



# Walsall Council

## PLANNING COMMITTEE

THURSDAY 6 October, 2016 AT 5.30 p.m.

In the Council Chamber at the Council House

### MEMBERSHIP:

Councillor M. Nazir (Chairman)  
Councillor Worrall (Vice Chairman)  
Councillor Barker  
Councillor Bird  
Councillor P. Bott  
Councillor Chambers  
Councillor Craddock  
Councillor Creaney  
Councillor Douglas-Maul  
Councillor S. Fitzpatrick  
Councillor Follows  
Councillor Harris  
Councillor Jones  
Councillor Nawaz  
Councillor Perry  
Councillor Rochelle  
Councillor Sarohi  
Councillor I. Shires  
Councillor Sohal  
Councillor Young

### QUORUM:

Seven Members

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Democratic Services, The Council House, Lichfield Street, Walsall, WS1 1TW  
Contact Name: **Mrs Mycock** Telephone (01922) **654762** Fax: (01922) 654301  
[www.walsall.gov.uk](http://www.walsall.gov.uk)

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please contact the person above

# AGENDA

## PART I - PUBLIC SESSION

1. Apologies.
2. Minutes – 1 September, 2016 - copy **enclosed**.
3. Declarations of Interest.
4. Deputations and Petitions.
5. **Local Government (Access to Information) Act, 1985 (as amended):**  
  
To agree that the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
6. Application to Crown Reduce Two Maple Trees By 10.0m At 8 Fennel Grove, Streetly, Sutton Coldfield, B74 3QY – report of the Head of Planning, Engineering & Transportation – copy **enclosed**
7. Application List for Permission to Develop:
  - a) Items subject to Public Speaking;
  - b) Items 'Called-in' by Members
  - c) Items not subject to 'Call-in'  
- copy **enclosed**

## **PLANNING COMMITTEE**

**Thursday 1<sup>st</sup> September, 2016 at 5.30 pm**

**In the Council Chamber at the Council House, Walsall**

### **Present:**

Councillor Nazir (Chairman)  
Councillor Worrall (Vice Chair)  
Councillor Barker  
Councillor Bird  
Councillor P. Bott  
Councillor Chambers  
Councillor Craddock  
Councillor Creaney  
Councillor Douglas-Maul  
Councillor S. Fitzpatrick  
Councillor Follows  
Councillor Harris  
Councillor Nawaz  
Councillor Rochelle  
Councillor Sarohi  
Councillor Shires  
Councillor Sohal  
Councillor Young

### 1555/16 **Apologies:**

Apologies for non-attendance were submitted on behalf of Councillors Jones and Perry.

### 1556/16 **Minutes**

#### **Resolved**

That the minutes of the meeting held on 4 August, 2016, a copy having been previously circulated to each Member of the Committee, be approved and signed as a true record.

### 1557/16 **Declarations of Interest**

Councillor Barker declared a non-pecuniary interest in plans list item number 5 – application number 16/0057 – first floor front extension at 3.8m long (additional 1.8m above that approved under 07/1217/FL/NB), replacement pitched roof, internal layout alternations and amended associated external window and door positions and roof-light to front (re-submission of 15/1433) at 17 Greaves Close, Walsall, WS5 3QT

1558/16 **Deputations and Petitions**

There were no deputations introduced or petitions submitted

1559/16 **Local Government (Access to information) Act, 1985 (as amended)**

There were no items to be considered in private session

1560/16 **39 Shire Ridge, Walsall Wood, Walsall, WS9 9RA**

The report of the Head of Planning, Engineering and Transportation was submitted.

(see annexed)

The Members considered the report and Councillor Bird **moved** and it was duly **seconded** by Councillor Barker:-

- i. That authority be granted to the Head of Planning, Engineering and Transportation to issue an Enforcement Notice under the Town and Country Planning Act 1990 (as amended), to require remedial actions to be undertaken as shown in 2.3 of the report
- ii. That authority be granted to the Head of Planning, Engineering and Transportation to institute prosecution proceedings in the event of non-compliance with an Enforcement Notice with the non-return of requisitions for information or a planning contravention notice; and the decision as to the institution of the injunctive proceedings in the event of a continuing breach of planning control
- iii. That authority be granted to the Head of Planning, Engineering and Transportation to amend, add to, or delete from the wording set out in the report stating the nature of the breaches the reasons for taking enforcement action, the requirements of the notice, or the boundaries of the site, in the interests of ensuring the accurate and up to date notices are served.

The Motion having been put to the vote was declared **carried**, with all Members voting in favour.

**Resolved**

- i. That authority be granted to the Head of Planning, Engineering and Transportation to issue an Enforcement Notice under the Town and Country Planning Act 1990 (as amended), to require remedial actions to be undertaken as shown in 2.3 of the report
- ii. That authority be granted to the Head of Planning, Engineering and Transportation to institute prosecution proceedings in the event of non-compliance with an Enforcement Notice with the non-return of

requisitions for information or a planning contravention notice; and the decision as to the institution of the injunctive proceedings in the event of a continuing breach of planning control

- iii. That authority be granted to the Head of Planning, Engineering and Transportation to amend, add to, or delete from the wording set out in the report stating the nature of the breaches the reasons for taking enforcement action, the requirements of the notice, or the boundaries of the site, in the interests of ensuring the accurate and up to date notices are served.

1561/16 **Hawthorns, Erdington Road, Aldridge (formally Baytree House)**

The report of the Head of Planning, Engineering and Transport was submitted.

(see annexed)

The Planning Officer advised Committee of the background to the report and informed Members that officers had engaged with the operators of the Hawthorns to secure a Section 106 agreement.

The Committee then proceeded to discuss the report further, which included the lack of car parking, whether local community groups were using the building as a meeting venue thus exacerbating the parking problem and that the Section 106 Agreement should return to Planning Committee for discussion.

*Councillor Creaney arrived at this juncture of the meeting and therefore did not take part nor vote on this item.*

Members considered the report further and Councillor Chambers **moved** and it was duly **seconded** by Councillor Craddock:-

That the report be noted and a final update on the completion of the S.106 to be provided at the 17<sup>th</sup> November meeting prior to signing

The Motion, having been put to the vote was declared **carried**, with all Members voting in favour.

**Resolved**

That the report be noted and a final update on the completion of the S.106 to be provided at the 17<sup>th</sup> November meeting prior to signing

1562/16 **100 Whitehorse Road, Brownhills, WS8 7PG**

*Councillor Harris left at this juncture of the meeting.*

The Planning Officer advised Committee of the background to the report and supplementary paper now submitted

(see annexed)

Members considered the enforcement report and Councillor Bird **moved** and it was duly **seconded** by Councillor Nawaz:-

- i. That authority be granted to the Head of Planning, Engineering and Transportation to issue an Enforcement Notice under the Town and Country Planning Act 1990 (as amended), to require remedial actions to be undertaken as shown in 2.3 of the report
- ii. That authority be granted to the Head of Planning, Engineering and Transportation to institute prosecution proceedings in the event of non-compliance with an Enforcement Notice with the non-return of Requisitions for Information or a Planning Contravention Notice; and the decision as to the institution of the Injunctive proceedings in the event of a continuing breach of planning control
- iii. That authority be granted to the Head of Planning, Engineering and Transportation to amend, add to, or delete from the wording set out in the report stating the nature of the breach(es) the reason(s) for taking enforcement action, the requirement(s) of the Notice, or the boundaries of the site, in the interests of ensuring the accurate and up to date notices are served.

The Motion having been put to the vote was declared **carried**, with all Members voting in favour.

### **Resolved**

- i. That authority be granted for the Head of Planning, Engineering and Transportation to issue an Enforcement Notice under the Town and Country Planning Act 1990 (as amended), to require remedial actions to be undertaken as shown in 2.3 of the report
- ii. That authority be granted to the Head of Planning, Engineering and Transportation to institute prosecution proceedings in the event of non-compliance with an Enforcement Notice with the non-return of Requisitions for Information or a Planning Contravention Notice; and the decision as to the institution of the Injunctive proceedings in the event of a continuing breach of planning control
- iii. That authority be granted to the Head of Planning, Engineering and Transportation to amend, add to, or delete from the wording set out on the report stating the nature of the breach(es) the reason(s) for taking enforcement action, the requirement(s) of the Notice, or the boundaries of the site, in the interests on ensuring the accurate and up to date notices are served.

1563/16 **Development Management Performance Update Report**

The Planning Group Manager advised Committee of the background to the report and the supplementary paper now submitted.

(see annexed).

The Planning Group Manager make particular reference to and explained in detail the reasons for the performance figures for April to June in relation to the speed of determining 'Other Applications' within the 8 week timescale. He reported that the addition of three temporary staff had now addressed the backlog and that a short-listing process for two planning officer posts would commence the next day.

*Councillor Harris returned to the room at this juncture of the meeting.*

The Planning Group Manager then highlighted a number of decisions made by the Planning Inspectorate which had not decided in accordance with Council's decision.

Members considered the report further including the constraints experienced within the planning department due to staffing issues, that the Planning department is a professional, front facing service which had to be maintained and monitored to avoid future slippage of service.

**Resolved**

That the report be noted.

1564/16 **Application List for Permission to Develop**

The application list for permission to develop was submitted together with supplementary papers and information for items already on the plans list.

(see annexed)

The Committee agreed to deal with the items on the agenda were members of the public had previously indicated that they wished to address the Committee. The Chair at the beginning of each item for which there were speakers advised of the procedure whereby the speaker would have three minutes to speak and after two minutes they would be advised they had one minute left.

The Chair advised Committee a request had been made that afternoon by ITV/Central News to film within the Council Chamber during deliberation of Plans List item 1. Due to the short notice, the Chair had refused the request as he believed the request had been made too late to accommodate at such short notice.

1565/16 **Item No. 1 – application number 16/0465 – variation of condition 4 of planning permission 07/0046/WA/E1 to allow additional 9.2 years until 31/12/2025 to complete the existing approved scheme for the phased filling and restoration of Highfields South Quarry to create open space at Highfields South Quarry, Walsall Road, Walsall Wood, Walsall, WS9 9AH**

The Planning Officer advised Committee of the background to the report now submitted and advised Committee the application had been deferred at the meeting on 7<sup>th</sup> July, 2016 at the request of both the applicant and a resident who had been due to speak against the application, to enable further discussions to take place to address concerns.

(see annexed)

The Committee then welcomed the only speaker on this application, Mr Owen, who spoke in support of officer's recommendation.

There then followed a period of questioning by Members to the speaker and to officers which included what the likely outcome of the site would be should Committee be minded to refuse the consent; what mitigation measures were in place for Woodbridge Close and the wider area; whether there were any plans to extract any clay and if the site generated electricity.

In response, the speaker stated that should consent be refused the site would effectively be left derelict, the applicant was keen to improve links and engage with the local community through regular meetings in relation to resolving issues; that no clay would be extracted, an area between the site and the residential homes would remain, and that landfill gas was extracted by the owners of the company.

The Committee then proceeded to discuss the application in detail and Councillor Bird **moved** and it was duly **seconded** by Councillor Harris:-

That planning application no. 16/0465 be granted, subject to conditions as contained within the report

The Motion having been put to the vote was declared **carried**, with twelve Members voting in favour and one against.

**Resolved**

That planning application number 16/0465 be granted, subject to conditions as contained within the report

*Councillor Sohal left the room at this juncture of the meeting.*

1566/16 **Item No. 8 – application number 16/0737 – retention of an existing fence and shed with alternations at 35 Northgate, Aldridge, Walsall, WS9 8QF**

The Planning Officer advised Committee of the background to the report now submitted



(see annexed)

The Committee then welcomed the first speaker on this application, Mrs Turner, who spoke in objection to the officer's recommendation.

The Committee then welcomed the second speaker on this application, Mrs Smith, who also spoke in objection to the officer's recommendation.

There then followed a period of questioning by Members to the speakers and to officers in relation to the fencing, shrubbery, and the visibility problems experienced by a neighbour. In response, officers confirmed the measurements and guidelines for visibility had been met, planning consent was not required for border vegetation, hedges or fencing up to 1m in height, and that any open plan area issue would be a civic law matter. The Public Rights of Way Team Leader confirmed that a Highways Officer would review the overhanging foliage alongside the property.

The Committee then proceeded to discuss the application further and Councillor Bird **moved** and it was duly **seconded** by Councillor Nawaz:-

That planning application number 16/0737 be granted, subject to conditions as contained within the report now submitted.

The Motion, having been put to the vote was declared **carried** with ten Members voting in favour and four against.

### **Resolved**

That planning application number 16/0737 be granted, subject to conditions as contained within the report now submitted.

*Councillor Sohal returned to the meeting.*

### 1567/16 **Item No. 2 – application number 14/1754/FL - erection of 14 x 2 bedroom flats at former Millfields Nursery School Site, Stoney Lane/Lichfield Road, Bloxwich, WS3 3LU**

Members requested this item be discussed albeit no speakers had indicated that they wished to speak on the item.

The Committee then proceeded to discuss the application in detail, which included the parking requirements and the accessibility of waste disposal vehicles.

Following further consideration, Councillor Young **moved** and it was duly **seconded** by Councillor Shires:-

That planning application no. 15/0385/OL be deferred to enable clarification on how waste disposal will be managed to ensure there is no highway danger.

The Motion having been put to the vote was declared **carried**, with nine Members voting in favour and three against.

**Resolved**

That planning application no. 15/0385/OL be deferred to enable clarification on how waste disposal will be managed to ensure there is no highway danger.

- 1568/16 **Item No. 3 – application number 16/0659 – amendment of condition 33C of planning permission 02/2417/OL/E2 to include “or any other use approved by the Local Planning Authority” at former St. Margaret’s Hospital, off Questlett Road, Great Barr, Walsall**

**Resolved**

That planning application number 16/0659 be granted, subject to conditions as contained within the report and supplementary paper now submitted, and subject to a Deed of Variation to the original Section 229A Agreement (equivalent to a Section 106 Agreement) to secure the outstanding provisions within the Agreement.

- 1569/16 **Item No. 4 – application number 16/0433 – change of use to A5 (Hot Food Takeaway) with ancillary seating and new ventilation duct at 175 Wednesbury Road, Walsall, WS2 9QL**

**Resolved**

That planning application number 16/0433 be granted, subject to conditions as contained within the report and supplementary paper now submitted.

- 1570/16 **Item No. 5 – application number 16/0057 – first floor front extension at 3.8m long (additional 1.8m above that approved under 07/1217/FL/NB), replacement pitched roof, internal layout alternations and amended associated external window and door positions and roof light to front (re-submission of 15/1433) at 17 Greaves Close, Walsall, WS5 3QT**

**Resolved**

That planning application number 16/0057 be granted, subject to conditions as contained within the report and supplementary paper now submitted.

1571/16 **Item No. 6 – application number 16/0416 – retrospective Single storey 6.2 metres deep rear extension at 44 Anson Road, Bentley, Walsall, WS2 0DH**

**Resolved**

That planning application number 16/0416 be delegated to the Head of Planning, Engineering and Transportation to grant permission, subject to conditions as contained within the report and supplementary paper now submitted and subject to no new material planning considerations being raised.

1572/16 **Item No. 7– application number 16/0622 – first floor front gable extension over garage and single storey side extension a 2 Blue Cedar Drive, Aldridge, Walsall, B74 2AF**

**Resolved**

That planning application number 16/0622 be refused for the reasons as set out within the report now submitted

1573/16 **Item no. 9 – application number 16/0578 – two storey side/rear extension and single storey rear extension at 39A Inglewood Grove, Streetly, Sutton Coldfield, B74 3LL**

**Resolved**

That planning application number 16/0578 be granted, subject to conditions as contained within the report now submitted.

**Termination of meeting**

There being no further business, the meeting ended at 7.50pm

Signed .....

Date .....



**PLANNING COMMITTEE: –**

06 October 2016

REPORT OF THE HEAD OF PLANNING, ENGINEERING & TRANSPORTATION.

**APPLICATION TO CROWN REDUCE TWO MAPLE TREES BY 10.0m AT 8 FENNEL GROVE, STREETLY, SUTTON COLDFIELD, B74 3QY.**

**1. PURPOSE OF REPORT**

To seek the determination of the application to crown reduce by 10.0m two Maple trees at No. 8 Fennel Grove, B74 3QY as proposed in application 16/0827 which are protected by Tree Preservation Order title no. 05/2003 (T2 and T3 on the TPO schedule). The application form labels the two Maple trees as T3 and T4 and these labels will be used when referencing the trees throughout the rest of the report.

This application has been brought to Planning Committee due to local interest.

**2. RECOMMENDATIONS**

The Committee is recommended to:

- To refuse consent to crown reduce the two Maple trees T3 and T4 by 10.0m but give consent for the removal of the lowest branch on the south side back to the main stem of Maple T3 that extends towards the applicant's house roof and overhead BT line and to remove any remaining secondary lateral branches back to suitable pruning points to give approximately 2.0m clearance from the roof. In addition, to reduce any lateral branches from Maple T4 back to suitable pruning points that are encroaching towards the applicant's house roof to give approximately 3.0m clearance.

**3. FINANCIAL IMPLICATIONS**

In limited cases, compensation may be payable if an application for tree works is refused by the council.

**4. POLICY IMPLICATIONS**

Applications to carry out works to protected trees are determined in accordance with legislation and government guidance. There are no council policy implications from this application.

5. **LEGAL IMPLICATIONS**  
Failure to comply with the law relating to Tree Preservation Order legislation renders anyone carrying out unauthorised works to trees liable to criminal proceedings.
6. **EQUAL OPPORTUNITY IMPLICATIONS**  
None arising from this report.
7. **ENVIRONMENTAL IMPACT**  
The management of Walsall's tree cover through the administration of the Tree Preservation Order system has positive implications in protecting trees for their visual and environmental benefits. Removal of protected trees is often necessary because trees have a finite lifespan and may also cause nuisance or damage. In these instances the Council has to decide whether the removal of protected trees is justified. In the event that felling a tree is permitted, the Council can secure replacement planting to maintain tree cover.
8. **WARD(S) AFFECTED**  
This application is situated within Streetly ward.
9. **CONSULTEES**  
Near neighbours in Fennel Grove and Mayfield Road were consulted on this application.
10. **CONTACT OFFICER**  
Andrew Cook - Extension: 4740
11. **BACKGROUND PAPERS**  
File reference 16/0827

**Steve Pretty**  
HEAD OF PLANNING, ENGINEERING & TRANSPORTATION

## BACKGROUND REPORT: –

06 October 2016

### **APPLICATION TO CROWN REDUCE TWO MAPLE TREES BY 10.0m AT 8 FENNEL GROVE, STREETLY, SUTTON COLDFIELD, B74 3QY.**

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#### **REPORT DETAIL**

**Application number:** 16/0827

**Applicant:** Mr. Christopher Brock, 8 Fennel Grove, Streetly, Sutton Coldfield, B74 3QY.

**Date received:** 26 May 2016

**Expiry date:** 11 September 2016

***Reason for bringing to committee:*** This application has been brought to Planning Committee as a result of 6 representations from local residents.

#### **Application and Site Details**

This is an application to crown reduce by 10.0m two Maple trees at 8 Fennel Grove, Streetly, B74 3QY that are protected by Tree Preservation Order title no. 05/2003.

#### **Policy Guidelines**

**National guidance** explaining the regulations governing Tree Preservation Orders can be found in the National Planning Policy Framework, Planning Practice Guidance -Tree Preservation Orders and trees in Conservation Areas (updated 06 March 2014).

#### **Relevant Planning History**

One previous application 09/1442/TR to crown lift Maple T3 to give 4.0m clearance above ground level and Maple T4 to crown lift to give 5.0m clearance Above ground level which was given consent.

#### **Determining Issues**

The Council has to decide if the proposed crown reduction by 10.0m of the two Maples will adversely affect the amenity of the neighbourhood and whether such works can be justified having regard for the reasons put forward in support of them and the representations received.

## Representations

A total of 6 representations have been received from local residents all in support of the application.

The reasons given in support of the application include:

- Lack of sunlight into the properties.
- Leaf litter blocking gutters.
- Bird droppings on cars and drives.
- The trees are too big and out of character with the neighbourhood and parts of Streetly.
- Too close to the houses causing safety issues from falling branches.
- The trees threaten the structural integrity of the houses.
- The trees are a danger to the public and property.
- Branches touching overhead BT lines.
- Birds make too much noise waking residents in the early morning.

Most of the representations relate to the loss of light, leaf litter and danger to properties.

## Observations

The two Maples proposed for a crown reduction of 10.0m are situated in the front and rear garden of the applicant's property at 8 Fennel Grove, B74 3QY.

The trees are protected by Tree Preservation Order title no. 05/2003 which was originally made in response to a planning application for housing development in 2003 on the former Buccaneer public house site. Subsequent applications 07/2658/FL for nine four bed detached houses (granted 2008), 09/1567/FL for the removal of condition 12 relating to vehicle access (granted 2009) and 10/1122/FL (granted 2011) for a further four detached houses with garages have been given consent and subsequently built forming Fennel Grove. Condition 8 of the planning consent for application 10/1122/FL made provision for the protection of the retained trees on site protected by Tree Preservation Order which included the two Maples which are the subject of this application.

A site visit was undertaken on Tuesday 13 September 2016 by the Council's tree officer and each of the trees was inspected individually from ground level only. The trees are labelled T3 and T4 on the application form and during the site inspection the following observations were made:

T3 – Maple – a mature tree situated in the front garden North West of the applicant's house approximately 4.4m away from the front elevation. The tree is approximately 16.0m in height and has a crown spread of approximately 9.0m. There is evidence of previous works having been undertaken to the tree in accordance with a previous consent. A small secondary branch is nearly touching the overhead BT line supplying the applicant's house and the lower crown extends to within approximately 0.5m of the house roof. The crown of the tree is a little sparse with small dead wood evident

throughout. In addition, the crown is not as dense as would be expected from a healthy tree of this species and age indicating that physiologically the tree is not currently classed as good but fair. However, structurally the tree appeared in good condition with no evidence of large cavities, disease or decay. Its current physiological condition is likely as a result of the recent development of Fennel Grove; however, the likelihood is that the tree will recover given time.

T4 – Maple – a mature tree situated South East of the applicant's house in the rear garden approximately 7.5m away from the rear elevation. The tree is approximately 15.0m in height and has a crown spread of approximately 10.0m. The crown extends to within 1.5m of the applicant's house and also extends over the boundary into neighbouring properties at 9 Mayfield Road and 7 Fennel Grove by up to 2.0m in places. However, the lower crown of the tree has been severely reduced where it extends over these two neighbouring properties leaving large stubs which have generated dense re-growth in response and have evidence of minor decay. These works were done in 2013 without Council consent and are not in accordance with good practice as detailed in *British Standards 3998:2010 Tree works – Recommendations*. Despite the poor pruning works from a ground inspection the tree appears to be in good physiological and structural condition with no significant faults or defects evident.

The proposal is to crown reduce the two Maple trees by 10.0m. However, this is excessive and would remove the majority of the leaf cover and branch structure of the trees. This is not in accordance with good practice as detailed in *BS 3998: 2010 Tree works – Recommendations* and would leave the trees with significant pruning wounds which would be highly susceptible to disease and decay and consequently reduce their lifespan significantly. This is particularly relevant to Maple T3 in the applicant's front garden as its ability to cope with anything other than minor pruning has been compromised due to its current reduced vigour. Should such severe crown reduction works be undertaken to Maple T3 at this time it is likely to enter into a terminal decline. Whilst Maple T4 is physiologically in better condition than Maple T3 such severe pruning works would also be detrimental to its long term health. The tree will use valuable stored energy to regenerate a new crown but have little or none in reserve to defend against disease and decay entering the large pruning wounds. Another consideration is that the unions of the resultant re-growth that would be generated around the large pruning wounds would be weaker than those on a tree whose crown hadn't been reduced. Consequently, as the branches increase in size and weight they are more likely to fail. Crown reduction of Maple T4 to any extent would not be recommended as due to its form there are insufficient suitable pruning points to reduce the tree in accordance with best practice. In addition, the public amenity provided by the two Maple trees which extends beyond Fennel Grove and neighbouring properties will be destroyed by such severe 10.0m crown reductions. Consequently my recommendation is to refuse the application to reduce the crowns of the two Maples by 10.0m. However, I consider some minor pruning works would be appropriate that would reduce the crowns encroaching towards the house and also clear the overhead BT line. With this in mind my recommendation is to give consent for the removal of the lowest branch on the south side back to the main stem of Maple T3 that extends towards the applicant's house roof and overhead BT line and to remove any remaining secondary lateral branches back to suitable pruning points to give approximately 2.0m clearance from the roof. My recommendation for



Maple T4 is to reduce any lateral branches back to suitable pruning points that are encroaching towards the applicant's house roof to give approximately 3.0m clearance.

In response to the 6 representations of support from residents of Fennel Grove and Mayfield Drive the Council make the following comments:

- Maple tree T3 in the applicant's front garden is situated north west of the houses on Fennel Grove and Mayfield Close and consequently does not obstruct direct sunlight into the properties. Due to its orientation south east Maple T4 in the applicant's rear garden does block direct sunlight into the house and property and also the neighbouring properties at 9 Mayfield Road and 7 Fennel Grove, however, it is not considered excessive and is for part of the day only.
- From a ground inspection both trees appear to be in good structural condition with no disease or significant decay present and there is no evidence to suggest they are an imminent danger to persons or property.
- No fallen branches were evident during the site visit and the Council have not received any reports in the past regarding falling branches from the two Maples.
- There is no evidence to suggest that the two Maple trees have caused or will cause structural damage to the houses in the future.
- Whilst birds fouling the properties and making a noise could be considered a nuisance they are outside the control of the Council.
- The clearing up of leaf litter from gutters whilst an inconvenience is considered part of normal property maintenance.
- The trees are an important part of the landscape character of the area and have a demonstrable amenity value.
- Encroachment of the Maple tree T3 onto overhead BT lines can be remedied by minor pruning works.

### Recommendation

To refuse consent to crown reduce the two Maple trees T3 and T4 by 10.0m but give consent for the removal of the lowest branch on the south side back to the main stem of Maple T3 that extends towards the applicant's house roof and overhead BT line and to remove any remaining secondary lateral branches back to suitable pruning points to give approximately 2.0m clearance from the roof. In addition, to reduce any lateral branches from Maple T4 back to suitable pruning points that are encroaching towards the applicant's house roof to give approximately 3.0m clearance.

### Conditions and Reasons (or reasons for refusal)

Walsall Metropolitan Borough Council, as Local Planning Authority, hereby **refuses consent** for the following works as shown in this application;

- To crown reduce by 10.0m the two Maple trees at 8 Fennel Grove, B74 3QY.

For the following reasons;

- The proposed crown reductions are excessive removing the majority of the leaf bearing branch structure which would result in significant pruning wounds leaving the trees more susceptible to disease and decay.
- The works are not in accordance with good practice as detailed in *British Standard 3998: 2010 Tree works – Recommendations*.
- Maple T4 is currently of reduced vigour from which it is likely to recover, however, such a severe crown reduction at this time is highly likely to result in its terminal decline.
- The unions of the resultant re-growth that would be generated around the large pruning wounds would be weaker than those on a tree whose crown hadn't been reduced. Consequently, as the branches increase in size and weight they are more likely to fail.
- The trees have a demonstrable amenity value and such a severe crown reduction will significantly reduce the public visual amenity the trees currently provide.

Walsall Metropolitan Borough Council, as a Local planning Authority, hereby **grants consent** for the following works;

Front garden:

- T3 – Maple – to remove the lowest branch on the south side back to the main stem and remove any secondary lateral branches encroaching towards the house roof back to suitable pruning points to give approximately 2.0m clearance.

Rear garden:

- T4 – Maple – to reduce any lateral branches encroaching towards the applicant's house roof back to suitable pruning points to give approximately 3.0m clearance.

Subject to the following conditions;

1. All tree surgery shall be carried out by a person who is appropriately insured and competent in such operations.

*Reason:* To ensure a satisfactory standard of work.

2. All tree surgery work shall be completed in accordance with British Standard B.S. 3998:2010 Tree work – Recommendations.

*Reason:* To protect the health and appearance of the tree(s) in the interest of maintaining the amenity of the area.

3. This permission expires 2 years from the date of the decision and any works not undertaken by the date of expiry shall be the subject of a further application.

*Reason:* In order to give the Local Planning Authority an opportunity of reassessing the condition of the trees in the event of works not being carried out.

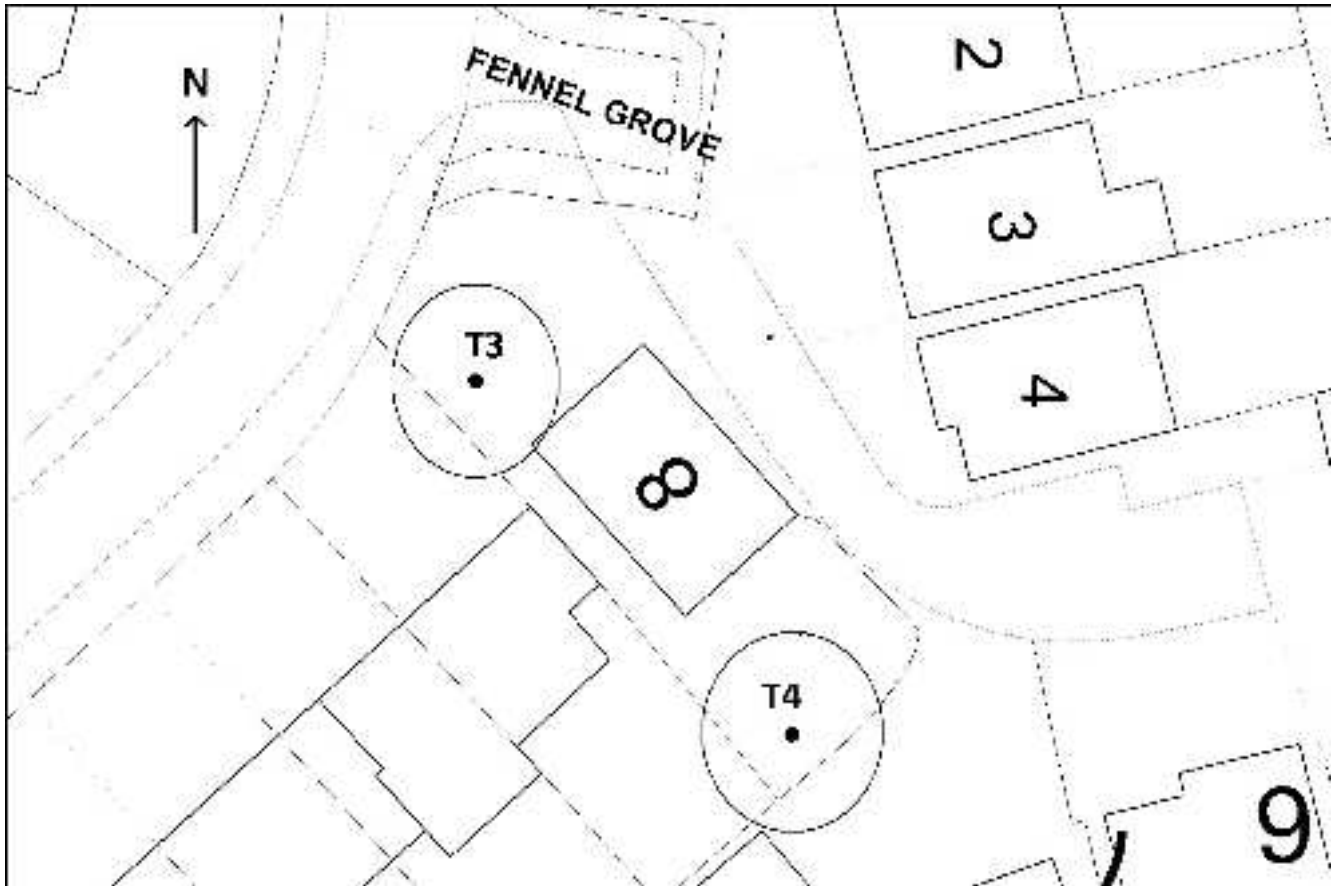
Note to Applicant;

1. All 18 species of bat found in Britain are fully protected under the Wildlife and Countryside Act 1981 (as amended by National and European legislation). The applicant must inspect the trees for the presence of bat activity. If bats are discovered during inspection or subsequent work, all work must cease immediately and Natural England must be informed. They can be contacted on 0845 600 3078.
2. You may remove deadwood under Regulation 14(b) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 as this operation is exempt from the need to obtain formal planning permission.

**SITE PLAN**

**APPLICATION TO CROWN REDUCE BY 10.0m TWO MAPLE TREES AT 8 FENNEL GROVE, STREETLY, SUTTON COLDFIELD, B74 3QY.**

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Development Management - Planning Committee  
Report of Head of Planning, Engineering and Transportation, Economy and  
Environment Directorate on 6th October 2016

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## Contents Sheet

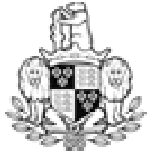
<b>Item No</b>	<b>Page No</b>	<b>Application Number</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Recommendation</b>
1	1	15/1910	Former Glynwebb Premises, Keyway Retail Park, Armstrong Way, Willenhall, WV13 2QU	Variation of condition 2 of permission BC54062P to vary the range of goods sold.	Grant permission subject to conditions
2	13	16/0150	Former Glynwebb Premises, Keyway Retail Park, Armstrong Way, Willenhall, WV13 2QU	External alterations to existing retail (Class A1) unit including removal of 1 no. customer entrance; re-configured car parking layout; erection of pump house and sprinkler tank and associated works.	Grant Permission Subject to Conditions
3	23	12/1343/FL	B & M RETAIL UNIT, REEDSWOOD RETAIL PARK, WALSALL	Variation of condition B40(D) of planning permission BC37150P (Reedswood Retail Park) to widen the sale of goods restriction to allow the sale of ambient food and drink from not more than 10% of the sales area upto a maximum of 235sq.m.	Grant Permission Subject to Conditions

4	35	15/1838	UNIT 3, BESCOT RETAIL PARK, BESCOT CRESCENT, WALSALL, WS1 4SB	Variation of condition 5(d) of planning permission BC42920P to allow an extended range of non-food goods to be sold.	Grant Permission Subject to Conditions
5	47	16/0598	TRAVIS PERKINS, QUEEN STREET SAWMILLS, QUEEN STREET, WALSALL, WS2 9PE	Change of use from Timber Merchants to B1,B2 & B8	Grant Permission Subject to Conditions
6	53	15/0759/FL	ROAPP HALL, DORSETT ROAD TERRACE, DARLASTON, WEDNESBURY, WS10 8TP	Construction of 6 no two bedroom flats and 5 no. one bedroom flats in a three storey building with associated parking, bin store and cycle store.	Grant Subject to Conditions and Delegate to the Head of Planning, Engineering and Transportation to complete a section 106 agreement for affordable housing and open space contribution.
7	71	16/1000	LAND C/O BILSTON STREET AND CHURCH STREET, DARLASTON	Demolish existing apartment building and construct new 9 x 1 bed and 9 x 2 bed apartments.	Grant permission subject to conditions and subject to a S106 Agreement to secure provision for affordable housing.
8	95	16/0807	VIGO UTOPIA LANDFILL SITE, COPPICE LANE, WALSALL WOOD, WALSALL.	Amendments to permission 12/1189/WA to allow reduction in height of process tanks, replace 2 large tanks with smaller tanks, increase size of control cabin and change to layout and landscaping (amend conditions 3 and 5).	Grant Permission Subject to Conditions

9	103	15/1266	FORMER ABBERLEY HOTEL, 27-31, BESCOT ROAD, WALSALL, WS2 9AD	Change of use from hotel (Use Class C1) to 32-bedrooms for more than 6 unrelated people living in a property sharing basic facilities (sui generis use) including associated works to car park and landscaping.	Grant Permission Subject to Conditions
10	113	16/0975	, 108, WALSALL ROAD, DARLASTON, WEDNESBURY, WS10 9JX	Change of use to an 8 bedroom house with shared basic facilities for unrelated individuals (sui generis use)	Grant permission subject to conditions
11	123	16/0997	Rushall Park, Rowley Place, RUSHALL, WS4 1LR	Retrospective: Amendments to planning permission 15/0257/FL (proposed skate park) in regard to height and layout.	Grant permission subject to conditions
12	129	16/1145	9-11, PARK STREET, WALSALL, WS1 1LY	Change of use to Mecca electronic bingo centre with ancillary food and drink operation; alterations to entrance doors; and erection of air conditioning compressors.	Grant permission subject to conditions
13	137	16/1057	REAR 454, SUTTON ROAD, WALSALL, WS5 3AZ	Retrospective: Retention of detached house including omission of previous approved integral garage.	Grant permission subject to conditions.

14	147	15/1923	Limekiln, Northgate, ALDRIDGE, WALSALL, Walsall, WS9 8BD	Substantial demolition and extension to existing public house to create retail shop (A1), including ATM, revised parking, service and storage arrangements.	Grant Permission Subject to Conditions
15	163	15/1229	Land adjacent 21A Millfield Avenue, Bloxwich, Walsall, WS3 3QS	Proposed construction of 3 no. apartments.	To confirm the Council's recommendation to refuse consent on this non determination appeal
16	173	16/0601	56, Charlemont Road, Walsall, Walsall, WS5 3NQ	Two storey and single storey rear extensions with rear patio area (Resubmission of 15/1802).	Grant Permission Subject to Conditions
17	187	16/0816	1A, THE GRANARY, ALDRIDGE, WALSALL, WS9 8NY	Ground floor rear extension to kitchen	Grant Permission Subject to Conditions
18	193	16/0760	31 , Berryfields, ALDRIDGE, WS9 0EL	Double storey side and rear extension and single storey rear.	Refuse
19	199	16/0800	47 , Moorfields Close, ALDRIDGE, WS9 8BP	Conversion of existing garage to habitable room	Grant Permission Subject to Conditions





## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 1.**

### Reason for bringing to committee: Major Application

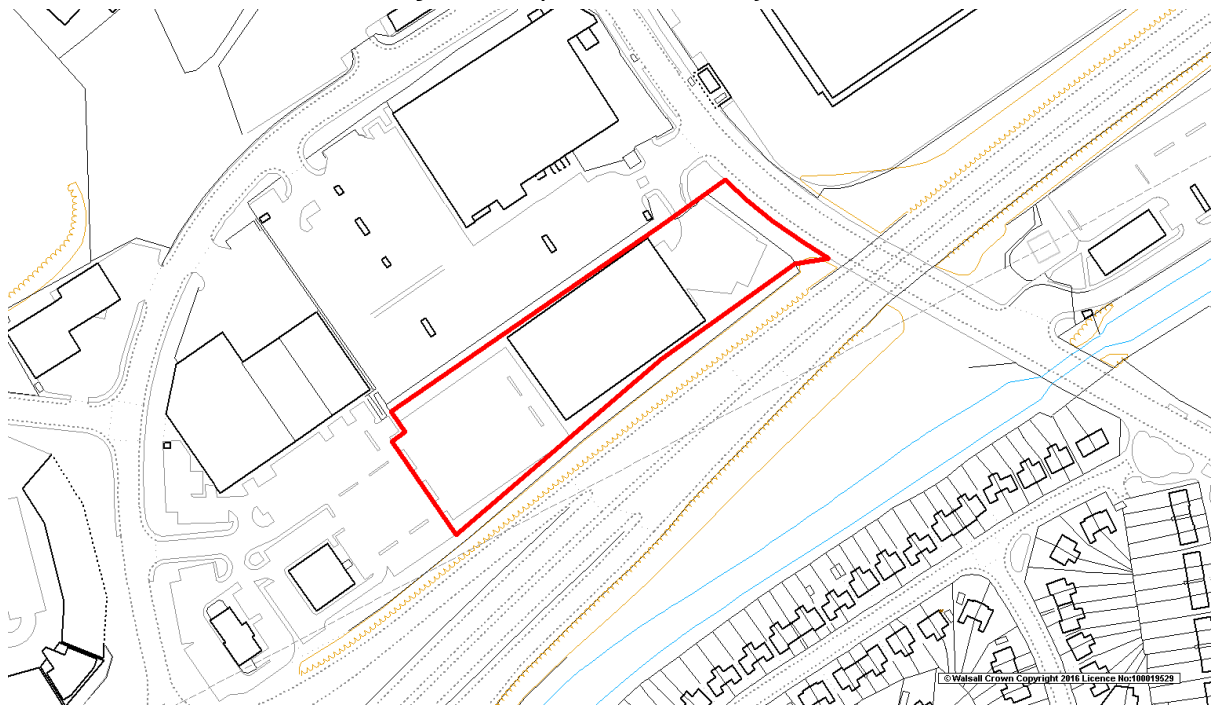
**Location:** FORMER GLYNWEBB PREMISES, KEYWAY RETAIL PARK, ARMSTRONG WAY, WILLENHALL, WV13 2QU

**Proposal:** VARIATION OF CONDITION 2 OF PERMISSION BC54062P TO VARY THE RANGE OF GOODS SOLD.

**Application Number:** 15/1910  
**Applicant:** T J Morris Ltd  
**Agent:** Mr Tim Rainbird  
**Application Type:** Full Application (Major)

**Case Officer:** Alison Ives  
**Ward:** Willenhall South  
**Expired Date:** 11-Apr-2016  
**Time Extension Expiry:**

### Recommendation Summary: Grant permission subject to conditions



## **Application and Site Details**

The application relates to the former GlynWebb retail premises within Keyway Retail Park, Armstrong Way, Willenhall. This is a larger detached unit with car parking in front accessed off Keyway Retail Park and a separate service yard and service access available from Owen Road. The premises are fire damaged and have lain vacant for ten years. Other units on Keyway Retail Park include Staples, B&M, Jollyes, Poundland, Burger King and Tesco.

The application seeks a variation of condition 2 of the original permission BC54062P to vary the range of goods sold to enable occupation of the former GlynWebb unit by Home Bargains. The unit is currently owned by Tesco who are seeking to dispose of the 2760 sq metres unit on a freehold basis.

Condition 2 currently specifies the following:

*2. Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987, no goods shall be sold from the premises, without the prior written approval of the local planning authority, except;*  
*DIY home and garden improvement products*  
*Hardware*  
*Furniture*  
*Soft furnishings*  
*DIY related electrical goods*  
*Floor Coverings*

*Reason: To control the nature of retailing on the site, and the impact of retailing on nearby District Centres of Willenhall and Darlaston.*

The applicants request an amendment to the condition as follows:

*2. Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987, no goods shall be sold from the premises, without the prior written approval of the local planning authority, except;*  
*DIY home and garden improvement products*  
*Hardware*  
*Furniture*  
*Soft furnishings*  
*DIY related electrical goods*  
*Floor Coverings*  
*Pets and pet foods and ancillary items (from an area of no more than 100 square metres)*  
*Health and beauty products (from an area no more than 250 square metres)*  
*Toys (from an area no more than 250 square metres)*  
*Household Goods (from an area no more than 250 square metres)*  
*Food and drink (from an area no more than 800 square metres)*  
*Non fashion clothing and other minor and ancillary ranges (from an area of no more than 100 square metres)*

*Reason: To control the nature of retailing on the site, and the impact of retailing on nearby District Centres of Willenhall and Darlaston.*

An accompanying application 16/0150 for external alterations to the unit, removal of one customer entrance, reconfigured car parking layout, erection of a pumphouse and sprinkler tank plus associated works is also for consideration on this committee agenda.

The application 16/0150 states proposed opening hours of 08.00 – 22.00 hours Mondays to Saturdays and 08.00 – 16.00 hours on Sundays.

In support of the application, other than supporting drawings, the developer has provided the following documents:

#### *Transport Statement*

This describes the site and adjacent highway network, site accessibility, development proposals, forecast traffic attraction and net trips on the local highway network. It concludes the following:

- A review of the local highway network and accident data in the vicinity of the site indicates that there are no apparent problems in relation to the current operation or safety of local highways.
- The site is sustainably located and accessible to a range of services and amenities in addition to public transport linkages.
- The existing site access arrangements are appropriate to accommodate the redevelopment proposal.
- The internal site layout will be retained and this is considered to provide satisfactory access for delivery vehicles.
- Parking provision on site is concluded to be satisfactory to serve the development, particularly given the sustainable location of the site.
- An assessment of the anticipated vehicle trips to the site concluded that the net increase will be immaterial in real terms during the weekday PM and Saturday peak hours. The proposed re-occupation by Home Bargains will not have severe impact on the safety and operation of the local highway network.

