed plans & elevations (Drawing No. 201905/2c) deposited 25/07/19.

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).

- Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

- The walls and roof of the extension shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

-Notwithstanding the provisions of the town and country planning (general permitted development) order 1995 (as amended) (or any order revoking and/or re-enacting that order with or without modification), the roof space above the garage shall be retained as storage space only and shall not be converted to a habitable room

Reason: to minimise adverse impacts on the openness of the green belt through the urbanising impacts of higher levels of occupancy and to comply with the floor space limits imposed by condition 4 of 13/0978/OL

Conclusion and recommendation

In weighing the material planning considerations, taking into account the local and national planning guidance, it is considered that the amended proposed first floor extension would remove the proposed window and the would retain the visual look of the garage and would be set down from the main roof of the house futher reducing the proposed extension therefore the development would be considered to address the concerns regarding the detrimentally harm to the openness and character of the Green Belt. Subject to safe guarding conditions.

As such the development is considered the proposal meets the aims and objectives of the National Planning Policy Framework (paras 133-147), policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

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

Reason for bringing to committee: Public interest –and to support as development rights removed from site.

Recommendation:

Refuse

Proposal

The application seeks the following additions and alterations:

- First floor extension above existing ground floor garage.
- 5.6m deep
- 5.3m wide
- With a hipped to gable roof and a gable feature to the front elevation
- Proposed first floor extension would be for a walk in wardrobe
- 1.2m below the existing roof of the host dwelling

Site and Surroundings

The application property is a detached property located at the end of a gated cul-de-sac. The property is a detached two storey dwelling located within the Green Belt and within the

Great Barr Conservation Area. The Spinney is a site of Local Important Nature Conservation (SLINC) and is located north east and shares the boundary of the application site. The property consists of a driveway to the front of the property which provides parking for 3 to 4 cars. The application site is located in a residential area with similar styles of detached properties located on relatively large plots. The properties on Three Crowns Close do not benefit from permitted development as they were removed due to the green belt and conservation area.

Relevant Planning History

16/1217- Single storey rear extension- GSC 09/01/17. (Approved via committee).
17/0141- Resubmission of single storey rear extension- GSC 23/03/17. (Resubmission of 16/1217).
17/0322- Out building for Hydro pool and gym- GSC 21/06/17. (Approved via committee).
17/0776- Proposed hard and soft landscaping for rear garden including external boundary fence GSC – 28/07/17.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 55) 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. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.2 to 3.5 The Countryside and Green Belt

- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- ENV7: Countryside Character
- ENV29: Conservation Areas- NOTE for case officer: *Replaced by SAD Policy EN5 and AAP Policy AAPLV5-7 unless within the district centres (Aldridge, Bloxwich, Brownhills, Darlaston, Willenhall)*
- ENV32: Design and Development Proposals

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

Consultation Replies

Ecology- no comments received.

Park Hall Association- no comments received.

Beacon Action Group – no comments received.

Representations

None representations received.

Determining Issues

- Whether the development is appropriate development in the Green Belt
- Impact upon the character and appearance of the area.
- Amenity of nearby residents
- Impact on the Site of Local Importance for Nature Conservation

Assessment of the Proposal

Whether the development is appropriate development within the Green Belt

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.

Green Belt serves five 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.*

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;*
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- e) limited infilling in villages;*
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and*
- 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 have a greater impact on the openness of the Green Belt than the existing development; or – not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

Based on the current proposed extension to form a large first floor walk in wardrobe is considered to not meet the green belt exceptions listed above especially parts a, b, d, e, f and g. The proposed extension for a large first floor walk in wardrobe does not meet green belt exception. The current extension footprint of 30.2sqm's when added to the existing extensions footprint of 106.6sqm's would essentially add more than 50% footprint over and above of the original two storey house of 230 sqm's. It is considered, adding more than 50% footprint to the existing house is inappropriate disproportionate addition that would be harmful to the green belts openness and character.

Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) mineral extraction;*
- b) engineering operations;*
- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;*

- d) the re-use of buildings provided that the buildings are of permanent and substantial construction;*
- e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds);*
- and*
- f) development brought forward under a Community Right to Build Order or Neighbourhood Development Order.*

Based on the current proposal for a large first floor walk in wardrobe extension to be added to the house is considered, not to meet any of the above green belt exceptions. Consequently, the proposed extension is considered to be inappropriate development that would be harmful to the green belt.

Given the proposed first floor walk in wardrobe does not meet any of the green belt exceptions, very special circumstances would need to be demonstrated to overcome the harm to the green belt. The applicant stated their very special circumstances are 'a need for storage as the property lacks storage space'. It is considered that this is a personal need and not a very special circumstance to overcome the harm to the green belt openness and character. The Government's National Planning Policy Guidance document states; *planning is concerned with land use in the public interest, so that the protection of purely private interests, could not be material considerations*. Consequently, the applicant's very special circumstances would not meet the tests or scrutiny of Government policy for overcoming harm to the green belt. Should members of planning committee wish to support the applicant's proposal, they would have to provide very special circumstances to overcome the harm to the green belt based on land use in the public interest. Limited views within of the site or from within the green belt, are not very special circumstances or material considerations to overcome the harm to the green belt and again would not sustain scrutiny against the Government's national planning green belt policy. Consequently, in this instance, the recommendation based on national green belt policy would be to refuse the planning application.

Impact upon the character and appearance of the area

The application site is located within the Great Barr Conservation Area. The proposed first floor extension would need to be assessed in accordance with relevant planning policies as to whether the proposed extension would preserve or enhance the character or appearance of the conservation area. The existing character of Three Crowns Close consists of 8 recently built detached houses, located within large plots, designed to preserve and enhance the appearance of the conservation area. It is considered on balance, the proposed first floor extension, with additional of the rear single storey extension and the creation of a linked outbuilding to form a Hydro pool and gym would not result in additional harm or appearance of the character and appearance of the Conservation Area sufficient to warrant a refusal.

Amenity of nearby residents

The proposed first floor extension would be set 4m away from No.5 and would be located above the existing single storey garage with a hipped roof over. The proposed extension would be in accordance with the Council's 45 degree code and would therefore be considered to not have a detrimental impact on neighbour amenity.

Impact on the Site of Importance for Nature Conservation

The application site backs onto The Spinney which is a Site of Local Importance for Nature Conservation. The proposed first floor extension due to size, scale and location is not considered to have a harmful impact.

Taking the above comments into consideration the proposed first floor extension would be considered to have a harmful impact on the openness of the Green Belt and would further demonstrate inappropriate development, with VSC that fail to overcome the reasons for the harm. It is considered that the extension would result in a disproportionate addition over and above the size of the original building when combined with previously approved extensions at the house.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance, it is considered that the proposed first floor extension would create inappropriate development that would be considered to detrimentally harm the openness and character of the Green Belt.

As such the development is considered fails to meet the aims and objectives of the National Planning Policy Framework (paras 133-147), policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

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

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Requests have been made to the applicant to amend the proposal in accordance with the national and local planning policies and requested for proposed first floor extension to be in accordance with the Councils 45 degree code. It was also requested that the applicant provide 'Very Special Circumstances' to address the harm from the development within the Green Belt.

Recommendation

Reasons for Refusal

The circumstances that justified the quantum of development of this residential development were based on the footprint of the previous school and were maximised in the delivery of the eight houses. This house has since gained planning approval to extend and combined with the current proposed extension would result in disproportionate additions over and above the size of the original building. The proposal is inappropriate development in the Green Belt for which no very special circumstances, sufficient to outweigh the harm to the openness of the Green Belt have been demonstrated. Accordingly the proposal is contrary to the aims and objectives of the National Planning

Policy Framework, policy CSP2 of the Black Country Core Strategy and policies 3.3 and ENV2 of the Walsall Unitary Development Plan.