The report concludes that approval of the amendments to the goods restriction will not have a material impact upon safety or operation of the surrounding local highway network and as such there are no significant highways and transportation matters that would preclude the local planning authority from approving the application.

#### *Planning & Retail Assessment*

Explains pre-application advice given, describes the site and surrounding area, planning history and proposed development which seeks to occupy 1750 sq metres of the unit for sale of wider food and non-food goods. It details the prospective purchaser Home Bargains as one of the fastest growing discount retailers with 12,000 members of staff. The proposed store would generate up to 70 new full and part time job opportunities and investment of £2 million. The Assessment highlights relevant planning policy and appeal decision and case law and details the Home Bargains Business Model explaining that the types of goods sold and flexibility needed and need for a single level sales area, trolley use and car parking.

The sequential assessment reviews vacant units in Willenhall, Darlaston and Wednesbury but none were capable of providing the floor space or trading requirements of Home Bargains. The report also reviews potential development sites in the three centres.

The retail impact assessment reviews the impact on investment and the vitality and viability and trade and impact of trade diversion and turnover in existing centres. The impact is considered not to be significant.

#### *Letter of support from Home Bargains Operations Director*

Explains Home Bargains is a variety discount retailer and relies on selling non-perishable food and drinks goods from around 30% of the floor space as this is fundamental to the Home Bargains retail model. Home Bargains is committed to continue trading in town centre stores in the West Midlands but have identified a need for a wider range of goods to attract car borne customers with adjacent car parking, trolley bays etc. The proposal at Keyway Retail Park will generate up to 70 new jobs and an investment of £2 million. There are no other suitable sites in Willenhall or Bilston for this new format.

## **Relevant Policies**

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

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

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

- ***NPPF 1 - Building a strong, competitive economy***
- ***NPPF 2 - Ensuring the vitality of town centres***
- ***NPPF 4 - Promoting sustainable transport***
- ***NPPF 7 - Requiring good design***

In particular the following provisions are relevant:

Paragraph 24: Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

Paragraph 26: When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Pre-application engagement is encouraged.

## **Local Policy**

### **Black Country Core Strategy**

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- CSP5: Transport Strategy
- EMP1: Providing for Economic Growth
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres
- CEN4: Regeneration of Town Centres
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services
- CEN7: Controlling Out-of-Centre Development
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV3: Design Quality

### **Unitary Development Plan**

- GP2: Environmental Protection
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S4: The Town and District Centres: General Principles
- S6: Meeting Local Needs
- S7: Out-of-Centre and Edge-of-Centre Developments
- T4 - The Highway Network
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis

### **Supplementary Planning Document**

#### **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

**Policies are available to view online:**

### **Relevant Planning History**

16/0150 - External alterations to existing retail (Class A1) unit including removal of 1 no. customer entrance; re-configured car parking layout; erection of pump house and sprinkler tank and associated works – No decision yet (see other report on this committee agenda).

BC54062P – Erection of non-food retail warehouse, including associated car parking, landscaping and reclamation – GSC 06/09/99.

BCW403 - Non-Food Retail Units & Fast Food Unit with Associated Accesses, Car Parking and Works (Phase One) – GSC 20/05/94.

BCW280 - Non-food retail development & fast food unit – GSC 26/05/92.

There are various planning applications and advertisement applications for other units within Keyway Retail Park.

### **Consultations**

**Coal Authority**- No objections given the nature of the application but recommends a note for applicant regarding the need to address coal mining issues on the site. This comment relates more to the physical works application 16/0150 and so it is recommended that the note be imposed on that application as well.

**Licensing** – No objections.

**Strategic Planning Policy** – No objections subject to conditions to restrict the sale of certain goods from the premises in order to protect the vitality and viability of nearby District Centres. This is based on the advice in the Retail Assessment carried out by GVA on behalf of the Council.

**Transport** – No objections subject to minor improvements to pedestrian accessibility for the site. Conditions can secure this.

**Wolverhampton City Council** – None received.

### **Representations**

None received.

### **Determining Issues**

- Potential retail impact and sequential testing
- Transport Impacts
- Conditions

### **Observations**

#### **Potential retail impact and sequential testing**

This application seeks to extend the range of goods to be sold at the former Glynwebb unit which has a floor space of 2790 sq metres. The additional goods range would include the following:

- Pets and pet foods and ancillary items (from an area of no more than 100 square metres)
- Health and beauty products (from an area no more than 250 square metres)
- Toys (from an area no more than 250 square metres)
- Household Goods (from an area no more than 250 square metres)

PAGE 6 OF 203

- Food and drink (from an area no more than 800 square metres)
- Non fashion clothing and other minor and ancillary ranges (from an area of no more than 100 square metres)

The extended range of goods applied for, would only usually be considered acceptable in a town or district centre (or edge of centre) location. Core Strategy Policy CEN7 states that out-of-centre proposals for town centre uses should be supported by strong justification that they would not be contrary to the strategy for regeneration of the Black Country (in this instance the established centres).

For applications seeking to widen the range of goods in an out-of-centre location, UDP Policy S7 sets out a number of tests that must be considered. For all applications involving 2,500 sq metres gross floor space and over, developers will be required to provide evidence to satisfy all of the tests set out in part (a) of the policy which broadly relate to demonstrating a need, sequential approach, no adverse impact on vitality and viability of established centres. In all cases, developers will be required to demonstrate that there is a need for the proposed facility and that the proposal accords with the sequential approach.

In this instance, as the proposal relates to an area of 2790 sq metres so the proposals must be assessed against the tests of need and sequential approach as well as potential economic impact and impact on the vitality and viability of established centres. Widening the range of goods in an out of centre location would usually be resisted to safeguard the vitality and economy of town centres. The submitted supporting retail statement explains that the proposed unit offers the required floor space and single floor layout to meet the operator's business model for stores of this size and that no other premises within the local centres are available which are suitable alternatives for the proposed Home Bargains store.

An independent assessment of the town centre impacts and sequential approach in respect of three applications on this committee agenda (15/1838 – Unit 3 Bescot Retail Park, 15/1910 – former GlynWebb and 12/1343 – B&M Store, Reedswood Retail Park) has been undertaken by Bilfinger GVA on behalf of the Council. This has been undertaken in accordance with the requirements of the NPPF, namely paragraphs 24 and 26 which deal with the application of the sequential and impact tests.

GVA's impact assessment considers the catchment area from which each of the stores are expected to draw their trade; the amount of available shopping expenditure in the area to support existing retail facilities; the level of turnover likely to be achieved by the stores when trading has become established; and the amount of shopping spend that could realistically be diverted from Walsall town centre and relevant district centres.

To inform the impact assessment, GVA has utilised the telephone survey data provided by the Black Country Centres Study 2010 to establish where people living in the Borough are shopping for the type of goods sold by the stores linked to these planning applications.

The requirement to satisfy the impact tests set out in paragraph 26 of the NPPF is applicable to the proposed Home Bargains (TJ Morris) store at Keyway Retail Park as the size of the retail unit triggers the floorspace threshold of 2,500 m<sup>2</sup>.

A summary of the estimated trade diversion and impact in respect of the relevant centres with the trading of the Home Bargains store is provided below:

Centre	Diversion (£m) (2018)	Impact (%)
Walsall	-£3.17	-0.7%
Willenhall	-£0.71	-2.8%
Darlaston	-£0.55	-0.8%
Bloxwich	-£0.09	-0.1%

PAGE 7 OF 203

Source: 'Critique of Town Centre Impacts & Sequential Approach', Appendix II, Table 18a

Whilst a negative impact has been identified for each of the above centres, there is no instance where the level of impact is considered to be significantly adverse in terms of the centres' overall vitality and viability. Whilst sufficient expenditure growth has been identified between 2016 and 2018 which would more than cancel out the estimated trade diversions from each centre, it is expected that impacts would be spread amongst a number similar mixed goods discounter stores. It is not considered the case that an unacceptable level of impact would occur to any single store, including stores which provide an anchoring role and generate footfall for linked-trip trade.

Whilst the applications linked to Poundland and B&M Stores fall below the NPPF floorspace threshold (and therefore do not trigger the need for an impact assessment), their estimated trade diversions have been assessed alongside those of known commitments in order to understand the total (e.g. cumulative) impact on each centre with the trading of the TJ Morris store at 2018. A summary of the cumulative impact findings is provided below:

Centre	Diversion (£m) (2018)	Impact (%)
Walsall	-£19.69	-4.6%
Willenhall	-£0.89	-3.4%
Darlaston	-£0.68	-1.0%
Bloxwich	-£0.21	-0.3%

Source: 'Critique of Town Centre Impacts & Sequential Approach', Appendix II, Table 19a

The cumulative impact of 4.6% on Walsall town centre at 2018 is largely attributed to the anticipated trading effects of the recently consented Mill Green Designer Outlet Centre at Cannock. In this context, the estimated trade diversion to Home Bargains, Poundland and B&M represents only a small proportion of the total trade diversion and is considered unlikely to influence the closure of any town centre store. There is no instance where the level of impact identified in respect of the stores linked to these planning applications could be considered significantly adverse for the purposes of the NPPF.

With regard to the sequential test, consideration has been given to the potential for the retail offer being proposed at the Keyway Retail Park to be located in an established Centre. The choice of centres to be looked at is dependent on the area affected by the development which includes Walsall, Willenhall, Darlaston and Bloxwich.

To be considered as part of the sequential test, alternative sites need to be available and on the market. Two sites have been taken into account, these being Unit 10A on the Crown Retail Park in Walsall and the recently vacated BHS store in Park Street, Walsall.

Unit 10A at the Crown Retail Park is currently subject to contract negotiations between a potential occupier and the owners of the site. Officers have been provided with confidential information with respect to these discussions and it is considered that this site is not currently being marketed to other retailers and accordingly is not considered to be available for Home Bargains or other operators in the context of the national planning policy set out in the NPPF.

The BHS store though is available and is now being marketed by Jackson Criss. It has a total gross floor space of 3,287 sqm however this is split over two floors. Home Bargains have looked at this unit as an alternative location. It does though have two notable constraints which need to be taken into account. Firstly, the applicant is of the view that the absence of any car parking close to the site means that the retail offer (which includes the sale of convenience goods) would not be supported by the appropriate infrastructure. They also argue that trolleys bays are required as these are frequently used by customers, meaning that parking needs to be provided on site or very close to the site. In the case of

PAGE 8 OF 203



BHS the closest car park is at Walsall train station and is Pay & Display. Whilst town centre parking is often Pay & Display, the applicants argue that customers would not be prepared to travel with goods laden trolleys along Marsh Street and Little Station Street (some 150 metres).

Officers have considered these points especially in the context of other retailing in Walsall town centre and in particular along Park Street. On their own, these points do not seem compelling and indeed nearly all other retailers in the town have to rely on either public transport or distant car parks for their customers. Also there are a number of split level stores in town including Marks & Spencer and Wilkos on Park Street.

In response to the officers caution on this point of the suitability and servicing of the store, the applicants have furnished the Council with a copy of a recent appeal decision at Gloucester. In this case, the City Council refused a similar out of centre application by Home Bargains arguing that a town centre site at the King's Quarter area would be preferable. In this appeal decision, the Planning Inspector gave notable weight to the arguments by Home Bargains that their retail offer was of a particular type that it was necessary for any premises to be able to be facilitate the collection of goods by car and support trolley use. To quote in part from paragraph 22. of the decision; *"And there is the requirement (or preference) for trolley provision for customers; that may not be thought necessary for smaller stores but seems perfectly reasonable for the range of goods available from a larger store,..."*.

The second point with regard to the BHS store is the size of the building, in this case, Home Bargains is proposing a store of 2,790 sqm and the BHS store is 3,287 sqm. This is approximately 20% larger than that currently being sought. Whilst there has to be some flexibility as indicated in the NPPF from a retailer in terms of the format of their retail offer, it is noted that the company is looking for new premises within the range of 1393 sqm to 2,787 sqm (15,000 – 30,000 square foot). The Keyway site is therefore at the upper end of their range of property sizes and the BHS store would be notably outside their operating range. Therefore, whilst Home Bargains may fit inside the BHS store, they would be under utilising the space and effectively paying rental charges and rates on a building that exceeded their requirements.

Taking this into account therefore along with the issues around servicing and the Gloucester appeal decision, it is considered the BHS store is not a viable alternative in the sequential test assessment.

On balance, it is considered the proposed additional 2790 sq metres at the former GlynWebb premises Keyway Retail Park would not result in significant harm to the operation or retail offer in nearby centres, due to the type of goods to be sold which would need to be clearly defined. Conditions would be included if permission is granted to restrict the extended goods range.

### **Transport Impacts**

The proposed increase in the range of goods sold at the premises has potential to attract a greater number of trips to the store. In light of this and the given the floor space involved the applicant has provided a Transport Statement. This report concludes that approval of the amendments to the goods restriction will not have a material impact upon safety or operation of the surrounding local highway network and as such there are no significant highways and transportation matters that would preclude the local planning authority from approving the application.

The Transport officer has reviewed this and raises no objections to the proposals but recommends some minor improvements to pedestrian accessibility. These can be secured by conditions.

On balance the proposal to vary the condition will not have any significant impact on transport issues.

### **Conditions**

This is a Section 73 application to vary condition 2 of the original permission BC54062P. In effect by varying the condition it provides a replacement to the original permission and all conditions need to be reinstated where still relevant. Given the lapse on time since the original permission other than the replacement for condition 2 other conditions have been revised to reflect current legislation.

Condition 2 has been amended as requested and an additional part to the condition included to restrict hours of operation to those indicated on the application form for 16/0150.

Some of the conditions relating to the original permission and development of the unit are no longer applicable so have been omitted (conditions 11, 12, 13 & 14).

### **Conclusion**

On the basis of the Council's retail advice, it is considered the proposed increased goods range for the former GlynWebb unit would not result in any significant adverse impacts on Walsall Town Centre, or District Centres, and permission should be granted subject to conditions to restrict the range of goods.

### **Positive and Proactive working with the applicant**

Officers have spoken with the applicant's agent and in response to concerns raised regarding the potential retail impact of the proposals and sequential assessment and further information has been provided in this respect which enable full support to be given to the scheme.

### **Recommendation: Grant permission subject to conditions.**

1. This development must be begun not later than 3 years after the date of this decision.

*Reason:* Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2a. Notwithstanding the provisions of the Town & Country Planning (Use Classes) or 1987 (or subsequent amendments), no goods shall be sold from the premises, without the prior written approval of the local planning authority, except:

DIY home and garden improvement products

Hardware

Furniture

Soft furnishings

DIY related electrical goods

Floor Coverings

Pets and pet foods and ancillary items (from an area of no more than 100 square metres)

Health and beauty products (from an area no more than 250 square metres)

Toys (from an area no more than 250 square metres)

Household Goods (from an area no more than 250 square metres)

PAGE 10 OF 203

Food and drink (from an area no more than 800 square metres)  
Non fashion clothing and other minor and ancillary ranges (from an area of no more than 100 square metres)

2b. The premises shall not be open to the public outside the hours of 08.00 – 22.00 hours Mondays to Saturdays and 08.00 – 16.00 hours on Sundays and Bank Holidays.

Reason: To control the nature of retailing on the site, and the impact of retailing on nearby District Centres of Willenhall and Darlaston.

3. The site and buildings shall remain in single occupation and shall not be sub divided or sub let to form two or more units, or sales areas in separate occupation.

Reason: To ensure the satisfactory provision of off-street parking and to control the retail impact of the development upon the neighbouring District centres.

4. No materials, goods or refuse shall be stored or deposited in the open on any part of the site other than in a refuse container as shown on the deposited plans.

Reason: To ensure the satisfactory appearance of the development.

5. Before this development is brought into use, the accessways, vehicle parking and manoeuvring areas and pedestrian footway link shown on the approved plans shall be surfaced in tarmacadam (or alternative impervious hardwearing material to be agreed in writing by the Local Planning Authority). The areas shall thereafter be retained and used for no other purpose. The parking spaces shall have been clearly marked out.

Reason: To ensure the satisfactory appearance of the development and accessibility for pedestrian users.

6. No external lighting shall be installed on the site until details have been submitted to and approved in writing by the Local Planning Authority and the lights shall be installed in accordance with the approved details.

Reason: In the interests of highway safety.

7. Any floodlighting to be used on the car park shall be installed and maintained so that it does not cause undue glare or distraction to users of the highway, or occupiers of adjoining premises by reason of intensity or positioning.

Reason: In the interests of highway safety.

8. No development shall be carried out until full details of the proposed boundary treatment of the site have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

Reason: To ensure the satisfactory appearance of the development.

9. Prior to the redevelopment of the premises, a landscaping plan showing existing and proposed landscaping, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted on a plan to an appropriate scale and shall include where applicable, details of:

- I. Existing landscaping to be retained

- II. Any proposed works to existing landscaping, such as removal, or severe pruning
- III. Any new landscaping works such as replacement planting
- IV. Details of the future management of the landscaping scheme.

Reason: To ensure the satisfactory appearance of the development.

10. The approved landscaping shall be maintained in accordance with the agreed management regime.

Reason: To ensure the satisfactory appearance of the development.

**Note for applicant – Coal Authority**

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com)

If any coal mining features are unexpectedly encountered, these should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)



## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 2.**

### Reason for bringing to committee: Major Application

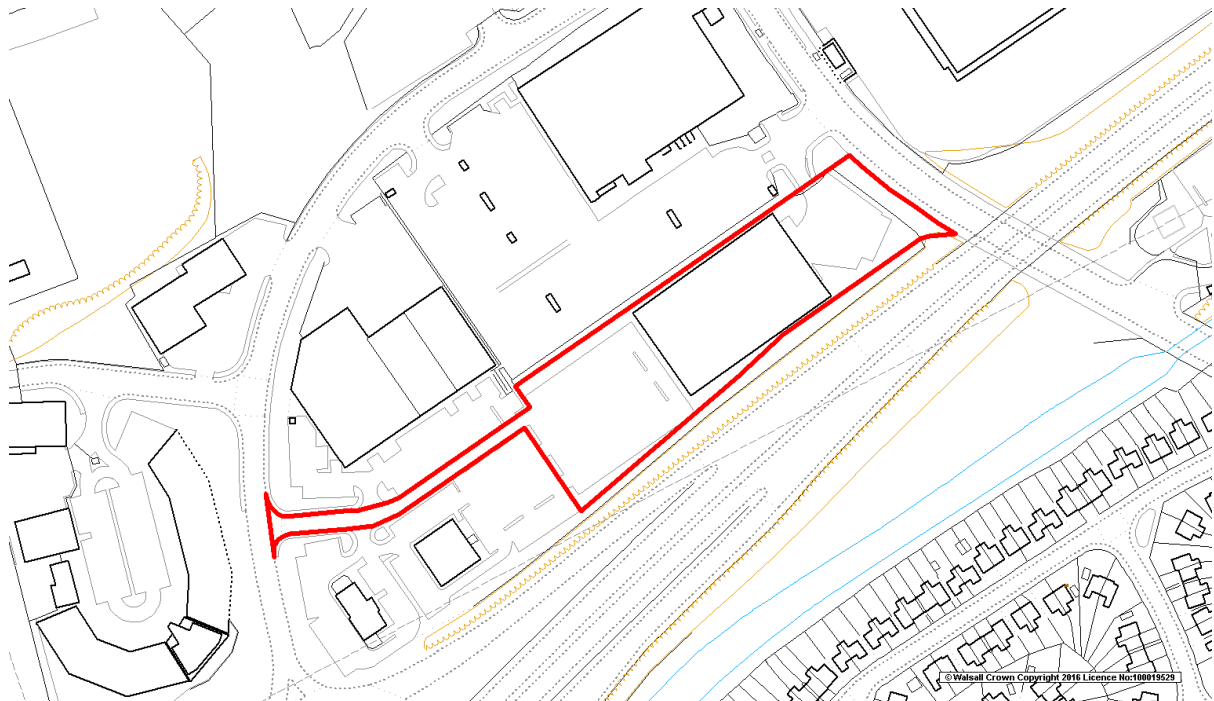
**Location:** FORMER GLYNWEBB PREMISES, KEYWAY RETAIL PARK, ARMSTRONG WAY, WILLENHALL, WV13 2QU

**Proposal:** EXTERNAL ALTERATIONS TO EXISTING RETAIL (CLASS A1) UNIT INCLUDING REMOVAL OF 1 NO. CUSTOMER ENTRANCE; RE-CONFIGURED CAR PARKING LAYOUT; ERECTION OF PUMP HOUSE AND SPRINKLER TANK AND ASSOCIATED WORKS.

**Application Number:** 16/0150  
**Applicant:** T J Morris Ltd  
**Agent:** Mr Tim Rainbird  
**Application Type:** Full Application (Major)

**Case Officer:** Alison Ives  
**Ward:** Willenhall South  
**Expired Date:** 17-May-2016  
**Time Extension Expiry:**

### Recommendation Summary: Grant Permission Subject to Conditions



## **Application and Site Details**

The application relates to the former GlynWebb retail premises within Keyway Retail Park, Armstrong Way, Willenhall. This is a larger detached unit with car parking in front accessed off Keyway Retail Park and a separate service yard and service access available from Owen Road. The premises are fire damaged and have lain vacant for ten years. Other units on Keyway Retail Park include Staples, B&M, Jollyes, Poundland, Burger King and Tesco.

This application is for alterations to the external elevations of the unit including removal of one of the customer entrances, reconfigured car parking layout, erection of a pump house and sprinkler tank and associated works. The specific works are detailed as follows:

### *External Elevations*

Removal of one of the customer entrance doors to front elevation.

Removal of roller shutter and replacement with double doors on the service yard elevation.

Brick up windows facing service yard.

Introduce new cladding, new curtain walling and roller shutters to front elevation and new cladding and brickwork to other elevations.

### *Reconfigure Car Parking Layout*

The customer car park/ presently has 132 spaces (plus 6 disabled) and the proposals amend this to 125 spaces (plus 7 disabled). The disabled spaces are relocated from the edges of the car park so they run parallel to the front of the building. This includes the creation of a wider pedestrian access near the single entrance to the store.

### *Pump House and Sprinkler Tank*

Located within the service yard adjacent to the Owen Road facade of the building.

### *Other works*

New 4.1m high perimeter fence around the service yard.

New 2.4m high fence along the perimeters of the building.

Introduction of a trolley bay adjacent to the store entrance.

The application states proposed opening hours of 08.00 – 22.00 hours Mondays to Saturdays and 08.00 – 16.00 hours on Sundays and Bank Holidays.

The application accompanies an application 15/1910 for the same premises which seeks a variation of condition 2 of the original permission BC54062P to vary the range of goods sold to enable occupation of the former GlynWebb unit by Home Bargains which is also for consideration on this committee agenda.

## **Relevant Policies**

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

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

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

- ***NPPF 1 - Building a strong, competitive economy***
- ***NPPF 2 - Ensuring the vitality of town centres***
- ***NPPF 4 - Promoting sustainable transport***
- ***NPPF 7 - Requiring good design***

In particular the following provisions are relevant:

Paragraph 24: Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

Paragraph 26: When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

## **Local Policy**

### **Black Country Core Strategy**

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- CSP5: Transport Strategy
- EMP1: Providing for Economic Growth
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres
- CEN4: Regeneration of Town Centres
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services

- CEN7: Controlling Out-of-Centre Development
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV3: Design Quality

### **Unitary Development Plan**

- GP2: Environmental Protection
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S4: The Town and District Centres: General Principles
- S6: Meeting Local Needs
- S7: Out-of-Centre and Edge-of-Centre Developments
- T4 - The Highway Network
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis

### **Supplementary Planning Document 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

### **Policies are available to view online:**

#### **Relevant Planning History**

15/1910 – Variation of condition 2 of permission BC54062P to vary the range of goods sold – No decision yet (see other report on this committee agenda).

BC54062P – Erection of non-food retail warehouse, including associated car parking, landscaping and reclamation – GSC 06/09/99.

BCW403 - Non-Food Retail Units & Fast Food Unit with Associated Accesses, Car Parking and Works (Phase One) – GSC 20/05/94.

BCW280 - Non-food retail development & fast food unit – GSC 26/05/92.

There are various planning applications and advertisement applications for other units within Keyway Retail Park.



## **Consultations**

**Coal Authority**- Commented on application 15/1910 that there were no objections but recommending a note for applicant regarding the need to address coal mining issues on the site. This comment relates more to this physical works application 16/0150 and so it is recommended that the note be imposed on this application aswell.

**Community Safety** – fencing and gates should be flush with the store access to reduce potential ASB and criminal behaviour.

**Landscape** – No objections subject to a condition to secure existing landscaping.

**Police** – No objections. This is one of the highest crime areas on Walsall Local Policing Area so security measures are recommended.

**Pollution Control** – No objections. The developer should demonstrate existing ground gas protection measures will not be compromised and suitable measures to protect the proposed pump house can be achieved. Conditions to address these concerns are recommended.

**Severn Trent Water** – No objections subject to securing drainage details.

**Strategic Planning Policy** – No objections subject to conditions to restrict the sale of certain goods from the premises in order to protect the vitality and viability of nearby District Centres. This is based on the advice in the Retail Assessment carried out by GVA on behalf of the Council.

**Transport** – No objections subject to minor improvements to pedestrian accessibility for the site. Conditions are recommended to secure this.

## **Representations**

None received.

## **Determining Issues**

- Design & Layout
- Relationship to adjoining occupiers
- Access and Parking
- Conditions

## **Observations**

### **Design & Layout**

The building is already constructed and the proposals seek merely to alter and refurbish the elevations to accommodate the new retailer. There are new doors and new brickwork and cladding proposed plus refurbishment of the car park and incorporation of trolley bays. These are relatively minor works and will enhance the appearance of this derelict building which has lain vacant for ten years. The position of the proposed pump house and sprinkler tank within the service yard is acceptable as there is existing screening along Owen Road and this does not face any residential properties. A condition is recommended to secure floor plans and elevations of the pump house and sprinkler tank and the new perimeter fencing in the interests of the visual amenities of the area.

Despite the Severn Trent Water recommendation for provision of drainage details there is no new drainage proposed for these minor works so no condition has been included. A note for applicant is recommended regarding any potential public sewers within the site.

A condition is recommended to secure adequate ground gas mitigation as requested by Pollution control. A condition is also recommended to install a security barrier to prevent unauthorised access to the car park out of operational hours as recommended by the police. There is a note for applicant recommended regarding security measures which should address the Community Safety and police comments.

### **Relationship to adjoining occupiers**

The adjacent occupiers are all retail premises. The application site has its own car parking and separate service yard which does not interfere with the operation of the adjacent premises. The proposals do not have any significant impact on the adjacent occupiers.

### **Access and Parking**

The access and parking is to remain largely as before with minor amendments to the car park layout to accommodate trolley parking and reconfigure the location of the disabled bays. These are considered acceptable and have no significant impact on highway safety.

The Transportation officer recommends an amendment to the pedestrian access through to Owen Road which can be secured by condition for provision of an amended plan.

### **Conditions**

The accompanying Section 73 application 15/1910 to vary condition 2 of the original permission BC54062P is also for consideration on this agenda and will in effect provide a replacement to the original permission. All conditions on that permission relating to the principal use of the premises will be reinstated where relevant.

The applicant has indicated hours of opening which has been included as a new part to condition 2 of the S73 variation of conditions application 15/1910.

Conditions are recommended to secure mitigation for ground gas, security measures and details of landscaping, fencing and the pump house and sprinkler tank and to ensure implementation of the amended parking layout prior to occupation of the premises by the new retailer. These will ensure the satisfactory development of the site and protect the amenities of the area.

### **Conclusion**

The principle of the extended range of goods to be sold from the premises is acceptable as considered under application 15/1910 also on this committee agenda. This application seeks minor changes to the elevations of the building, perimeter fencing, car parking layout and pump house and sprinkler tank within the service yard which do not have any significant adverse impact on the area.

### **Positive and Proactive working with the applicant**

Officers have spoken with the applicant's agent and following receipt of an amended location plan and in response to concerns raised regarding the potential retail impact of the proposals and sequential assessment for the accompanying application 15/1910 further information has been provided in this respect which enable full support to be given to the scheme. The proposed amendments to the layout and elevations of the building are considered acceptable to enable support for the proposals.

**Recommendation: Grant permission subject to conditions.**

1. This development must be begun not later than 3 years after the date of this decision.

*Reason:* Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. This development shall not be carried out other than in conformity with the following plans and documents: -

- Location Plan (G2528/AL(0)001P2) received 16/02/16
- Proposed Site Plan (G2528/AL(0)003P3) received 29/01/16
- Proposed Floor Plan (G2528/AL(0)008P4) received 29/01/16
- Proposed Elevations (G2528/AL(0)006P2) received 29/01/16
- Proposed Roof Plan (G2528/AL(0)010P2) received 29/01/16
- Existing Site Plan (G2528/AL(0)002P1) received 29/01/16
- Existing Floor Plan (G2528/AL(0)007P3) received 29/01/16
- Existing Elevations (G2528/AL(0)005P1) received 29/01/16
- Existing Roof Plan (G2528/AL(0)009P2) received 29/01/16

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

3a. Prior to the commencement of the development details of ground gas ingress protection measures to be installed in the proposed pump house shall be provided to and agreed in writing with the local planning authority.

3b. The applicant shall demonstrate to the satisfaction of the Local Planning Authority that any ground gas ingress protection measures incorporated into the existing building are not compromised.

3c. 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 agreed in writing by the Local Planning Authority prior to the development being brought into use.

*Reason:* To ensure the satisfactory development of the site.

4. Prior to the commencement of the development floor plans and elevation details of the proposed pump house and water sprinkler tank shall be submitted to and agreed in writing by the local planning authority and the development thereafter implemented and maintained in accordance with the agreed details.

*Reason:* To ensure the satisfactory development of the site and protect the visual amenities of the area.

5. Prior to the installation of new perimeter fencing full elevation details shall be submitted to and approved in writing by the local planning authority and the development thereafter implemented and maintained in accordance with the agreed details.

*Reason:* To ensure the satisfactory development of the site and protect the visual amenities of the area.

6. Prior to the development first coming into use, a landscaping plan showing existing and proposed landscaping, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted on a plan to an appropriate scale and shall include where applicable, details of:

- Existing landscaping to be retained
- Any proposed works to existing landscaping, such as removal, or severe pruning
- Any new landscaping works such as replacement planting
- Details of the future management of the landscaping scheme.

Reason: To ensure the satisfactory appearance of the development.

7a. Prior to the development first coming into use, the amended car parking layout shall be fully implemented and the parking bays clearly demarcated on the ground.

7b. These areas shall thereafter be retained and used for no other purpose.

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

8. Prior to the development first coming into use a barrier or access control measure shall be installed to prevent unauthorised access and security of the car park outside the operational hours of the premises.

Reason: To ensure the security of the site and protect the amenities of the surrounding area.

#### **Note for applicant: Severn Trent**

There may be a public sewer located within the application site which the developer is advised to investigate. Please note that public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. If there are sewers which will come into close proximity of the works, the applicant is advised to contact Severn Trent Water to discuss the proposals and we will seek to assist with obtaining a solution which protects both the public sewer and the building.

Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

#### **Note for applicant: Police**

1. The car park area, building perimeter and rear service yard should be covered by a comprehensive and suitable CCTV system. The system should provide coloured evidential standard imagery. Recordings should be stored onto a hard drive and kept for a minimum of 30 days and stored on a DVR recorder which is stored in a locked room and housed in a lockable steel cabinet to LPS 1175 SR1 or STS 202 BR1 standards. N.B. The design and layout of the shop floor should not inhibit the CCTV coverage.

2. The building should be protected by a suitable intruder alarm system with all entry/ exit and fire escape doors covered by the alarm system along with internal movement sensors covering the shop floor and warehouse and offices. The alarm should be externally monitored by an Alarm Receiving Centre (ideally a Secure By Design certificated ARC) and be registered with the West Midlands Police for appropriate response.

3. Suitable lighting should be in place to assist the CCTV system. N.B. The design and layout of the shop floor should not inhibit the detection system.

4. Consideration should be given to installing external detection systems in the rear compound area linked to CCTV which can also be Monitored alongside the alarm out of hours.

5. The perimeter fencing needs to be to a Secure By Design standard regardless of type. A close welded mesh product such as 'Exmesh' or Securi Mesh should be considered over any palisade type product.

6. If Palisade fencing is to be used around the service yard area, it should be supported by a CCTV system with perimeter detection sensors or by the installation of 'Paliclad' on the inside face of the palisade fencing. ('Paliclad' is a welded mesh product designed to retro fit to palisade fencing to improve its security and remove some of its weak points)

#### **Note for Applicant – Pollution Control**

Advice on basic ground gas ingress protection requirements can be found by reference to the following publication; "Protective measures for housing on gas-contaminated land", BRE Report 414, ISBN 1 86081460 3 (contact CRC Ltd 020 7505 6622 for order information).

#### **Note for applicant – Coal Authority**

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

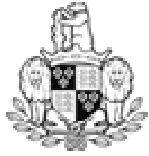
[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com)

If any coal mining features are unexpectedly encountered, these should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)





## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 3.**

### Reason for bringing to committee: Major Application

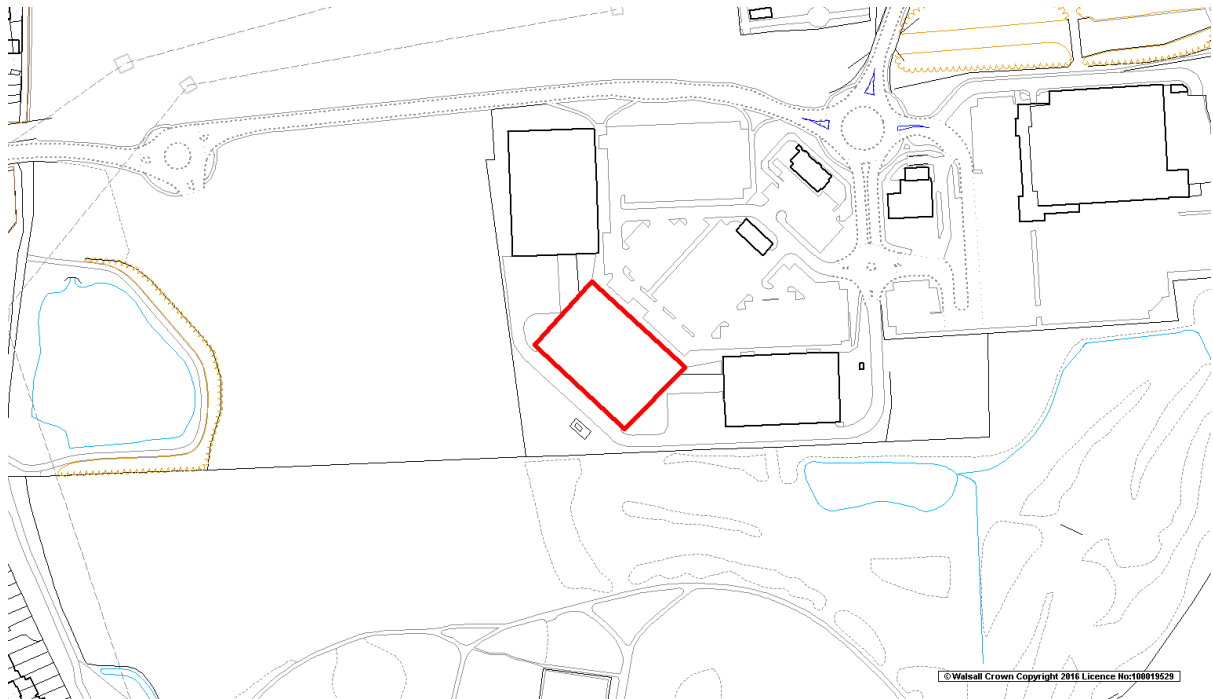
**Location:** B & M RETAIL UNIT, REEDSWOOD RETAIL PARK, WALSALL

**Proposal:** VARIATION OF CONDITION B40(D) OF PLANNING PERMISSION BC37150P (REEDSWOOD RETAIL PARK) TO WIDEN THE SALE OF GOODS RESTRICTION TO ALLOW THE SALE OF AMBIENT FOOD AND DRINK FROM NOT MORE THAN 10% OF THE SALES AREA UPTO A MAXIMUM OF 235SQ.M.

**Application Number:** 12/1343/FL  
**Applicant:** B&M Retail Ltd  
**Agent:** MWA  
**Application Type:** Full Application

**Case Officer:** Mike Brereton  
**Ward:** Birchills Leamore  
**Expired Date:** 04-Jan-2013  
**Time Extension Expiry:** 30-Nov-2016

### Recommendation Summary: Grant Permission Subject to Conditions



## **Application and Site Details**

This is a retrospective planning application to vary condition B40(d) of BC37150P at Reedswood Retail Park, Walsall, an out of centre retail park, to widen the sale of goods restriction to allow the sale of ambient food and drink from not more than 10% of the sales area up to a maximum of 235m<sup>2</sup> at Unit B which has been occupied by B&M since 2012. The unit has a gross floor space of 3,822 m<sup>2</sup> including an outdoor garden centre area of 989m<sup>2</sup> and a net sales floor space of 2,332m<sup>2</sup>. Condition B40(d) of BC37150P states:

*“Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, no goods shall be sold from the premises (other than in the store referred to in part (C) of this condition, without the prior written approval of the local planning authority, except:-*

*DIY home and garden improvement products;  
Hardware;  
Furniture;  
Soft furnishings;  
Electrical goods;  
Motor spares, accessories, and fuels;  
Motor vehicles;  
Floorcoverings;  
Sports and leisure equipment;  
Sports and leisure clothing;  
Sports and leisure footwear;  
Toys and children’s wear;  
Food and drink from a cafe, restaurant, take-away or licensed establishment.*

*Reason: To control the nature of the retailing on the site, and the impact of that retailing on the Borough.”*

Condition B40(d) of BC37150P shown above has been varied by other applications to allow an extended goods range including the sale of office equipment/furniture and stationery at Unit C (currently occupied by Dunelm and Pets at Home) and clothing and footwear at Unit A (currently occupied by Matalan and Intersport). Condition 3 of 11/1488/FL allowed the inclusion of ‘pet supplies services and associated goods’ at Unit B but this related to a permission to sub-divide the unit which has not been implemented and has expired.

The applicant’s agent has suggested the following amended condition (see underlined text):

*“Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, no goods shall be sold from the premises (other than in the store referred to in part (C) of this condition, without the prior written approval of the local planning authority, except:-*

*DIY home and garden improvement products;  
Hardware;  
Furniture;  
Soft furnishings;  
Electrical goods;  
Motor spares, accessories, and fuels;  
Motor vehicles;  
Floorcoverings;  
Sports and leisure equipment;  
Sports and leisure clothing;  
Sports and leisure footwear;*



*Toys and children's wear;  
Food and drink from a cafe, restaurant, take-away or licensed establishment;  
Pet products and supplies from not more than 150sq.m. net floorspace; and  
Ambient food and drink including confectionery from not more than 10% of the sales area up  
to a maximum of 235sq.m.*

The applicant has submitted the following documents to support the application:

### **Design and Access Statement**

- *Confirms the unit is occupied by B&M and has a gross floor area of 3,822 square metres including 989 square metres for an outdoor garden area and a net sales floor area of 2,332 square metres;*
- *Confirms the store employs 30 people;*
- *Confirms the additional goods range would be sold from 235 square metres of floorspace (10%) of the sales area; and*
- *Confirms total parking spaces and existing access, external appearance, site layout and landscaping would remain unchanged by this proposal.*

### **Supporting Retail Statement**

- *States the proposal would meet local and national retail policies and objectives and would be sustainable development;*
- *States the proposed extended goods range is minor and would only apply to the current occupier (B&M); and*
- *Current occupier B&M provides economic benefits and provides employment for 30 people to the benefit of the locality.*

### **Relevant Planning History**

BC54754P - Change of Use to External storage, display and sale of building materials and use as a garden centre to existing retail unit. GSC 24/08/1999.

BC55330P (only applies to Unit C currently occupied by Dunelm and Pets at Home) - Variation of Condition B40(D) of Planning Permission BC37150P to allow the sale of office equipment/furniture and stationery. GSC 01/05/2001.

BC55332P (only applies to Unit A currently occupied by Matalan and Intersport) - Variation of condition B40(D) of Planning Permission BC37150P to allow the sale of clothing and footwear (fashion). GSC 22/09/2000.

BC57144P - variation of condition B40(A)(i) of planning permission BC37150P to allow insertion of mezzanine floor of 650 sq m gross floorspace in a single unit (currently vacant) of 929 sq m gross floorspace. GSC 05/03/2001.

02/0582/CP/W3 - Certificate of Lawful Proposed Development for Brantano (footwear and sports/leisure goods) to occupy floorspace at Reedswood Retail Park. Granted 02/06/2003.

02/0637/CP/W3 - Certificate of Lawful Proposed Development for Brantano (footwear and sports/leisure goods) to occupy floorspace at Reedswood Retail Park. Non determination 31/07/2003. Refused at appeal 31/07/2003.

08/1864/LP - Certificate of Lawful Proposed Use: Use of any building within the site for the sale of clothing and footwear (fashion). Dismissed at appeal 08/03/2011.

10/0551/FL - (Applies to Unit B but not implemented and expired) Elevational alterations including new front entrances and rear service doors for sub-division of Unit B into 3 Units. GSC 01/07/2010.

PAGE 25 OF 203

11/0604/FL - Retrospective planning application to erect a trolley canopy over the existing trolley park. GSC 06/07/2011.

11/1488/FL – (Applies to Unit B but not implemented and expired) Internal and external alterations to facilitate the subdivision of Unit B to provide two units. GSC 03/02/2012.

## **Relevant Planning Policy Summary**

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

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

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

- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

**Key provisions** of the NPPF relevant in this case:

- NPPF 1 - Building a strong, competitive economy
- NPPF 2 - Ensuring the vitality of town centres

In particular the following provisions are relevant:

**Paragraph 24:** Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

**Paragraph 26:** When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

## **Local Policy**

### **Black Country Core Strategy**

- CEN7: Controlling Out-of-Centre Development

### **Unitary Development Plan**

- S7: Out-of-Centre and Edge-of-Centre Developments

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

## **Consultations**

**Planning Policy** – No objection on the basis of the Council's retail advice undertaken by Bilfinger GVA which concluded there are no suitable sequentially preferable sites and that there would be no significant adverse impacts on Walsall's established Centres, subject to conditions to restrict the extended goods range.

**Strategic Regeneration Framework** – No comments received. Any comments are unlikely to change the recommendation in this instance.

**Highways** – No objections.

## **Public Participation Responses**

None received.

## **Determining Issues**

- The principle of extended goods at an out-of-centre location
- The Sequential Assessment
- The Impact Assessment
- Updating of planning conditions

## **Observations**

### **The principle of extended goods at an out-of-centre location**

This application seeks to extend the range of goods to be sold (for no more than 235 square metres of net sales floor space) at Unit B occupied by B&M since 2012 at Reedswood Retail Park, Walsall, an out of centre retail park. The additional goods range would include ambient food and drink from not more than 10% of the total net sales area up to a maximum of 235m<sup>2</sup> along with pet products and supplies from no more than a further 150m<sup>2</sup>.

The extended range of goods applied for, would only usually be considered acceptable in a centre (or edge of centre) location. Core Strategy Policy CEN7 states that out-of-centre proposals for town centre uses should be supported by strong justification that they would not be contrary to the strategy for regeneration of the Black Country (in this instance the centres).

An independent assessment of the town centre impacts and sequential approach in respect of three applications; 15/1838 – Unit 3, Bescot Retail Park; 15/1910 – Former Glyn Webb Unit, Keyway Retail Park and 12/1343 – B&M Store, Reedswood Retail Park, has been undertaken by Bilfinger GVA on behalf of the Council. This has been undertaken in accordance with the requirements of the NPPF, namely paragraphs 24 and 26 which deal with the application of the sequential and impact tests.

### **The Sequential Assessment**

Paragraph 24 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. This assessment sets out to ascertain whether there are any in/edge-of-centre sites which are suitable and available to accommodate the proposal. There is no floorspace threshold to the sequential test so the requirement needs to be satisfied no matter how small the quantum of floorspace.

The submitted supporting retail statement explains that the occupied unit offers the required floor space and single floor layout to meet the operator's business model for stores of this size and that no other premises within centres are available which could accommodate the store.

The Council commissioned GVA to undertake an independent sequential assessment. GVA concluded that it would be neither viable nor consistent with the NPPF to require the applicant to disaggregate the sale of convenience goods. This takes into account the limited extent and ancillary nature of the retail offer and the company's business model. They confirmed that in all instances, available retail units that have been identified in sequentially preferable locations are significantly smaller than the minimum required by the applicant. For example the minimum floorspace requirement of B&M is 2,000 sq m which exceeds the ground floor area of the BHS unit which is the largest vacant unit available in the town centre. B&M also require a 989 sq m external area to trade plants and garden products from which could not be provided at the BHS unit.

### **The Impact Assessment**

For applications seeking to widen the range of goods in an out-of-centre location, UDP Policy S7 sets out a number of tests that must be considered. For smaller schemes, under 2,500 square metres, the policy states the Council will determine which tests are most appropriate. In this instance, as the proposal relates to an area of 235m<sup>2</sup> square metres, it is considered that the most appropriate test relates to the economic impact on nearby centres. Widening the range of goods in an out of centre location would usually be resisted to safeguard the vitality and economy of town centres.

GVA's impact assessment considers the catchment area from which each of the stores are expected to draw their trade; the amount of available shopping expenditure in the area to support existing retail facilities; the level of turnover likely to be achieved by the stores when trading has become established; and the amount of shopping spend that could realistically be diverted from Walsall town centre and relevant district centres. To inform the impact assessment, GVA has utilised the telephone survey data provided by the Black Country Centres Study 2010 to establish where people living in the Borough are shopping for the type of goods sold by the stores linked to these planning applications.

The requirement to satisfy the impact tests set out in paragraph 26 of the NPPF is applicable to the proposed Home Bargains (TJ Morris) store at Keyway Retail Park as the size of the retail unit triggers the floorspace threshold of 2,500 m<sup>2</sup>.

A summary of the estimated trade diversion and impact in respect of the relevant centres with the trading of the Home Bargains store is provided below:

Centre	Diversion (£m) (2018)	Impact (%)
Walsall	-£3.17	-0.7%
Willenhall	-£0.71	-2.8%
Darlaston	-£0.55	-0.8%
Bloxwich	-£0.09	-0.1%

Source: 'Critique of Town Centre Impacts & Sequential Approach', Appendix II, Table 18a

Whilst a negative impact has been identified for each of the above centres, there is no instance where the level of impact is considered to be significantly adverse in terms of the centres' overall vitality and viability. Whilst sufficient expenditure growth has been identified between 2016 and 2018, which would more than cancel out the estimated trade diversions from each centre, it is expected that impacts would be spread amongst a number similar mixed goods discounter stores. It is not considered the case that an unacceptable level of impact would occur to any single store, including stores, which provide an anchoring role and generate footfall for linked-trip trade.

Whilst the applications linked to Poundland and B&M Stores fall below the NPPF floorspace threshold (and therefore do not trigger the need for an impact assessment), their estimated trade diversions have been assessed alongside those of known commitments in order to understand the total (e.g. cumulative) impact on each centre with the trading of the TJ Morris store at 2018. A summary of the cumulative impact findings is provided below:

Centre	Diversion (£m) (2018)	Impact (%)
Walsall	-£19.69	-4.6%
Willenhall	-£0.89	-3.4%
Darlaston	-£0.68	-1.0%
Bloxwich	-£0.21	-0.3%

Source: 'Critique of Town Centre Impacts & Sequential Approach', Appendix II, Table 19a

The cumulative impact of 4.6% on Walsall town centre at 2018 is largely attributed to the anticipated trading effects of the recently consented Mill Green Designer Outlet Centre at Cannock. In this context, the estimated trade diversion to Home Bargains, Poundland and B&M represents only a small proportion of the total trade diversion and is considered unlikely to influence the closure of any town centre store. There is no instance where the level of impact identified in respect of the stores linked to these planning applications could be considered significantly adverse for the purposes of the NPPF.

On balance, it is considered the proposed additional 235m<sup>2</sup> (ambient food and drinks) and 150m<sup>2</sup> (pet products and supplies) at Unit B, Reedswood Retail Park would not result in significant harm to the operation or retail offer in nearby centres, due to the type of goods to be sold which would need to be clearly defined. Conditions would be included if permission is granted to restrict the extended goods range to Unit B only and to ensure that Unit B reverts to the original goods restrictions upon vacation by current occupier B&M.

### Updating of planning conditions

This Section 73 planning application is to vary condition B40(d) of BC37150P. In doing this, the Council is essentially issuing a whole new planning approval. Consequently, the Council will need to update any planning conditions to meet the NPPF/NPPG tests (necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects) and take account of any case law since the last decision was issued.

PAGE 29 OF 203

Planning approval BC37150P included 51 planning conditions, which included the reclamation of the site. These have been updated to take account of being cleared through the reclamation and construction phases, plus to make it clear that this S73 application is just for Unit B leaving conditions B7, B8, B10, B16, B17, B20, B21, B35, B40, B42, B43, B44, B45, B48 and B50 that are in perpetuity. All other conditions, including those under part A of BC37150P (relating to reclamation and restoration of the site) have fallen away. In addition, a number of new conditions have been included to take account of the current proposal as set out further below.

### **Conclusion**

The sequential assessment undertaken by the retail consultant has concluded that there are no more centrally located sites that could accommodate the proposal. The application is therefore considered to meet the requirements of the sequential test.

On the basis of the Council's retail advice, it is considered the proposed increased goods range for Unit B Reedswood Retail Park would not result in any significant adverse impacts on Walsall Town Centre, or District Centres, and permission should be granted subject to conditions to restrict the increased goods to Unit B only.

### **Positive and proactive working with the applicant**

Officers have obtained additional information from the applicant's agent regarding the scope of the increased goods range and on the basis of the information provided and the Council's retail advice the application is recommended for approval subject to conditions.

### **RECOMMENDATION: Grant permission subject to conditions**

***New conditions relating specifically to Unit B (B&M) Reedswood Retail Park: All other conditions under planning permission BC37150P, or those as subsequently varied and excluding any that were discharged as part of implementing the permission, relating to Reedswood Retail Park remain fully in force and are updated where necessary and set out below:***

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990 (as amended).

2. This development shall not be carried out other than in conformity with the application form and following plans and documents and thereafter retained as such:

Application Form. Deposited 05/10/2012

Location Plan. Deposited 05/10/2012

Supporting Retail Assessment. Deposited 05/10/2012

Design and Access Statement. Deposited 05/10/2012

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

B7. There shall be no building or use of land within the current boundary of Reedswood Park other than open space (including a golf course) or buildings or uses of land ancillary to the use of the park or the open space as such.

Reason: To control the use of land which is currently public open space.

B8. The design of the boundary between the SINC and adjoining housing areas shall have regard to the existence of the SINC, and the need to protect that environment.

Reason: To safeguard the long term character and nature conservation value of the SINC.

B10. The servicing of motor vehicles shall be permitted in premises used primarily for the sale of motor spares and accessories.

Reason: To allow flexibility for the development, in the light of modern retailing practise.

B16. Any approved car and lorry parking and manoeuvring areas of the non-residential uses, including appropriate surface water drainage and demarcation of parking spaces, shall be retained and used for no other purpose.

Reason: To ensure the satisfactory functioning of the development.

B17. Any approved floodlights or other external lighting shall be retained in accordance with the approved details.

Reason: In the interests of highways safety, and to safeguard the amenity of the occupants of adjoining premises.

B20. There shall be no vehicular access to the site from Miner Street.

Reason: To secure proper traffic planning of the area, to control the impact of the scheme on the local highway network, and in the interests of highway safety.

B21. Access from Reedswood Lane shall only serve the small car park identified in the submitted documents.

Reason: To secure proper traffic planning of the area, to control the impact of the scheme on the local highway network, and in the interests of highway safety.

B35. Notwithstanding the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or succeeding orders, no gates, fences, walls or other means of enclosure shall be erected.

Reason: To ensure satisfactory appearance of development.

B40(A) (i) The retail use of the site shall comprise no more than 15,000 square metres gross floorspace.

(ii) No store, other than the garden centre, shall occupy less than 470 square metres of gross floorspace, provided that:

(iii) internal sub-divisions up to a maximum of 10% of the floorspace of the unit in question shall be permitted which do not create the external appearance of a unit in multiple occupation.

(B) The area of development occupied in units of less than 900 square metres shall not exceed 3,700 square metres.

(C) Sales of food by retail, other than for consumption on the premises, shall be from a single store (with the exception of the increased goods range to Unit B), the main purpose of which shall be the sale of food and convenience goods, with a maximum gross floorspace of 10,000 square metres.

(D) i Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended), no goods shall be sold from the premises (other than in the store referred to in part (C)) of this condition except:-

DIY home and garden improvement products;  
Hardware;  
Furniture;  
Soft furnishings;  
Electrical goods;  
Motor spares, accessories, and fuels;  
Motor vehicles;  
Floorcoverings;  
Sports and leisure equipment;  
Sports and leisure clothing;  
Sports and leisure footwear;  
Toys and children's wear;  
Food and drink from a cafe, restaurant, take-away or licensed establishment;  
Ambient food, drink and confectionery;  
Pet products and supplies.

(D) ii Part (D)i which introduces the additional goods categories will cease to apply if the current retailer vacates Unit B.

(D) iii This permission does not replace the permission or conditions for:

- a) Unit C under reference BC55330P;
- b) Unit A under reference BC55332P;
- c) BC57144P;

(D) iv Notwithstanding the Town and Country Planning Use Classes Order 1987 (as amended), the discount food store hereby approved shall not be sub-divided into separate units for retailing or any other uses including the use as a post office or a licensed pharmacy.

(D) v The discount retail store development hereby approved under this permission shall be no more than;

-A maximum of 3,822sqm gross floorspace, including an outdoor garden centre area a maximum of 989 sqm

-A maximum of 2,332 sqm net sales floor space, to include the sale of ambient food (defined as goods stored at room temperature), drink and confectionery which shall not exceed a maximum of 235 sqm of net floor space, and the sale of pet products and supplies which shall not exceed a maximum of 150 sqm of net floor space

-The Local Planning Authority reserves the right to request a scale floor plan of Unit B, illustrating the internal/external layout of the net/gross (including the outdoor garden centre) and storage floor spaces including any circulation space at anytime from the operator, subject to giving 28 days written notice. The operator has 28 days from the date of the written request to provide the scale floor space plan to the local planning authority at which time, the local planning authority may visit and check and measure the accuracy of the plan supplied of Unit B.



Reason: To define the permission, confirming the extended goods range shall only relate to Unit B currently occupied by B&M Stores at Reedswood Retail Park, Walsall and does not apply to any other unit(s) at the retail park, to control out-of-centre operations, and to avoid potential impacts on the vitality of town centres and to accord with NPPF 2: Ensuring the vitality of town centres and UDP Policy S7. Net sales floorspace is defined as the internal floor area of the shop unit used for selling and displaying goods and services. It comprises the floor area to which customers have access, counter space, checkout space, window and other display space, fitting rooms and space immediately behind counters. Lobbies, staircases, cloakrooms and other amenity rooms are excluded. It is measured from the internal faces of walls and partitions.

B42. (A) Noise levels emitted from within any non-residential building of the development (excluding the Sheltered Workshop on corner of Cavendish Road and Stephenson Avenue):-

Including external fixed plant and machinery, and

As measured one metre from a facade of any noise sensitive development adjacent to the boundaries shown on the approved plan

Shall not exceed:-

Between the hours of 0700 and 1900, and Leq (1 hour) of 55 d.b.a. with an A weighted slow maximum of 75 d.b.a. at any one time;

Between the hours of 1900 and 2300, and Leq (1 hour) of 50 d.b.a. with an A weighted slow maximum of 65 d.b.a. at any one time;

Between the hours of 2300 and 0700, an Leq (1 hour) of 45 d.b.a. with an A weighted slow maximum 55 d.b.a. at any one time.

(B) For the purpose of conducting sound measurements to assess compliance with these conditions, instrumentation shall conform to Type 1 or 2 as specified within BS EN-1 61672:2013.

Reason: To safeguard the amenity of the area.

B43. No electrical or electronic sound amplification equipment shall be installed in any non-residential premises until details of the equipment and any necessary soundproofing have been submitted to and approved in writing by the Local Planning Authority, and the soundproofing works shall be carried out before the amplification is brought into use.

Reason: To safeguard the amenity of the area.

B44. Any approved litter and refuse facilities shall be retained in accordance with the approved details.

Reason: To safeguard the amenity of the area, and to ensure the satisfactory functioning of the development.

B45. No materials, goods or refuse shall be stored or deposited in the open on any part of the site used for non-residential purposes other than in a refuse container as approved under condition B44 other than goods sold at any garden centre.

Reason: To safeguard the amenity of the area, and to ensure the satisfactory functioning of the development.

B48. Notwithstanding the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or succeeding orders, no extension relating to any

dwelling (which has a garage and / or driveway) within the residential part of the permission, shall be constructed or alterations take place which would prevent the building or retention of a garage (of a minimum size 2.4 x 4.8 metres) and a 6 metre driveway, measured to the back of footpath of a public highway or a 6 metre driveway to a communal private drive, for each property.

Reason: To secure the retention of residential parking.

B50. Any approved parking areas serving the residential part of the permission shall be retained in accordance with the approved details and used for no other purpose.

Reason: To ensure the satisfactory functioning of the development.



## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 4.**

### Reason for bringing to committee: Major Application

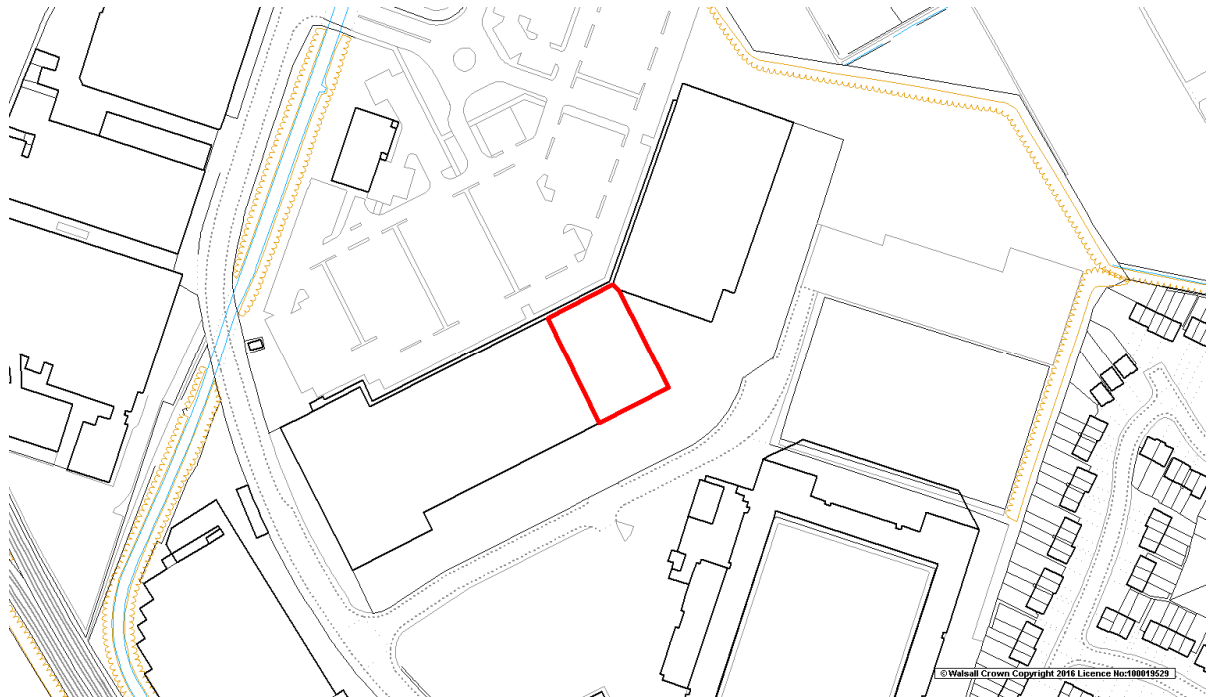
**Location:** UNIT 3, BESCOT RETAIL PARK, BESCOT CRESCENT, WALSALL, WS1 4SB

**Proposal:** VARIATION OF CONDITION 5(D) OF PLANNING PERMISSION BC42920P TO ALLOW AN EXTENDED RANGE OF NON-FOOD GOODS TO BE SOLD.

**Application Number:** 15/1838  
**Applicant:** Walsall Bescot Pradera Limited  
**Agent:** Mr Tim Rainbird  
**Application Type:** Full Application (Major)

**Case Officer:** Mike Brereton  
**Ward:** Palfrey  
**Expired Date:** 01-Mar-2016  
**Time Extension Expiry:**

### Recommendation Summary: Grant Permission Subject to Conditions



## **Application and Site Details**

This application seeks to vary condition 5 of planning permission BC42920P which contained a number of restrictions including goods, sub-division and floorspace covering the entire site of Bescot Retail Park at Bescot Crescent, Walsall. Condition 5(d) states;

*“Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, and other than as referred to in condition 5(c), no goods shall be sold from the retail element, without the prior written approval of the local planning authority, except:*

*DIY home and garden improvement products;  
Hardware;  
Furniture;  
Soft furnishings;  
Electrical goods;  
Motor spares, accessories, and fuels;  
Motor vehicles;  
Floorcoverings;  
Sports and leisure equipment;  
Sports and leisure clothing;  
Sports and leisure footwear;  
Toys and children’s wear;  
Food and drink from a cafe, restaurant, takeaway or licensed establishment.”*

The site is an out-of-centre retail park. A number of previous applications have varied the terms of the original permission and this application is seeking to retrospectively amend condition 5(d) to allow a wider range of goods to be sold from Unit 3 (currently occupied by Poundland).

The agent acting on behalf of the applicant, and owners of the site, Walsall Bescot Pradera Limited, has provided suggested amended wording to condition 5(d) and states the justification is to allow the applicant to retrospectively sell a wider range of goods to meet the operators business model. The suggested amended wording is shown below and underlined:

*“(d) notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987, and other than as referred to in condition 5(c) , no goods shall be sold from the retail element, without the prior written approval of the local planning authority, except:-*

*DIY home and garden improvement products;  
Hardware;  
Furniture;  
Soft furnishings;  
Electrical goods;  
Motor spares, accessories, and fuels;  
Motor vehicles;  
Floorcoverings;  
Sports and leisure equipment;  
Sports and leisure clothing;  
Sports and leisure footwear;  
Toys and children’s wear;  
Food and drink from a café, restaurant, take-away or licensed establishment.  
Unit 3 (as indicated on drawing Q01) shall also be used for the sale of the following product ranges from no more than 420 square metres of the gross floor area with no single range of goods exceeding 60 square metres:  
Entertainment (e.g. DVDs, CDs, earphones, adaptors, wires etc);*

Health & beauty;

Baby (e.g. nappies, wipes, cotton wool, bibs, baby food, beakers etc.);

Non-durable household goods;

Seasonal and celebration goods;

Pet products;

Clothing (e.g hats, gloves, scarves etc.); and

stationery and cards.

The additional ranges of goods permitted in Unit 3 shall only endure for the benefit of the first occupier."

The applicant has provided the following documents to support their application:

**Planning and sequential assessment (and additional sequential evidence)**

- Explains that the unit was previously vacant for at least 2 years due to limited interest as a result of restrictions on the site;
- Explains that Poundland occupied the unit in August 2015 and this application is therefore retrospective;
- Explains that the store would complement the existing stores in Walsall (which would be retained) and reflects their modernised business model by offering a wider range of goods in larger retail park locations than the traditional town centre stores;
- Explains that the bringing of the unit back into use brings 16 new jobs to the area and potential for 10 to 15 more jobs in future;
- Explains that this application only seeks to vary the goods restriction for 420 square metres of the unit (around 62%);
- Sets out the relevant planning history for the site and suggests amended wording for condition 5(d) of BC42920P;
- Explains that a sequential assessment has been carried out and concludes that no suitable sites are available within, or on the edge of the town centre; and
- Suggests the Council's local plan centres policies are out of date and that the NPPFs 'Presumption in favour of sustainable development' carries significant weight.

**Relevant Planning History**

13/1734/FL (Units 1–2c) - Change of use from retail (use class A1) to retail warehouse/membership club (use class sui generis). GSC 11/04/2014

08/1833/FL – Variation of condition 5 of planning permission BC42920P (restricting the range of goods allowed to be sold) to allow a catalogue retailer (unrestricted range of goods) from up to 1855 sq.m. Allowed on appeal 04/03/2010 but not implemented and expired on 04/03/2010.

08/1832/FL – Variation of condition 5(c) of planning permission reference BC42920P - (restricting the range of goods to be sold ) to allow for food sales from a maximum floor space of 1941.75 sq m in a maximum of 2 units, 1 and 2a. Allowed on appeal 04/03/2010 but not implemented and expired on 04/03/2010.

BC42920P – Retail park (including diner and food retail units) with associated car parking, access road and works (including landscaping, a lake and demolition of nos.135-157. GSC 13/01/1995.

BC48532P – Erection of retail unit. GSC 19/06/1997.

BC55142P – Erection of (538 sq metres) food retail unit, varying conditions 3 of BC48532P and 5(c) of BC42920P. GSC 03/03/2000.

## **Relevant Planning Policy Summary**

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

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

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

- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

**Key provisions** of the NPPF relevant in this case:

- NPPF 1 - Building a strong, competitive economy
- NPPF 2 - Ensuring the vitality of town centres

In particular the following provisions are relevant:

**Paragraph 24:** Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

**Paragraph 26:** When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

## **Local Policy**

### **Black Country Core Strategy**

- CEN7: Controlling Out-of-Centre Development

### **Unitary Development Plan**

- S7: Out-of-Centre and Edge-of-Centre Developments

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

## **Consultations**

**Planning Policy** – No objection on the basis of the Council's retail advice undertaken by Bilfinger GVA which concluded there are no sequentially preferable sites and that there would be no significant adverse impacts on Walsall Town Centre and other District Centres and subject to conditions to restrict the extended goods range.

**Pollution Control** – Suggested updated references to British Standards in the noise related conditions (conditions 10 and 23 of BC42920P).

## **Public Participation Responses**

None received.

## **Determining Issues**

- The principle of extended goods at an out-of-centre location
- The Sequential Assessment
- The Impact Assessment
- Updated conditions

## **Observations**

### **The principle of extended goods at an out-of-centre location**

This application seeks to extend the range of goods to be sold (for no more than 420 square metres of net sales floor space, and no more than 60 square metres for each range of goods) at Unit 3 Bescot Retail Park to reflect the modernised business model of current occupiers Poundland. In addition to the range of goods set out in condition 5d of BC42920P, the applicants are seeking to increase the range of goods to include pet products, baby items, non-durable household goods, clothing, stationery and cards, health and beauty, seasonal and celebration goods and entertainment items.

Condition 6a of 13/1734/FL permits a total of 1,208m<sup>2</sup> retail floor space for convenience goods at Units 1-2C (occupied by JTF). This relates specifically to Units 1-2c and does not utilise any of the 562.2m<sup>2</sup> of convenience floor space allowed for the whole site under condition 17 of BC55142P. The applicant's submitted planning assessment states occupiers of Unit 3 (Poundland) stated are utilising 100m<sup>2</sup> for sale of convenience goods as allowed by condition 17 of BC55142P. Whilst a precise calculation of the residual amount of convenience floorspace left at Bescot Retail Park is not available, it is considered that due to Units 1-2c benefitting from their own convenience floorspace restriction they are not taking up any of the 562.2m<sup>2</sup> and a condition would be included on any permission to restrict the convenience floorspace to 100m<sup>2</sup> at Unit 3.

The site is in an out-of-centre location and goods restrictions are currently in place on the site which this application seeks to vary. The extended range of goods applied for, would only usually be considered acceptable in a centre (or edge of centre) location. Black Country Core Strategy Policy CEN7 states that out-of-centre proposals for town centre uses should be supported by strong justification that they would not be contrary to the strategy for regeneration of the Black Country (in this instance the centres).

The Council has commissioned Bilfinger GVA to carry out an independent assessment of the town centre impacts and sequential approach regarding three applications; 15/1838 – Unit 3, Bescot Retail Park; 15/1910 – Former Glyn Webb Unit, Keyway Retail Park and 12/1343 – B&M Store, Reedswood Retail Park. This has been undertaken in accordance with the requirements of the NPPF, namely paragraphs 24 and 26 which deal with the application of the sequential and impact tests.

### **The Sequential Assessment**

Paragraph 24 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. This assessment sets out to ascertain whether there are any in/edge-of-centre sites which are suitable and available to accommodate the proposal. There is no floorspace threshold to the sequential test so the requirement needs to be satisfied no matter how small the quantum of floorspace.

The submitted Planning and Sequential Assessment explains that the occupied unit offers the required floor space and other supporting infrastructure such as on-site car parking to meet the operator's business model for stores of this size. Furthermore, the assessment explains that no alternative suitable premises were identified in nearby centres and that the existing town centre Poundland stores would continue to operate in addition to this out-of-centre store.

The Council commissioned GVA to undertake an independent sequential assessment of the proposal. The conclusion of GVA advice is that the submitted sequential assessment had omitted a potentially suitable vacant premise at Unit 10a, Crown Wharf Shopping Park. The applicant has since submitted additional sequential evidence suggesting that Unit 10a has already been let and is no longer available. It is understood that there have been complications in the letting process for Unit 10, however, the unit is not being actively marketed which indicates that a letting arrangement is in place. On the basis on the information received to date, it is considered unlikely that Unit 10A will become available for occupation by Poundland in the longer term. Members will be updated at Planning Committee.

### **The Impact Assessment**

For applications seeking to widen the range of goods in an out-of-centre location, UDP Policy S7 sets out a number of tests that must be considered. For smaller schemes, under 2,500 square metres, the policy states the Council will determine which tests are most appropriate. In this instance, as the proposal relates to an area of 420 square metres, it is considered that the most appropriate test relates to the economic impact on nearby centres. Widening the range of goods in an out of centre location would usually be resisted to safeguard the vitality and economy of town centres.

GVA's impact assessment considers the catchment area from which each of the stores are expected to draw their trade; the amount of available shopping expenditure in the area to support existing retail facilities; the level of turnover likely to be achieved by the stores when trading has become established; and the amount of shopping spend that could realistically



be diverted from Walsall town centre and relevant district centres. To inform the impact assessment, GVA has utilised the telephone survey data provided by the Black Country Centres Study 2010 to establish where people living in the Borough are shopping for the type of goods sold by the stores linked to these planning applications.

The requirement to satisfy the impact tests set out in paragraph 26 of the NPPF is applicable to the proposed Home Bargains (TJ Morris) store at Keyway Retail Park as the size of the retail unit triggers the floorspace threshold of 2,500 m<sup>2</sup>.

A summary of the estimated trade diversion and impact in respect of the relevant centres with the trading of the Home Bargains store is provided below:

Centre	Diversion (£m) (2018)	Impact (%)
Walsall	-£3.17	-0.7%
Willenhall	-£0.71	-2.8%
Darlaston	-£0.55	-0.8%
Bloxwich	-£0.09	-0.1%

Source: 'Critique of Town Centre Impacts & Sequential Approach', Appendix II, Table 18a

Whilst a negative impact has been identified for each of the above centres, there is no instance where the level of impact is considered to be significantly adverse in terms of the centres' overall vitality and viability. Whilst sufficient expenditure growth has been identified between 2016 and 2018 which would more than cancel out the estimated trade diversions from each centre, it is expected that impacts would be spread amongst a number similar mixed goods discounter stores. It is not considered the case that an unacceptable level of impact would occur to any single store, including stores which provide an anchoring role and generate footfall for linked-trip trade.

Whilst the applications linked to Poundland and B&M Stores fall below the NPPF floorspace threshold (and therefore do not trigger the need for an impact assessment), their estimated trade diversions have been assessed alongside those of known commitments in order to understand the total (e.g. cumulative) impact on each centre with the trading of the TJ Morris store at 2018. A summary of the cumulative impact findings is provided below:

Centre	Diversion (£m) (2018)	Impact (%)
Walsall	-£19.69	-4.6%
Willenhall	-£0.89	-3.4%
Darlaston	-£0.68	-1.0%
Bloxwich	-£0.21	-0.3%

Source: 'Critique of Town Centre Impacts & Sequential Approach', Appendix II, Table 19a

The cumulative impact of 4.6% on Walsall town centre at 2018 is largely attributed to the anticipated trading effects of the recently consented Mill Green Designer Outlet Centre at Cannock. In this context, the estimated trade diversion to Home Bargains, Poundland and B&M represents only a small proportion of the total trade diversion and is considered unlikely to influence the closure of any town centre store. There is no instance where the level of impact identified in respect of the stores linked to these planning applications could be considered significantly adverse for the purposes of the NPPF.

On balance, it is considered the proposed additional 420 square metres (and restriction of 60 square metres for any single range) at Unit 3 would not result in significant harm to the operation or retail offer in nearby centres, due to the type of goods to be sold which would need to be clearly defined. The discount operator has confirmed the town centre Poundland stores would continue to operate. Conditions would be included if permission is granted to

restrict the extended goods range to Unit 3 only and to ensure that Unit 3 reverts to the original goods restrictions upon vacation by current occupier Poundland.

The applicant's submitted assessment suggests that the Council's local plan policies are out of date. It should be noted that the Council has evidenced the local plan policies conform with the NPPF and have therefore been applied as necessary in the assessment of this application.

### **Updating of planning conditions**

This Section 73 planning application is to vary condition 5d of permission BC42920P. In doing this, the Council is essentially issuing a whole new planning approval. Consequently, the Council will need to update any planning conditions to meet the NPPF/NPPG tests (necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects) and take account of any case law since the last decision was issued.

Planning approval BC42920P included 27 planning conditions, which included the reclamation of the site. These have been updated to take account of being cleared through the reclamation and construction phases, plus to make it clear that this S73 application is just for Unit 3 leaving conditions 5, 9, 10, 11, 13, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25 and 26 that are in perpetuity.

In addition, a number of new conditions have been included to take account of the current proposal as set out further below.

### **Conclusion**

The sequential assessment undertaken by the retail consultant has concluded that there is one more centrally located site. Following discussions undertaken as part of the application have suggested that this site is now however unavailable and is subject to a letting.

On the basis of the Council's retail advice, it is considered the proposed increased goods range for Unit 3 Bescot Retail Park would not result in any significant adverse impacts on Walsall Town Centre, or District Centres, and permission should be granted subject to conditions to restrict the increased goods to Unit 3 only.

### **Positive and proactive working with the applicant**

Officers engaged in pre-application advice with the applicant's agent to encourage a quality submission and have sought further clarification throughout the assessment of this planning application in order to fully assess the proposal.

### **RECOMMENDATION: Grant permission subject to conditions**

#### ***New conditions relating specifically to Unit 3 Bescot Retail Park:***

**All other conditions under planning permission BC42920P, or those as subsequently varied and excluding any that were discharged as part of implementing the permission, relating to Bescot Retail Park remain fully in force and are updated where necessary and set out below:**

1. This development must be begun not later than 3 years after the date of this decision.

*Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990 (as amended).*

2. This development, relating to Unit 3 Bescot Retail Park only, shall not be carried out other than in conformity with the application form and following plans and documents and thereafter retained as such:

- Application Form. Deposited 01/12/2015
- Site Location Plan (Q01). Deposited 01/12/2015
- Planning & Sequential Assessment. Deposited 01/12/2015

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

5(a) The retail floorspace of the site shall comprise no more than 12,132 square metres gross floorspace. No retail unit shall occupy less than 462 square metres of gross floorspace, provided that internal sub-divisions shall be permitted which do not create the external appearance of a unit in multiple occupation.

5(b) There shall be a maximum of 3700 square metres of the retail element occupied in units of less than 930 square metres.

5(c) There shall be no retail sales of food from the retail element, other than:-

- i) From a maximum gross floorspace of 562.5 square metres at the retail park;
- ii) Food and drink from a restaurant, cafe, take-away or licensed establishment, and confectionery at point of sale.

5(d) Notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987 (as amended), and other than as referred to in condition 5(c), no goods shall be sold from the retail element, except:-

- i. DIY home and garden improvement products;
- ii. Hardware;
- iii. Furniture;
- iv. Soft furnishings;
- v. Electrical goods;
- vi. Motor spares, accessories, and fuels;
- vii. Motor vehicles;
- viii. Floorcoverings;
- ix. Sports and leisure equipment;
- x. Sports and leisure clothing;
- xi. Sports and leisure footwear;
- xii. Toys and children's wear;
- xiii. Food and drink from a café, restaurant, take-away or licensed establishment.
- xiv. Entertainment (including DVDs, CDs, earphones, adaptors, wires);
- xv. Health & beauty (shall exclude any licensed prescription facility);
- xvi. Goods solely intended for babies (including nappies, wipes, cotton wool, bibs, beakers);
- xvii. Non-durable household goods (shall not duplicate items specifically listed elsewhere in this condition);
- xviii. Seasonal and celebration goods (shall not duplicate items specifically listed elsewhere in this condition);
- xix. Pet products;
- xx. Clothing (including hats, gloves, scarves and shall not duplicate items specifically listed elsewhere in this condition); and
- xxi. Stationery and cards

The discount retailer hereby approved within Unit 3 shall have no more than a maximum 562.2 sqm gross floor space, with the net internal retail floor space being no greater than

420 sqm to sell the product ranges listed above and no one single product range listed above shall exceed 60 sqm of floor space.

5(e) The discount retailer hereby approved within unit 3 does not include permission for an external garden centre.

5(f) Part (5)d which introduces the additional goods categories will cease to apply if the current retailer vacates Unit 3.

5(g) This permission does not replace the permission or conditions for:  
a) units 1 to 2c at Bescot Retail Park, under reference 13/1734/FL;  
b) unit 10 under reference BC48532P; and  
c) units under reference BC55142P.

5(h) No more than 100 sqm of retail floor space at Unit 3 Bescot Retail Park shall be used at any one time for the sale of food goods out of the 562.2 sqm allowed for the whole site under condition 17 of BC55142P.

5(i) Notwithstanding the Town and Country Planning Use Classes Order 1987 (as amended), the discount food store hereby approved shall not be sub-divided into separate units for retailing or any other uses including the use as a post office or a licensed pharmacy.

5(j) The Local Planning Authority reserves the right to request a scale floor plan of Unit 3, illustrating the internal/external layout of the net/gross (including the outdoor garden centre) and storage floor spaces including any circulation space at anytime from the operator, subject to giving 28 days written notice. The operator has 28 days from the date of the written request to provide the scale floor space plan to the local planning authority at which time, the local planning authority may visit and check and measure the accuracy of the plan supplied of Unit 3.

*Reason: To define the permission, control out-of-centre operations, and to avoid potential impacts on the vitality of town centres and to accord with NPPF 2: Ensuring the vitality of town centres and UDP Policy S7. Net sales floorspace is defined as the internal floor area of the shop unit used for selling and displaying goods and services. It is measured from the internal faces of walls and partitions.*

9. Any approved boundary treatment shall be retained.

*Reason. To ensure the satisfactory appearance of the development.*

10a. For the purpose of conducting sound measurements to assess compliance with this condition, instrumentation shall conform to Type 1 or 2 as specified within BS EN-1 61672:2013.

10b. i) Noise levels emitted from within any building (including external fixed plant and machinery) and as measured one metre from a facade of any building adjacent to the site boundary shall not exceed:

- a) Between the hours of 0700 and 1900, an Leq (1 hour) of 55 d.b.a. with an A weighted slow maximum of 60 d.b.a. at any one time;
- b) Between the hours of 1900 and 2300, an Leq (1 hour) of 50 d.b.a. with an A weighted slow maximum of 55 d.b.a. at any one time; and
- c) Between the hours of 2300 and 0700, an Leq (1 hour) of 45 d.b.a. with an A weighted slow maximum of 50 d.b.a. at any one time.

*Reason: To safeguard the amenity of the area.*

11a. Prior to installation of any internal amplification equipment, details, including soundproofing, shall be submitted to and approved in writing by the Local Planning Authority.

11b. The amplification shall be fully installed and retained in accordance with the approved details.

*Reason: To safeguard the amenity of the area.*

13. Any approved litter and refuse facilities for the retail park shall be retained.

*Reason. To ensure refuse facilities are provided in a manner consistent with the operation of the site (in particular in the service yards) and to promote the control of litter in public car parks etc.*

14. No materials, goods or refuse shall be stored or deposited in the open on any part of the site other than in a refuse container as approved under condition 13, and goods sold at a garden centre.

*Reason. To ensure the satisfactory functioning of the development.*

15. The servicing of motor vehicles shall be permitted in premises used primarily for the sale of motor spares and accessories.

*Reason. To allow flexibility for the development, in the light of modern retailing practise.*

16. Any approved floodlights or other external lighting shall be retained in accordance with the approved details.

*Reason. To prevent excessive impact on other people in the area.*

19. The enclosure of the monitoring station shall be retained in accordance with approved details.

*Reason. To ensure the satisfactory appearance of this part of the development.*

20. At all times, on market days, suitable action will be taken to prevent vehicles parking on the access roadway into the site from Bescot Crescent.

*Reason. To ensure satisfactory access to the car parks serving the market.*

21. The access ways, vehicle parking and manoeuvring areas for the retail park shall be retained in accordance with approved details and used for no other purpose. The parking spaces shall be clearly marked out.

*Reason. To ensure the satisfactory functioning of the development.*

22. There shall be no parking of cars or any other vehicle not delivering goods from the retail units, in any of the service yards of the retail park.

*Reason. To ensure that the service yards are not obstructed by parked cars, to the detriment of the movements of service vehicles.*

23. Any facilities for the storage of oils, fuels, or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound shall be at least equivalent to the capacity of the tank (or the largest tank, in the case of multiple tanks) plus 10%. All filling points, vents, and sight glasses must be located within the bund floor or walls. There must be no drain through the bund walls or floor. BS 799-5:2010 refers to these matters.

*Reason. To control pollution.*

24. There shall be no discharge of foul or contaminated surface water from the site into either the groundwater system or any surface water system. Foul water should be directed into the main sewerage system.

*Reason. To control pollution.*

25. All surface water drainage shall be passed through an oil interceptor designed and constructed in accordance with BS8301 1985 and of a capacity compatible with the site being drained, prior to being discharged into any watercourse, surface water sewer or soakaway system. Roof water should not be passed through the interceptor.

*Reason. To control pollution.*

26. There shall be no discharge of trade effluent, sewage effluent or contaminated drainage from the site into any ditch or watercourse.

*Reason. To control pollution.*



Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 5.**

**Reason for bringing to committee: Major Development**

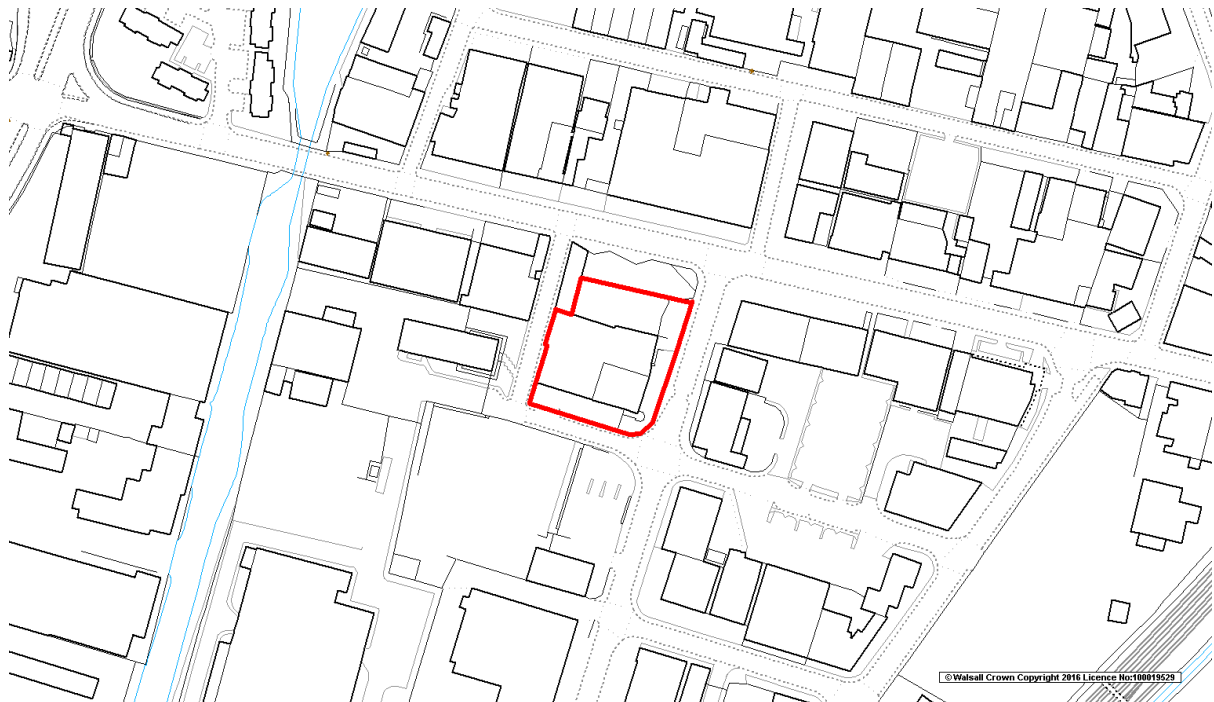
**Location:** TRAVIS PERKINS, QUEEN STREET SAWMILLS, QUEEN STREET, WALSALL, WS2 9PE

**Proposal:** CHANGE OF USE FROM TIMBER MERCHANTS TO B1,B2 & B8

**Application Number:** 16/0598  
**Applicant:** Mr Major Singh  
**Agent:**  
**Application Type:** Full Application (Major)

**Case Officer:** Mike Brereton  
**Ward:** St Matthews  
**Expired Date:** 18-Sep-2016  
**Time Extension Expiry:** 18-Oct-2016

**Recommendation Summary:** Grant Permission Subject to Conditions



## **Application and Site Details**

The application site is a former timber merchant and yard (sui generis use), bounded by Queen Street, Bridgeman Street, Henry Street and Upper Brook Street. The nearby area is made up of a mix of other industrial and commercial uses.

- This application proposes to change the use of the site from sui generis to a mixed use of B1, B2 and B8. The floor area is around 1,700m<sup>2</sup>.
- The proposed opening hours are 8am to 6pm Monday to Friday and 8am to 2pm Saturday.

## **Relevant Policies**

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

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

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

- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

**Key provisions** of the NPPF relevant in this case:

- ***NPPF 1 - Building a strong, competitive economy***

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

## **Local Policy**

### **Black Country Core Strategy**

- EMP1: Providing for Economic Growth
- EMP3: Local Quality Employment Areas

### **Unitary Development Plan**

- GP2: Environmental Protection
- JP5: Core Employment Areas
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

**Policies are available to view online:**



## **Relevant Planning History**

08/1142/FL - Part demolition of sales area and external structures, construction of new sales entrance, infilling existing entrance, resurfacing of yard and new boundary fence. GSC 28/08/2008.

## **Consultation Replies**

**Transportation** – No objection subject to conditions regarding use and parking.

**Severn Trent** – No objection subject to conditions regarding drainage.

**Pollution Control** – No objections. A note to applicant should be included regarding potential soil contamination from previous uses at the site.

**Planning Policy** – No objection subject to a condition to allow ancillary office use only to protect the allocated industrial land.

## **Representations**

- None received.

## **Determining Issues**

- Principle of Use
- Highways
- Other Matters

## **Observations**

### **Principle of Use**

The site is allocated for core employment uses (UDP JP5) and is a Local Quality Employment Area as set out in the BCCS (Policy EMP3) and evidenced through the Employment Land Review 2016. The emerging Site Allocation Document also looks to allocate it as retained local quality (SAD Policy IND3). As such the proposed use for industry is acceptable subject to inclusion of a condition to exclude B1a office use and to ensure any office function is ancillary to the industrial use of the premises. Permitted development rights would also be removed to prevent any conversion to a future residential use. This is in order to protect the industrial nature of the site and also to protect the vitality and viability of Walsall's established centres.

### **Highways**

Based on a Gross Floor Area of around 1,650 sqm, the maximum parking requirement for planning class uses B2 (general industrial use) and B8 (storage or distribution use) is 21 spaces inclusive of 2 disabled spaces. Planning class uses B1 Business Use (a - office, b – research and development, c – light industrial process) is 60 spaces inclusive of 5 disabled spaces. In this case, it is considered planning class use B1(c) Light Industry is the most appropriate use as parking demand is more likely to be similar to planning class use B2 General Industry rather than planning class use B1(a) Offices and planning class use B1(b) Research and Development uses. Parking for 15 cars is proposed. It is noted, further parking could be provided on site if necessary and there is general public parking available within the locality. A condition would be included to restrict the planning class use B1 element to B1(c) light industrial only to ensure sufficient provision of parking. It is considered the development will not have severe transportation implications and is acceptable in accordance with NPPF.

PAGE 49 OF 203

## **Other Matters**

Severn Trent has requested submission of drainage plans. The proposal does not include any extensions or construction works and retains an existing site for appropriate industrial uses. Drainage will already be available at the site and it is considered that drainage conditions are not required in this instance.

## **Conclusion**

The proposed planning class uses are consistent with the aims of local adopted development plan policy and consistent with the emerging development plan policies subject to the recommended conditions the proposal ensures the continued use of the application site for appropriate industrial uses and should be supported.

## **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**

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2. This development shall not be carried out other than in conformity with the following approved documents and plans: -

- Application Form. Deposited 19/04/2016
- Location Plan. Amended deposited 20/06/2016
- Block Plan. Deposited 15/06/2016

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. All car parking, access ways, open vehicle turning and manoeuvring spaces shall be retained and used for no other purpose.

Reason: To ensure the satisfactory operation of the premises, in accordance with UDP Policy GP2, T7 and T13 and in the interests of the free flow of traffic along the public highway and to highway safety.

4. Notwithstanding The Town and Country Planning (Use Classes) Order 1987 (as amended), the premises shall be used for B1(c) light industry, B2 general industry and B8 warehousing and distribution uses only and any office use shall be and remain ancillary to the main uses on the site and shall not operate independently.

Reason: To define the permission. B1(a) Offices and B1(b) Research and Development uses are likely to create a significantly higher parking demand than B1(c) Light Industry, B2 General Industry and B8 Warehousing and Distribution uses. B1(a) offices, and any conversion to residential uses under permitted development rights, would not be supported at this site which should be retained for industrial uses to accord with BCCS Policy EMP3, UDP Policy JP5 and emerging Site Allocation Document Policy IND3 and to protect the vitality and viability of Walsall's established centres in accordance with the NPPF, BCCS Policies CEN4, CEN5 and CEN7, UDP Policies S4 and S5 and the emerging Town Centre Area Action Plan.

## **Notes to Applicant**

1. The area of this proposed development has previously been as a timber yard. A range of chemicals is used to preserve timber and the process of treating timber and the storage of treated timber and chemicals can lead to spillages and soil contamination. Under such circumstances there may be hotspots of contaminated soil which may present Health and Safety implications for persons undertaking ground works. This information should be brought to the attention of any builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions which they feel appropriate when undertaking construction work at the site of the proposed development.





## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

Plans List Item Number: 6.

### Reason for bringing to committee: Major Application

**Location:** ROAPP HALL, DORSETT ROAD TERRACE, DARLASTON, WEDNESBURY, WS10 8TP

**Proposal:** CONSTRUCTION OF 6 NO TWO BEDROOM FLATS AND 5 NO. ONE BEDROOM FLATS IN A THREE STOREY BUILDING WITH ASSOCIATED PARKING, BIN STORE AND CYCLE STORE.

**Application Number:** 15/0759/FL  
**Applicant:** Mr Kevin Gilger  
**Agent:** Mr Michael Idowu  
**Application Type:** Full Application (Major)

**Case Officer:** Stuart Crossen  
**Ward:** Darlaston South  
**Expired Date:** 15-Dec-2015  
**Time Extension Expiry:** 10-Dec-2016

**Recommendation Summary:** Grant Subject to Conditions and Delegate to the Head of Planning, Engineering and Transportation to complete a section 106 agreement for affordable housing and open space contribution.



## Application and Site Details

The application proposes two three storey buildings to provide 6 two-bedroom and 5 one-bedroom apartments over 3 storeys with 10 car parking spaces, bin and secure cycle store.

The total site area is 0.14 ha and is situated at the end of Dorsett Road Terrace which is a cul-de-sac serving 18 dwellings within the Darlaston area, close to the town centre (350 metres away). Victorian terraced styled houses are located to South, the nearest 14.5 metres away with a modern 3 storey flat development opposite to the North West 20 metres away, North East is the last house of a row of post war semi-detached houses, the nearest number 10 would be 6 metres away, with an allotment adjacent to the West.

### Flat Schedule

No	Name	Int. area	No. of Bedrooms	Level	Block
1	Flat B	51m <sup>2</sup>	1 Bedroom Flat	Level 0	Block A
2	Flat C	47m <sup>2</sup>	1 Bedroom Flat	Level 1	Block A
3	Flat D	50m <sup>2</sup>	1 Bedroom Flat	Level 1	Block A
4	Flat E	47m <sup>2</sup>	1 Bedroom Flat	Level 2	Block A
5	Flat F	50m <sup>2</sup>	1 Bedroom Flat	Level 2	Block A
6	Flat G	60m <sup>2</sup>	2 Bedroom Flat	Level 0	Block B
7	Flat H	60m <sup>2</sup>	2 Bedroom Flat	Level 0	Block B
8	Flat I	63m <sup>2</sup>	2 Bedroom Flat	Level 1	Block B
9	Flat J	63m <sup>2</sup>	2 Bedroom Flat	Level 1	Block B
10	Flat K	63m <sup>2</sup>	2 Bedroom Flat	Level 2	Block B
11	Flat L	63m <sup>2</sup>	2 Bedroom Flat	Level 2	Block B

Block A would be to the North of the site 8.6 metres high with a flat roof and includes an access way at ground floor for vehicles to access the rear of the site. There would be a single storey 7 metre wide part at the side near to the boundary with number 10 Dorsett Terrace to provide the bin store.

Block B would be to the South of the site 8.6 metres high with a flat roof.

All of the flats are dual aspect dwellings. Kitchen/Living overlooking the public street on Dorset Road Terrace and the bedroom overlooking the car park. No main habitable side elevation windows are proposed on the side elevations.

There would be shared garden amenity space of 570m<sup>2</sup>.

The applicant has submitted a design and access statement in support of the planning application providing the following relevant additional information:

*There is a nearby park, an Asda superstore and Darlaston Bus Stand, all within 6 minutes walk from the site. From there it is possible to reach Walsall train station in 21 minutes and from there, Birmingham New Street in 22 minutes. Wolverhampton is 41 minutes away via bus and foot.*

*The materials have been selected to achieve a good appearance over time requiring minimal maintenance. The brick will be frost resistant. The render selected is likely to be a proprietary system with a BBA agreement certificate confirming its durability. The window and door frames will be UPVC.*

**An Urban Open Space Statement has also been provided** by the applicant as assurance that the developer represented by Michael Idowu Associates is keen to ensure that they contribute to the loss of community facility or open space.

**A Planning Statement has been provided by the applicant which makes the following conclusions:**

*The site is located within a built up area of mixed use but largely residential, where there is no issue raised to the principle of a scheme which creates a new residential units on the site. Such a development would reflect the prevailing pattern of development and land use in the surrounding area. As a result of the proposed new residential development and is positive for the local community in which the site lies.*

*The proposed residential accommodation would make efficient use of the site and create a mix of 11 units (6 x 2 - bed and 5 x 1 - bed flats) which would meet local housing demand. Each of the units would have internal space which either meets or exceeds the requirements of the National Standards, and with a high quality setting would provide a satisfactory living environment for future occupiers.*

*The site layout has been designed to ensure that the amenities and privacy of neighbouring properties are not harmed as a result of the development. There would be no overlooking of adjoining buildings/land due to the considerate positioning of windows with opaque glazing proposed where necessary. The two storey element of the development is still modest in height and would not appear overpowering to neighbouring properties. Within the site, each of the flats would have satisfactory privacy and amenity, with the flats benefitting from a pleasant car park setting and private/communal amenity areas.*

*There would be sufficient parking provision on the site to serve the development, with design at designated refuse and cycle parking. The development would utilise the vehicular access to Dorsett Terrace Road, with sufficient space within the site for vehicles to enter and exit in forward gear in the interests of highway and public safety.*

**Relevant Policies**

**National Planning Policy Framework (NPPF)**

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

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

- Proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local places the country needs.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Encourage the effective use of land by reusing land that has been previously developed.
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

**Key provisions** of the NPPF relevant in this case:

4: Promoting sustainable transport

32. Decisions should take account of whether:

- Safe and suitable access to the site can be achieved for all people

- Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
35. Developments should be located and designed where practical to:
- Give priority to pedestrian and cycle movements and have access to high quality public transport facilities.
  - Create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones.
  - Consider the needs of people with disabilities by all modes of transport.
6. Delivering a wide choice of high quality homes
49. Housing applications should be considered in the context of the presumption in favour of sustainable development.
50. Aim to deliver a wide choice of high quality homes and advises local planning authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community such as older people and people with disabilities amongst others.
- 7: Requiring Good Design
56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.
57. It is important to plan positively for the achievement of high quality and inclusive design for all development.
58. Planning policies and decisions should aim to ensure that developments meet criteria that include:
- Function well and add to the overall quality of the area.
  - Optimise the potential of the site to accommodate development.
  - Create safe and accessible environments.
  - Respond to local character and history and reflect the identity of local surroundings and materials.
  - Are visually attractive as a result of good architecture and landscaping.
60. Decisions should not attempt to impose architectural styles of particular tastes and they should not stifle innovation. It is proper to seek to promote or reinforce local distinctiveness.
61. Decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.
64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
10. Meeting the challenge of climate change, flooding and coastal change
103. LPAs should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a site specific flood risk assessment.
11. Conserving and enhancing the natural environment
109. The planning system should prevent new and existing development from contributing to...unacceptable levels of... pollution and remediate and mitigate despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
111. Encourage the effective use of land by re-using land that has been previously developed.
118. Local planning authorities should aim to conserve and enhance biodiversity by...incorporate biodiversity in and around developments.
120. To prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location.
123. Planning decisions should aim to:
- Avoid noise from giving rise to significant adverse impacts
125. Decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.



On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight

The Vision consists of three major directions of change and underpins the approach to the whole strategy which includes the delivery of Sustainable Communities, Environmental Transformation and Economic Prosperity.

The relevant key policies are:

CSP1: The Growth Network

CSP3: Environmental Infrastructure

CSP4: Place Making

CSP5: Transport Strategy

DEL1: Infrastructure Provision

DEL2: Managing the Balance Between Employment Land and Housing

HOU1: Delivering Sustainable Housing Growth

HOU2: Housing Density, Type and Accessibility

HOU3: Delivering Affordable Housing

TRAN1: Priorities for the Development of the Transport Network

TRAN2: Managing Transport Impacts of New Development

TRAN4: Creating Coherent Networks for Cycling and for Walking  
TRAN5: Influencing the Demand for Travel and Travel Choices  
ENV1: Nature Conservation  
ENV3: Design Quality  
ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island  
ENV7: Renewable Energy  
ENV8: Air Quality  
WM5: Resource Management and New Development

It is considered in this case that the relevant provisions of the BCCS can be given full weight.

### **Walsall's Unitary Development Plan (UDP)**

[www.walsall.gov.uk/index/environment/planning/unitary\\_development\\_plan.htm](http://www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: Environmental Protection  
GP3: Planning Obligations  
GP5: Equal Opportunities  
GP6: Disabled People  
3.6 and 3.7: Environmental Improvement  
ENV10: Pollution  
ENV11: Light 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  
ENV40: Conservation, Protection and Use of Water Resources  
H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings  
H4: Affordable Housing  
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  
T13: Parking Provision for Cars, Cycles and Taxis  
LC1: Urban Open Space

It is considered that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD's are;

## **Designing Walsall (Feb 2008)**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies.

The following are the relevant policies;

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character – new development to be informed by the surrounding character and to respond in a positive way to it be reflecting local urban design characteristics, such as street patterns, building scale, topography and culture.

DW4 – Continuity – New development proposals must give consideration to common building lines and how the development will give definition to streets and spaces to reinforce the existing urban structure and give significance to important streets and spaces.

DW5 Ease of movement- create places that are easily connected, safe to move through;

DW6 – Legibility – New development must maximise its potential to enhance local distinctiveness by making positive visual connections with its surrounding environment.

DW7: Diversity – contribute to creating living places that offer a mix of activities to the widest range of possible uses.

DW8: Adaptability – contribute to creating flexible and adaptable places that can easily change over time.

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DW10 – new development should make a positive contribution to creating a sustainable environment.

Annexe D: Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. The requirement to design longer rear gardens to reflect an area's character is applicable and the guidelines should not mean to be the maximum achievable distances.

Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above (this standard will be applied more robustly at the rear than across roads at the front), 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing.

### **Affordable Housing SPD**

Requirement to provide affordable housing on each new development of 15 dwellings or above.

### **Urban Open Space SPD**

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

- Urban Open Space SPD

### **Relevant Planning History**

10/0615/FL - Demolition of 3 existing buildings and construction of Educational Resource Centre with rehabilitation and residential recovery unit for spinal injuries (adj. to footpath no. Dar14) Granted Subject to Conditions 29/07/10

08/1548/FL – demolition of existing buildings and development of 6 two bedroom apartments and 2 three bedroom houses. Refused 20<sup>th</sup> November, 2008 (Lack of an acceptable bat survey and 45 metre fire access)

08/1028/FL - Erection of 6 x two bedroom apartments and 2 x three bedroom town houses. Withdrawn 7<sup>th</sup> August, 2008

06/1015/FL/W5 – Erection of 6 x two bedroom apartments, 1 x one bedroom apartment and 2 x three bedroom town houses. Refused

05/0989/FL/W5 - Erection of 8 no two bedroom apartments and 2 no. three bedroom houses. Refused 16<sup>th</sup> August, 2005

Other previous permissions relate to the club extensions which at the time of consideration it should be noted that several complaints were made by local residents who were experiencing nuisance caused by the clubs activities particularly when it held meetings or events such as bingo evenings.

### **Consultation Replies**

**Transportation** – No objections subject to conditions for surfacing, revised parking arrangements, details of a cycle shelter and a methodology/details of parking, turning for site operatives and wheel cleaning.

**Public Rights of Way** – No objection subject to conditions for drainage, lighting columns and further vehicular access/ dropped kerb/ tactile edging details

**Severn Trent** – No objections subject to conditions for drainage mitigation, elevation finish, lighting, access, dropped kerb and tactile edging details.

**Cable & Wireless** – No objections

**Community Safety** – No objections, a defensible 1 metre high barrier is recommended along the boundary.

**Police Architectural Liaison Officer** – No objections subject to secure by design.

**Environmental Health** – No comments to make

**Coal Authority** – No objections recommends a Planning Condition should planning permission be granted requiring the necessary remedial works to be carried out prior to commencement.

**Strategic Planning Policy** – No objections

**Pollution Control** – No objections subject to conditions required ground contamination site investigation and control to ensure satisfactory amenity during construction

**Tree Officer** – No objections

**Ecology** – No objections

**Structures** – No objections

**Housing Standards** – No objections

**Landscape** – No objections subject to landscape condition.

**Environment Agency** – No objections

**Flood Risk Officer** – No objections subject to flood mitigation condition.

### **Representations**

2 objections received on the following grounds:

Loss of daylight

Loss of privacy

Increase in traffic

Poor access for refuse collection

Design not in keeping with surroundings

Not enough parking.

Nowhere safe for children to play  
Too many properties like this for private rent being offered to problem families

## **Determining Issues**

**Principle of the development**  
**Design and Character of the Area**  
**Neighbouring Amenity**  
**Contaminated Land**  
**Highway Safety and Parking**  
**Flooding**  
**Trees**

## **Observations**

### **Principle of the development**

The site is within easy walking distance of the town centre and the Asda supermarket being only 350 metres away.

Residential here would accord with both the Unitary Development Plan and government guidance in so far as it will meet housing needs of the whole community, create more sustainable patterns of development, be in keeping with the character and density of the existing local area and close to public transport routes from Darlaston town centre which serves Wednesbury, Willenhall, Walsall, and Wolverhampton.

It is recognised that the former Roapp Hall was vacant for some time and has now been demolished. The location of this site, which is not in a centre, is surrounded by housing and lies at the end of a narrow road, means that it would not be a suitable location for any replacement community facility. The loss of this site to another use is therefore acceptable under UDP Policy LC8.

### **Design and Character of the Area**

The site is surrounded by different property styles including; Victorian Terraced houses, post war semi-detached houses and modern traditional styled semi-detached houses and three storey flats. Beyond the public footpath there are modern flat roof three storey housing.

The proposed design is modern although much of the immediate surrounding development is broadly traditional these existing styles differ in that they reflect the eras they were built in, when more traditional design were popular. Taking account of this characteristic the proposed design, which is representative of a modern styled flat development, would be compatible with the existing relationship between existing housing development in this area, by reflecting the era it would be built in.

### **Neighbouring Amenity**

The south west elevation would have bathroom windows, whilst presenting a largely blank elevation to the rear of the Victorian terraced houses on Mill Street. The separation distance to the rear wing of 31 Mill Street of 14 metres combined with the flat roof design and elevation colour, is considered would minimise any loss of light or overbearing impact on the rear windows and garden areas of houses along Mill Street.

A separation of 8 metres between the nearest house to the North East of the site and the nearest part of the proposal, is sufficient to ensure there would not be a significant loss of light or overbearing impact on occupiers, with little potential for overlooking of either the proposed flats or existing due to the combined distance, orientation and as the proposed flats have no main habitable room side elevation windows.

PAGE 61 OF 203

An objection regarding there is nowhere safe for children to play is noted. The application site would not be a suitable location for children in its current state and the redevelopment would be a significant improvement to the area. There are no policy requirements for the applicant to provide a children's play area.

Objections regarding the situation of potential residents of the flats, is not a determining issue of a planning application and would not be a reason to refuse planning permission.

### **Contaminated Land**

Regarding any redevelopment of this site for housing, prior to the sites uses as a club and as a community hall, it is known that mining activities were undertaken in the locale and that spoil is likely to be present on site. Since the closure and subsequent demolition of the club there has been some question of anti social behaviour on the site. For this reason Pollution Control Officers consider it necessary for ground investigation and ground gas survey to be undertaken to determine what if any remedial works are required to make the suitable for any future residential end use.

In addition to this, given the size of the development Pollution Control have recommended that the applicant agree measures to control impacts to nearby residential premises and the road infrastructure during the engineering and construction works, including hours of work which can be conditioned.

### **Highway Safety and Parking**

The site is considered by Highways Officers to be a relatively sustainable location being within reasonable walking distance (under 400m) of Darlaston Town Centre with a range of community and commercial facilities and bus links to major centres.

On balance the Highway Authority considers the development will not have severe transport implications and is acceptable.

### **Flooding**

The flow route from the drain at the north of the site heads towards through the refuse area – which could cause a flooding wheelie bin or pollution concern and heads south to the allotment site. The flood risk officer suggests that this is a residual risk that would need further investigation as to whether this risk could be engineered out or rationalised during development. There is the potential for the flow route to pose a risk to the proposed ground floor flats or to deflect surface water flows elsewhere. This is again considered only a residual risk and the Flood Risk Officer following correspondence with the agent recommends a condition to mitigate for these issues.

### **Trees**

The Tree Officer considers that the existing tree constraints are not significant enough to warrant refusal of this application and has no objections due to the lack of significant arboricultural implications. A condition has been requested for details of any tree planting to ensure the proposals are satisfactory.

### **Positive and Proactive working with the applicant**

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

**Recommendation: Grant Subject to Conditions and Delegate to the Head of Planning, Engineering and Transportation to complete a section 106 agreement for affordable housing and open space contribution.**

1) This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2) The development shall be carried out in accordance with the following plans unless otherwise superseded by condition:

- Amended location plan received 16/09/16
- Amended location plan and landscaping plan (130) received 07/09/16
- Site levels (131) received 26/10/15
- Amended site photos (120) received 07/09/15
- Amended proposed ground floor plan (140) received 07/09/16
- Amended proposed first and second floor plan (150) received 07/09/16
- Amended long elevations front and back (160) received 07/09/16
- Amended proposed side elevations (170) received 07/09/16
- Amended coloured elevations front and back (180) received 07/09/16
- Amended aerial front (100) received 07/09/16
- Amended aerial back (110) received 07/09/16
- Amended visualisation front (190) received 07/09/16
- Amended visualisation back - East (195) received 07/09/16
- Amended birds eye view proposed (200) received 07/09/16
- Letter presenting and discussing mining and geotechnical issues received 16/09/16
- Landscape management plan
- Bat & barn owl survey report received 26/10/15
- Transport statement received 07/09/16
- Urban open space
- Design and access statement received 07/09/15
- Drainage strategy received 07/09/15

Reason: To define the permission.

3a) 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) The site investigation shall consider the presence of shallow mining conditions.

3b) 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 the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

3c) 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, treatment of mine workings and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

3d) 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.

3e) 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 b) of this condition is encountered development shall cease until the "Remediation Statement" required by part c) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

3f) 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 safeguard the amenities of neighbours and occupants and to comply with UDP policy ENV10.

4a) Prior to engineering and site clearance/preparation works commencing a 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), and the management of any materials arising from the works shall be provided in writing to the Local Planning Authority

4b) The Construction Management Plan shall be fully implemented upon commencement of any works and shall be maintained until the site is completed.

Reason: To safeguard the amenities of neighbours and occupants and to comply with UDP policy ENV10.

5)a The development hereby permitted shall include a surface water drainage scheme for the site, based on sustainable drainage principles to be submitted to and approved in writing by the Local Planning Authority.

5)b. The agreed scheme shall subsequently be fully implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

- The limitation of surface water run-off to greenfield rates;
- The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus 30% allowance for climate change, based upon the submission of drainage calculations; and
- Responsibility for the future maintenance of drainage features.

Reason: To prevent the increased risk of flooding and to ensure the future maintenance of any sustainable drainage structures and to comply with UDP policy ENV40

6)a No works or development shall take place until full details of all proposed tree planting, and the proposed times of planting, have been approved in writing by the Borough Council,

6)b. All agreed tree planting shall be carried out in accordance with those details and at those planting times agreed.

6)c If within a period of five years from the date of the planting of any tree, that tree, or any planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of the same species and size as that originally planted shall be planted in the same place.



Reason: To preserve and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall UDP 2005, and Policies NE8 and NE9 of the Walsall SPD 'Conserving Walsall's Natural Environment.

7a) Prior to the development first coming into use, all access ways, vehicle manoeuvring areas and parking areas shall be fully consolidated, hard surfaced and drained and the parking bays clearly demarcated on the ground.

7b) These areas shall thereafter be retained and used for no other purpose.

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

8a) Prior to the commencement of the development, full details of the revised access arrangements to the site within the highway shall be submitted to and approved in writing by the Local Planning Authority. The access shall take the form of alterations to the existing dropped kerb arrangements including the provision of an extension to the public footway across the terminus of Dorsett Road Terrace to provide a continuous footway link to Wheelwright Close. If it is necessary to relocate the existing street lighting column to achieve the new access to the site then this shall be with the agreement in writing with Walsall Council's street lighting partner Amey.

8b) Prior to the first occupation of the development, the highway works required under 8(a) above shall be fully implemented in accordance with the approved details.

Reason: To ensure the safe and satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T1, T7, T8 and in the interests of highway safety.

9a) Prior to the commencement of the development, a construction methodology statement shall be submitted to and approved by the Local Planning Authority detailing where the parking and turning facilities for site operatives and construction deliveries will be located and including full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction. Particular consideration shall be given to the narrowness of the access in and out of Dorsett Road Terrace from Dorsett Road for large vehicles and how this will be managed to ensure road safety at all times.

9b) This agreed provision shall be retained during construction in accordance with the approved details.

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.

10) Prior to the commencement of development, a detailed landscaping scheme and maintenance strategy for the development (including any necessary phasing of implementation) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted on a plan to an appropriate scale and shall include where applicable, details of:

- Use of imported topsoil to agreed British Standard, unless detailed soil analysis is provided to prove suitability of existing site soils.
- Topsoil depths – shrub/hedgerow planting areas should be at least 450mm : grass seeded / turfed areas should be at least 150mm.
- Further details of proposed tree/plant species, number of plants/shrubs, size at time of planting, density, ground surface treatment, tree support and tree pit details including

- mulching. full details of sizes/ container volumes/ seed mixes/ plant numbers botanical and English names and methods of planting.
- details of proposed turf / seeded areas
  - Details of all boundary treatments, such as walls or fences
  - Within a 5 year period, any trees shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same size and same species as that originally required to be planted, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the satisfactory amenities of the area and to comply with UDP policies GP2 and ENV32

11a) Prior to the development commencing drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning Authority.

11b) The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or create or exacerbating a flooding problem, to minimise the risk of pollution and to comply with UDP policies ENV10 and ENV40

12a) Prior to the construction of the development above damp proof course full details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the development will meet Secure By Design specification.

12b) The approved details shall be fully implemented prior to first occupation of any house and thereafter retained

NB. Please refer to “Note For Applicant – Secured by Design” for further information.

Reason: To ensure the safety of future occupants

13) Prior to commencement of the development details of the proposed vehicle access into the proposed development at the junction with the public footpath are to be provided and agreed with the local planning authority to ensure level pedestrian access.

13b. the agreed details shall be fully implemented and retained thereafter

Reason: To ensure the satisfactory amenities for users of the public footpath and to comply with UDP policies GP2, ENV32 and T1.

14) Prior to commencement of the development a pair of community dropped kerbs with tactile and white contrast edging is to be provided at the junction of Footpath 14 Darlaston with Mill Street. This will allow disabled access from the development along Footpath 14 Darlaston, over Mill Street and along Footpath 5 Darlaston to connect to shops located on Wolverhampton Street.

Reason: To ensure the satisfactory amenities for users of the public footpath and to comply with UDP policies GP2, ENV32 and T1.

15a) Prior to the development first coming into use, full details of the proposed cycle shelter, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority.

15b) The agreed cycle shelter facility shall be fully implemented prior to the last residential unit being first occupied and thereafter be retained and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

16) Prior to occupation details of the proposed finish of the north-western site boundary in relationship to the adjoining public footpath and lighting columns located are to be provided and agreed with the Local Planning Authority. Details are to include finished ground levels and boundary treatments alongside the footpath, provision of level pedestrian access at the junction of the footpath with Dorsett Road Terrace and the proposed vehicle access, along with any improvements to the footpath surface and relocation of lighting columns if necessary.

16b The agreed details shall be fully implemented prior to the first occupation of the last residential unit and thereafter retained

Reason: To ensure the satisfactory amenities for users of the public footpath and to comply with UDP policies GP2, ENV32 and T1.

17) No drainage is to take place from the development onto the highway; it must be dealt with by on site drainage and surface water run-off onto the highway avoided. Details of proposed drainage and measures to prevent surface water run-off from the site onto the adjoining public footpath and highway are to be provided and agreed with the Local Planning Authority.

17b The agreed details shall be fully implemented prior to the first occupation of the last residential unit and thereafter retained

Reason: To ensure the satisfactory drainage of the site and to comply with UDP policies ENV10 and ENV40

18) No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08:00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

(\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

Reason: To safeguard the amenities of neighbouring occupants and to comply with UDP policy GP2

## **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.

All proposed landscaping on the application site is to be maintained either by owners of the proposed residential properties or incorporated into a regular site maintenance programme to ensure maintenance for perpetuity. Landscaping adjoining the public footpath must be regularly cut back to avoid encroachment or obstruction of the adjoining public footpath, which represents an offence under the Highways Act 1980.

In accordance with the Highways Act 1980, Lawful and Unlawful Interference with the Highway, prior to commencement of any work the applicant must provide details of the proposed work to Highways, Walsall Council and apply for any necessary permits including a scaffold permit and/or temporary prohibition of traffic order. Upon completion, the applicant must reinstate the public right of way to its present condition. No excavations, scaffolding, hoarding, movement and storage of materials, or other obstructions associated with the proposed development are to be present within, over or under the adjoining public right of way without prior agreement of the highways authority.

### *Contaminated Land*

**CL1** Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in National Planning Policy Framework; British Standard BS10175: 2011 “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)” (CIRIAC665); 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 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.

### *Secured by design*

1. Ground floor windows including French windows must meet PAS 24 2012 standards with at least one pane of laminated glass to a minimum thickness of 6.4mm or glass successfully tested to BS EN 356:2000 resistant to manual attack P1A.

2. Internal and External doors (including French and Patio doors) should meet PAS 24 2012 standards. NB/ Main entry and exit doors should have a self-closing / locking mechanism in place.

3. Where thumb turn locks are to be utilised, consideration should be given to the 'By Pass' method of entry, a simple and effective method used by offenders to gain entry to thumb turn cylinders. Any thumb turn cylinder used should be designed so that it cannot be 'by passed'. All doors need to be fitted with letter box internal protectors, this will help reduce the risk of the thumb turn lock being manipulated from the outside.

4. There should be a vandal resistant access control system in place on all external doors.

5. There should be a vandal resistant video intercom system on main entry / exit doors linked to each flat. Images of callers should be high resolution colour images during the daylight and monochrome images when operating below 0.5 lux, there should also be clear two way audio.

6. Entry exit doorways should be well light.

#### *Coal General Information for the Applicant*

The Coal Authority is of the opinion that building over the top of, or in close proximity to, mine entries should be avoided wherever possible, even after they have been capped, in line with our adopted policy:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

#### Disclaimer

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information (such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.

In formulating this response The Coal Authority has taken full account of the professional conclusions reached by the competent person who has prepared the Coal Mining Risk Assessment or other similar report. In the event that any future claim for liability arises in relation to this development The Coal Authority will take full account of the views, conclusions and mitigation previously expressed by the professional advisers for this development in relation to ground conditions and the acceptability of development.





## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 7.**

**Reason for bringing to committee: Major Application**

**Location:** LAND C/O BILSTON STREET AND CHURCH STREET, DARLASTON

**Proposal:** DEMOLISH EXISTING APARTMENT BUILDING AND CONSTRUCT NEW 9 X 1 BED AND 9 X 2 BED APARTMENTS.

**Application Number:** 16/1000  
**Applicant:** Fiona Fell  
**Agent:** Tim Sullivan  
**Application Type:** Full Application (Major)

**Case Officer:** Karon Hulse  
**Ward:** Bentley And Darlaston North  
**Expired Date:** 26-Oct-2016  
**Time Extension Expiry:**

**Recommendation Summary:** Grant permission subject to conditions and subject to a S106 Agreement to secure provision for affordable housing.



## **Application and Site Details**

This application follows a recently withdrawn application (15/1620) and now proposes a reduced scheme to develop land enclosed by Bilston Street and Church Street, Darlaston. The site is currently occupied by Favourite House, a large 3 storey Victorian building standing at the corner of Bilston Street/Church Street, consisting of 10 flats.

The site is 0.164 hectares in area, located some 200m north of Darlaston town centre at King Street.

The proposal seeks to demolish and clear the application site and to develop it for a mix of residential flats over 2.5 and 3 storeys consisting of 18 residential flats comprising:

- 9 x 1 bedroom flats
- 9 x 2 bedroom flats

All with associated car parking and landscaping and communal private space.

The site will consist of a single building fronting onto Bilston Street and Church Street, a rear parking courtyard accessed from Bilston Street providing 100% parking, 18 spaces and 2 visitor spaces. 18 cycle hoops are also proposed within the rear external amenity area, which is 1 per apartment.

The existing Sons and Daughters of Rest building on the corner of Cramp Hill and Bilston Street have been omitted from the current proposed scheme. The Sons and Daughters of Rest is a single storey brick building currently used as a meeting place.

There is a level change across the site of approx 1-1.5 metres with the highest point located on the Cramp Hill/Bilston Street corner, which then falls away across the site in both directions.

Immediately north-west and adjacent to the site are private gardens with two storey commercial premises to the north-east. There is an existing sub-station within Favourite House which is proposed to be relocated to the north-east corner of the site.

The majority of the surrounding area is residential comprising of regular 2 storey terraced houses with a number of bungalows to the rear of the site. The local residential architectural vernacular consists of a mixture of Victorian townhouses and more modern townhouses, steep roof pitches, red brick and prominent gable ends.

There are a number of two storey commercial (various heights) premises nearby including a function venue opposite and some small shops and public house on Church Street.

Old Church C of E Primary School is located some 250m from the site while Rough Hay Primary School is some 650m away from the site. St Lawrence Way (A462) to the west of the site is served by regular bus services, including number 333, operating between Walsall and Lodge Farm, via Darlaston. Services commence at 0830 and operate at half hourly intervals until 1730. Darlaston bus station, 300 metres to the south where there are numerous bus routes, with all services stopping adjacent to the ASDA store on St Lawrence Way.

Local transport links include the M6 motorway and Black Country Route.

The parking and access road will consist of shared surfaces. Bin stores for both general waste and recycling bins will be located close to rear entrance points of the flats.



The flats will have dual frontages with views both out onto the street and into the rear parking courtyard and amenity space. The flats are three storey in scale facing Bilston Street and Church Street with the top floor stepping down to 2.5 storeys with box dormer windows on the upper floor facing Church Street to reflect the height of adjacent buildings.

A contemporary mono-pitch gable feature is proposed to highlight the corners with shallow eaves to create a seamless appearance between the roof and wall.

Stairwells and entrances are located on the two corners of the site and in the centre to provide an active street frontage on all sides, the building will have varying heights in order to absorb the level change across the site and provide breaks in the façade.

Materials for the flats will be a combination of brick with areas of black horizontal cladding and lighter cladding for the projecting façade elements. Slate roofing and curtain walling for the stairwells with dark grey window frames.

The front elevation of the building is set back by 1200mm to provide defensible space and soften the street frontage landscaping between pavement and habitable rooms. The north-east part of the site will accommodate the relocated sub-station facing onto Church Street behind 2 mt high gates.

There will be approximately 400 sq mts of external amenity space at the rear of the apartment blocks with 5.2 sq mts balconies to the first and second floor flats facing into the rear courtyard are proposed and patio areas on the ground floor. This provides 494 sqm total of private amenity space for the development (approx 18.2 sqmts for each apartment). There will also be incidental areas of landscaping including a strip between 1 mt and 3 mts deep in front of the apartment blocks.

All housing accommodation proposed will be designed and constructed to level 3 of the Code for Sustainable Homes.

The proposed density on the site will be 109 dwellings per hectare (DPH). Currently around the site the density varies between 45 and 128 dph.

The applicant has provided the following documentation to support the application:

**Design and Access statement** – The application site is located 200m north of Darlaston town centre and fronts onto Bilston Street, Church Street and Cramp Hill and is located within a largely residential area on the northern edge of Darlaston town centre. The site is currently occupied by existing flats and commercial property, plus an electricity station.

**Transport statement** – the proposed visibility at the site access is considered to be appropriate to the scale of redevelopment and the location. The site will be provided with a parking provision that reflects local parking standards, the vehicular trip generation of the site has been determined based on similar sites nationwide within the TRICS database which showed the proposed development would result in no more than 4 additional two-way trips in either highway peak hour or just one additional trip every 15 minutes at the busiest time. The site is accessible by sustainable modes. The site lies in very close proximity to Darlaston town centre, local schools and local bus routes. The site also benefits from an extensive local footway network.

**Viability assessment** - outlines that the site would be unviable if financial contribution to open space is required.

**Bat survey** - It is concluded that the inspected buildings do not currently contain any bat roosts. Furthermore, the survey area and its immediate surroundings are considered to offer low quality bat habitat.

**Arboricultural Survey** – it recommends the retention of any Category C trees where possible, all new development to be located outside of the RPA or canopy spread of any retained tree, any new development which require works within the RPA of any retained tree an then an Arboricultural Method Statement should be prepared and any proposed new planting should consist of native and wildlife attracting species.

**Coal mining risk assessment** - A review of the investigation holes will be required to fully assess what remediation works are required; however the proposed development will more than likely be at risk from shallow coal seams. Stabilisation by drilling and grouting will address this risk. Works will be carried out in accordance with CIRIA recommendations and current best practice.

### **Relevant Planning History**

15/1620 - Demolition of existing buildings (with boundary) and construction of 1 no. apartment block consisting of 15 x 1 bedroom flats and 12 x 2 bedroom flats. Withdrawn 8/6/16

06/1794/FL/W2 - Erection of 10 Flats. Refused on the grounds of the design of the building, no private amenity space, pedestrian visibility splay not achieved, access way be a minimum of 4.1metres wide and no financial contribution to secure urban open space in the area. Appeal dismissed 27/3/08

### **Relevant Planning Policy Summary**

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

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

PAGE 74 OF 203

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 103 when determining planning applications local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a Flood Risk Assessment.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan'

policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

- 1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.
- 2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.
- 3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

The above are supported by the following policies:

- CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.
- DEL1: Development proposals will only be permitted if all necessary infrastructure improvements, mitigation measures and sustainable design requirements are provided.
- DEL2: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.
- HOU2: Advises on housing density, type and accessibility and the need to achieve high quality design and minimise amenity impacts. All developments should aim to achieve a minimum net density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness as defined

HOU3: Seeks to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character. Development proposals will be required to preserve and where appropriate enhance aspects of the historic environment together with their settings.

ENV3: Refers to design quality requirements.

ENV5: Seeks to minimise the probability and consequences of flood risk.

ENV7: All residential developments of 10 units or more must incorporate generation of energy from renewable sources sufficient to offset at least 10% of the energy demand of the development.

### **Walsall's Unitary Development Plan (UDP)**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: Encourages reclamation and development of derelict and previously developed land where possible in accordance with other policies.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV24: Seeks to retain and enhance wildlife corridors.

ENV32: Proposals should take in to account the surrounding context including consideration of the effect on the local character of the area, vehicular and pedestrian patterns and visual relationship to surrounding areas.

ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: The quality of all water resources will be protected.

JP5: Seeks to protect core employment areas for employment uses.

H3: Encourages provision of housing through re-use of previously developed sites provided a satisfactory residential environment can be achieved, the site is not required to be retained for employment, there is good accessibility and residential development does not constrain the development of adjacent sites .

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

PAGE 77 OF 203

T1: All development should conform to the accessibility standards set out in policies T10-T13.

T4: Classifies the highway network and specifies that residential streets and minor roads are those where traffic volumes and speeds should be quite low. Sometimes traffic calming measures will be required.

T5: Seeks to implement selective improvements to highway infrastructure and states highway improvement schemes should be designed to minimise any adverse impact on the environment or the amenity of residents.

T7: All development should satisfy the car parking standards set out in Policy T13.

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

DW1: Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DW2: Safe & Welcoming Places - all new development must contribute to creating places that feel safe.

DW3: Character - all new development must be designed to respect and enhance local identity

DW4: Continuity - Well defined streets with a continuity of built form are important.

DW5: Ease of Movement – connections to existing routes

DW6: Legibility - new development should contribute to creating a place that has a clear identity

DW7: Diversity – contribute to creating living places that offer a mix of activities to the widest range of possible uses

DW8: Adaptability – contribute to creating flexible and adaptable places that can easily change over time.

DW9: High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality.

DW 10: Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

Appendix D identifies privacy and aspect distances between dwellings, garden/amenity dimensions and design considerations. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- Garden dimensions: 12m in length or a minimum area of 68 sq m for houses and 20 sq. m of useable space per dwelling where communal provision is provided.

## **Conserving Walsall's Natural Environment SPD**

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

## **Supplementary Planning Document for Affordable Housing**

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

## **Supplementary Planning Document Urban Open Space**

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

## **Consultations**

**Transportation** – no objections

**Housing Strategy** – no objections

**Landscape** – no objections subject to conditions requires further information

**Pollution Control** – no objections subject to conditions requiring demolition and work place strategy

**Severn Trent Water** – no objections subject to conditions requiring drainage details

**The Coal Authority** – no objections subject to conditions regarding site investigations

**Police ALO** – no objections subject to Secure by Design informative

## **Public Participation Responses**

Three letters of representation one with a petition signed by 10 residents of Cramp Hill objecting on the following grounds:

- Impact on amenities
- Elderly residents around the site
- Flat tenants cause disturbance
- Noise and general nuisance
- Vehicle movements existing volume of traffic already at saturation
- One parking space not enough
- Highway safety
- Too high/invasive of privacy
- Too high density
- Bilston street access is inadequate
- Safety to passing pedestrians
- Let to families –no places available in any nearby schools
- Existing iconic building (favourite house)
- Overlook Tomell Mews
- Street currently occupied by elderly people who will feel threatened by young people moving in
- destroy the close community in the street.
- people who move in may be disruptive to the present residents.
- privacy
- lack of parking

- parking in street
- significant vehicle movements
- detrimental to the character and visual amenities of the area
- noise and vibration
- overdevelopment
- much too high in relation to surrounding properties

### **Determining Issues**

- **Principle of residential development**
- **Character and appearance within the surrounding area**
- **Layout/Design/Density/Secure by Design**
- **Landscape/Ecology**
- **Environmental Aspects**
- **Access and parking**
- **Provision for Affordable Housing and Urban Open Space**
- **Local Finance Considerations**

### **Observations**

#### **Principle of development**

This application seeks consent for the redevelopment of this land for residential. The NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed and that Local planning authorities may make an allowance for windfall sites in their five-year supply, in this instance the principle of redevelopment for residential is acceptable subject to all other matters being satisfactory taking into account the site already provides 10 flats within Favourit House.

Whilst there are sufficient sites that already have planning permission in Walsall to meet the housing land requirement in the BCCS until at least 2021 – (5 year supply from now). The supply requirement is contained in policy HOU1 of the BCCS: this sets a minimum figure for the amount of housing land that needs to be provided rather than a maximum.

Policy CSP2 of the BCCS sets out the Council's policy towards development in areas outside the Growth Network such as this. It states that such areas will provide, amongst other matters, "a mix of good quality residential areas" and "a constant supply of small-scale development opportunities". The Council's policies provide support for the application.

#### **Character and Appearance within the surrounding area**

The NPPF says that developments should respond to local character, it is proper to seek to promote or reinforce local distinctiveness and 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. Policies CPS4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3,6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed/influenced by their context and reinforce locally distinctive elements.

The area is a mix of bungalows, houses and flats (including Favourite House) with some commercial properties of differing styles, scales and ages, all of which defines the character. The built urban form is considered mixed, ranging from traditional street frontage to some back land and buildings sited within their land plots. To maximise the sites potential, improve safety and security of the location and improve passive surveillance of public spaces, the development has adopted a traditional street frontage style with private spaces at the rear.



As previously stated the scale of local buildings is mixed including single and two storey commercial, Victorian 2.5 and 3 storey residential, modern single, two and 2.5 storey residential and on site Favourite House which varies between 2 and 3 storeys. Consequently, the proposed building scale and design has taken account of the mixed height and design character of the location and its surroundings.

None of the buildings within the application site are either locally listed, listed or in a conservation area and none of the buildings have been identified as community assets worthy of retention. It is noted that the existing buildings are of poor construction and/or poorly maintained and whilst there may be areas of the original buildings that may have some intrinsic value to the local community this on its own would be insufficient to warrant a refusal of the development or the retention of the existing buildings. However the reuse of the existing art deco sign on the sub station within the fabric of the new build will retain part of the heritage of this site, this can be required by way of a condition.

Balancing local concerns against the policy requirements, the Governments drive to deliver more housing, the existing character and the proposed scheme, it is considered that the residential redevelopment of this previously developed site in a sustainable urban location, providing an additional mix and choice of residential properties is in accordance with the NPPF and BCCS and local development plan policies.

### **Layout/Design/Density/Secure by Design**

*Layout and Design* - The proposed design mixes a traditional layout of the site, utilising a contemporary appearance and mix of contemporary and traditional finishes. It is considered it will create and introduce a development that will make a positive contribution to the character of the area.

The building design incorporates active frontages with a perimeter building, creating an enclosed and contained rear car park and amenity areas. Pedestrian access to the street provides interest and activity within the location as well as providing natural surveillance for security. The 'L' shaped block will be set back from the footpath to allow the provision of front defensible space which will be landscaped to provide security to the ground floor windows. Ground floor rear patios and balconies will provide additional external private amenity space for its residents which will contribute to the quality of life of those living there.

Rear habitable room windows overlooking the car park and amenity area will be in excess of the Designing Walsall guidance for habitable room windows, with any windows facing the bungalows to the north of the site being 35 metres away.

Housing on Cramp Hill will have limited views of the new development due to the existing Sons and Daughters building being in-between the side elevation of the proposed flats and houses along Cramp Hill.

A previous refusal on part of the site proposed to retain the existing Favourite House and build along Church Street only.

The proposed design of the building was considered to be plain and was neither modern enough to be striking (which would have an element of interest in the street) nor traditional (which would have a more modest effect, by suiting itself to the area). As proposed it was considered would not integrate with the street and character of surrounding neighbourhood, nor would it create a new and valuable feature.

This was further supported by the Planning Inspector who in his appeal decision concluded that the design of the proposed development would *"neither reflect the traditional urban characteristics of church Street nor introduce a modern alternative of the necessary quality"*.

As stated above it is considered that the proposed design whilst providing a traditional layout of the site utilises a contemporary appearance and finishes and will create and introduce a development that will make a positive contribution to the character of the area.

*Density* - The proposed density is 109 dwellings per hectare (dph), currently around the site the existing housing stock in this vicinity ranges between 45 and 128 dph. Whilst the proposed density is high, it is considered acceptable and optimises and makes the best use of the land in this sustainable location in accordance with the NPPF and the Council's development plan aims and objectives.

*Secure by Design* - This development is situated on the Bentley and Darlaston North Neighbourhood Police Team area. This area has suffered 1082 reported crimes, of which 117 were burglaries and 217 vehicle related. In order to address this and in order to minimise additional opportunities for crime, it is recommended that the development meets Secure By Design specifications and guidelines. A condition and note for the applicant can be included.

Balancing the issues raised and the considering the proposed development design, it is considered the proposed layout and design is acceptable and would make a positive contribution to the character of the locality.

### **Landscape / ecology**

The proposed landscaping within the site is welcomed, including tree planting and can be secured by way of a safeguarding condition. This should include how the frontage areas (defensible space) around the site will be addressed which should be around 1m in depth and consist of dense low level shrubbery suitable for light and the soil environment in this location.

Existing trees within the site boundaries are insignificant and do not warrant retention providing limited amenity value to the locality. Any proposed scheme should use native trees and shrubs in soft landscaping. Alternatively, non-native species of trees and shrubs which are known to be attractive to wildlife for example through having flowers for insects and/or berries for birds maybe used. These can be included within the landscape scheme and can be secured by way of an appropriate planning condition.

Nesting birds should be protected during site clearance works. This is no more than the law requires but can be addressed through a planning condition.

Furthermore, nesting features should be included within the development which are suitable for declining urban birds, such as starling, house sparrow, swift and house martin, again this can be secured through a planning condition.

### **Environmental Aspects**

*Coal Authority* - The application includes a coal mining risk assessment. The Report identifies that the application site may have been subject to past coal mining activity, information indicates that historic unrecorded coal mining is likely to have taken place beneath the site at shallow depth.

The report makes appropriate recommendations for the carrying out of intrusive ground investigations in the form boreholes in order to ascertain the ground conditions, to establish the depth and condition of coal seams beneath the site and to inform any necessary remedial works required. In the event that shallow mine workings are encountered, The Coal Authority considers that due consideration should also be afforded to the potential risk posed by mine gas to the proposed development.

The applicant should ensure that the exact form of any intrusive site investigation, including the number, location and depth of boreholes, is agreed with The Coal Authority's Permitting Team as part of their permit application. The findings of these intrusive site investigations should inform any mitigation measures, such as drilling and grouting stabilisation works, foundation solutions and gas protection measures, which may be required in order to remediate mining legacy affecting the site and to ensure the safety and stability of the proposed development.

The Coal Authority recommends that the Local Planning Authority impose a planning condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development. It is considered that all of the above can be satisfactorily achieved by the imposition of suitable planning conditions.

*Electricity Sub Station* - The submitted plans show that the substation is to be relocated elsewhere within the site. The land around the location of the existing sub station will need to be investigated for contamination, potential noise and electromagnetic (non-ionising radiation) will also need to be considered from the new substation. This may be addressed by using a brick enclosure rather than any other material unless it can be demonstrated otherwise to the satisfaction of pollution control. This can be secured via a safeguarding condition.

*Contaminated Land* - With regards to the rest of the site, a due diligence report on the state of the land should be carried out in order to ascertain if any further formal intrusive work will need to be undertaken to ensure that the site is suitable for use as a residential development. This can be satisfactorily required by way of a planning condition. It is recommended that prior to any demolition works commencing an asbestos survey is undertaken and any asbestos managed and removed accordingly.

*Engineering and Construction Phase* - As with all new developments and in particular where there is an element involving demolition it is considered necessary to require a "Demolition and Construction working plan' plus Site Management and Welfare measures to address noise, dust and debris drag-out from the site. In addition other details should include wheel-washing facilities and road-sweeping. This can be secured by way of planning conditions in which case this is considered acceptable provided it is implemented throughout any demolition, site clearance or construction phases.

### **Access and parking**

The development looks to construct 18 x one and two bed flats. 19 parking spaces (105%) plus 1 disabled space is proposed. This is considered acceptable taking into account relatively sustainable location of the site within Darlaston district centre and that the site is within 200m's of Darlaston town centre, which benefits from a range of shopping facilities, bus station, health and education facilities as well as benefitting from a very well-developed network of local footways and footpaths providing continuous connections to the town centre. Secure cycle shelters are to be provided.

On balance and in terms of highway matters the site is considered to be in a sustainable location within walking distance of Darlaston town centre, as such the aims and objectives of UDP policy T13 parking can be flexibly applied.

### **Section 106 Agreement Contributions**

*Affordable Housing* - Under the terms of policies DEL1 and HOU3 of the BCCS and SPD Affordable Housing the proposal of 18 flats triggers the need for provision of affordable

housing. Provision of 25% would equate to the need for 10 units. The application is made by Walsall Housing Group (WHG) and all units will be “affordable rent” to be provided by WHG a Registered Provider. Although the proposed affordable housing provision at 100% is well above the policy requirement for 25% provision and the Council’s Housing Strategy officer is fully supportive of the level of provision proposed. The affordable housing provision is still recommended to be secured as part of the Section 106 Agreement.

*Open Space* – The development for 18 flats would trigger the open space SPD generating a potential contribution of £18,711 for Urban Open Space. With planning application 15/1620, the applicant submitted a viability assessment which was previously considered by the District Valuer who concluded the following:

*“My assessment shows a Residual Land Value of the scheme detailed above in the negative sum of -£585,957.00, against a Site Value of £165,000.00. Accordingly, I would confirm that the scheme, assuming the payment of a Section 106 contribution of £27,027 for Urban Open Space, is not viable as at the date of this report.”*

On the basis that the current proposal has been proportionally reduced by 9 units and the contributions have been proportionally reduced to £18,711 it is considered satisfactory to accept the DVS conclusions again on this application, as it is considered the development is likely to still be unviable and as such there is no requirement for any open space financial contributions attributed to the application.

It is recommended that the proposal is granted subject to securing the affordable housing element only.

### **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 8 (discounting the 10 existing homes within Favourite House) new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the ‘formula grant’ the Council will receive from Government.

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

### **Positive and Proactive working with the applicant**

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice relevant supporting information and additional revised plans have been submitted. In light of the submitted details officers are able to support the scheme.

**Recommendation: Grant permission subject to conditions and subject to a S106 Agreement to secure provision of affordable housing.**

1: This development must be begun not later than 3 years after the date of this decision.

*Reason:* Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2: This development shall not be carried out other than in conformity with the following approved plans: -

*Plans*

- Proposed Site Plan (201A) received 28/7/16
- Proposed ground floor plan (202 A) received 8/7/16
- Proposed first floor plan (203 A) received 8/7/16
- Proposed second floor plan (204 A) received 8/7/16
- Proposed elevations – sheet 1 (205 A) received 8/7/16
- Proposed elevations – sheet 2 (206 A) received 8/7/16
- Areas Plan (207) received 8/7/16
- Roof Plan (208) received 8/7/16
- Material Specification Sheet (210) received 8/7/16
- Proposed External Works and Drainage Layout (500) received 28/7/16
- Proposed Finishes Layout (501) received 28/7/16
- Topographical survey (100B) received 28/7/16

*Reports*

- Design and Access statement 8/7/16
- Bat survey received 28/7/16
- Arboricultural survey received 28/7/16

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

3a. Prior to the removal and relocation of the sub station, full details in respect of noise mitigation measures to ensure future residents will not be exposed to noise levels that exceed a Noise Rating of 35 one metre from a habitable room due to noise emanating from the substation shall be submitted to and approved in writing by the Local Planning Authority. The details shall include materials and any enclosure proposed.

3b. Prior to the re construction of the sub station commencing, the applicant shall provide written confirmation to the Local Planning Authority that the Electro Magnetic Fields from the substation will be below the National Guidelines for non-ionising radiation at the residential premises. The approved details shall be fully implemented and thereafter retained.

*Reason:* To ensure the health, safety and well being of future and existing residents.

4a. Prior to any works being commenced on the site, including demolition works a Construction Management Plan / Site Management and Welfare Provision plan outlining arrangements for the following:

- control of noise,
- dust and debris,
- site drag-out,

- details of parking and turning facilities for site operatives within the application site etc  
shall be submitted to and approved in writing by the Local Planning Authority

4b. The approved measures shall be fully implemented and retained throughout and until all demolition, engineering, and construction activities have been 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.

5a. Prior to any demolition works commencing an asbestos survey shall be undertaken and any asbestos managed and removed in accordance with the Control of Asbestos Regulations 2012, the Approved Code of Practice (ACOP) and guidance.

5b. Written confirmation of any investigation and subsequent asbestos removal shall be provided to the Local Planning Authority prior to the demolition commencing.

*Reason:* To safeguard the health and safety of workers on the site and amenities of nearby and future residents and ensure the satisfactory development of the site.

6a. Prior to the commencement of the development full engineering details of all works within the existing highway shall be submitted to and receive technical approval in writing by the Local Planning Authority in consultation with the Highway Authority. The details shall include:-

- i) the alterations to the existing dropped kerb footway crossing to realign with the repositioned access point in Bilston Street,
- ii) the removal and reinstatement of the redundant footway crossing in Bilston Street and Church Street including the necessary adjustments to any ironwork,
- iii) the provision of tactile pedestrian dropped crossing point across Bilston Street at the Church Street junction in a position to be agreed with the Highway Authority.
- iv) The provision of a replacement street name for Bilston Street currently located on the existing building to be demolished.

6b. Prior to the development first coming into use, the highway infrastructure works detailed under Condition 6 (a) above shall be fully implemented in accordance with the approved details and to the satisfaction of the Local Highway Authority.

*Reason:* To ensure the satisfactory completion and operation of the public highway and in the interests of highway safety and to improve accessibility to the district centre.

7a. Prior to the development first being occupied details of any proposed boundary treatment along the Bilston Street frontage

7b. The details shall accommodate a 2.4m x 43m visibility splay at the car park access point shown on drawing no. 08-1057 201 Rev whereby no structure or planting exceeding 600mm in height above carriageway level

7c. The approved details shall be fully implemented before the rear car park is first used and shall thereafter be retained.

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

8a. Prior to the development first coming into use, the proposed cycle shelters, shall be fully implemented in accordance with the approved details.

8b. The cycle shelter facilities shall thereafter be retained and used for no other purpose.

*Reason:* To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

9a. Prior to the first occupation of the development, all access ways, parking and vehicle areas 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 and the parking bays clearly demarcated on the ground.

9b. These areas 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.

10a. Prior to the commencement of the development, a construction methodology statement shall be submitted to and approved by the Local Planning Authority detailing where the parking and turning facilities for site operatives and construction deliveries will be located and including full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.

10b. Any temporary hoarding around the site during the period of construction shall not encroach into 2.4m x 43m visibility splays at the junction with Bilston Street and Church Street, which shall be kept clear at all times.

10c. This provision shall be retained during construction in accordance with the approved details.

*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.

11a. Prior to the commencement of the development, a Waste Management Strategy shall be submitted to and approved in writing by the Local Planning Authority. The details shall include proposed waste and recycling collection arrangements.

11b. The agreed details shall be fully implemented in accordance with the approved details upon first occupation of the development.

*Reason:* To ensure adequate servicing of the development.

*NB: The proposed refuse bin storage facility is centrally located within the rear amenity area about 30m from Bilston Street. Under Building Regulations refuse collection vehicles should not have to reverse more than 12m and should be able to get within 25m of the collection point. Also residents should not be required to carry waste more than 30m to the collection point. It is not clear whether the refuse collection vehicle is intended to access the site. If not, then the refuse storage should be relocated as close as possible to the public highway (maximum 25m). If so, then an Autotrack drawing shall be submitted to and approved in writing by the Local Planning Authority demonstrating that a 10.7m refuse wagon can reverse into and out of the access point, together with construction details of the access road to a specification capable of accommodating a 26t refuse vehicle.*

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

- i. 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)
- ii. 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 the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii. 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)
- iv. The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v. 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.
- vi. 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).
- vii. The applicant shall provide written confirmation that all imported clean cover materials are not contaminated and are suitable for their intended use.

*Reason:* To safeguard the amenities of future residents and ensure the satisfactory development of the site.

13a. Prior to any built development above damp proof a scheme for the provision of nesting features suitable for starling, house sparrow, swift and house martin shall be submitted to and approved in writing by the Local Planning Authority of the development being brought into use.

13b. The approved scheme shall be installed before any part of the development is first occupied and shall thereafter be retained with access openings maintained free of obstructions at all times.

*Reason:* To conserve local bird populations

14a. Prior to the commencement of any built development above damp proof full details of boundary treatments shall be submitted to and approved by the local planning authority

14b. The approved boundary treatment shall be fully implemented prior to first occupation of any part of the development and maintained in accordance with the agreed details thereafter.

*Reason:* To safeguard the amenities of nearby residents.



15a. Prior to the construction of the development above damp proof course details of proposed measures to achieve a high quality sustainable design shall have been submitted to and agreed in writing by the Local Planning Authority. Examples may include the following measures: -

- i. Measures to reduce energy consumption and carbon dioxide emissions (e.g. building insulation, energy display devices, drying space, energy labelled white goods, low and zero carbon technologies, cycle storage, home office)
- ii. Measures to reduce water consumption (e.g. recycling surface water or grey water)
- iii. Responsible sourcing of materials
- iv. Reduction of surface water run-off (e.g. surface water management and management of flood risk)
- v. Household recycling, construction waste management and composting facilities
- vi. Means of reducing pollution and emissions
- vii. Health and wellbeing measures (e.g. daylighting, sound insulation, private space, Lifetime Homes)
- viii. Management opportunities (e.g. home user guide and considerate constructors scheme)
- ix. Ecological enhancements

15b. The development shall be carried out in accordance with the approved measures referred to in Condition 14a, and the dwellings shall not be occupied before the approved measures have been fully installed and made available for use by the occupiers of the dwellings.

*Reason:* In order to secure the sustainable means of construction to Level 3 or above of the Code for Sustainable Homes in accordance with policy ENV3 of the Black Country Core Strategy and policies ENV39 and ENV40 of Walsall's Unitary Development Plan.

16a. Prior to the construction of the development above damp proof course full details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the development will meet Secure By Design specification.

16b. The approved details shall be fully implemented prior to first occupation of any house and thereafter retained.

NB. Please refer to "Note for Applicant" for further information.

*Reason:* To ensure the safety of future occupants.

17a. Prior to the commencement of any built development above damp proof level, and notwithstanding any details deposited a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the use of native trees and shrubs in the soft landscaping and the use of non-native species of trees and shrubs which are known to be attractive to wildlife (for example through having flowers for insects and/or berries for birds).

17b. The scheme shall be completed fully in accordance with the approved details before the development is occupied and retained as such.

17c. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

*Reason:* In order to safeguard the visual amenity and natural environment of the area.

18a. Upon the site being cleared of all materials and buildings, full details of how foul and storm water will be disposed of from site shall be submitted to and approved in writing by the Local Planning Authority.

18b. The scheme shall be implemented and retained in accordance with the approved details before the development is first brought into use.

*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.

19a. The existing art deco sign on the building adjacent to the sub station on Church Street shall be removed, cleaned and reused within the external fabric of the new building at a location to be agreed in writing with the Local Planning Authority.

19b. The sign shall be installed in the agreed location prior to the first occupation of any part of the development and retained thereafter

*Reason:* To safeguard features and memorabilia pertaining to local history within the Darlaston area.

20. The materials used shall be those indicated on the approved plans.

*Reason:* To ensure the satisfactory appearance of the development.

21. No ground fires shall be permitted on the demolition site.

*Reason:* To safeguard the amenities of nearby residents.

22. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00 Monday to Friday and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

*Reason:* To safeguard the amenities of nearby residents.

### **Notes for applicant**

**Electricity Sub-station** - For electro-magnetic (non-ionising radiation) fields the UK Government has adopted the recommendations of the International Commission on Non-ionizing Radiation Protection (ICNIRP).

### **Contaminated Land**

**CL1** Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in National Planning Policy Framework; British Standard BS10175: 2011 "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 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 (**‘topsoil verification’ certificate**), 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.

### **BS8233 2014 Guidance on sound insulation and noise reduction for buildings**

BS 8233:2014 recommends various noise levels are achieved within habitable rooms between 30 dB(A) (23.00-07.00) for bedrooms, and 35 dB(A) (07.00-23.00) for living rooms and bedrooms. BS 8233:2014 adopts guideline noise values recommended by World Health Organisation for external amenity areas such as gardens and patios, desirable that the external noise does not exceed 50 dB LAeq,T with an upper guideline value of 55 dB LAeq,T. Noise levels within bedrooms shall not regularly exceed 45dB LAFMax criterion within bedrooms.

Given the size of the development it is recommended that a planning condition is included within any permission requiring for the applicant to agree a Construction Methodology Statement to control noise, dust and debris during the construction phase, including hours of work.

### **Secure by Design**

West Midlands Police: The Police Architectural Liaison Officer has been consulted on the application and the developer should be made aware of Secure By Design specifications which will significantly increase the security of the building (doors and windows). Information can be found at

[http://www.securedbydesign.com/pdfs/SBD\\_New\\_Homes\\_2010.pdf](http://www.securedbydesign.com/pdfs/SBD_New_Homes_2010.pdf)

1. Windows should conform to PAS 24 2012 PS1A Standard with at least one pane of 6.4mm laminated glass in all ground floor windows.

2. There should be an area of defensible space in front and across the length of each front facing window, which should be around 1m in depth and consist of dense low level shrubbery, suitable for the light / soil environment at its location. The defensible space will help protect ground floor windows and make access to them by offenders more difficult.

3. All doors should be to PAS 24 2012 standards. If a europrofile cylinder lock is to be utilised this doors testing and certification should incorporate a TS-007 3star cylinder lock.

4. All communal doorsets should be to PAS24 2012 standards or STS 202 Issue 3:2011.

*Glazing in and around communal doorsets needs to conform to PAS 2012 P1A. A vandal resistant video/audio access control system should be installed on each of the main entry points to the building, linked to each of the apartments served from that access point.*

5. There should be an access control system fitted to the first and second stair well door, stopping access onto those floors and thus reducing access to unauthorised persons around the various floors.

6. The open plan nature of the car park leaves vehicles vulnerable to crime in an area which is already a high vehicle crime area. As a result the car park area should be gated and protected by 2.1m metal railing fencing.

*The gated system should have a vandal resistant access controlled system in place.*

7. The car parking area should be well light along with the entry/exit doorways to BS5489:2013 standards

8. The proposed cycle storage is in my opinion not fit for purpose. These types of storage anchors leave bikes visible and open to the elements. As a result they end up not being used and they are left to become seating or gathering areas for local children.

*Cycle storage should be fit for purpose and provide a safe area for pedal cycles to be stored. A secure unit such as the TPR security sheds, offers a higher level of security, keeps cycles out of sight and away from the elements. They are also Secure By Design certified and made in part from recycled plastic. They are virtually maintenance free. <http://tpr-sheds.com/>*

9. Due to the increase in metal theft consideration should be used to minimising the use of lead in the design, by using lead substitute or alternative products.

### **Demolition**

If your application includes demolition work, it may be necessary for you to also notify Building Control Services of your intention to demolish (Section 80 of the Building Act 1984). This should be done as soon as possible but not less than 6 weeks before commencement of the demolition work. Helpline number 01922 652408

### **S38/S278 Works**

No works on the public highway shall be commenced until all engineering details have been approved by the Highway Authority and an agreement under Section 38/278 of the Highways Act, 1980 entered into. All costs are to be met by the applicant and it should be noted that any non standard materials, landscaping, highway drainage or structures etc will require a commuted sum for future maintenance.

### **Mud**

Mud on Highway - 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.

### **Drainage**

There may be a public sewer located within the application site and the applicant is advised to investigate this. Please note that public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. If there are sewers which will come into close proximity of the works, the applicant is advised to contact

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

Furthermore, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

To help us provide an efficient response please could you send all responses to [net.dev.west@severntrent.co.uk](mailto:net.dev.west@severntrent.co.uk) or call Severn Trent on 01902 793851.

### **Drainage over the public highway**

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning areas do not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway or vice versa.

### **Nesting birds**

To avoid the risk to nesting birds, site clearance and dismantling works should be undertaken outside the bird nesting season. The bird nesting season extends between mid February and September inclusive but is weather dependant and nesting may take place outside this period. If this is not possible no site clearance works should be undertaken until the site has been surveyed for nesting birds by a qualified and experienced ecologist. If nesting birds are discovered, clearance works should be delayed until the young have fledged.

(Please note that feral pigeons are protected and destruction of nests could only take place on the grounds of public health or public safety.)





## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 8.**

### Reason for bringing to committee: Major Application

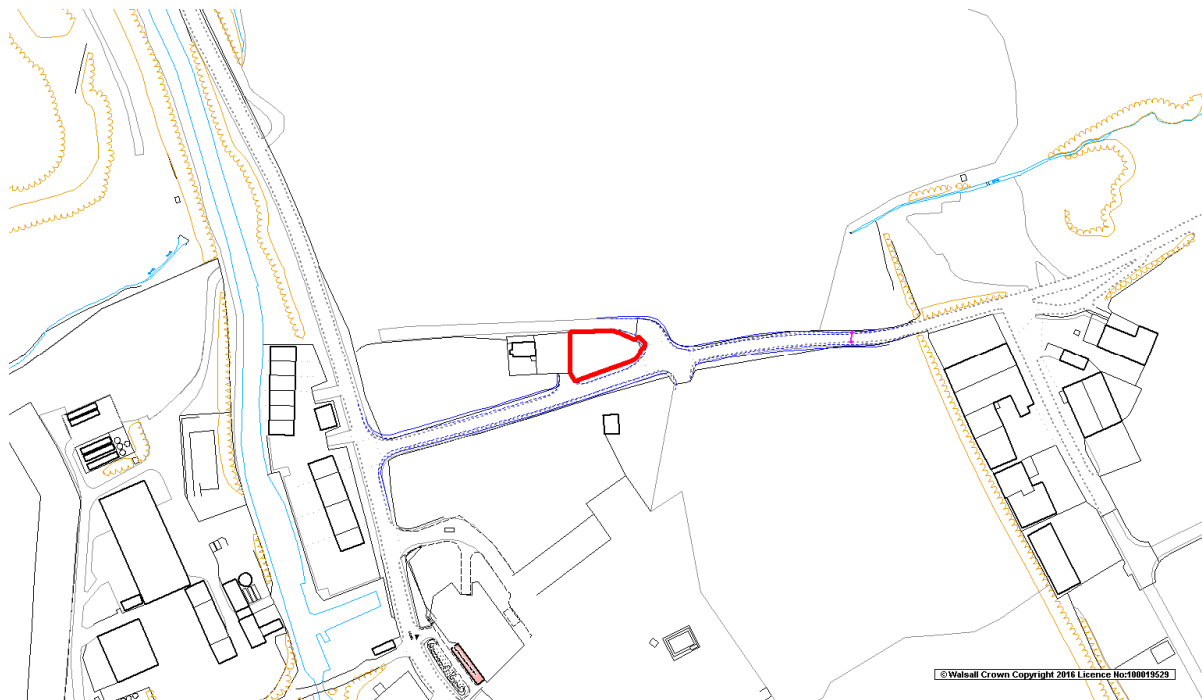
**Location:** VIGO UTOPIA LANDFILL SITE, COPPICE LANE, WALSALL WOOD, WALSALL.

**Proposal:** AMENDMENTS TO PERMISSION 12/1189/WA TO ALLOW REDUCTION IN HEIGHT OF PROCESS TANKS, REPLACE 2 LARGE TANKS WITH SMALLER TANKS, INCREASE SIZE OF CONTROL CABIN AND CHANGE TO LAYOUT AND LANDSCAPING (AMEND CONDITIONS 3 AND 5).

**Application Number:** 16/0807  
**Applicant:** Gerald Owen  
**Agent:**  
**Application Type:** County Matters Application

**Case Officer:** Stuart Crossen  
**Ward:** Aldridge Central And South  
**Expired Date:** 26-Sep-2016  
**Time Extension Expiry:** 30-Sep-2016

### Recommendation Summary: Grant Permission Subject to Conditions



### **Application and Site Details**

The application seeks amendments to permission 12/1189/WA which relates to a former quarry on Coppice Lane. Permission 12/1189/WA was for upgrading of the existing leachate treatment plant by installation of a new process tank. The current application is to amend this permission by allowing a reduction in height of the process tanks, replacing 2 large tanks with smaller tanks, increased size of the control cabin and change to layout and landscaping. Effectively the proposed changes amend conditions 3 and 5 on the original permission 12/1189/WA.

The application site is a former quarry, which has been infilled with waste. Tipping ceased in August 2010. The site is currently being landscaped. There is a site compound in the south western corner of the site adjacent Coppice Road which includes a site office, landfill gas utilisation plant and the existing leachate plant. Housing lies to the north of the site in Queen Street and Vigo Road. The western boundary is formed by Boatmans Lane an industrial area and to the east by the Sunnyside Farm industrial estate. The southern boundary is formed by Coppice Lane, which is also a mix of industrial uses.

The previous planning permission 12/1189/WA proposed the upgrading of the existing open-air leachate treatment plant between the two vehicle access points from Coppice Lane with a purpose built enclosed treatment plant. The existing leachate plant treats the liquid that leaches from the wastes and is collected from the bottom of the landfill site. It is treated to a specific quality standard before being discharged into the public sewer. The plant includes three open lagoons and ancillary equipment in a compound and a storage/balancing tank located on the edge of the restored quarry. The proposal sought to rationalise the operations within the compound;

with an enclosed process tank (12.5m in diameter, 6m eaves height with shallow pitch roof 2.59m to its tip),

-relocating the bunded cylindrical storage/balancing tank for incoming material (12m by 3.05m by 2.95m),

-bunded storage/balancing tank for outgoing material (8m by 3.4m by 2.22m), -control cabin (3m by 3m by 3m),

-bunded cylindrical caustic tank and anti foaming tank (4.13m by 2.07m by 2.51m)

-clean water tank (1m by 1m by 1m).

The compound was to include a 46m internal access road for maintenance purposes positioned between the existing two vehicle accesses into the site plus additional landscaping within the compound.

The proposed amendments are :

- reduce the size of the enclosed process tank (13.4m in diameter and 4.2m height),
- replace a previously approved control cabin measuring 3m high x 3m deep x 3m wide with one measuring 2.7m high x 6.25m deep x 2.44 wide.
- replace the approved bunded cylindrical caustic tank and anti foaming tank with a self bundled caustic tank (3.10 by 3.10m)
- Relocate the clean water tank to the rear of the site.
- Omit the access road
- Replace the bunded storage/balancing tanks for outgoing material with 6 HDPE tanks 3.45m dia by 3.65m high.

Although the site has ceased accepting waste, due to the nature of the deposited material leachate will need to be collected from the site until it ceases to be produced. The process is regulated by the Environment Agency under an Environmental Permit and it will be for the Environment Agency to confirm when the leachate plant can be removed. It is anticipated that the plant may be required for around 20 years.



The application *Supporting Statement* explains that the changes are required for operational and environmental reasons.

### **Relevant Planning History**

BC39489P – Regrading of quarry slopes, surface extraction of marl, infilling with approved wastes, restoration to informal open space, construction of new section of Coppice Lane and re-alignment of part of Vigo Brook. Including the provision of a leachate treatment plant. Granted subject to conditions 26/5/1995.

05/1559/WA/E3 - Planning application to construct a Landfill Gas Utilisation Plant. Granted subject to conditions 3/2/2006.

12/1189/WA - Upgrading of existing leachate treatment plant by installation of new process tank. Granted subject to conditions 19/11/12.

### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

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

The NPPF 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*”.

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas.
- Support the transition to a low carbon future...and encourage the use of renewable resources.
- Contribute to conserving and enhancing the natural environment and reducing pollution.

**Key provisions** of the NPPF relevant in this case:

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning.

58. Planning policies and decisions should aim to ensure that developments function well and add to the overall quality of the area

9: Protecting Green Belt land

88. Local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

11. Conserving and enhancing the natural environment

109. The planning system should prevent new and existing development from contributing to...unacceptable levels of...water pollution.

118. Local planning authorities should aim to conserve and enhance biodiversity by...incorporate biodiversity in and around developments.

120. To prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location.

122. Local planning authorities should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.

123. Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts
- Recognise that development will often create some noise and existing

PAGE 97 OF 203

businesses wanting to development in continuance of their business should not have unreasonable restrictions put on them because of the changes in nearby land uses since they were established.

The NPPF says: Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **Planning Policy Statement 10: Planning for sustainable waste management**

The overall objective is to protect human health and the environment by producing less waste and by using it as a resource wherever possible. By more sustainable waste management, moving the management of waste up the waste 'waste hierarch' of prevention, preparing for reuse, recycling, other recovery and disposing only as a last resort (para 1). The planning system controls the development and use of land in the public interest and should focus on whether development is an acceptable use of land, and the impacts of those uses on the development and use of land. Waste planning authorities should work on the assumption that relevant pollution control regime will be properly applied and enforced (para 27). It should not be necessary to use planning conditions to control the pollution aspects of a waste management facility where the facility requires a permit from the pollution control authority (para 31). Waste management facilities in themselves should be well-designed (para 35).

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS)**

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*".

The relevant policies are:

The Vision consists of three major directions of change and underpins the approach to the whole strategy which includes the delivery of Sustainable Communities, Environmental Transformation and Economic Prosperity which are supported by the following policies:

The relevant key policies are:

CSP1 – sets out the targets for sustainable regeneration of the Black Country.

CPS2 – Green Belt boundaries will be maintained and protected from inappropriate development.

CSP4 – develops the need for high quality place making and design

DEL1 – all new development should be supported by the necessary on and off-site infrastructure to serve the development and mitigate its impacts on the environment.

ENV3 – Design Quality – seeks to promote this aspect of developments.

WM1 – Supporting proposals which involve optimum uses for waste materials.

WM2 – Proposals will be assessed on: Whether the proposal would improve operational efficiency, result in improvements to the design of the buildings and/or layout of the site.  
WM4 – New Waste Management Facilities – All proposals should minimise adverse visual impacts, potential detrimental effects on the environment and human health and localised impacts on neighbouring uses from noise, emissions, odour, vermin and litter. To minimise such impacts, wherever possible, waste management operations should be contained within a building or other physical enclosure. All proposals should demonstrate compatibility with the uses already present. Proposals for landfilling should include provision for the control and treatment of leachate.

It is considered in this case that the relevant provisions of the BCCS can be given full weight.

### **Walsall's Unitary Development Plan (UDP)**

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2 The Council expects all developments to make a positive contribution to the quality of the environment and that the creation of, or susceptibility to, pollution of any kind will be taken into account in the assessment of development proposals

3.6 Development schemes should help to improve the environment.

3.7 seek to protect people from unacceptable noise, pollution and other environmental problems.

ENV2 presumption against the construction of new buildings in the Green Belt

ENV3 sets out factors to assess proposals for their impact on the Green Belt, including design, impact upon significant views.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

ENV32: Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

### **Supplementary Planning Documents (SPD)**

*Designing Walsall SPD*

Seeks to guide development and deliver high quality design through local distinctiveness and sustainable design.

### **European Legislation**

Landfill Directive (Council Directive 1999/31/EC) (Annex 1) states operators should treat contaminated water and leachate collected from the landfill to the appropriate standard required for their discharge.

### **National Legislation**

The Landfill (England and Wales) Regulations 2002 states that appropriate arrangements shall be made with regard to the characteristics of the landfill in order to collect contaminated water and leachate and treat it to the appropriate standard so that it can be discharged.

## **Consultations**

**Transportation** – No objections.

**Pollution Control** – No objections.

**Environment Agency** – No objections.

**Environmental Health** – No objections

**Natural England** – No objections.

**Severn Trent** – No objection subject to the use of a condition requiring drainage details.

**Canal & Rivers Trust** – No objections.

**Strategic Planning Policy** – No objections

## **Public Participation Responses**

One nearby resident has objected on noise grounds, however the complaint relates to the proposed nature reserve not the application site.

## **Determining Issues**

- Principle of the development
- Impact upon visual amenity
- Impact upon residential amenity

## **Observations**

### **Principle of the development**

The principle of a leachate treatment plant was established via planning permission BC39489P and is a requirement of the European Landfill Directive, The Landfill Waste Regulations and the Environmental Permit for the site. The upgrading of the plant is consistent with PPS10 in regard to protecting human health and the environment. Policy WM4 of the BCCS requires, wherever possible, waste management operations to be contained within a building, which is achieved by the proposal.

In terms of the changes to the previous approval they are required for operational and environmental reasons.

While the former Vigo/ Utopia quarry/ landfill site is in the Green Belt, the compound to the south containing the leachate treatment plant and landfill gas plant is not.

The former Vigo/ Utopia Landfill site is identified in the BCCS as a Strategic Waste Site (WSWa15) - see BCCS Waste Key Diagram and Appendix 6. After the BCCS was adopted, the landfill site ceased operating and final restoration of the site commenced, so the Strategic Waste Site identified in the Publication Draft SAD (SAD Site WS15, see Draft Policy W2 and Draft SAD Policies Map) does not include the former landfill site and covers the compound containing the landfill gas and leachate treatment plants only.

Draft Policy W2 identifies the main constraints to changes/ expansion of the Vigo/ Utopia Treatment Plants. Strategic Planning Policy raises no objections to the scheme.

Severn Trent has requested further details on the drainage arrangements for the plant, which can be achieved by condition. Now that the landfill has been complete there is less activity and surveillance of the site. For security and safety reasons containing the operation within a building would improve the current arrangement.

### **Impact upon visual amenity**

The proposed changes are not significant to what has been previously approved and would be seen in the context of what is already a treatment facility.

### **Impact upon residential amenity**

The nearest residential property is 370m from the application site and would have no views of the development due to the domed shape of the finished landform. Due to the low level pumps used and chemical process within an enclosed building. The development would have no adverse impact upon residential amenity.

### **Recommendation: Grant Permission Subject to Conditions**

1. This development must be begun not later than 3 years after the date of this decision.

*Reason:* Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Supporting Statement prepared by Cory Environmental (ref: Upgrading of existing leachate treatment plant) received by the Local Planning Authority on 14th September 2012.

- Plans: Layout (VUQ037), Main Process Tank (VUQ040-1), Control Cabin (VUQ040-2), Misc Tanks (VUQ040-3), Leachate Storage/Balancing Tank (Reception) (VUQ040-4), Leachate Storage/Balancing Tank (Pre- Discharge)(VUQ040-5), Existing Plant Layout (VUQ041), received by the Local Planning Authority on 14th September 2012 and Leachate Treatment Plant Site Location Plan (VUQ042) received by the Local Planning Authority on 27<sup>th</sup> September 2012.

*Reason:* To define the permission

3a) The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority.

3b) The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use.

*Reason:* To ensure that 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.

4. The boundary fence as shown on approved drawing VUQ037e received by the Local Planning Authority on 5th July 2016 shall be retained and maintained until the leachate treatment plant has been removed.

*Reason:* In the interests of visual amenity.

5. The plant and equipment hereby approved shall be removed from the site once it is no longer required in connection with the treatment of leachate. The area of land shall be restored as part of the wider restoration of the quarry under the terms of planning permission BC39489P.

*Reason:* In the interests of the amenity of the area.

1. We advise that there may be a public sewer located within the application site and encourage the applicant to investigate this. Please note that public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. If there are sewers which will come into close proximity of the works, the applicant is advised to

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

2. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.



## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 9.**

### Reason for bringing to committee: Major Development

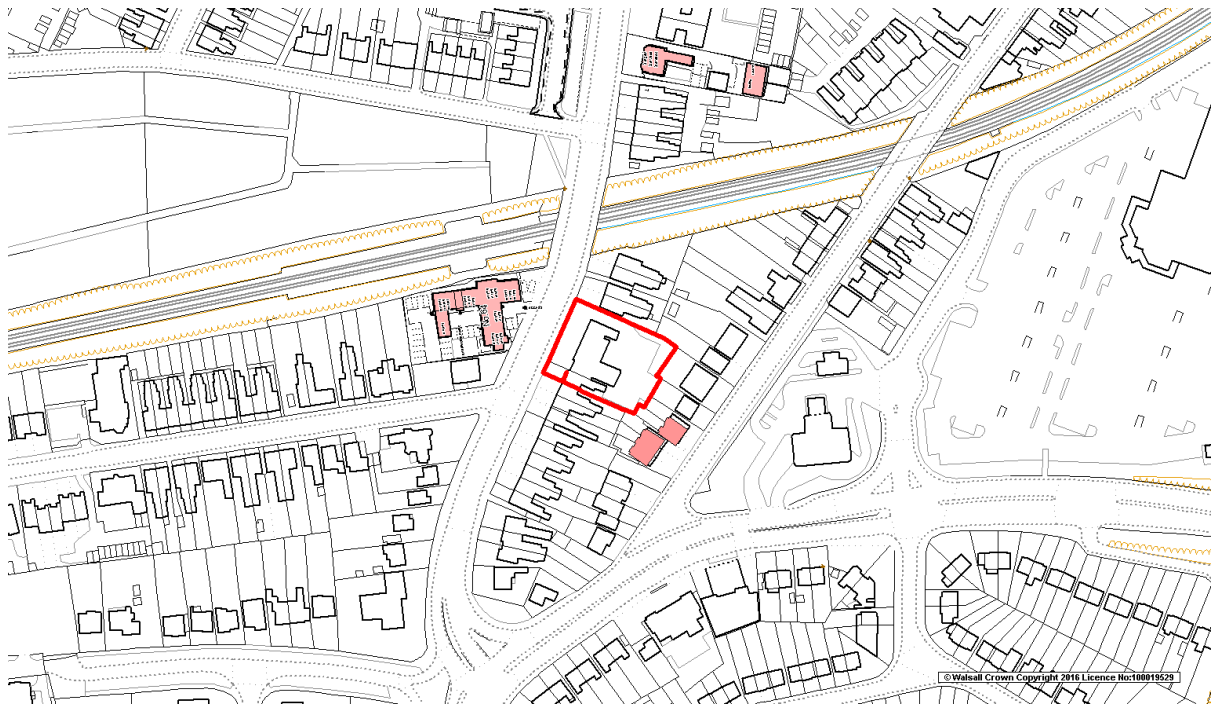
**Location:** FORMER ABBERLEY HOTEL, 27-31, BESCOT ROAD, WALSALL, WS2 9AD

**Proposal:** CHANGE OF USE FROM HOTEL (USE CLASS C1) TO 32-BEDROOMS FOR MORE THAN 6 UNRELATED PEOPLE LIVING IN A PROPERTY SHARING BASIC FACILITIES (SUI GENERIS USE) INCLUDING ASSOCIATED WORKS TO CAR PARK AND LANDSCAPING.

**Application Number:** 15/1266  
**Applicant:** Everest Homes Ltd  
**Agent:**  
**Application Type:** Full Application

**Case Officer:** Mike Brereton  
**Ward:** Pleck  
**Expired Date:** 28-Dec-2015  
**Time Extension Expiry:** 31-Aug-2016

### Recommendation Summary: Grant Permission Subject to Conditions



## **Application and Site Details**

The application site contains the vacant, two and three storey, 29 bedroom former Abberley Hotel fronting Bescot Road. The former hotel building is set back around 9 metres from Bescot Road.

This change of use application proposes to convert the former hotel use (C1) to a 32 bedroom property to accommodate shared basic facilities for unrelated individuals (sui generis use).

The applicants supporting information submitted with application:

- **Air Quality Assessment** – concludes no mitigation is required.
- **Noise Assessment** – concludes main source of noise is traffic from Bescot Road and that mitigation measures should be provided in the form of appropriate ventilation and acoustic glazing.
- **Design and Access Statement** – states the proposal would bring a vacant and derelict building back into use and that the acceptability of the principle for shared accommodation at this site has been set by a previous permission.

## **Relevant Policies**

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

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

- ***NPPF 4 - Promoting sustainable transport***
- ***NPPF 6 - Delivering a wide choice of high quality homes***
- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.



## Local Policy

### Black Country Core Strategy

- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

### Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV32: Design and Development Proposals
- ENV33: Landscape Design

### Supplementary Planning Document

#### Designing Walsall

- DW2 Safe and Welcoming Places
- DW3 Character

**Policies are available to view online.**

### Relevant Planning History

15/0106/FL - Change of use from hotel to 32-bed house of multiple occupation including associated works to car park and landscaping. Withdrawn 26/03/2015.

10/1640/FL - Change of use of hotel to residential care home for elderly people. GSC 07/03/2011.

09/0366/FL - Change of use from hotel to house in multiple occupation (28 rooms). GSC 17/08/2009.

### Consultation Replies

**Access Officer** – No comments. Any comments regarding access are unlikely to change the recommendation in this instance.

**Coal Authority** – No objection subject to inclusion of note to applicant regarding potential hazards from former coal mining activity.

**Environmental Health** – No comments. Any comments are unlikely to change the recommendation in this instance.

**Housing Standards** – Does not support the proposal due to an over-supply of supported HMO accommodation. Discrepancies on submitted plans regarding number of kitchens and number of people they serve and access to proposed lounges. Additional comments regarding license and operational safety requirements (*can be included as notes to applicant*):

- HMO licence is required and lasts for 5 years – the landlord must be a fit and proper person and be able to manage the property adequately in order to obtain a licence;
- Gas safety record is required annually;
- Electrical Installation Condition report is required; and

PAGE 105 OF 203

- Fire detection and emergency lighting test and maintenance certificates are required annually.

**Landscape** – No objection subject to conditions regarding appropriate landscaping.

**Natural England** – No objection.

**Network Rail** – No objection.

**Police** - No objection subject to conditions regarding compliance with the submitted Tenant Code of Conduct and Tenancy Agreement and appropriate crime prevention measures including Secure by Design.

**Pollution Control** – No objection subject to conditions regarding acoustic insulation to habitable windows.

**Structures** – No objection.

**Transportation** – No objection subject to conditions regarding cycle storage and parking layout.

### **Representations (Officer comments in italics)**

Two objections have been received by neighbours on the following grounds:

- Increased anti-social behaviour and crime;
- Impact on house value (*this is not a material planning consideration*);
- Increased anxiety to a family member with mental health issues (*this is not a material planning consideration*);
- Increased noise;
- Existing supply of HMO, nursing homes and flats in area;
- Poor maintenance of site;
- Imbalance of age categories in community (*this is not a material planning consideration*);
- Loss of housing stock to HMOs; and
- Trespassing (*this is not a material planning consideration*).

A petition has also been submitted in support of the proposal with around 40 signatures from local residents.

### **Determining Issues**

- Principle of Use
- Design and Character of Area
- Neighbours and Occupiers Amenity
- Highways

### **Observations**

#### **Principle of Use**

This planning application is forming a sui generis use as it does not fall within the town and country planning act definition of a HMO. The planning act defines HMO's as up to 6 people sharing basic amenities in a single property. Whilst this is classed as a sui generis use because it is forming a 32 bedroom property with shared basic facilities for unrelated individuals, it is considered to a similar residential use as an HMO.

This change of use application from a former 29 bedroom hotel (C1) to a 32 bedroom property to accommodate shared basic facilities for unrelated individuals (sui generis use). Whilst neighbours are concerned that housing stock is being lost to Houses in Multiple Occupation (HMO's) and that there are already HMOs, nursing homes and flats in the area already, current Government policy encourages the creation of Houses in Multiple Occupation.

The Council gave permission in 2009 for a 28 bedroom House in Multiple Occupation as it was considered the nearby area is predominantly residential and the proposed use (a form of residential use) was considered acceptable. Whilst this current proposal adds 4 additional bedrooms, it is considered that this residential use is still acceptable at this sustainable location.

Housing Standards have objected to the proposal on the grounds that there is an over-supply of supported HMO accommodation in Walsall. Given the Governments overwhelming drive to deliver housing of all forms, there are no planning policy grounds, or evidence base, that would support the refusal of this planning application. Housing Standards, utilising their own legislation can choose not to licence the premises even if planning approval is given.

Housing Standards raised concerns regarding the number of kitchens and dining rooms, and how these are accessed from bedrooms. Whilst it is recognised in some instances occupiers will need to take indirect routes to access shared facilities, a total of 6 kitchens are proposed which averages 5 people per kitchen based on the proposed 32 bedrooms and meets the spirit of the recommendations of Housing Standards. Most kitchens are also of a size which could accommodate an informal seating / dining area and on balance, it is considered the application could not be refused on these grounds. A condition would be included to request an amended layout to provide an internal access door between the hallway serving bedrooms 1 to 3 and hallway serving kitchen 1 to enable reasonable access to this kitchen for occupiers of those bedrooms to ensure an appropriate level of amenity.

### **Design and Character of Area**

The proposed external changes in the form of replacement dark grey windows and grey paint to exterior walls are considered would not have any adverse effects on the character and appearance of the area. Neighbours concerns regarding the poor maintenance of the site are noted. The former Abberley Hotel application site has been vacant for some time and it is considered that bringing the building back into use along with the proposed improvements to frontage would have a positive impact on the character of the area and address residents concerns regarding poor maintenance.

Details of landscaping and its future maintenance along with boundary treatments can be secured by condition in accordance with the recommendations of the Landscape Officer.

### **Neighbours and Occupiers Amenity**

The submitted plans show no additional side facing windows are proposed and consequently, it is considered, no additional impacts on neighbours' amenity would arise in this regard. Whilst it is noted that both the neighbours and the Police have concerns, the proposed use would result in increased anti-social behaviour and crime, there is currently no evidence base to substantiate poor behaviour of future occupiers of the building to sustain a reason to refuse the planning application. Safeguarding conditions regarding safety and security would be included for any approval. Should there be anti-social behaviour in the future, the Council's Housing Strategy team may choose to withdraw the operator's licence or force them to make changes to the management of the property.

Whilst neighbours concerns are noted regarding the potential increased noise levels, this difficult to be substantiate that the proposed use would be any noisier than the permitted

hotel use or a redevelopment to traditional flats. It is considered the proposal (a form of residential use) is unlikely to result in any significant additional impacts on neighbours' amenity over and above the previous hotel use.

The proposal includes around 140m<sup>2</sup> outdoor amenity space at rear to serve the occupants. There is no defined amenity space standard for the proposed sui generis use and, while some amenity space is essential, the amount required has to be balanced against the need for parking which the use will generate. The majority of the land to the rear of the building forms 19 car parking spaces. Overall, it is considered the amenity space to be provided is considered acceptable for the proposed use and any noise from the car park would be no greater than the existing hotel use that residents had previously experienced. Pollution Control have recommended that amendments are necessary to the Noise Assessment to ensure a satisfactory level of amenity for future occupiers, or that improvements are made to the glazing for habitable windows fronting Bescot Road to ensure a satisfactory level of amenity for occupiers can be achieved. This can be dealt with by condition.

### **Highways**

19 parking spaces are to be retained along with 3 motorcycle parking and space for storage of around 6 cycles to serve the 32 bedroom sui generis use. The maximum policy requirement for the previous hotel use was for 41 parking spaces. The requirement for flats is 1.5 spaces per unit equating to 48 spaces. There is no specific parking policy requirement for the proposed use. It is considered the future residents of the application building would have lower car ownership levels compared to residents of flats. In addition, the number of vehicle trips to and from, plus parking demand to the extant 29 bed hotel, is likely to be higher than the proposed use.

On balance, it is considered the proposed change of use is unlikely to have severe transportation implications and is acceptable subject to conditions regarding provision of a cycle shelter and car and motorcycle parking bays.

### **Conclusion**

On balance, taking into account, neighbours concerns, the commentary of consultees to the planning application, past planning history of the site, the location and National Planning Policy, it is considered the proposed change of use to a form of residential use, is unlikely to result in any significant additional impacts on neighbours' amenity, or result in severe transportation implications, over and above the previous hotel use.

### **Positive and Proactive working with the applicant**

#### **Approve**

Officers have spoken with the applicant's agent and in response to concerns raised regarding occupiers amenity, it has been agreed that these matters can be dealt with by condition and enables full support to be given to the scheme.

### **Recommendation: Grant Permission Subject to Conditions**

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2. This development shall not be carried out other than in conformity with the following approved documents and plans: -

- Application Form. Deposited 06/10/2015
- Location Plan. Amended deposited 06/10/2016
- Site / Block Plan. Amended deposited 06/10/2016
- Proposed Plan – B.Reg. 1. Amended deposited 06/10/2016

PAGE 108 OF 203

- Proposed Plan – B.Reg 2. Amended deposited 06/10/2016
- Proposed Elevations. Amended deposited 06/10/2016
- Planning Statement. Deposited 18/08/2015
- Air Quality Assessment (Ref AQ0822 dated May 2016). Deposited 16/05/2016
- Noise Survey (Ref NS120 dated 14/04/2016). Deposited 18/04/2016
- Tenants Code of Conduct and Tenancy Agreement. Deposited 19/02/2016

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. Notwithstanding the Proposed Plan – B.Reg 1 (amended deposited 06/10/2016) as submitted, prior to first occupation of any part of this development hereby approved an internal access door at ground floor between the hallway serving bedrooms 1 to 3 and hallway serving kitchen 1 shall be installed to enable reasonable access to this kitchen for occupiers of those bedrooms and thereafter retained.

Reason: To ensure a satisfactory level of amenity for occupants and to accord with the NPPF and UDP Policy GP2.

4. Prior to first occupation of any part of this development hereby approved the glazing for all habitable windows fronting Bescot Road shall be fully installed, confirmed in writing to the local planning authority on completion of the installation and thereafter retained as such to meet the following requirements:

- Replacement glazing units to be 12mm laminated glass / 12mm air gap / 10mm glass or 17mm laminated glass / 12mm air gap / 10mm glass; OR
- Installation of a secondary panel frame to create a false reveal with a single pane of glass of a minimum thickness of 12 mm.

Reason: To ensure a satisfactory level of amenity for occupants and to accord with the NPPF and UDP Policy GP2.

5a. Prior to the first occupation of any part the development hereby approved, a detailed landscaping scheme and maintenance strategy for the development (including any necessary phasing of implementation) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted on a plan to an appropriate scale and shall include where applicable, details of:

- Measures to be taken to protect existing trees and planting during construction of the development.
- Topsoil specification. – If existing soils are to be used, details of its retention, improvement, cultivation or safe storage for re-use should be specified.
- Further details of proposed tree/plant species, number of plants/shrubs, size at time of planting, density, ground surface treatment, tree support and tree pit details, root barriers and mulching. full details of sizes/ container volumes/ seed mixes/ plant numbers/ provenance/ botanical and English names and methods of planting.
- Trees in paved areas - a minimum 5 cubic metres rootzone for individual trees in paved areas is required and can be achieved by using load bearing Urban Tree Soil beneath paving construction surrounding tree stations.
- Full specification for walls, fences, gates (boundary and internal, showing materials, heights and location), and paving (materials and layout). Particularly to front of site.
- Details of the future management of the landscape scheme, including how applicant intends to maintain landscape features.

5b. Within 3 months of the details of the landscaping being agreed by the Council, the approved details shall be fully implemented. The landscaping scheme shall be maintained for a minimum of five years, following the completion of the landscaping to establish the planting. Within this period, any trees shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same size and same species as that originally required to be planted.

Reason: To ensure satisfactory appearance of development and to accord with the NPPF and UDP Policies ENV32 and ENV33.

6a. Prior to the first occupation of the development, full details of the proposed cycle shelter including its location, which shall be covered, secure and illuminated, shall be submitted to and approved in writing by the Local Planning Authority,

6b. Within 3 months of the details of the cycle shelter being agreed by the Council, the cycle shelter shall be fully implemented in accordance with the approved details and shall thereafter be retained and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

7. Prior to the first occupation of approved development, all parking bays including the motorcycle bays shown on the approved plan, shall be clearly demarcated on the ground and shall thereafter be retained and used for no other purpose. The motorcycle bays shall incorporate security bars in order that motorcycles can be properly secured.

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

8. The applicant shall ensure measures to control noise, dust, flying debris, and drag-out from engineering and construction activities at the site are fully implemented and maintained throughout the duration of all demolition operations and construction activities at the site.

Reason: To minimise environmental impact during development

9. The development shall be constructed to meet Secure By Design and thereafter retained as such.

NB. Please refer to "Note For Applicant" for further information.

Reason: In the interest of safety and security of occupants.

10. No construction, demolition, or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall otherwise only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

(\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).

Reason: To protect local amenity

### **Notes to Applicant**

1. Prior to first occupation, the applicant should implement the crime prevention measures and contact the Crime Prevention Design Advisor / Crime Reduction Officer to arrange inspection:

- i. Installation of automatic access controlled gates on the side of the building protecting access to the rear court yard parking area. This is to prevent unauthorised admission and to limit the opportunity for burglary, vehicle crime and vandalism. Gates should be at least 2 meters in height and fitted with an anti-climb topping.
- ii. All door sets both external and internal should comply to PAS 24 2012 standards.

- iii. The developer should also be made aware that where thumb turn locks are to be installed consideration should be given to the use of the 'BY Pass' method of entry by offenders. Only thumb locks that cannot be 'by passed' should be used.
- iv. Communal entrance door sets should be certificated to one of the following standards:  
 STS 202 Issue 3:2011 Burglary Rating 2 (minimum), or  
 LPS 1175 Issue 7:2010 Security Rating 2 (minimum), or  
 PAS 24: 2012 (section 4.4.3 i.e. via testing to BS EN 1627 Resistance Class 3 (minimum)).  
 NB Door sets utilising non mechanical magnetic locks will fall outside the scope of BS EN 1627.
- v. A Video access control system should be installed on main entrances linked to each room. The system should be DDA compliant, with a vandal resistant external door entry panel. There should be either an integral or stand-alone camera, providing colour images into each of the residents rooms and communal rooms. There should also be the facility for audio communications between the resident and the visitor via a monitor or handset and an electronic release mechanism.
- vi. The resident access control system and associated electric locking mechanisms shall incorporate a battery back-up facility, in the event of a power failure, to enable system operation for a minimum period of 6 hours. In the event of an initial power failure door locks shall remain in the secure mode, however, once the battery back-up ceases to operate the system must revert to a safe (unlocked) mode.
- vii. All ground floor and accessible windows should comply to BS7950 or WCL4 standards. This should improve the standard of security to the more vulnerable ground floor windows.
- viii. All ground floor, accessible windows and doors should contain at least one pane of 6.8mm laminated glass.
- ix. All ground floor front windows should have an area of defensible space across their width. This should be made up of densely planted shrubs, selected to be suitable for the environment they are to be planted in. This will provide a buffer area between the windows and other public or private space, making it more difficult for offenders to access such windows.
- x. Where plants are to be used in front of windows or around parking spaces the plants should be such that they grow to no more than 1m in height when mature.
- xi. Perimeter and Boundary fencing be at least 2.1m in height, the fencing should also be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. 2.1m fencing can include 300mm trellis topping in order to offer protection of the vulnerable rear of the properties.
- xii. A suitable CCTV system should be in place covering cover all entry / exit doors, gated access to car park and car park area, the CCTV system should provide evidential standard imagery day and night.
- xiii. There should be access control measures in place strategically positioned so as to limit movement around the building for non authorised individuals. All internal doors leading from the stairways should be self closing / locking
- xiv. The resident access control system and associated electric locking mechanisms shall incorporate a battery back-up facility, in the event of a power failure, to enable system operation for a minimum period of 6 hours. In the event of an initial power failure door locks shall remain in the secure mode, however, once the battery back-up ceases to operate the system must revert to a safe (unlocked) mode.
- xv. Green break glass emergency exit devices on communal external doors that give access into the building are not permitted due to constant abuse. Instead, vandal resistant stainless steel self-resetting emergency exit systems are to be installed. The installation and system type must be in full compliance and achieve final 'sign-off' by local Building Control.

- xvi. The car park and all pathways should be well lit after dark and be subject to good natural surveillance.
  - xvii. A strict vetting procedure should be in place to assess the suitability of each and every tenant, a detailed tenants contract of behaviour should be signed by each tenant outlining consequences for breaches of conduct, behaviour etc. A robust system to deal with such breaches should be in place resulting in possible eviction.
2. A HMO licence is required which costs £750 and lasts for 5 years – the landlord must be a fit and proper person and be able to manage the property adequately in order to obtain a licence.
  3. A Gas safety record is required annually.
  4. An Electrical Installation Condition report is required.
  5. Fire detection and emergency lighting test and maintenance certificates are required annually.
  6. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at [www.coal.gov.uk](http://www.coal.gov.uk). Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service at [www.groundstability.com](http://www.groundstability.com). If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website [www.coal.gov.uk](http://www.coal.gov.uk)





## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 10.**

**Reason for bringing to committee: Significant Community Interest**

**Location:** , 108, WALSALL ROAD, DARLASTON, WEDNESBURY, WS10 9JX

**Proposal:** CHANGE OF USE TO AN 8 BEDROOM HOUSE WITH SHARED BASIC FACILITIES FOR UNRELATED INDIVIDUALS (SUI GENERIS USE)

**Application Number:** 16/0975  
**Applicant:** Mr & Mrs Abedin  
**Agent:** Mrs Geeta Beddows  
**Application Type:** Full Application

**Case Officer:** Paul Hinton  
**Ward:** Bentley And Darlaston North  
**Expired Date:** 29-Aug-2016  
**Time Extension Expiry:** 11-Oct-2016

**Recommendation Summary:** Grant permission subject to conditions



## **Application and Site Details**

The application seeks planning permission for the change the use of an existing detached six bedroom house to an eight bedroom house with shared basic facilities for unrelated individuals (sui generis use). The proposal also includes the partial demolition of an existing garage to provide five parking spaces. The remaining part of the garage would be used for a cycle and bin store. Historically part of the house was used as a Doctor's Surgery.

- The proposal includes three bedrooms at ground floor, four at first floor and one within the existing roof space. A communal lounge, a kitchen, a utility and a bathroom are proposed on the ground floor, with a bathroom and communal lounge at first floor. Six units would have en-suites.
- On the west side facing elevation and existing ground floor window serving the play room would be blocked up with a relocated ensuite window proposed. At first floor a new ensuite window is proposed to this elevation.
- On the east side facing elevation at first floor an ensuite window is proposed.
- At the rear within the roof a second roof light is proposed.
- The main habitable room windows are on the front and rear elevations
- The shared rear amenity space is 15 metres deep and approximately 66m<sup>2</sup>

There are a mix of terraced, semi-detached and detached properties along Walsall Road all of different designs reflecting the period in which they were built. This property is one of the oldest in the area with tree planting to the front garden set behind a brick wall and mature boundary hedge. The property is defined by its tall feature chimney stacks. This is a residential area fronting the A4038 (Walsall Road) which is double yellow lined both sides of the road. There are houses either side, to the rear and across the road. The Springhead Tavern is also across the road.

### *Design and Access Statement*

- Change of use would provide living accommodation for Doctors and associated professionals
- Owners are Doctors and have no intention to sell the property and will interview and manage their tenants to ensure suitability.
- A gated entrance will be formed to the drive to secure the rear of the property.
- Deadlock can be provided to front and rear doors
- Windows where replaced can be fitted with two point lock.
- Movement sensory light can be fitted.

### *Letter sent to neighbours from applicant 14.9.16*

- Have no intention of selling the property
- Proposal is to provide accommodation for doctors in training and other qualified professional healthcare staff.
- Guests will not be local people but will move to Walsall for their career.
- The sharing of a house by our target tenant group will have less impact on neighbours than a large family.
- Tennant selection will be by applicants
- Guests will stay for 6-12 months as they progress through their rotations.
- Our control of our home will ensure noise is limited and anti-social behaviour is avoided.

## **Relevant Planning History**

BC45148P – Outline: Conversion and extension to provide residential home for the elderly.  
GSC 5/2/1996

BC48120P – Change of use to dwelling. GSC 7/4/1997

### **Relevant recent appeal cases**

#### *248 Walsall Road, Darlaston*

15/0736/FL – Change of use of public house/restaurant to HMO. Refused 14/5/15 on the grounds of giving rise to feature of crime and incidents of antisocial behaviour. Allowed at appeal 6/2/16 on the following grounds:

- Local residents have genuine concerns about the potential for an increase in crime, vandalism, prostitution and anti-social behaviour. However there is no firm evidence that such occurrences, which are ultimately a matter for the relevant authorities in specific instances, would be attributed to future occupants of the property at issue or multi-occupied properties in general. Crime and disorder does not seem to me to be an inevitable consequence of multi-occupation as opposed to single occupation of dwellings, but rather a question of individual behaviour and appropriate management.
- Crime prevention and security measures that they have suggested, such as CCTV and lighting, could be imposed through a planning condition requiring ‘Secure By Design’ specification to be achieved.
- In the absence of any firm evidence to the contrary I therefore consider that the proposal would not have a materially harmful effect on the fear of crime in the locality and would provide a safe and accessible environment

#### *250 Stroud Avenue, Willenhall*

15/1845 – Change of use from Doctor’s surgery to House in Multiple Occupation. Refused 25/1/16 on the grounds of giving rise to fear of crime and occupiers presenting a risk in terms of their behaviour, activities and associations resulting in anti-social behaviour.

Allowed at appeal 25/7/16 on the following grounds:

- No evidence that the form of development of tenants living together as more than one household would result in crime and anti-social behaviour
- Concerns and anxiety of residents in regard to crime and anti-social behaviour are not supported by evidence.
- Whilst it is wholly reasonable that the appellant would not wish to entertain bad tenants, Environmental Health and the Police have processes in place to manage and take action against anti-social behaviour and crime.
- No evidence that suggests the proposed change of use could not be supported by existing Police resources and consider that the Police could take the appropriate actions should a need arise.

## **Relevant Planning Policy Summary**

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

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable

**Key provisions** of the NPPF relevant in this case:

- ***NPPF 4 - Promoting sustainable transport***
- ***NPPF 6 - Delivering a wide choice of high quality homes***
- ***NPPF 7 - Requiring good design***
- ***NPPF 11 - Conserving and enhancing the natural environment***

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **Local**

#### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

- CSP1: The Growth Network
- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN1: Priorities for the Development of the Transport Network
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

## **Walsall's Unitary Development Plan (UDP) (2005)**

[www.walsall.gov.uk/index/environment/planning/unitary\\_development\\_plan.htm](http://www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says “*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.

The relevant policies are:

- GP2: Environmental Protection
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H5: Housing for People with Special Needs
- H7: Hostels and Houses in Multiple Occupation
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis
- ENV18: Existing woodland, trees and hedgerows.

### **Supplementary Planning Document Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW10 Well Designed Sustainable Buildings

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Consultations**

**Transportation** – no objection subject to surfacing and retention of parking areas and retention of cycle shelter

**Pollution Control** – no objection.

**Police Crime Design Officer** – in light of recent appeal decisions raises no objections subject to provision of security measures.

### **Public Participation Responses**

Surrounding occupiers notified by letter.

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

- Lack of parking
- Type of residents likely to attract
- Existing anti-social behaviour in the area
- Existing numerous multi occupancy houses already housing drug addicts, alcoholics, ex prisoners, immigrant which has brought the area down.
- Loss of property value (*not a material planning consideration*)
- Walsall Road is at saturation point with these houses and occupants.
- Proposed parking will cause problems for houses to rear due to noise and headlights

PAGE 117 OF 203

- Increase in rubbish
- Occupants will sit in the garden drinking, smoking, taking drugs, playing loud music, swearing and shouting.
- Houses will be overlooked
- Security will be a problem
- No mention of fire escapes (*not a material planning consideration*)

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Principle of Development
- Crime and disorder/Fear of Crime
- Design and Character of the Area.
- Neighbouring and Occupiers Amenity
- Parking and Access

### **Observations**

#### **Principle of Development**

This planning application is forming a sui generis use as it does not fall within the Town and Country Planning Act definition of a HMO. The Planning Act defines HMO's as up to six people sharing basic amenities in a single property. Whilst this is classed as a sui generis use because it is forming an eight bedroom property with shared basic facilities for unrelated individuals, it is considered to a similar residential use as an HMO.

This change of use application from a six bedroom house to an eight bedroom property to accommodate shared basic facilities for unrelated individuals (sui generis use).

The NPPF and UDP policy H3 encourages the provision of residential accommodation through the conversion of existing buildings in sustainable locations.

Further, UDP policy H7 encourages the provision of houses in multiple occupation where there would be no harm to the amenity of the occupants of neighbouring properties or the occupiers of the accommodation or no harm to the character and appearance of the building or the area, and it would not impair on the free flow of traffic or highway safety.

#### **Crime and disorder/Fear of Crime**

There are two recent appeal decisions in regard to the creation of a multiple bedroom house with shared basic facilities for unrelated individuals which are material to the determination of this application. Both have been allowed with the Inspectors concluding that there is no firm evidence that the form of development of tenants living together as more than one household would result in crime and anti-social behaviour and that crime prevention measures could be imposed through a planning condition.

It is recognised here that residents are concerned about crime and anti-social behaviour and that the applicant would not wish to entertain bad tenants. The fear of crime is a material consideration in planning decisions, although the weight that can be given to it is often limited unless there is significant evidence to show that the increased fear of crime would actually occur.

The application explains that the proposal would be used to house Doctors and other health professionals during their training. While knowledge of these potential future tenants is helpful the proposal is considered on the grounds of suitability of its proposed use, not any specific users as planning legislation could not control the profession of any residents.

PAGE 118 OF 203

The Police explain that this area has suffered 1361 reported crimes (in the last 12 months), of which 106 were burglaries and 277 vehicle related. Most multiple occupancy houses provide accommodation for targeted vulnerable groups. These are usually people who are homeless, have drink and drug issues, learning and mental issues, ex offenders etc. The multiple occupancy places residents all in one building with little privacy and private space apart from one room with residents having to share kitchens, communal and amenity spaces. At present a multiple occupancy property can provide mixed accommodation for any category of society such as individuals, families, offenders, sex offenders, people with mental and learning issues, which in itself can cause issues for its residents.

In view of the above concerns and taking into account recent comments made by the Appeals Inspector in relation to multiple occupancy properties the Police have the following recommendations. Planning officer comments in *italics*:

1. That the developers be made aware of Secure By Design and the specifications and guidelines that can help secure this development from future crimes. *A scheme of security measures in compliance with Secured by Design criteria can be required by condition.*
2. A Tenancy Management Scheme should be submitted and approved, to ensure that the premises remain as a standard HMO rather than Supported Living. *This would be a management issue and not an enforceable planning condition.*
3. Security measures to windows and doors, access control, comprehensive CCTV and external lighting, mail delivery. *A scheme of security measures in compliance with Secured by Design criteria can be required by condition.*

Crime and anti-social behaviour is ultimately a matter for the relevant authorities and as found in the recent appeal decisions crime and disorder is not an inevitable consequence of multi-occupation as opposed to single occupation of dwellings, but rather a question of individual behaviour and appropriate management.

In the absence of any firm evidence to the contrary it is considered that the proposal would not have a materially harmful effect on the fear of crime in the locality and would provide a safe and accessible environment subject to the provision of security measures which can be achieved by condition.

#### **Design and Character of the Area.**

The changes to the external appearance include the partial demolition of the garage, relocation of one ground floor window and additional ensuite window to the side elevation. These changes would cause no visual harm.

#### **Neighbouring and Occupiers Amenity**

The existing use of the building is that of a single house with six bedrooms. The proposal would not increase the amount of habitable room windows and therefore would not result in any further loss of amenity.

The amended ground floor window and proposed first floor windows would be non-habitable and would face towards the blank side elevations of the neighbouring properties. These additions would have no further impact.

At the rear, part of the existing garden would be used for the parking of vehicles. Given the position of the existing drive and the relationship with the busy Walsall Road and the small number of spaces the location of the parking area is not considered to cause significant

harm. There is an existing boundary wall and hedge which provide screening from vehicle movements.

It is not considered that the proposed use, in a residential area, would result in such an increase in noise to cause any substantial disturbance to the occupiers of neighbouring properties.

The proposal provides sufficient shared amenity space, appropriate layout and sufficient amenities to serve the needs of potential occupiers. The proposal does not provide details of bin storage which is required by condition to ensure satisfactory provision.

### **Parking and Access**

The development looks to convert the existing five bedroom dwelling into an eight bedroom multiple occupancy property, with parking for five cars and a covered cycle store. In terms of UDP parking policy there is no specific category for multiple occupancy properties the closest being flats at 150%. Taking into account the car ownership levels for multiple occupancy properties is likely to be considerably less than residents of flats and that 2011 Census data shows that in this particular part of the Ward 25% of households do not own a car and 44% own just one car the level of parking provision is considered acceptable. In addition the site is relatively sustainable being within reasonable walking distance (less than 350m) of Darlaston District Centre and is on a main bus route.

Taking into account UDP Policy H3(b) states that the Council will be flexible in the application of parking standards for the conversion of appropriate buildings into dwellings and under Policy H7, multiple occupancy properties will be encouraged if it can be demonstrated that it would not impair the free flow of traffic or highway safety, on balance the Highway Authority considers the development will not have severe transportation implications and is acceptable. Surfacing and retention of the parking area can be secured by condition and is recommended.

### **Positive and proactive working with the applicant**

Officers have liaised with the applicants agent securing additional information to enable support to be given to the scheme.

### **RECOMMENDATION: Grant permission subject to conditions**

1. This development must be begun not later than 3 years after the date of this decision.

*Reason:* Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990 (as amended).

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

- Location plan received 5/7/16
- Proposed block plan received 20/9/16
- Existing basement and ground floor layout received 16/8/16
- Existing first and second floor layout received 16/8/16
- Proposed basement and ground floor layout received 20/9/16
- Proposed first and second floor layout received 5/7/16
- Existing side elevations received 16/8/16
- Proposed side elevations received 16/8/16

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



3a. No development shall take place until details to show how it complies with Secured by Design specification have been submitted to and approved in writing by the Local Planning Authority.

3b. The approved details shall be carried out prior to the occupation of the building and shall be retained at all times thereafter

*Reason:* In the interests of community safety in an area with historically high levels of recorded crime.

4a. No development shall commence until elevation details for the bin and cycle store have been submitted to and approved in writing by the Local Planning Authority.

4b. The development shall not be occupied until the bin and cycle store have been made available. These facilities shall thereafter be retained.

*Reason:* To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T7 and T13 and Black Country Core Strategy TRAN4.

5a. Prior to the development first coming into use, the parking areas shown on the approved plan shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or any highway drain and all parking bays shall clearly demarcated on the ground.

5b. These areas 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.

6. The bricks used to block up the side facing ground floor window shall match in size, appearance, texture and bonding to those that existing within the property at the time of this application.

*Reason:* In the interests of visual amenity.

7. The side facing ensuite windows hereby approved shall be obscure glazed to Pilkington Level 4 and shall be retained.





## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 11.**

**Reason for bringing to committee: Requiring Delicate Judgment**

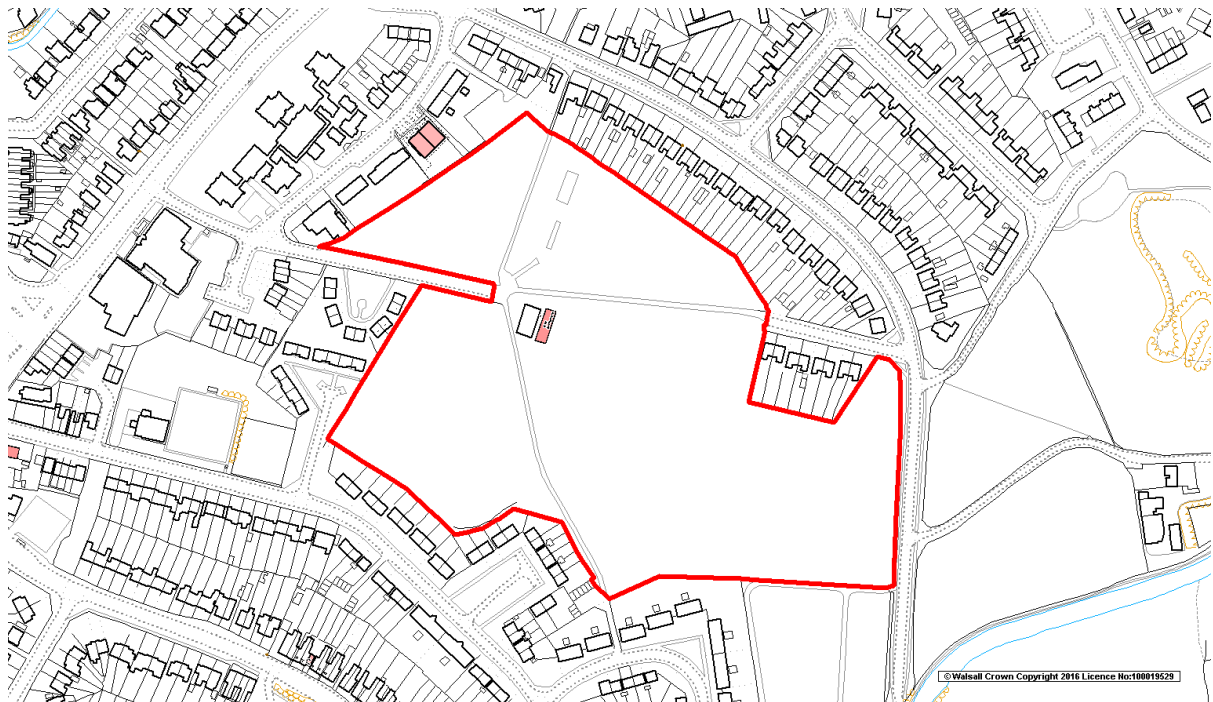
**Location:** RUSHALL PARK, ROWLEY PLACE, RUSHALL, WS4 1LR

**Proposal:** RETROSPECTIVE: AMENDMENTS TO PLANNING PERMISSION 15/0257/FL (PROPOSED SKATE PARK) IN REGARD TO HEIGHT AND LAYOUT.

**Application Number:** 16/0997  
**Applicant:** Kevin Clements  
**Agent:**  
**Application Type:** Regulation 3 Consent

**Case Officer:** Paul Hinton  
**Ward:** Rushall-Shelfield  
**Expired Date:** 18-Sep-2016  
**Time Extension Expiry:**

**Recommendation Summary:** Grant permission subject to conditions



### **Application and Site Details**

At its meeting on 4<sup>th</sup> February 2016 Planning Committee resolved to grant planning permission subject to conditions for the proposed skate park which included a 1.2m high 30m long curved soil bund to the south of the proposed skate park a 65m curved 1.2m high soil bund to the north.

During its construction officers were advised that it was being built higher than the planning approval which was confirmed following a series of visits. In addition it was noted that the layout of the development was different to that approved. The skate park has been completed and is now in use.

In response this retrospective planning application has been submitted which proposes the following changes to the approval:

- Replacement of the steps section to the northern part with a ramp
- Addition of a 0.5m high kerb/lip to the western side
- Reduction in the height of a kerb/lip to the eastern side by 0.3m

Rushall Playing Fields is bounded by residential properties along Winterley Lane, New Street, Springfields, Rowley Place and The Longcroft. The park has an area of 6ha and has a public right of way through the middle of the site and other paths across the park. The park is open grass with tree planting to some of the perimeter and a boulevard of trees across the middle of the park. There is a children's play area and outdoor gym to the northern part of the park with football pitches within the southern part. The skate park is proposed to the northern part of the park, 30m from the rear gardens of houses along Winterley Lane.

### **Relevant Planning History**

15/0257/FL – Proposed Skate Park. GSC 5/2/16.

### **Relevant Planning Policy Summary**

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

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

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

- find ways to enhance and improve places in which people live their lives
- contribute to conserving and enhancing the natural environment and reducing pollution.
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas.
- take account and support local strategies to improve health

**Key provisions** of the NPPF relevant in this case:

1. Delivering sustainable development
- 4: Promoting Sustainable Transport
- 7: Requiring Good Design
- 8: Promoting healthy communities
11. Conserving and enhancing the natural environment

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **Local**

#### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

The key planning policies include:

CPS4: Place Making

DEL1: Infrastructure Provision

ENV2: Historic Character and Local Distinctiveness

ENV3: Design Quality

ENV6: Open space, sport and recreation.

It is considered in this case that the relevant provisions of the BCCS can be given full weight

#### **Walsall's Unitary Development Plan (UDP) (2005)**

[www.walsall.gov.uk/index/environment/planning/unitary\\_development\\_plan.htm](http://www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm)

The relevant policies are:

GP2: Environmental Protection

3.6 and 3.7: Environmental Improvement

ENV10: Pollution

ENV32: Design and Development Proposals

T7: Car Parking

8.7: Education, Health and Community Facilities

LC1: Urban Open Spaces

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF

#### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD's are;

## **Designing Walsall** (Feb 2008)

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies.

DW3 – Character

DW9 – High Quality public realm

It is considered in this case that the relevant provisions of Designing Walsall Supplementary Planning Document are consistent with the NPPF.

## **Consultations**

**Sport England** – no comments received.

**Pollution Control** – no objection. Recommends consideration given to a temporary planning permission.

**Landscape** – no objection.

**Police** – no objection.

**Anti Social Behaviour** – no comments received.

**Environmental Health** – no objection.

**Fire Service** – no objection.

## **Public Participation Responses**

Site notices displayed and surrounding occupiers notified by letter.

No objections received.

## **Determining Issues**

- Principle of development
- Impact on the character and appearance of the area
- Impact upon residential amenity
- Highway safety

## **Observations**

### **Principle of development**

The previous planning permission established the principle to be acceptable.

### **Impact on the character and appearance of the area**

The site is characterised by existing sports provision and skate parks are features of other parks in the Borough, for example the Arboretum and King George's playing field in Bloxwich.

The skate park is sunk into the ground and was previously approved with only 1.1m exposed above the existing ground level. The facility has been built 1.8m above the original ground level along the western side towards the bungalows in Rowley Place

The park has other playing equipment and this proposal does not adversely impact upon the appearance of the area. Longer views of the skate park are partly screened by the 1.2m high soil bund to the north and south. Once grass seed has established onto the bunds the facility behind will be softened. The change in the height of the facility does not result in a development that has an adverse impact upon the appearance of the area.

### **Impact upon residential amenity**

The skate park is 30m from the rear garden of the nearest house along Winterley Lane and 48m from the rear of the house. To the south, the facility is 100m from properties along Rowley Place.

The previous application was been supported by a Noise Survey which concluded that at residential facade there would be a low adverse impact on residents. At residential garden the level will be below the 50dB guidance. There is no lighting and no intention to provide lighting which would limit the use of the site to daylight hours only. Two 1.2m high soil bunds, to the north and east have been provided which were considered to provide sufficient noise attenuation as part of the previous scheme to protect residential amenity.

The changes to the proposal means that towards the properties along Rowley Place rather than the facility being beneath the bund, the highest point of the rim is now 0.6m higher than the bund. To the boundaries with the properties along Winterley Lane the rim is between 0.3m and 1.2m below the top of the bund. It is noted that for the properties along Rowley Place the base of the facility is 1.2m beneath the top of the bund, for the Winterley Lane this is 2.5m.

Pollution Control in commenting on the last application considered the bunds as a noise mitigation measure, noting the design utilises a pre-cast concrete bowl, that there will be an absence of 'street furniture' features that create additional noise and engineered earth bunding to the north, east and south of the skate park to afford acoustic shielding.

Pollution Control have considered the current application and note that they have not received any complaints about the development since it has been in use. They explain that the noise impacts from skate parks are tangible and there have been instances of litigation against them. In light of this they consider it may be appropriate to grant a temporary permission for 1 or 2 years in order to assess the longer term usage of the facility and the need for additional mitigation. It is also recommended that organised events and conditions are prohibited.

The Council is the land owner and as land owner has the ultimate control of the facility. The skate park has been in operation throughout the summer and like most new community facilities its peak use is likely to have been shortly after opening. Neither Planning nor Pollution Control Officers have received complaints about noise from the use of the facility and Clean and Green as the department responsible for its installation and ongoing use have also not received any noise complaints.

Officers consider the merits of the proposal through typical use of the facility are sufficient to approve a permanent planning permission. This is in knowledge that if noise were to become an issue for any reason in the future the amenity of residents can be assured through noise protection legislation and the Council has landowners.

Therefore on balance it is considered that the amendments to the facility would not give rise to a significant loss of residential amenity through noise and disturbance.

### **Highway safety**

It was previously concluded that the proposal would not give rise to conditions prejudicial to highway safety. The changes to the proposal would not alter that conclusion.

### **Positive and proactive working with the applicant**

Officers have worked with the applicant securing the necessary information to enable support to be given to the proposal.

### **RECOMMENDATION: Grant permission subject to conditions**

1) This development shall not be carried out other than in conformity with the application form and following plans and documents:

- Location plan received 25/7/16
- Bund section plan received 25/7/16
- Sections received 25/7/16
- Dimensions received 25/7/16

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

2a) The soil bunds shown on the approved drawing shall be grassed within the first available planting season.

2b) The soil bunds shall be retained.

*Reason:* To safeguard the amenity of nearby residential occupiers.

3) For the avoidance of doubt the approval does not include any street elements, including grind rails or associated additional skating structures other than the concrete structure. No street elements shall be added to the skate park in the future.

*Reason:* To protect the amenity of nearby residential occupiers.

4a) No external means of lighting the development hereby approved shall be used unless details have been first submitted for written approval by the Local Planning Authority.

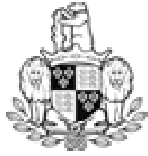
4b) The lighting shall be installed and operated in accordance with the approved details.

*Reason:* To protect the amenity of nearby residential occupiers.

5) At no time shall the skate park be used for organised competitions, trials or events.

*Reason:* To protect the amenity of nearby residential occupiers and in the interests of highway safety.





## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 12.**

**Reason for bringing to committee: Significant community interest**

**Location:** 9-11, PARK STREET, WALSALL, WS1 1LY

**Proposal:** CHANGE OF USE TO MECCA ELECTRONIC BINGO CENTRE WITH ANCILLARY FOOD AND DRINK OPERATION; ALTERATIONS TO ENTRANCE DOORS; AND ERECTION OF AIR CONDITIONING COMPRESSORS.

**Application Number:** 16/1145  
**Applicant:** Mecca Bingo Ltd  
**Agent:** Bidwells LLP  
**Application Type:** Full Application

**Case Officer:** Karon Hulse  
**Ward:** St Matthews  
**Expired Date:** 04-Oct-2016  
**Time Extension Expiry:**

**Recommendation Summary:** Grant Permission Subject to Conditions



## **Application and Site Details**

The site is situated on the south western side of Park Street, within Walsall Town Centre, the main pedestrianised street and primary shopping frontage within the town centre that consists of a number of retail and other town centre uses.

The premises have been vacant for some time following River Island moving out to the Crown Wharf retail park. The existing shop front has two large glazed windows, one either side of the recessed open entrance that has a roller shutter door (brick bond design with polycarbonate infill) only (no formal doors), a central column within the entrance vestibule and a single central sign board.

Park Street has a number of shop frontages with large glazed window displays.

The site is within Bridge Street Conservation Area.

The proposed change of use will be a flagship venue being the first in the country. It aims to create an innovative and contemporary "Luda" bingo centre which will include serving quality food and drink, gaming/slot machines, new AC compressor units and replacement of the shopfront. The applicant states that the refurbishment of this unit will provide modern, clean relaxed and sociable environment the opposite of typical betting offices or arcades.

The proposed use will result in a mixed use (sui generis) incorporating amusement arcade/gaming machines (sui generis) and bingo (D2 use class).

Bingo will be the primary activity with it being available throughout the day mostly using mobile tablet devices in its dedicated bingo lounge at the front of the house. There will be an electronic lounge to the rear providing a range of gaming machines.

It is intended to offer food and beverages throughout the day including breakfast. The proposed opening hours will be 7.00am until midnight Monday to Saturday and 9.00am to 11.00pm on Sundays and bank holidays.

No under 18's will be allowed on the premises

The proposals also include a replacement shop front and air conditioning units at the rear. The replacement shop front will consist of

- painted timber stall riser
- new timber pilasters either side
- new timber shop front and recessed entrance doors
- central pillar to be clad in brickwork to match new shop front
- clear glazing and new painted timber fascia (signage details)

The applicant has provided the following documents to support the application:

- Planning support statement outlining the companies vision for the unit-
- Supporting High Streets and Town Centres - Background Note, 6<sup>th</sup> December, 2013, sets out part of the governments long - term economic plan to support the UK's High Streets.
- Mecca Bingo's Responsibility statement - this sets out the companies responsibilities with regards to gambling and its affect on customers
- High Street Performance & Evolution (July 2014) Report:
- Understanding your High Street – outlines the evolution of the town centre and how it relates to its users.
- Britain's High Streets: From Crises to Recovery Report

- Appendix 7.0 – Office for National Statistics summary of internet statistics (June 2016)

### **Relevant Planning History**

13/0191/FL – New Shop Front. Granted

07/0632/FL/W7 - Installation of new shop front including roller shutter. Granted 26<sup>th</sup> June 2007.

07/0631/AD/W7 - Display of 2 internally illuminated fascia signs and 1 internally illuminated projecting sign. Granted 26<sup>th</sup> June 2007

### **Relevant Planning Policy Summary**

#### **National Planning Policy Framework (NPPF) [www.gov.uk](http://www.gov.uk)**

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

**Key provisions** of the NPPF relevant in this case:

1. Building a strong, competitive economy
2. Ensuring the vitality of town centres
4. Promoting sustainable transport
7. Requiring good design
12. Conserving and enhancing the historic environment

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

#### **Black Country Core Strategy (JCS)**

The Joint Core Strategy was adopted by the Council on 3rd February 2011 and now forms part of the statutory development plan. It replaces certain "saved" policies in the UDP.

Vision: to include the creation of a network of sustainable communities' right across the Black Country. This will be achieved, in part, by creating environments which offer

PAGE 131 OF 203

opportunities for active lifestyles and healthy choices, including provision for outdoor recreation within the urban fabric of the Black Country.

CSP4 - develops the need for high quality place making and design

ENV 2 and ENV 3 set out the criteria for nature conservation, the historic environment and design quality.

EMP1 - seeks to provide for economic growth

CEN1 and CEN2 highlights the importance of the Black Country Centres for the regeneration of the wider Black Country and the hierarchy of centres.

CEN3 sets out the need to ensure growth in the Strategic Centres (e.g. Walsall)

CEN4 - Regeneration of town centre

CEN6 - Local Shops and Services.

### **Saved Unitary Development Plan (UDP)**

2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

ENV29: Conservation Areas.

S1: Provides definition of Town Centre uses;

S2: Provides the Hierarchy of Centres, with Walsall Town Centre being the main one; S3:

Integration of Developments into Centres.

5.35.... a high standard of design from new developments, with particular regard to shop fronts and fascias

S4(f)... improve environment of shopping centres.

W1: Primary Shopping Area

WA5: Conservation Areas and Areas of High Townscape Value

(a) areas make a particularly important contribution to the character and/or townscape of the Town Centre and include The Bridge.

### **Supplementary Planning Documents (SPD)**

#### **Designing Walsall SPD**

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 - Character -design to respect and enhance local identity;

DW4 - Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW5 Ease of movement - create places that are easily connected, safe to move through;

DW6 - Legibility - new development should contribute to creating a place that has a clear identity;

DW9 - High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

#### **Walsall Shopfront SPD 2015**

- SF2: Shop front proportions
- SF3: Materials to shop fronts
- SF4 Colour finishes
- SF6: Advertisements
- SF7: Illumination
- SF8: Shop front security

#### **Other Policy/guidance:**

- Conservation Principles Policies and Guidance for the Sustainable Management of the Historic Environment: English Heritage (2008)
- Historic environment Good practice Advice Notes 2, and 3
- Draft Walsall Townscape Characterisation Study 2015

PAGE 132 OF 203

- Heritage at Risk Study 2015, Historic England

## **Consultations**

**Transportation** - no objections

**Fire Service** - no objections

**Conservation Officer** - no objections

## **Public Participation Responses**

5 representations objecting on the grounds of:

- Other bingo and slot machines nearby
- Not an appropriate use for a shop in this location
- Walsall is trying to improve its appearance and offer more up market shops and better quality goods
- Park Street is the main thoroughfare for shoppers and as such should have the best shops in it gambling arcades give the opposite impression

## **Determining Issues**

- Policy
- Conservation Area/Design
- Surrounding Occupiers

## **Observations**

### **Policy**

Policy S1 defines town centre uses as including A2: betting offices.

Whilst the proposed bingo operation is not a leisure use and not A1 (retail), there are no objections to this bingo use being located within the Primary Shopping Area on the main retail street. The unit would be surrounded by other A1 uses and the scale of the proposed use will not have a negative impact on the retail function of the Primary Shopping Area.

Increasingly town centres are being encouraged to diversify their offer in order to attract increased footfall and compete with other centres. Also the introduction of leisure uses is considered to help bring life into the centre especially at times such as evenings when there would be less activity and could help to build on and widen the success of the cinema scheme at Waterfront. It is considered that the proposed use will accord with part d) of UDP S4 and Policy AAPS1 of the emerging Town Centre AAP.

This is a very new concept, as outlined in the Planning Support Statement, it is proposed to reinvent bingo in an innovative way with a contemporary electronic twist in a High Street location where it will add to diversity, life, activity and vibrancy.

This will be the first in the country and will provide a bingo offer which is designed to be compatible with today's busy consumer lifestyles.

Walsall Town centre inset includes The Bridge in the Primary Shopping area.

The principle of the use is supported and would enhance the vitality and viability of the town centre by bringing back into use a currently vacant unit within a primary shopping frontage and the conservation area.

## **Conservation Area/Design**

The site is within Bridge Street Conservation Area and the pedestrianised area of Walsall town centre where there are a number of shop frontages, mostly with large glazed frontages that allow for a window displays to be provided to show customers current stock within the premises.

The change of use of the building is appropriate in principle from a historic environment perspective, with the main considerations being on the appearance and design of the shopfront. The details of the replacement shopfront have followed from negotiations with the Council's conservation officer. The proposals are now acceptable, fully supported and will enhance, preserve and benefit the visual quality of the conservation area. The use of a more impressive timber shopfront which meets the aims and objectives of the Shopfront SPD, will accentuate the proposed use as well as act as a catalyst for the surrounding conservation area, which is currently at risk.

On balance the use and proposed new shop front will enhance and preserve the conservation area.

## **Surrounding Occupiers**

The proposals do not involve any extensions or additions to the floorspace only general refurbishment and upgrading of the premises which will not impact on the amenities of the surrounding occupiers.

The installation of 6 condenser units to the rear of the building will also have little effect on surrounding occupiers.

## **Recommendation: Grant Permission Subject to Conditions**

1. This development must be begun not later than 3 years after the date of this decision.

*Reason:* Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

### Plans

- Site location plan (8389 PL 001) received 9/8/16
- Existing ground and first floor plans (8389 PL 100) received 9/8/16
- Existing second floor plan (8389 PL 101) received 9/8/16
- Proposed elevation – new shop front (8389 SK 008) received 21/9/16
- Internal elevations ground floor (8389 PL 400) received 9/8/16
- Proposed ground floor and first floor plans (8389 PL 200) received 9/8/16

### Documents

- Planning support statement outlining the companies vision for the unit-
- Supporting High Streets and Town Centres - Background Note, 6<sup>th</sup> December, 2013, sets out part of the governments long - term economic plan to support the UK's High Streets.
- Mecca Bingo's Responsibility statement - this sets out the companies responsibilities with regards to gambling and its affect on customers
- High Street Performance & Evolution (July 2014) Report:
- Understanding your High Street – outlines the evolution of the town centre and how it relates to its users.
- Britain's High Streets: From Crises to Recovery Report

- Appendix 7.0 – Office for National Statistics summary of internet statistics (June 2016)

*Reason:* For the avoidance of doubt and in the interests of proper planning

3a. Prior to any part of the development first coming into use and before any new shop front is installed a cross section at a 1:20 scale through the proposed new shop frontage shall be submitted to and approved in writing by the Local Planning Authority.

3b. The agreed details shall be fully implemented and thereafter maintained

*Reason:* To ensure the satisfactory appearance of the development

4a. Prior to any part of the development first coming into use and before any new shop front is installed details of the colour for the new shop front shall be submitted to and approved in writing by the Local Planning Authority.

4b. The agreed details shall be fully implemented and thereafter maintained

*Reason:* To ensure the satisfactory appearance of the development

5. The materials used shall be those indicated on the approved plans.

*Reason:* To ensure the satisfactory appearance of the development

Note for applicant

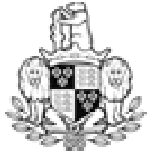
This permission does not grant consent for any signs or advertisements, illuminated or non-illuminated for which a separate application may be required under the Town and Country Planning (Control of Advertisements) Regulations 2007 or subsequent legislation

Note for applicant

This permission does not grant consent for any security shutters for which a separate application will be required. Further advice regarding the appropriateness of security shutters can be found in the Councils Shop Front SPD as well as contacting the conservation officer [conservation@walsall.gov.uk](mailto:conservation@walsall.gov.uk) .







## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

Plans List Item Number: 13.

**Reason for bringing to committee: Significant community interest**

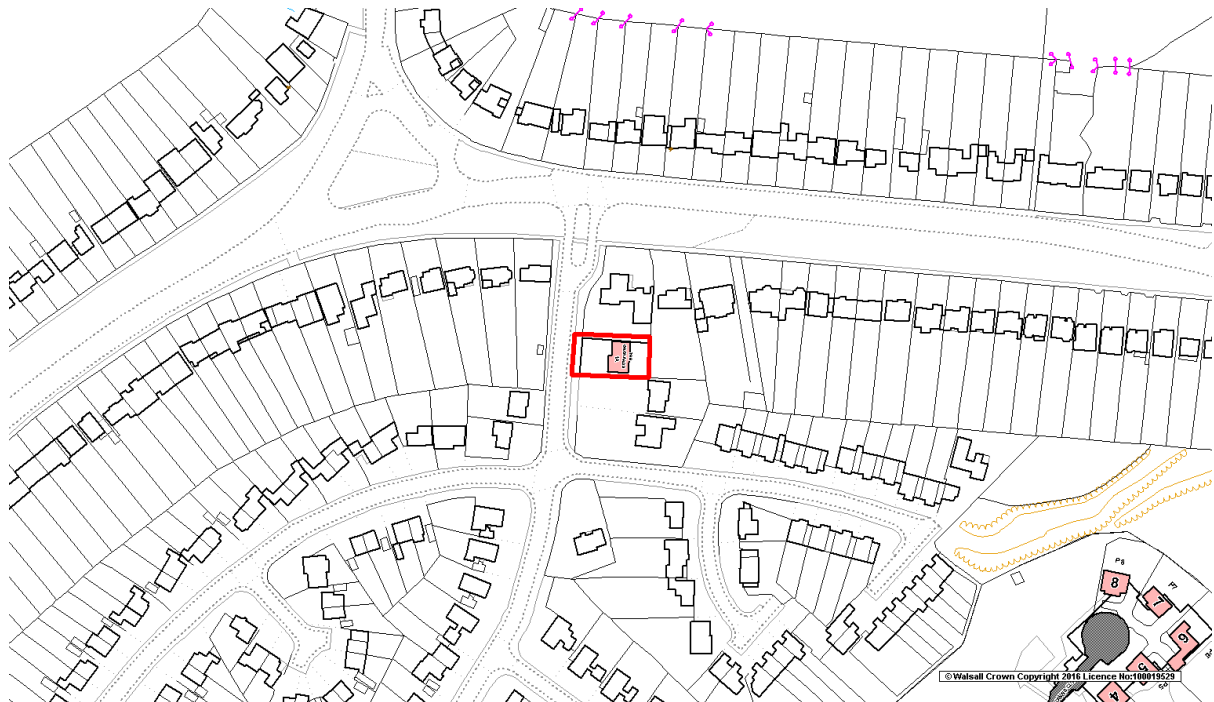
**Location:** REAR 454, SUTTON ROAD, WALSALL, WS5 3AZ

**Proposal:** RETROSPECTIVE: RETENTION OF DETACHED HOUSE INCLUDING OMISSION OF PREVIOUS APPROVED INTEGRAL GARAGE.

**Application Number:** 16/1057  
**Applicant:** MR TONY SINGH  
**Agent:** FIELD BUILDING DESIGN  
**Application Type:** Full Application

**Case Officer:** Paul Hinton  
**Ward:** Pheasey Park Farm  
**Expired Date:** 11-Sep-2016  
**Time Extension Expiry:**

**Recommendation Summary:** Grant permission subject to conditions.



## **Application and Site Details**

This application follows the grant of planning permission in June 2016 for a detached house. That permission included an integral garage. The building has been constructed without an integral garage contrary to the terms of the planning permission. This application is therefore considered as a retrospective application for the retention of a detached house including omission of previous approved integral garage. The proposal is identical to that previously approved with the exception of the garage which is now proposed to be a dining room. The building has not been completed internally to be defined as a dwellinghouse capable of habitation.

The application site is part of the rear garden of 454 Sutton Road, at the corner of Sutton Road and Fallowfield Road. The building fronts Fallowfield Road and is set forward of 1 and 3 Fallowfield Road. There are 3 trees within the highway verge in the vicinity of the site.

There are a variety of different housing styles and designs in the area in open plan layout without strongly defined building lines. Properties along Sutton Road are of individual design, with three main styles within the immediate vicinity of Fallowfield Road including large bungalows with front to back ridgeline roofs, detached dwellings with gable ends and detached dwellings with front to back ridgelines. The density of the vicinity is 14.6dph. There is a bus stop on the pavement directly in front of the application site.

The application seeks the retention of a four bedroom side gable house, which is set 13 metres from the grass verge and measures 13m wide, 7.6m deep and 6.4m high. A projecting gable feature accommodates a porch and dining which is a metre further forward. The rear garden is 7m in depth and has a total amenity area of 102 square metres. The proposed house is 7m be further forward of 1 Fallowfield Road. The application site would have a density of 20dph. Within the drive to the front is provision for four off-street spaces.

## **Relevant Planning History**

15/0440/FL – New detached house. GSC 12/6/15.

11/0570/FL – New Dormer Bungalow. GSC 04/07/12

09/0672/OL - Outline application for erection of a detached bungalow to include scale and layout. Allowed at appeal 22/6/2010.

## **Relevant Planning Policy Summary**

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

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

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

- Proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local places the country needs.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings

- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Encourage the effective use of land by reusing land that has been previously developed.
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

- ***NPPF 1 - Building a strong, competitive economy***
- ***NPPF 4 - Promoting sustainable transport***
- ***NPPF 6 - Delivering a wide choice of high quality homes***
- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

## **Local Policy**

### **Black Country Core Strategy**

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- HOU2: Housing density, type and accessibility
- TRAN1: Priorities for development of the transport network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- 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

### **Unitary Development Plan**

- GP2: Environmental Protection
- 3.6 and 3.7: Environmental Improvement

- ENV10: Pollution
- ENV14: Development of derelict and previously developed sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows.
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H3: Windfall Sites and Conversion of Existing Buildings
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

## **Supplementary Planning Document**

### **Conserving Walsall's Natural Environment**

- Development with the potential to affect species, habitats or earth heritage features
  - NE1
- Development with the potential to affect trees, woodlands and hedgerows
  - NE7

### **Designing Walsall**

- DW1 Sustainability
- DW3 Character
- DW4 Continuity
- DW6 Legibility
- DW9 High Quality Public Realm
- DW10 Well designed sustainable buildings

Design Principle – Homes: Plot sizes and built density will relate to their local context.

Annexe D: Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. The requirement to design longer rear gardens to reflect an area's character is applicable and the guidelines should not mean to be the maximum achievable distances.

Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above (this standard will be applied more robustly at the rear than across roads at the front), 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing.

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Consultations**

**Highways** – no objection subject to use of recommended conditions in regard to provision of spaces and implementation of dropped crossing.

**Pollution Control** – no objection.

**Police** – recommends security measures.

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

**Landscape** – no objection.

**Fire Services** – no objection.

### **Public Participation Responses**

Surrounding occupiers notified by letter.

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

- The Council don't consider the residents that have lived here for 30 years (*public consultation has been undertaken during each of the planning applications and a full assessment made in accordance with the adopted planning policies*)
- Received no response last time (*neighbours who make representations will be notified of the decision*)
- Overlooking and impeding privacy of neighbouring properties
- Loss of trees
- Built forward of the building line
- Density and garden size
- Cramped development
- Trees originally retained should be reinstated
- Only two parking spaces provided
- Old Design and Access Statement (Noted. *No reference to the Design and Access Statement is required as part of the assessment*)

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Principle of Development
- Character of the area
- Provision of a satisfactory residential environment
- Amenities of the surrounding residential properties
- Drainage
- Access and parking
- Local Finance Considerations

### **Observations**

#### **Principle of Development**

The principle of a new house here was established through the previous planning permissions and this proposed house raises no new considerations in this respect.

#### **Character of the area**

The changes are the removal of a garage door and replacement with matching infill brickwork and matching glazing. There would be no impact upon the character of the area.

Neighbours concerns about density and building line were considered under previous planning applications, notably the appeal decision in 2010.

The application is not subject to any Tree Preservation Order but continues to propose the planting of a pear and silver birch tree within the front garden alongside shrubs.

### **Provision of a satisfactory residential environment**

The provision of amenity space remains, therefore no further impact.

### **Amenities of the surrounding residential properties**

The proposed dining room window would be across the road from the nearest houses which would not give rise to any further loss of privacy. There are no other changes to the building found to be acceptable previously.

### **Impact on protected species**

A bat roosting scheme and no external lighting were required conditions previously, these remain to be relevant and are recommended.

### **Drainage**

The drainage layout has previously been approved and the proposal makes no material changes.

### **Access and parking**

For a four bedroom house, three off-street parking spaces are required. The submitted drawing shows provision for four spaces within the drive. Notwithstanding the omission of the garage, sufficient off-street parking is provided to meet the needs of the development. Highways raise no objection to the proposal subject to conditions ensuring implementation of the drive and the dropped crossing.

Previously the bus stop was within the area of the proposed access, this has now been re-located a short distance away to ensure safe use of the bus stop and the proposed access.

### **Security**

In the interests of security as recommended by the Police Architectural Liaison Officer and in accordance with UDP policy ENV32 the development can be conditioned to meet secure by design which can include;

Windows, doors, defensible space for front ground floor windows, new boundary fencing, rear access gates and intruder alarm.

### **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 one new home.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

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

**Positive and proactive working with the applicant**

Due to the level of information provided it has not been necessary to undertake proactive working with the applicant to enable support to be given to the proposal.

**Recommendation: Grant permission subject to conditions.**

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

- Location and site plan received 18/7/16
- Proposed plans received 18/7/16
- Proposed parking arrangements received 18/7/16
- Site sections received 18/7/16
- Landscape and fencing received 18/7/16
- Proposed site levels received 18/7/16
- Drainage layout received 19/9/16
- Tree survey received 18/7/16
- Bat survey received 18/7/16
- Bat roost detail received 18/4/16

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

2a. Prior to first occupation of the dwelling hereby approved details demonstrating that the development will meet Secure By Design specification shall be submitted to and approved in writing by the Local Planning Authority

2b. The approved details shall be fully implemented prior to first occupation of the house and thereafter retained

NB. Please refer to "Note For Applicant" for further information.

*Reason:* To ensure the safety of future occupants. The details are required prior to any further works because the window openings at ground floor level are already present and the windows are part of the Secure By Design specification.

3. Bat bricks as set out on pages 16-19 of the Bat Survey by S Christopher Smith dated 16/6/11 shall be installed and retained thereafter with access openings maintained free of obstructions at all times.

*Reason:* To conserve local bat populations and in accordance with UDP policy ENV23.

4. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 16.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. \* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.

*Reason:* To protect the amenity of adjoining residential occupiers.

5. Prior to the development first coming into use, a vehicular footway crossing shall be installed to serve the new driveway and carried out in accordance with Council's footway crossing specification SD11/8 dated January 2008. The new crossing shall not exceed five 900mm flat kerbs and two 900mm taper kerbs.

*Reason:* To ensure the satisfactory completion and operation of the development and compliance with the requirements of the Highways Act 1980.

6a. Prior to the development first coming into use, the proposed driveway and parking areas shown on the approved plan 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 area shall thereafter be retained and used for no other purpose.

*Reason:* To ensure the satisfactory completion and operation of the development

7. The approved landscaping scheme shall be fully implemented within 12 months of the development being brought into use and retained for 5 years. Any trees or plants, which die, are removed, or become seriously damaged or diseased, shall be replaced as soon as practicable with others of similar size and species

*Reason:* In order to safeguard the amenities of the occupiers of the adjoining property and to secure the satisfactory development of the application site.

8a. No external lighting scheme shall be installed on site unless details have first been submitted for written approval of the Local Planning Authority.

8b. Only the approved details shall be installed.

*Reason:* To conserve local bat populations.

9. The drainage on site shall be carried out in accordance with the approved drainage scheme submitted on 19/9/16

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

10. 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 those approved by this permission, and no enlargements, additions or other alterations, as defined by Classes A, B, C, D and E of Part 1 of Schedule 2 of the Order, shall be constructed.

*Reason:* In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

11. Any gates installed across the proposed driveway shall not be any higher than 1 metre high or at any time open outwards over the public highway.

*Reason:* In the interests of highway safety.



## Notes for applicant:

### Secure by Design

1. New windows/ roof lights / patio / French doors/ windows should conform to PAS 24 2012 Standard or equivalent with at least one pane of 6.8mm laminated glass in all ground floor windows,
2. There should be an area of defensible space in front and across the length of each front facing window, which should be around 1m in depth and consist of dense low level shrubbery, suitable for the light / soil environment at its location. The defensible space will help protect ground floor windows and make access to them by offenders more difficult.
3. All external doors should be to PAS 24 2012 standards. If a europrofile cylinder lock is to be utilised this doors testing and certification should incorporate a TS-007 3star cylinder lock.
4. Most properties are attacked from the rear therefore perimeter security needs to be effective in order to protect the most vulnerable area of any property. With this in mind perimeter and boundary fencing should be at least 2.1m in height, the fencing should also be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. 2.1m fencing can include 300mm trellis topping ie 1.8m fence plus 300mm anti climb trellis topping.
5. Where panel and concrete post style fencing is to be used there needs to be a fixing between panel / slats around the posts which should create a secure mechanical bond. This should provide a chain linking effect where each panel and post acts in concert with the next to resist attack by pushing, pulling and lifting. Fixings should be made of galvanized steel or stainless steel with a design life to match the timber components.
6. All gates should be 2.1m in height and be key lockable from both sides.
7. Fencing should be located as near to the front building line as possible.
8. Garage doors must be certificated to one of the following standards - Loss Prevention Certification Board standard LPS1175 security rating 1 or STS 202 issue 3:2011 burglary rating 1. Where there is an interconnecting door into the dwelling the interconnecting door should be rated to PAS24 2012 standards.
9. Due to the increase in metal theft consideration should be used to minimising the use of lead in the design, by using lead substitute or alternative products.
10. The property should be fitted with a suitable intruder alarm utilising dual technology sensor or above and alarm sirens front and back of building.





## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 14.**

**Reason for bringing to committee: Amendments do not meet the June 2016 Planning Committee Resolution and require further consideration.**

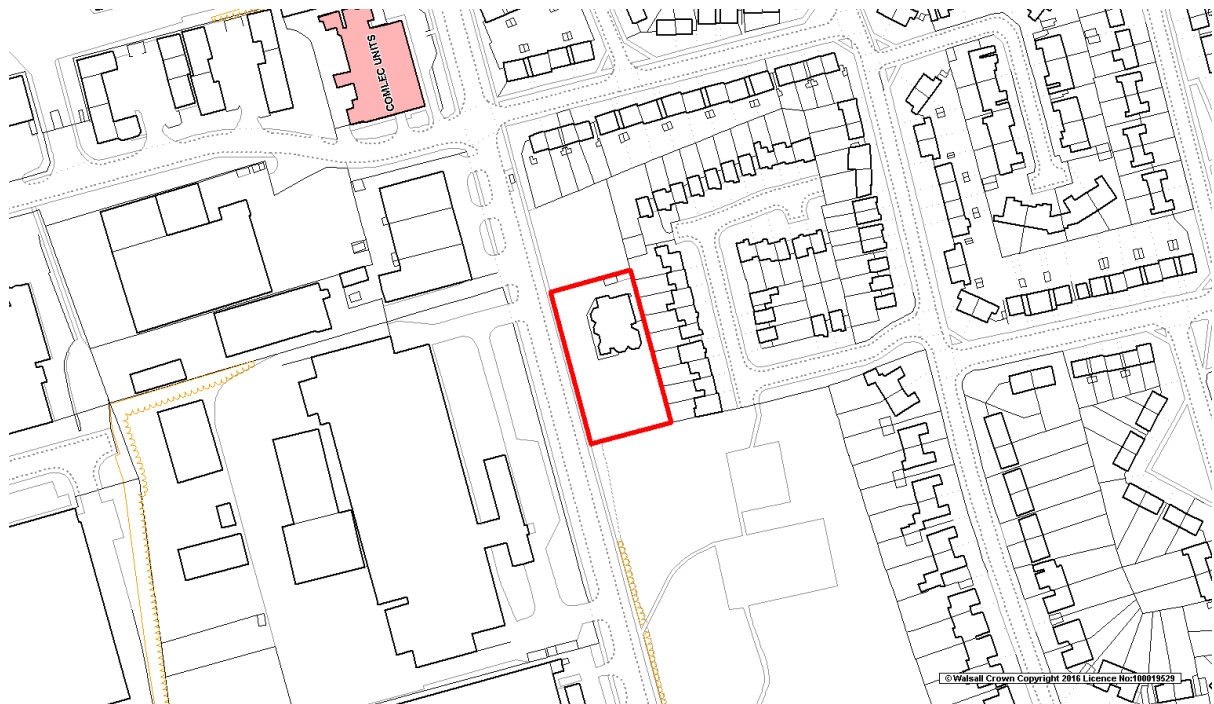
**Location:** LIMEKILN, NORTHGATE, ALDRIDGE, WALSALL, WALSALL, WS9 8BD

**Proposal:** SUBSTANTIAL DEMOLITION AND EXTENSION TO EXISTING PUBLIC HOUSE TO CREATE RETAIL SHOP (A1), INCLUDING ATM, REVISED PARKING, SERVICE AND STORAGE ARRANGEMENTS.

**Application Number:** 15/1923  
**Applicant:** Neil Guy Pension Fund  
**Agent:** Mr John Jowitt  
**Application Type:** Full Application

**Case Officer:** Stuart Crossen  
**Ward:** Aldridge Central And South  
**Expired Date:** 27-Mar-2016  
**Time Extension Expiry:**

**Recommendation Summary:** Grant Permission Subject to Conditions



### **Current status**

The application was first considered by Committee on June 9<sup>th</sup> 2016. The committee resolved that planning application 15/1923 be delegated to officers to approve, subject to no new material planning objections arising from further consultation with interested parties in relation to a revised application to include the relocation of the front door, the relocation of the ATM within the premises and the provision of litter bins.

The application has now been revised to include the ATM and main entrance on the front elevation instead of the side elevation. Because the ATM is not inside the store and no details of bins have been provided the application must be considered by committee.

The report has been updated to reflect the consideration of the revised plans.

### **Application and Site Details**

The applicant seeks planning permission for the conversion of the existing public house (Use Class A4) into a shop (Use Class A1).

The proposal includes alterations to accommodate this change comprising new shop windows, flat roof, entrance and ATM machine. The extension and conversion of the public house to an A1 retail shop would result in a ground floor area of about 464m<sup>2</sup>.

The front and side walls (to the car park) of the existing single storey part of the building which are irregular in shape are to be replaced with a squared off glazed design which would not project further out than the extent of the existing building. The two existing six sided roof pitches to the front and similar designed 2 hipped roof features to the side would be removed with a flat roof in its place, no higher than existing.

The main entrance and the ATM machine would be located on the front elevation facing the car park.

The applicant confirms that the existing two storey building at the rear of the site is to remain, the ancillary living accommodation being converted to ancillary offices, staff room and storage.

This long established public house is located on Northgate which is a District Distributor between Aldridge and Brownhills, across the road is the Core Employment Area of Leighswood Industrial Estate, with the rear gardens of houses in Hereford Close separated from the rear of site by a brick wall. Most of the houses have mature landscaping along this boundary. To either side of the building are areas of woodland. The building has two vehicle access points with parking areas to the front and side. The building sits away from the road and is 3.5m from the rear gardens of the houses to the rear.

There are currently 47 parking spaces, the application proposes 46 spaces, including two dedicated parking spaces for people with disabilities. Four cycle stands are also proposed. The existing access points and service area would be retained. Part of the car park to the south of the site is owned by the Council.

A Planning Statement has been provided in support of the proposals makes the following conclusions:

Case law shows that in these circumstances, policies which would otherwise mitigate against the proposal, or require further justification to allow the proposal, should be weighed against the likelihood of permitted development rights being implemented. In this case, the applicant confirms that the building will be converted to a shop, should permission be refused.

The existing use is also a town centre use.

The size of extension to the existing building is minimal, and well within the thresholds set by Council policies in respect of the need for a sequential assessment.

The grant of planning permission therefore allows certain issues, which have the potential to cause disturbance, such as noise from plant or deliveries to be controlled by condition.

An appropriate redevelopment of this prominent site.

Makes good use of public transport links, without detriment to the local highway network.

Creates a substantial number of new jobs (the forms state there would be the equivalent of 30 full time staff)

Makes good use of a vacant site in an important location, and is of an appropriate design.

### **Relevant Planning History**

10/0986/FL – Change of use of a section of the car park to provide a bespoke drive through vehicle cleaning service, including timber pay shed and canopy. Refused 13/1/2011 on grounds of noise, visual appearance and overspray.

14/0845/FL - Proposed change of use of first floor accommodation to offices, proposed ground. Refused 21/11/14 on grounds of being out of centre and noise and disturbance to residents.

### **Relevant Planning Policy Summary**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

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

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed
- Support town centres and a town centre first approach for retail, leisure, commercial, office, tourism, cultural, and community uses

**Key provisions** of the NPPF relevant in this case:

1. Delivering sustainable development

18 Committed to securing economic growth in order to create jobs.

19 Support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth.

2. Ensuring the vitality of town centres

24. Applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered.

#### 4. Promoting sustainable transport

32 Decisions should take account of safe and suitable access to the site can be achieved for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

34 Developments that generate significant movement are located where the need to travel will be minimised.

35 Developments should be located and designed where practical to; create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.

#### 7. Requiring good design

56. Good design is a key aspect of sustainable development.

58. Decisions should aim to ensure the developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion;
- and are visually attractive as a result of good architecture and appropriate landscaping.

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

#### 8. Promoting health communities

69. Decisions should aim to achieve...safe and accessible environments where crime and fear of crime do not undermine quality of life or community

#### 11. Conserving and enhancing the natural environment

109 The planning system should prevent new and existing development from contributing or being put at unacceptable risk from, or being adversely affected by unacceptable levels of.... noise pollution.

111 Encourage the effective use of land by re-using land that has been previously developed.

120. To prevent unacceptable risks from pollution decisions should ensure that new development is appropriate to its location. The effects (including cumulative effects) of pollution on health or general amenity and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

123 Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts
- Mitigate and reduce to a minimum other adverse impacts on health and quality of life.
- Recognise that development will often create some noise
- Identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure

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

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **Local**

#### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

The key planning policies include:

CSP4: Develops the need for high quality place making and design

EMP1: Providing for economic growth and job creation.

CEN1: Black Country Centres will provide for the main focus for....office activities.

CEN2: Hierarchy of Centres – identifies 3 levels of hierarchy.

CEN4: Regeneration of Town Centres

CEN6: Meeting Local Needs for Shopping and Services – new small-scale local facilities outside of defined centres of up to 200sqm will be permitted if it can be shown that: the proposal is of an appropriate scale to meet day-to-day needs, provision could not be better met by investment in a nearby centre, existing facilities will not be undermined; access by means other than by car.

CEN7: Controlling Out-of-Centre Development - requirements of CEN6 will be required.

TRAN1: Priorities for development of the transport network – all new developments will address the transport network and provide adequate access for all modes.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

ENV2: States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness. Proposal should aim to sustain and reinforce locally distinctive elements.

ENV3: Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits.

It is considered in this case that the relevant provisions of the BCCS can be given full weight

#### **Walsall's Unitary Development Plan (UDP) (2005)**

[www.walsall.gov.uk/index/environment/planning/unitary\\_development\\_plan.htm](http://www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm)

The relevant policies are:

GP2: Environmental Protection - The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment

3.6 Development and redevelopment schemes should as far as possible, help to improve the environment of the Borough.

3.7 The Council will seek to protect people from unacceptable noise, pollution and other environmental problems.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

PAGE 151 OF 203

ENV32: Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

ENV35: Appearance of Commercial Buildings

S1: Town Centre use includes – Class A1 retail.

S2: The Hierarchy of Centres

S4: The Town and District Centres – centres will be safeguarded

S5: The Local Centres – seeks retention of shops

S6: New small-scale local facilities will be permitted if it can be shown:

- The proposal is a scale and kind to meet a local need for improved facilities
- The local need cannot be better met by investment in a nearby centre
- There will be no likelihood of an adverse impact on the vitality and viability of any established centre in the Borough or elsewhere within the affected catchment area.
- There will be no impact on existing local provision such as to leave some local needs unmet, contrary to efforts to promote social inclusion.
- The proposal will improve accessibility to facilities by means other than the car and, in particular, will be within convenient, safe walking distance of the community it is intended to serve.
- The proposal will help to reduce the need to travel, especially by car.
- There must be no significant loss of amenity for neighbouring homes.
- Servicing and parking associated with the proposed use must not create any significant road safety or traffic problems.

S7: Sequential tests need to be undertaken to justify out of centre development of town centre uses in edge of centre locations, except where in accordance with policy S6. Meeting Local Needs (a) Outside the identified centres, existing local shopping, service, leisure, community and other facilities - in the form of shopping parades, clusters, single shops and other local provision - will be encouraged to continue to meet the day-to-day needs of their communities, unless it can be shown that the requirements of policy LC8 in Chapter 8 would be met.

T4: The Highway Network

T7: Car Parking - All development should satisfy the car parking standards set out in Policy T13. This will involve providing an adequate level of parking to meet operational needs while not exceeding any maximum parking standards that are specified.

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

Use Class A1: 1 car park space per 14m<sup>2</sup> of gross floorspace. At least 1 bike stand for every 20 car park spaces, and absolute minimum of 2 bike stands Taxi facilities.

LC8: Local Community Facilities

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD's are;

### **Designing Walsall (Feb 2008)**

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

### **Policy DW2 Safe and Welcoming Places**

PAGE 152 OF 203



It is considered in this case that the relevant provisions of Designing Walsall Supplementary Planning Document are consistent with the NPPF.

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Consultations**

**Environmental Health** – No objections, details required location and acoustic treatment for any external plant.

**Transportation** – No objections subject to conditions for parking demarcation, parking to be retained, and details of an accessibility audit prior to commencement.

**Pollution Control** – Conditions recommended to minimise noise and disruption to residents at the rear.

**Police Architectural Liaison Officer** - Conditions have been recommended for anti-ram bollards, cctv, alarm systems, privacy boxes, risk assessment for cash replenishment, anti-theft devices, secure till area, restricted access to private areas of the building and a services area gate specification.

**Strategic Planning Policy** – Objection, no evidence received to meet the policy tests in terms of sequentially preferential sites.

Further consultations have taken place on the amended scheme. Police comments have been received with the same recommended security provisions, no other comments have been received.

### **Public Participation Responses**

#### **6 Objections have been received on the following grounds:**

Proposal does not accurately reflect the relationship to number 5 Hereford Close (*the plans are sufficient to determine the application and officers also rely on the site visit, Council maps and photos*)

Noise disturbance

Would like the store entrance and the ATM to be moved to the Northgate Road side.

Proposal would have a larger footfall than the Public House.

Noise and disturbance from the increased use of footpath from Leigh's Wood.

Councillor Wilson shares the above neighbour concerns.

Only 19 and 21 have been consulted (*Odd numbers 1 – 21 have been consulted*)

Would result in more noise and traffic than previous refused application which was refused on these grounds.

Highway Safety

The Struggling Monkey mainly had trade from people walking.

No need for a retail unit, there is a Co-Op and B&M nearby and Aldridge Village Centre is walking distance.

A lot of upheaval in developing the site for it to close due to commercial failure. (*Any disturbance would be temporary and whether the proposal is commercially viable is a matter for the applicant*)

If approved the decision will be publically contested.

More skilled jobs required not part-time minimum/living wage.

Won't be able to sit in garden due to noise, car fumes and rate from rubbish bins.

Operating hours and delivery times

Position of any air conditioning/cooling motors in relation to neighbouring houses.

The following questions have been raised by an additional resident:

Will the ATM machine be inside the shop or outside the shop?

What sort of lighting will be on the car park area?

Will there be any additional trees planted or fence erected around the car park?

What are the hours of business going to be?

The case officer has confirmed that these details are provided for in the application which they should view.

All letters of representation are available for public inspection upon publication of this committee report.

### **Determining Issues**

- Principle of development
- Character and appearance
- Residential amenity
- Crime & Security
- Highway safety

### **Observations**

#### **Principle of development**

UDP policy LC8 considers the loss of local community facilities which include public houses, their loss will only be permitted if it can be demonstrated that:

1. There are other existing facilities, in an equally or more convenient location, which could accommodate any community activities displayed by the proposed development; or
2. A replacement facility could be provided in an equally or more convenient location; or
3. There is no longer a need for the facility, or for any other community use which could be appropriately provided on the site in accordance with other policies of this Plan; or
4. It would not be possible to retain the facility, or provide an alternative community facility because, despite all reasonable efforts, this would not be viable.

No justification has been provided to permit the loss of the public house, the proposed development of a Class A1 retail convenience shop, which is considered a Town Centre use, in an out-of-centre location would also be subject to the tests set out in the BCCS and the UDP. No statement has been submitted to consider the sequential test and an objection has been received from the Strategic Planning Policy Team.

Notwithstanding the above requirements, permitted development allowances for changes of use have changed since the UDP was originally adopted. Under class A of part 3, schedule 2 of the General Permitted Development Order, development consisting of a change of use of a building from a use falling within

A4 (drinking establishments) of the Schedule to the Use Classes Order, to a use falling within Class A1 (shops) is permitted provided the building is not a community asset. The building is not a community asset and there are no plans to make it one.

There are appeal decisions by the Planning Inspectorate which take account of the weight that can be afforded to permitted development rights. In particular, case number APP/T1410/A/12/2188964 for a change of use of The Parkfield Public House in Eastbourne stated that even in the context of a lack of information to demonstrate the proposal complied with Council policy the “overriding consideration is the fact that planning permission is not required for a change of use from a public house to Class A1 retail”.

Although the applicant has not demonstrated that the proposed loss of a community facility is acceptable or that the proposed shop (including 37m2 extensions) outside of a local centre is acceptable, contrary to planning policy, this must be balanced against permitted development rights available to this site which are a material consideration. Therefore, in this context a refusal in this instance on the grounds that the development does not comply with the requirement of LC8 or S7 of the UDP is not significant to warrant refusal.

## **Character and appearance**

The existing design is unusual and there are a number of competing elements which do not relate to any nearby buildings. The proposal would simplify the design of the building and feature a flat roof which is considered compatible with the existing design. For these reasons the proposal is considered an improvement and would not have a detrimental impact on the character of the area.

## **Residential amenity**

Planning permission is not required for the use. However the application has been submitted so that elevation changes can be made which also increase the floor space. Planning permission for the development is required and provides an opportunity to safeguard the amenities of nearby residents.

With regards to refrigeration, heating / ventilation / cooling machinery no details have been provided but these matters can be secured by condition. Pollution Control Officers recommend that the applicant consider positioning these towards the Northgate frontage or if the applicant chooses to install them on the rear of the proposed store then consideration of acoustic enclosures or locating the machinery internally should be made. Conditions have been recommended for any machinery and equipment noise levels but as planning permission has not been sought for this equipment it would have to be applied for separately.

Noise which would be outside of the typical working hours could have an impact on the occupiers of adjacent residential properties. It has been noted that there is a brick wall erected (approx 2 metres high) between the proposed store and residential gardens at the rear of the site, which Pollution Control Officers consider will mitigate some of the noise impacts and there is a distance of approximately 10 metres from the boundary wall to the facade of dwellings.

From the application form it is noted that the desired operational hours are 0600 to 2300, seven days a week. Other public houses that have been converted to shops with similar operational hours do not appear to have generated any significant complaints to the Environmental Health Section; however, Pollution Control Officers recommend that deliveries should be controlled to ensure that these are within reasonable hours e.g. 0800 to 2000 which can be conditioned.

Conditions have also been recommended for lighting of signage, directed towards residential premises, to be switched off between 23.00 and 06.00. Illuminated signage requires separate advertisement consent which could provide these controls.

The amended plans which now place the entrance and ATM to the front of the store are considered an improvement to the scheme in terms of neighbouring amenity being further away from the houses at the rear. Although no details have been provided for bins it is considered that such details can be conditioned prior to commencement of the use.

## **Crime and Security**

Automatic Teller Machines (ATMs) or 'cash machines' are being targeted around the country by organised groups of criminals and Banking Institutions are suffering significant losses. The groups are utilising a number of different methods of criminality from simple distraction theft/skimming to advanced manual manipulation of the machines, using specialist apparatus to capture customer data and in some instances stealing the whole machine or alternatively stealing the money when the machines are being reloaded.

Various methods are used to physically attack an ATM's and there are ample escape routes for criminals in this locality.

The threat of crime against this ATM and users is real. The Police Architectural Liaison Officers views are supported by the crime statistics for the area. Conditions have been recommended for anti-ram bollards, cctv, alarm systems, privacy boxes, risk assessment for cash replenishment, anti-theft devices, secure till area, restricted access to private areas of the building and a services area gate specification.

Following consultation on amended plans the Police Architectural Liaison Officer have provided further comments which echo the original ones detailed above. It is considered the location of the ATM to the front would also offer better visual surveillance from the highway and could be considered an improvement.

### **Highway Safety**

The site has 46 parking spaces which more than meets UDP T13 parking policy for an A1 Retail Food use.

The access points onto Northgate are existing and will require upgrading to bellmouths and a one-way in and out arrangement is required as a result of the likely increase in vehicle movements to the site compared to the existing use.

Whilst the proposed development is likely to result in a significant change in the nature, type and frequency of trips to the site across all modes, the Highway Authority is aware that there is a fall-back position that the existing A4 pub can be converted to A1 shop under permitted development.

The Highway Authority recommends that the current application is supported with reasonable conditions and controls.

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

Discussions have taken place with the agent about the relevancy of a sequential test, land ownership and scope of the proposals. Further justification has been provided as to why a sequential test is not required and amended plans have been submitted following recommendations made at the previous planning committee meeting.

### **Recommendation: Grant Permission Subject to Conditions**

1) This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2) The development shall be carried out in accordance with the following plans unless otherwise superseded by condition:

- Location plan drawing number (INC-SA(20)0003 P02 received 01/02/16
- Site survey plan drawing number (INC-SA(20)0001 P00 received 01/02/16
- Amended proposed site survey plan drawing number (INC-SA(20)0002 P10 received 26/07/16
- Existing elevations 1 (INC-MA(21)0001 P00 received 01/02/16
- Existing elevations 2 (INC-MA(21)0002 P00 received 01/02/16
- Ground Floor plan as existing (INC-SA(21)0001 P00 received 01/02/16
- Amended proposed elevations 1 (INC-MA(21)0010 P07 received 26/07/16
- Amended Proposed elevations 2 (INC-MA(21)0011 P05 received 09/09/16
- Ground Floor plan as proposed (INC-MA(20)0010 P05 received 12/09/16

PAGE 156 OF 203

Reason: To define the permission.

3a) Prior to the installation of any external machinery and equipment full details shall be provided for its positioning and screening and approved by the Local Planning Authority.

3b) Machinery and equipment shall be designed and installed to ensure noise levels do not exceed a Noise Rating of 35 dB, one metre from the facade of a residential dwelling between the hours of 07.00 and 23.00 hours.

Reason: To safeguard the amenities of neighbouring occupiers and to comply with UDP policy GP2.

4a) External lighting systems shall comply with the recommendations of the Institute of Lighting Professionals 'Guidance for the Reduction of Obtrusive Light'

4b) Lighting to signage that is directed towards residential premises shall be switched off between 23.00 and 06.00.

Reason: To safeguard the amenities of neighbouring occupiers and to comply with UDP policy GP2.

5a) Prior to the commencement of the development, an Accessibility Audit shall be undertaken within the local highway network to identify pedestrian desire lines to the development and assess and ensure that safe and suitable access can be achieved to the site for all people and to limit any significant impacts of the development.

5b) Prior to the development first coming into operation, any on or off site mitigation works identified by the Accessibility Audit as being required to ensure safe and suitable access is achieved to the site for all people, shall be implemented, full details of which shall be submitted to and approved in writing by the Local Planning Authority in advance.

Reason: The proposed Change of Use is likely to result in a change in the nature, type and frequency of travel patterns to the site particularly pedestrians and consequently safe and suitable access to the site can be achieved for all, in accordance with NPPF Para 32 and UDP policy T10 to T12.

6a) Prior to construction of the development full details of crime prevention measures shall be submitted to and approved in writing by the Local Planning Authority.

6b) The approved details shall be fully implemented prior to first occupation of the house and thereafter retained

NB. Please refer to "Note For Applicant" for further information.

Reason: To ensure the safety of future tenants and the public. The details are required prior to any further works because they should be integrated into the design.

7a) Prior to the development first coming into use;-

i) all car parking areas shall be clearly demarcated on the ground in accordance with the approved plan, including the clear IN/OUT only markings together with the installation of suitable signage,

ii) full engineering details of the remodelled access points from dropped kerb crossings to bellmouths shall be submitted to and approved in writing with the Local Planning Authority and the works fully implemented in accordance with the approved details and to the satisfaction of the Highway Authority,

7b) All car parking spaces and vehicle manoeuvring areas shall thereafter be retained and used for no other purpose.

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

8) Prior to the development coming into use details shall be submitted to and agreed by the Local Planning Authority for external litter bins.

Reason: To ensure the satisfactory amenities of the area and to comply with UDP policy GP2

9) The boundary wall between the store and residential dwellings shall be maintained in a good state of repair, with no holes or gaps.

Reason: To safeguard the amenities of neighbouring residents and to comply with UDP police GP2 and ENV10.

10a) The store hereby approved shall only be open between 06.00 and 23.00 hours on any day.

10b) Goods Deliveries to the store and waste collection shall only take place between the hours of 08.00 to 20.00 hours on any day.

Reason: To safeguard the amenities of neighbouring residents and to comply with UDP police GP2 and ENV10.

### **Notes for applicant**

Please be aware that any future external extraction equipment would require further planning consent. Similarly any form of illuminated signage at the premises would require advertisement consent.

### **Crime Prevention Measures**

1. Anti 'ram raid' bollards are fitted directly in front of the proposed ATM site. The bollards should be positioned so that a vehicle cannot squeeze between them. The bollard must comply to a British Standard in security performance (BSI PAS 68/69.)

2. The ATM is separately covered by CCTV which is fit for purpose i.e meets operational requirement as laid down in the BSEN 50132/7 standard, providing evidential standard coloured images. The images captured should then be recorded onto a hard drive. The hard drive must be housed in a secure lockable area, this is to prevent any tampering with the footage recorded. CCTV signage must also be implemented.

3. The ATM is separately alarmed, monitored 24/7 by an Alarm Receiving Centre that conforms to ISO standards and automatically generate an alarm signal if the telephone line fails or is cut and registered with West Midlands Police for appropriate response.

4. A privacy box is marked out on the ground in front of the ATM so as to create a defensible space for the user. ATM should have mirrors installed allowing users to see persons behind them when using the machine.

5. A suitable risk assessment in relation to replenishing of cash in ATM is completed with appropriate measures highlighted to reduce associated risks. This should be viewed an approved before planning permission is granted

6. The ATM should be installed with an audible alarm sounder and/or visual flashing warning light to indicate when the ATM is under attack and attract the attention of the public and assist police in positioning the exact location of the ATM.  
The sounder and/or warning light should be automatically disarmed during replenishment and servicing and automatically re-armed when replenishment / servicing is complete.
7. A Secure By Design Anti-Theft Device to protect against ram raid should be installed.
8. ATM's should be positioned to allow constant line of sight between the replenishes vehicle and the ATM (National ATM Security Working Group guidelines).
9. The shop premises should be suitably alarmed and monitored 24/7 by an Alarm Receiving Centre that conforms to ISO standards and automatically generate an alarm signal if the telephone line fails or is cut and registered with West Midlands Police for appropriate response.
10. The shop floor should be covered by a CCTV system, including the main entry exit doors and till area, images should be of evidential standards. Rear
11. There should be anti Ram raid barriers in front of shop windows and door ways.
12. The till area should be secure with no unrestricted access to the public.
13. All doors leading to private areas of the building from the shop floor should have access control measures in place to prevent unauthorised access. This includes all storerooms, staff rooms, office space and stairway.
14. Rear access gates to service yard should be a minimum of 2.1m in height. The Service yard should be well light and covered by CCTV.  
Highway safety

### 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.

### Notes for Applicant

- Crime Prevention Measures
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PAGE 159 OF 203

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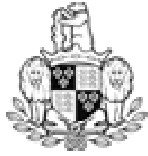
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## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 15.**

### Reason for bringing to committee: Appeal Against Non-Determination

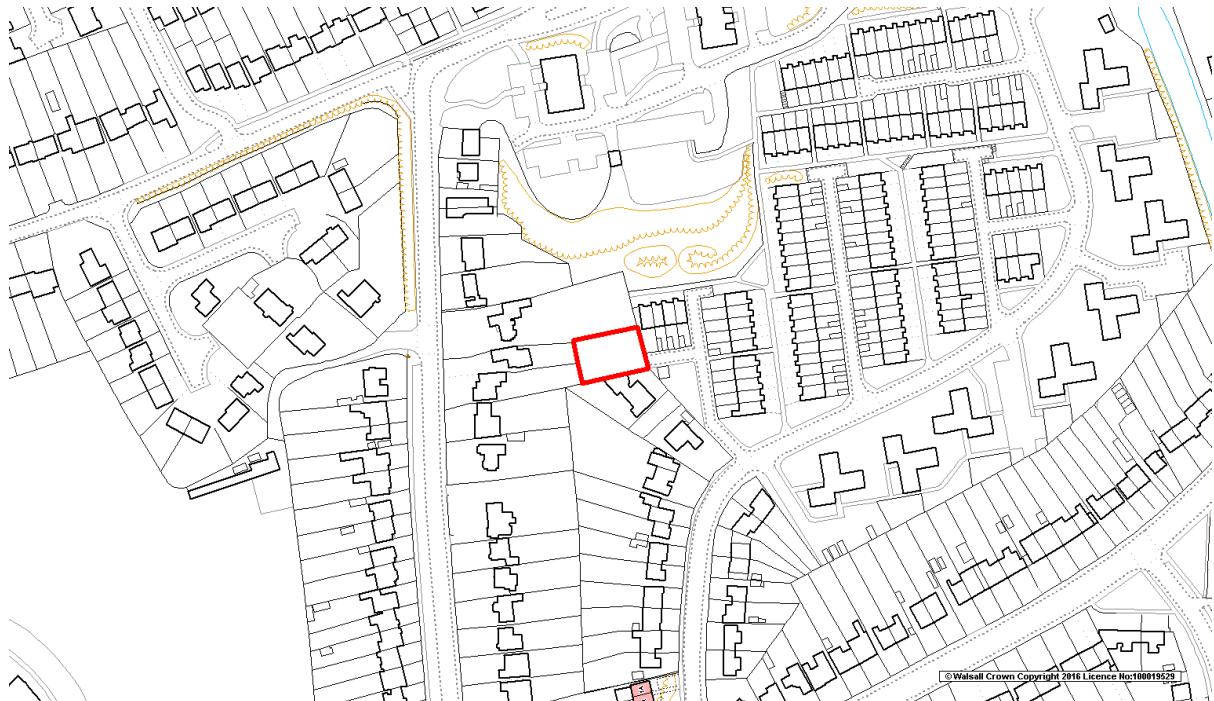
**Location:** LAND ADJACENT 21A MILLFIELD AVENUE, BLOXWICH, WALSALL, WS3 3QS

**Proposal:** PROPOSED CONSTRUCTION OF 3 NO. APARTMENTS.

**Application Number:** 15/1229  
**Applicant:** Mr P Cheema  
**Agent:** Mr Andy Law  
**Application Type:** Full Application

**Case Officer:** Barbara Toy  
**Ward:** Bloxwich East  
**Expired Date:** 02-Nov-2015  
**Time Extension Expiry:**

**Recommendation Summary:** To confirm the Council's recommendation to refuse consent on this non determination appeal



## **Status**

This application is now the subject of an appeal to the Planning Inspectorate against the non-determination within the statutory time period. This report seeks a Committee resolution on the recommendation if the Council had the opportunity to determine the application.

## **Application and Site Details**

The site is situated at the end of an unadopted cul-de-sac off the northern side of Millfield Avenue and comprises vacant land fenced off formerly part of the rear gardens of 32 and 34 Selmans Hill. The site has an area of approx 0.053 hectares and is situated between 21A and 23 Millfield Avenue. There are a number of mature trees on the site that are protected under Tree Preservation Order 22 of 1990. The site is approx 1m higher ground level than the access road.

21A is a detached bungalow with garage to the side adjacent to the southern boundary of the site, and 23 is a two storey end terraced house which sits adjacent to the eastern boundary of the site. 21A and 23 – 49 (odd) Millfield Avenue all have access from the cul-de-sac off Millfield Avenue to the rear of the properties, but few are used for off street parking due to the restricted garden sizes of the properties. 32 and 34 Selmans Hill are large detached properties.

This application proposes the erection of a detached 'L' shaped dormer bungalow style building to provide 3 x 2 bedroom flats. Two flats would be provided on the ground floor and a further flat within the roof space of the building with 2 dormer windows to the eastern (front) elevation and 3 dormer windows to the western (rear) elevation facing the rear of 32 and 34 Selmans Hill. Whilst each flat would have 2 bedrooms they would each have an open plan living/kitchen area. Access to the site would be from the end of the cul-de-sac with 4 parking spaces provided, 2 to the east and 2 to the south of the building. Approx 130sqm of shared amenity space would be provided to the rear of the building.

The following have been submitted in support of the proposals:

### **Design & Access Statement**

This discusses the site and the proposals.

### **Tree Report**

This recommends that 4 trees (3 x birch and 1 holly) should be felled and replaced as part of a landscaping scheme and that 2 lime trees should be crown lifted to 3m. Of the 8 trees surveyed 4 were considered in good condition, 1 poor condition, 2 moderate and 1 dead.

### **Relevant Planning History**

BC31069P, outline for the erection of a bungalow refused 18-12-90

BC33798P, outline for the erection of a bungalow refused 17-02-92

Both refused for the following reasons:

1. The development proposed, if permitted, would destroy the present peaceful character of this rear garden land to the detriment of the amenities of nearby residents by reason of increased noise and disturbance.
2. The application site is accessed off a narrow roadway with no turning head, (which principally serves as a rear access to garages for the adjoining houses), and the development proposed, if permitted, would add further vehicular traffic to this road from new residents, visitors, and service and delivery vehicles, resulting in added congestion and obstruction to the detriment of the existing residents.

02/0980/OL/E5, outline for the erection of one dwelling, refused 09-09-02. Subsequent appeal dismissed. The Inspector found that the principal of residential development at the site was acceptable, but the applicant failed to satisfactorily take account of the loss of amenity that would arise from the impact on the trees surrounding the site that are protected by Tree Preservation Order.

04/2352/OL/E4, outline for the erection of one bungalow, refused 14-12-04  
Refused for the following reason:

1. The proposed development would result in the loss of prominent trees along the boundary of the site, in particular T9 and T10 of Tree Preservation Order Number 22 of 1990, to the detriment of the character and appearance of the area. As such the proposed development would therefore be contrary to policies 3.6, 3.7, 6.6 and 6.8 of the Walsall Unitary Development Plan 1995 and policies GP2, H10, ENV19 and ENV34 of the Walsall Unitary Development Plan Revised Deposit Draft Plan March 2002.

05/1622/FL/E4, Construction of single detached bungalow, granted subject to conditions 29-06-06.

12/1513/FL, erection of a 2 bed detached bungalow, granted subject to conditions 14-12-12.

## **Relevant Planning Policy Summary**

### **National Planning Policy**

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

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

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

- Seek to secure high quality design and good standards of amenity for all existing and future occupants.
- Take account of the different roles and character of different areas.
- Proactively drive and support sustainable economic development to deliver the homes that the country needs.
- Contributing to conserving and enhancing the natural environment.

**Key provisions** of the NPPF relevant in this case:

***NPPF1. Delivering sustainable development***

***NPPF6: Delivering a Wide Choice of High Quality Homes***

***NPPF7: Requiring Good Design***

***NPPF11. Conserving and enhancing the natural environment***

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure

PAGE 165 OF 203

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

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **Local Policy**

#### **Black Country Core Strategy**

- HOU2: Housing Density, Type and Accessibility
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

It is considered in this case that the relevant provisions of the BCCS can be given full weight

**Unitary Development Plan - [http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)**

- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- T1 – Helping People to Get Around
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF

### **Supplementary Planning Documents (SPD)**

#### **Designing Walsall**

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

#### **Conserving Walsall's Natural Environment**

- NE7
- NE8

It is considered in this case that the relevant provisions of SPD Designing Walsall are consistent with the NPPF.

**Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)**

## **Consultations**

**Transportation** – Objection on the grounds of inadequate access and servicing. Whilst the proposed access was previously considered suitable for a single dwelling the proposals would result in an intensification of the use of the site and is likely to significantly increase pedestrian and vehicle movements along a road and footway infrastructure that is considered to be sub standard by current highway design standards. The site is situated over 70m from the adopted highway of Millfield Avenue.

The existing cul-de-sac off Millfield Avenue is an unadopted road (owned and maintained by WHG). The access road is narrow at approx 4m with footpaths below 1.2m in width. Due to the narrowness of the road and general lack of off street parking to serve the existing properties (23 – 49 odd Millfield Avenue) pavement parking is already prevalent. As a result pedestrian and vehicle access to the site is likely to be compromised and likely to lead to problems servicing the site by delivery and refuse vehicles. The substandard footway and carriageway widths would not meet inclusive design standards.

No details have been provided to demonstrate how larger vehicle and refuse vehicle would enter and leave the site or where refuse bins would be stored. The distance from the public highway would exceed standards within Manual for Streets for refuse collection services.

The proposals fail to provide any secure cycle storage facilities.

**Tree Officer** – Objection due to the impact on protected trees. There is a difference in levels between the access road and the site of approx 1m and the protected trees sit on the upper level. The construction of the hardstanding for the parking area to the east of the building would result in the severance of a significant amount of root material of 2 protected lime trees leading to concerns about the stability, health and condition of the trees to the extent that the trees would have to be removed. The parking area to the south of the building would also be in close proximity to a protected birch tree on the southern boundary and well within the radial root protection distance resulting in the severance of root material and the loss of the tree. A further birch tree to the north of the site (just outside the site boundary) would also be affected by the construction of the building leading to premature decline and/or death of the tree.

**Severn Trent Water** – No objections subject to drainage condition.

**West Midlands Police** – No comments

**Pollution Control** – No objections subject to condition to restrict hours of working on site.

## **Public Participation Responses**

Five objections received and one letter of comment.

Objections:

- Limited access to the site, not wide enough
- Wheelie bins from existing house in the road have to be taken to the main road as the dustcart will not enter the access road as there is no room
- Concern about emergency services access to existing homes if access road is blocked
- Access road in very bad repair, any type of building work could destroy any surface that is left
- Existing on street parking blocks the access road already preventing access

PAGE 167 OF 203

- Loss of light , loss of privacy and overlooking to adjoining properties
- Apartment block would dominate surrounding bungalows.
- Garden land that should not be built on
- Area already overcrowded
- Upheaval and inconvenience during construction
- Concerns about Committee process
- Property devaluation

Comments received:

- No objections subject to retention of the existing conifer hedging to the west of the site on the boundary with No 34 and assurance that full access for maintenance of the hedge will be allowed. Retention of the hedge is essential to prevent overlooking and loss of privacy to bedrooms at No 34.

All letters of representation are available for inspection upon publication of this committee report.

### **Determining issues**

- The Principle of Residential Development
- Design and Layout
- Impact on Trees
- Impact on the Amenities of the Surrounding Occupiers
- Parking, Access and Highway Safety

### **Observations**

#### **The Principle of Residential Development**

The site is situated within a predominantly residential area. The principle of residential development for a single dwelling on the site was established under previous planning consents.

#### **Design and Layout**

The footprint and the general location of the building would be similar to that previously approved for a 2 bed bungalow under 12/1513/FL. The overall height would remain the same as that previously approved but the roof design would be amended from a hip to a gable with the inclusion of 5 dormer windows to allow for the first floor accommodation. Although the overall massing of the roof would be increased over that of the previous approval the general design is considered acceptable.

The site is approx 1m higher ground level than the access road and no details of the level difference and how this will be dealt with on site have been provided in the submission.

Whilst the building would be closer to the western boundary with 32 and 34 Selmans Hill, the separation distance at approx 26m would still exceed the 24m requirement of Appendix D of Designing Walsall.

#### **Impact on Trees**

The proposals would result in loss or damage to 4 protected trees (TPO 22 of 1990) and one further mature tree within and immediately adjacent to the site.

The proposals indicate a proposed access drive/hardstanding for parking in close proximity to 3 protected lime trees (T7, T8 and T9) along the eastern boundary of the site with 23 Millfield Avenue. The hardstanding would be well within the radial root protection distance of



these trees and result in severance of significant amount of root material, leading to concerns over the stability, health and condition of the trees. It is likely that if the development were to go ahead these trees would have to be removed.

Similarly the proposed parking hardstanding to the south of the building would extend into the radial root protection distance of a protected birch tree (T12) that sits adjacent to the southern boundary of the site and is likely to lead to damage and/or loss of the tree.

A further mature birch tree situated immediately to the north of the site within the rear garden of No 38 Selmans Hill, is also likely to be lost due to the proximity to the proposed building, with the building situated within the radial root protection area of the tree. This tree is situated within third party land and at this time it is not considered expedient to formally protect this tree.

The loss of these mature trees within and immediately adjacent to the site would be detrimental to the overall amenity, aesthetic and landscape value of the area and there is not considered to be a reasonable balance of retention, removal and replacement of trees.

The previous bungalow approval in 2012 included an integral garage and a small driveway between the vehicle access and the garage providing the required 2 off street parking spaces. The proposals now include significantly larger hardstanding areas to the east and south of the building bringing the hardstanding closer to the protected trees.

The Planning Inspector in dismissing an appeal at the site in 2003 for a single dwelling concluded that the development would unacceptably harm the character and appearance of the area due to the loss of protected trees.

### **Impact on the amenity of the surrounding occupiers**

Whilst the building would be closer to the western boundary with 32 and 34 Selmans Hill than the previous approval, the separation distance at approx 26m would still exceed the 24m requirement of Appendix D of Designing Walsall. It is considered that the proposed dormer windows would have no significant adverse impact on the amenities of the surrounding occupiers.

As the building would be the same height as that of the previous approval it considered that the proposals would not have any additional impact on the amenities of the surrounding occupiers or the amenity of the area over that of the previous approval.

The proposals would however provide 3 x 2 bed residential units in place of the 1 x 2 bed unit on the previous consent, significantly increasing the number of bedrooms, possible residents and the extent of comings and goings from the site. The intensification of the use of the site is considered likely to have an adverse impact on the amenities of the surrounding occupiers through additional vehicles and comings and goings within the existing narrow unadopted access road.

### **Parking, Access and highway safety**

The proposals would provide 4 off street parking spaces which equates to 133% parking provision, slightly below the 150% requirement of Policy T13 of the UDP, but is considered satisfactory in this case.

Whilst the proposed access was considered acceptable for a single dwelling, the proposal for 3 flats will be an intensification of the use of the site and is likely to significantly increase pedestrian and vehicle movements to the site along a road and footway infrastructure that is, by current highway design standards, considered to be sub-standard. The development can therefore not be supported in highway terms.

The site is situated over 70m from the main adopted carriageway of Millfield Avenue and is served by an unadopted access road which is owned and maintained by Walsall Housing Group. The access road is very narrow at around 4 metres and below in width and the adjoining footways below 1.2m in width. Due to the narrowness of the access road and the general lack of off-street parking to serve the existing dwellings, pavement parking on the narrow pavements is already prevalent. As a result both vehicular and pedestrian access to the site would be compromised and is likely to lead to problems servicing the site such as larger delivery vehicles and refuse collection as well as pedestrians having to walk into the carriageway. Wheelchair users would certainly have difficulty accessing the site from the main road due to the substandard footway and carriageway widths and would not meet Inclusive design standards.

The Planning Inspector in dismissing an appeal at the site in 2003 for a single dwelling commented on the narrow road but concluded that the additional traffic generated from one property would not be so significant to unduly compromise highway safety. With the current proposals it is considered that the intensification of the use of the site for 3 properties would generate additional traffic that would compromise highway safety.

Manual for Streets1 (2007) guidance (para.6.3.22) states that footways should be a minimum 2 metres in width and DfT Inclusive Mobility guidance also states that footways should be 2 metres in width with 1.5 metres to be regarded as the minimum acceptable. Whilst it is accepted that the existing road and footway layout is below these current design standards, the Highway Authority considers that this is not acceptable for the residents of the new development and this proposed intensification of the use of the site over the previous consent.

In addition, no details have been submitted demonstrating how service vehicles such as refuse collection vehicles will service the site or where refuse bins will be collected from. Due to the constrained nature of the access road, the likelihood of parked vehicles and the lack of a suitably sized turning facility, it is likely that the refuse collection vehicle will have to either reverse into or out of the access road on collection days. Manual for Streets1 (2007) para. 6.8.8. recommends that 12 metres is the maximum reversing distance for such vehicles. Para 6.8.11 also states that wheelie bins should not be transported over 15 metres. The proposals fail to meet these guidelines and in this respect is unacceptable.

The development also fails to provide any secure cycle shelter facility for the use of residents of the development, contrary to BCCS Policy TRAN4.

**Recommendation: To confirm the Council's recommendation to refuse consent on this non determination appeal**

1. The proposed development and layout is likely to result in unacceptable loss or damage to trees within and immediately adjacent to the site some of which are protected under Tree Preservation Order 22 of 1990, through the position of the building, driveway, parking area and occupancy of the site and pressure from future occupiers to remove or prune trees that overhang and shadow the building and parking spaces, which would be detrimental to the overall amenity, aesthetic and landscape character of the area. 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 and policies NE7 and NE8 of Supplementary Planning Document Conserving Walsall's Natural Environment.

2. The proposals would significantly increase pedestrian and vehicle movements and intensify the use of an un-adopted road and footpath that are considered sub-standard in terms of current highway design standards and fail to meet inclusive mobility design standards, detrimental to highway and pedestrian safety and contrary to Policy GP2 of Walsall's Unitary Development Plan and Department of Transport Guidance: Manual for Streets (2007). Furthermore, the proposals fail to demonstrate how service and refuse vehicles would access the site and the layout fails to comply with guidance contained within Department of Transport Guidance: Manual for Streets (2007) for refuse collection and travel distance for occupiers to drag bins. The development also fails to provide any secure cycle storage facilities. As such the proposals are contrary to Policy TRAN4 of the Black Country Core Strategy.





## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

Plans List Item Number: 16.

**Reason for bringing to committee: Significant Community Interest**

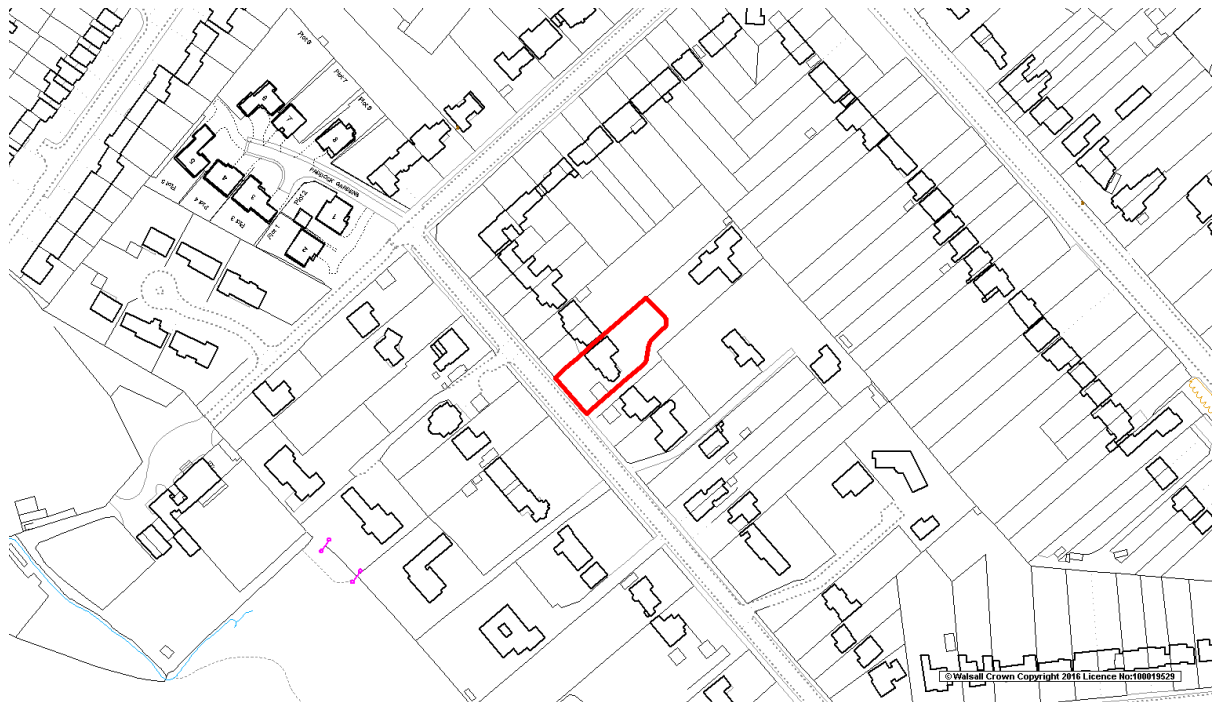
**Location:** 56, CHARLEMONT ROAD, WALSALL, WALSALL, WS5 3NQ

**Proposal:** TWO STOREY AND SINGLE STOREY REAR EXTENSIONS WITH REAR PATIO AREA (RESUBMISSION OF 15/1802).

**Application Number:** 16/0601  
**Applicant:** Mr Mohammed Fakrul Islam  
**Agent:** Mr Muminul Islam  
**Application Type:** Full Application

**Case Officer:** Helen Smith  
**Ward:** Paddock  
**Expired Date:** 12-Jun-2016  
**Time Extension Expiry:**

**Recommendation Summary:** Grant Permission Subject to Conditions



## **Application and Site Details**

This planning application is a revised scheme following the refusal of an earlier proposal 15/1802 on 22/02/16.

The application house is a detached 6 bedroom house on a plot which is 20 metres wide and 51 metres deep with the house set back 15 metres from the public highway.

The application house plot was previously sub-divided in 2003 to create a back land plot for a house, no. 54a Charlemont Road, with an access drive located between the application house and no. 54 Charlemont Road.

The street has a spacious residential character consisting of a mix of detached houses and bungalows of varying individual design and age. The application house has an existing two storey rear gable extension. The adjacent houses are characterised as;

No. 54 Charlemont Road is a dormer bungalow, to the south east of the application house, separated from no. 56 by a distance of 6.5 metres with no. 54a access driveway between the two properties. No. 54 has a rear habitable bedroom window near to the application house, with a conservatory next to this, and side facing non-habitable room windows.

No. 58 Charlemont Road is positioned to the north west of the application house and has a rear kitchen window close to the application house. The kitchen and dining room area is combined with a larger window adjacent to the kitchen window with a bedroom window above this, at first floor.

No. 58 has a habitable room dormer window facing the existing two storey side elevation of the application house. There is 1.8 metres high timber fencing along the shared garden boundary with no. 58 and unprotected trees in the rear garden of no. 58.

No. 54a Charlemont Road lies directly behind the application house. There would be a habitable room window to window separation distance of 34.2 metres between the proposed extension and an existing conservatory extension at the rear no. 54a. The shared boundary between the application house and no. 54a is a 2 metres high brick wall, which defines the boundary to the driveway and rear garden.

The proposed two storey and single storey extensions, combined would reconfigure and enlarge the existing ground floor with a new room layout to provide a new kitchen, lounge and study to the rear of the house. At first floor the total number of bedrooms would increase to 7 bedrooms with one additional en-suite and the proposal includes the following additions;

### **Two storey extension**

The proposed two storey extension would be built on the opposite side of an existing two storey rear extension at the application house to no. 58 Charlemont Road which has an approx. 0.6 metres lower ground level than the application house at the rear.

- extend 5.6 metres from the existing first floor rear elevation of no. 56 adjacent to the side boundary with the driveway access serving no. 54a Charlemont Road.
- The existing house has a small flat roof area between the house and its existing two storey rear extension.
- An existing first floor rear dormer and window, serving bedroom 5 would be removed by this proposal.
- Bedroom 5 benefits from an existing side facing window.
- Gable roof design with an extension to an existing rear gable roof, creating a central valley design in the roof.

PAGE 174 OF 203

- Same height as the existing house.

#### Single storey rear extension

- would extend 2.5 metres from existing two storey extension adjacent to the garden boundary with no. 58 Charlemont Road
- 1.2 metres deep step in from the shared boundary with no. 58 to remove the corner section.
- Single storey proposal would then extend rearwards a further 1.3 metres across the full width of the property and proposed two storey rear extension.
- mono-pitch roof between 3.3 and 2.3 metres high
- 12 rear facing roof lights.

#### Single storey side extension

- Adjacent to the boundary with the driveway to no. 54a.
- extend 1.7 metres from the side of the proposed rear extension
- 2.4 metres high flat roof
- 3 ground floor side facing windows
- Glazed French doors would be installed in the side elevation facing the boundary to the driveway of no.54a.

The application house benefits from an 'in/out' front driveway and a front detached garage which combined provides at least 3 vehicles off-street parking.

The length of the remaining rear garden would be 19.4 metres.

The applicant has provided an updated bat and bird survey by S. Christopher Smith dated 16/06/16 and a planning statement dated 27/06/16 to support their planning application.

#### **Relevant Policies**

##### **National Planning Policy Framework (NPPF) [www.gov.uk](http://www.gov.uk)**

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

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

##### 7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

#### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

The relevant policies are:

ENV2 and ENV3 states that all development should aim to protect and promote the special qualities, design quality and local distinctiveness of the Black Country.

#### **Walsall's Unitary Development Plan (UDP)**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse



impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV23: Nature Conservation and New Development.

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development.
- The height, proportion, scale, and mass of proposed buildings / structures.
- The materials proposed for buildings, external spaces and means of enclosure.

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPDs are:

#### **Designing Walsall**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk)).
- Garden dimensions: 12m in length or a minimum area of 68 sq. m for houses and 20 sq. m of useable space per dwelling where communal provision is provided.

#### **Conserving Walsall's Natural Environment**

Provides guidance on development which may adversely affect trees, important species and habitats.

## **Relevant Planning History**

### **56 Charlemont Road**

15/1802 – Two storey rear extension and internal refurbishment and associated works – refused permission on 22/2/16 on the following grounds;

1. *The rear extension would amount to a disproportionate addition which integrates poorly with the design of the existing house, by reason of its scale, mass, design, proportion and shape and pitch of the roof. The extension has a bolted on appearance which would block an existing first floor dormer window, leaving an awkward space whilst detracting from the character and design of existing property and the wider character of the area.*
2. *The extension would be visible from a number of public vantage points including long views from Charlemont Road, along the drive access to no. 54a Charlemont Road. In addition, the extension is visible from no's 54, 54a and 58 Charlemont Road and whilst this would not normally be a concern, the scale, mass, design, proportion, roof and bolted on appearance that in this instance is considered harms the visual amenity of the location. The front elevation of no. 54a would directly face this proposed extension. It is considered this proposal would have a detrimental impact on the spacious character of the area as it could be seen from public vantage points to the front and rear of the property.*
3. *Number 56 is to the south east of the rear habitable room windows of no. 58 Charlemont Road, when combined with the excessive scale and mass of the rear extension, it is considered the extension would have an overbearing and unacceptable shadowing impact on neighbours existing light and amenity in relation to the rear bedroom window at no. 58. This impact is considered to be exacerbated by the lower rear ground level of no. 58.*
4. *The excessive scale and mass of the proposed rear extension when combined with its poor relationship with the host dwelling are considered would have a harmful impact on neighbours' visual amenity when viewed from the rear conservatory and garden of no. 54 Charlemont Road.*
5. *The proposed side facing window to serve Bedroom 5 would be the only window serving this primary room and it is considered would provide poor amenity for residents as this glazing would be obscurely glazed. Without obscure glazing this would result in overlooking and an unacceptable loss of privacy for the occupiers of no. 58 Charlemont Road.*
6. *The north facing skylights serving Bedrooms 8 and 9 would provide the only natural light for these two rooms and are considered would provide poor amenity for residents and is unacceptable.*

BC28319P – Double garage – granted subject to conditions 19/1/90

BC265545P – Erection of playroom, W.C. laundry, bedroom and internal alterations – granted permission 12/06/89

BC4715 – Domestic extensions – granted subject to conditions 17/6/76

BC4074 – Extensions to dwelling – granted subject to conditions 7/4/76

PAGE 178 OF 203

## 54 Charlemont Road

BC50225P – Proposed 4 bedroom detached house and drive to serve potential future Plot 2 to the rear – granted subject to conditions 16/9/97

## 54a Charlemont Road

BC50223P – Plot 2 New dwelling to the rear of no. 56 – granted 16/9/97

## **Consultation Replies**

**Transportation** – No objections

## **Representations**

Objections have been received from residents of three addresses on the following grounds;

- Overdevelopment of the site and out of character with neighbouring properties
- Reduction of amenity space
- Inevitable increase in parking congestion and there are too many vehicles to be parked on the drive. 10 or more cars indiscriminately parked on the drive leading to traffic issues (*highway obstructions could be reported to the police by residents*)
- dwelling would be more than one and a half times the size of the existing property
- loss of light and privacy in living room and garden of no. 58 Charlemont Road from side facing windows proposed in the extension (*no new side facing windows opposite no. 58 are proposed by the current planning application*)
- the proposal with the sloping roof demonstrates poor design and with 9 bedrooms and introduces a house in multiple occupancy with 7 bedrooms into a quiet residential road (*from the evidence provided this property is occupied by a single extended family*)
- contrived and poor design on the side of the property near to no. 58 to satisfy the 45 degree rule
- does not overcome the previous reason for refusals
- loss of visual amenity from downstairs bathroom of no. 54 Charlemont Road
- extensive flat roof and massing of the building would be out of character with properties in the vicinity
- loss of light and privacy to the conservatory, downstairs bedroom and garden of no. 54 Charlemont Road from the side facing windows and falls foul of the 45 degree rule
- the extent of the flat roof demonstrates poor design

## **Determining Issues**

- Whether the application has addressed the reasons for refusal of the previous application
- Any new issues
- Neighbour comments

## **Observations**

### **Refusal Reason no. 1**

***The rear extension would amount to a disproportionate addition which integrates poorly with the design of the existing house, by reason of its scale, mass, design, proportion and shape and pitch of the roof. The extension has a bolted on appearance which would block an***

PAGE 179 OF 203

existing first floor dormer window, leaving an awkward space whilst detracting from the character and design of existing property and the wider character of the area.

**Disproportionate Addition.** The amended proposal has reduced the scale and mass by reducing the depth of the proposed first floor extension from 9.4 metres to 5.6 metres. This extension would extend no further rearwards than the existing two storey extension at the application house. The depth of the proposed single storey extension would be unchanged although it is considered that this would have a lesser impact than the previous two storey scheme.

**Integrates Poorly with the Design of the Existing House.** The revised two storey design is considered would reflect the design of the existing two storey extension and replicating the existing relationship that exists between the first floor roof and the original dwelling house. The addition of an extension to the existing first floor rear gable roof is considered would integrate the extension into the host dwelling coherently.

**Scale.** The reduced scale of this proposal including the two storey proposal to sit alongside the existing two storey extension is considered to be proportionate, reflecting the scale of the host dwelling.

**Mass.** The revised two storey rear extension is considered would reduce the mass and bulk of this proposal when viewed from neighbouring properties and along the access drive to no. 54A Charlemont Road from Charlemont Road. The appearance of this reduced mass and bulk proposal is considered would have a balanced relationship with the host dwelling.

**Design.** The revised proposed two storey extension is considered reflects the design of the host dwelling as the proposal has copied the design features of the existing two storey rear extension and is considered integrates with the existing property.

**Proportion, Shape and Pitch of the Roof.** The first floor gable roof design is considered replicates the existing roof shape and pitch of the existing two storey rear extension. The proportions of the revised new roof would be similar to the existing house and are considered would integrate with the host dwelling.

**Bolted on Appearance.** The revised proposal design is considered reflects the design of the existing two storey extension removes the bolted on concern as the proposal would now match the design of the host dwelling.

**Block an Existing First Floor Dormer Window, Leaving an Awkward Space.** The amended proposal removes the existing dormer window serving bedroom 5 and whilst there would be a void between the proposed extension and the existing house it is considered to be a simpler design without leaving an awkward space. The removal of the dormer window can be conditioned.

**Detracting from the Character and Design of Existing Property.** The amended design of the first floor extension reflects the design of the existing extension at the application house. It is considered the extension no longer detracts from the character and design of the existing house.

The proposed single storey pitched roof extension is considered to reflect the design of the existing property and would be similar to a number of single storey extensions in the surrounding area.

### **Detracting from the Character and Design and the Wider Character of the Area.**

The reduction in scale and mass along with the revisions to the original design of these extensions are considered to be proportionate and reflect the design of the existing house. Taking this into account it is considered that the amended proposal would no longer detract from the character and design of the existing house, neighbouring properties and the wider character of the area.

Refusal reason no. 1 is considered to have been overcome as set out above.

### **Refusal Reason No. 2**

*The extension would be visible from a number of public vantage points including long views from Charlemont Road, along the drive access to no. 54a Charlemont Road. In addition, the extension is visible from no's 54, 54a and 58 Charlemont Road and whilst this would not normally be a concern, the scale, mass, design, proportion, roof and bolted on appearance that in this instance is considered harms the visual amenity of the location. The front elevation of no. 54a would directly face this proposed extension. It is considered this proposal would have a detrimental impact on the spacious character of the area as it could be seen from public vantage points to the front and rear of the property.*

**Visible from a number of public vantage points, long views from Charlemont Road, the scale, mass, design, proportion, and roof and bolted on appearance harms the visual amenity of the location.** The reduction in scale and mass of the proposed two storey extension and the reduced and revised roof design matching the roof design of the existing two storey extension are considered would improve the visual characteristics of the scheme.

The amended design of this proposal and removal of the existing dormer window are considered to have an acceptable appearance when viewed along the adjacent private driveway from public vantage points on Charlemont Road.

**Visible from no's 54, 54a and 58 Charlemont Road, the scale, mass, design, proportion, roof and bolted on appearance that in this instance is considered harms the visual amenity of the location.** The improvements to design as outlined above and the reduction in scale and mass which are considered would result in an extension in proportion with the existing house are considered to have addressed this concern. The appearance of rear extensions is not normally a primary concern when assessing proposals and in this instance it is considered that the proposed changes to the original scheme are sufficient to overcome these concerns.

The visual amenity of the location when viewed from no's 54, 54a and 58 Charlemont Road is considered would be preserved following the revisions to the original scheme

**The front elevation of no. 54a would directly face this proposed extension. It is considered this proposal would have a detrimental impact on the spacious character of the area as it could be seen from public vantage points to the front and rear of the property.** Whilst the front elevation of no. 54a Charlemont Road would directly face the proposed extension it is considered that the reduction in scale and mass of the proposal would now result in an acceptable visual relationship between these two properties.

The amended proposal is considered to have satisfactorily overcome the second refusal reason.

### Refusal Reason No. 3

No. 56 is to the south east of the rear habitable room windows of no. 58 Charlemont Road, when combined with the excessive scale and mass of the rear extension, it is considered the extension would have an overbearing and unacceptable shadowing impact on neighbours existing light and amenity in relation to the rear bedroom window at no. 58. This impact is considered to be exacerbated by the lower rear ground level of no. 58.

The amendment to the original scheme to remove the proposed two storey extension next to the rear boundary with no. 58 Charlemont Road is considered removes concerns that this proposal would have an overbearing and unacceptable shadowing impact on neighbours existing light and amenity in relation to the rear first floor bedroom and ground floor kitchen windows in no. 58.

No. 58 is positioned to the south east of the application house. There would be some loss of light and shadowing to the rear of no. 58 in the morning due to the orientation of the properties, although it is considered insufficient to harm to the living conditions of the occupiers' of no. 58, even with the difference in ground levels, to sustain a reason for refusal in this instance.

The amended proposal meets the Council's 45 degree guidance, as referred to in Appendix D of Designing Walsall SPD, in relation to the rear kitchen window (*this room is also served by a larger dining room window*) in no. 58. This advice is the Council's tool to guide development and planning applications in relation to neighbour's light and outlook.

The amended proposal is considered to have satisfactorily overcome the third refusal reason.

### Refusal Reason No. 4

The excessive scale and mass of the proposed rear extension when combined with its poor relationship with the host dwelling are considered would have a harmful impact on neighbours' visual amenity when viewed from the rear conservatory and garden of no. 54 Charlemont Road.

**Excessive Scale and Mass.** The reduced scale of this proposal and limiting the two storey proposal to sit alongside the existing two storey extension is considered to be proportionate and in keeping the scale of the host dwelling.

The reduction in mass of the revised two storey rear extension is considered would reduce the bulk of this proposal when viewed from neighbouring properties and along the access drive to no. 54A Charlemont Road when viewed from Charlemont Road. The appearance of this proposal is considered would have a balanced relationship with the host dwelling.

**Poor Relationship with the Host Dwelling.** The revised design of this proposal is considered would now reflect the design of the existing two storey extension and roof form removes this concern as the proposal would now integrate with the design of the host dwelling

**Harmful Impact on Neighbours' Visual Amenity when Viewed from the Rear Conservatory and Garden of No. 54 Charlemont Road.** The reduction in depth of the proposed first floor rear extension from 9.5 metres to 5.6 metres along with the 7.9 metres wide gap between the side elevations of no's 54 and 56 and improved relationship with the host dwelling are considered would limit the impact of the this proposal on neighbours' visual amenity from their rear garden.

The proposed two storey extension would be viewed against the outline of the existing two storey extension at no. 56 when seen from the conservatory of no. 54 Charlemont Road. Whilst the extension would be nearer to no. 54 than the existing two storey rear extension to no. 56, it is considered that the separation distance of 8 metres between this extension and the side boundary with no. 54 and the reduced depth of the first floor would have a limited impact on neighbours visual amenity and outlook.

The proposed extensions would meet the Council's 45 degree guidance, as referred to in Appendix D of Designing Walsall SPD, in relation to adjacent habitable room windows in the rear of no. 54 Charlemont Road.

The revisions to the earlier proposal are considered to have overcome refusal reason no. 4.

#### **Refusal Reason No. 5**

*The proposed side facing window to serve Bedroom 5 would be the only window serving this primary room and it is considered would provide poor amenity for residents as this glazing would be obscurely glazed. Without obscure glazing this would result in overlooking and an unacceptable loss of privacy for the occupiers of no. 58 Charlemont Road.*

Bedroom 5 has been removed from the proposal as the scale of the first floor extension has been reduced. This refusal reason has been addressed and no longer applies.

#### **Refusal Reason No. 6**

*The north facing skylights serving Bedrooms 8 and 9 would provide the only natural light for these two rooms and are considered would provide poor amenity for residents and is unacceptable*

Bedrooms 8 and 9 have been removed from the proposal following the reduction in depth of the proposed first floor extension. This refusal reason has been addressed and no longer applies.

#### **Neighbours Comments**

Whilst Appendix D of Designing Walsall SPD sets out minimum recommended rear garden size of either 12 metres in length or an area of 68 square metres. It is considered that where the character of the area consists of larger houses and gardens it can be appropriate to expect more than the minimum standards for private amenity space.

The application house occupies a large plot and although this rear garden has previously been sub-divided to create a dwelling to the rear, it is considered that the remaining rear garden area of 330 square metres remains a generous size.

The large area of remaining front and rear amenity spaces are considered would avoid the overdevelopment of the application site.

The neighbour's comments are noted from 58 Charlemont Road regarding a loss of privacy from side facing windows proposed in the extension. However the submitted plans do not indicate any side facing windows will be installed in this new extension facing the boundary with no. 58. A planning condition can be included to control the installation of any side facing windows in the future.

Neighbours' have commented that the proposal has a contrived and poor design on the side near to no. 38 Charlemont Road to satisfy the 45 degree rule. The original proposal, which was amended during the course of the first planning application, included an angled wall,

which would have followed the notional 45 degree line from the rear kitchen window in no. 58.

This amended proposal has a squared and stepped design on the corner nearest to no. 58 which is considered to be an acceptable design proposal and is not contrived in the same way as the first planning application.

The proposed ground floor, side facing, habitable room windows facing the driveway boundary next to no. 54 Charlemont Road would face a 2 metres high brick wall. It is considered that this boundary treatment would protect the existing privacy of both the occupiers of the application house and residents at 54 Charlemont Road including their rear ground floor bedroom, conservatory and garden.

The proposed new first floor bedroom window would be no nearer to the side boundary with no. 54 Charlemont Road than the existing dormer bedroom window. Although this would extend further than the rear elevation of no. 54 it is considered there would be little additional impact on neighbours existing garden privacy at no. 54.

### **Protected species**

The updated bat survey provided by S. Christopher Smith dated 16/06/16 advises there is evidence of bats using the house as a place of shelter at the gable apex on the southern elevation of the property.

The report concludes that the roost area will not be affected by the current proposal and can be retained without disturbance to the roost as there would be no change to the roof in this area.

The report recommends that a method of working should be put in place when there are contractors on site and a planning condition can be included to address these concerns and to conserve local bat populations.

### **Parking**

This proposal would increase the total number of bedrooms at this dwelling house from 6 to 7. UDP Policy T13 - Parking requires the provision of 3 parking to serve a house with 4 or more bedrooms. The existing hard-surfaced driveway and double garage provide parking for at least 3 vehicles and this development would meet the requirements of UDP Policy T13.

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

Officers have confirmed to the applicant's agent that the amended proposal as submitted is acceptable and no further changes have been requested.

### **Recommendation: Grant permission subject to conditions**

1: This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2: This development shall not be carried out other than in conformity with the following approved plans: -

- Bat and Bird Survey Report by S. Christopher Smith dated 16 June 2016
- Planning Statement, dated 27/06/16
- Location and Site Plan, drawing no. (CRW) 01, deposited 18/04/16
- Existing Plans and Elevations, drawing no. (CRW) 02, deposited 18/04/16

PAGE 184 OF 203



- Proposed Plans and Elevations, drawing no. (CRW) 03B, deposited 21/09/16
- Proposed Block Plan, drawing no. (CRW) 04, deposited 18/04/16

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: Bats have been shown to be present in this building and the development shall proceed only in accordance with the method statement and recommendations in the report by S Christopher Smith dated 16/06/16 unless varied by the requirements of a Natural England licence. Structures erected for roosting bats must be retained thereafter and their entrances kept free of obstructions at all time.

Reason: to conserve local bat populations.

4: The walls of the extension shall comprise facing materials that match in colour, texture and size those which are used in the existing building as it exists at the time of this application, 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 information provided the roof tiles used on the extension shall comprise of Rosemary Roof Tiles Dark Antique 95 and shall be retained as such thereafter.

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

6: Prior to the development first coming into use the existing rear facing dormer window serving Bedroom no. 5 shall be removed in its entirety and the existing roof made good using Rosemary Roof Tiles Dark Antique 95. All debris shall be removed from the site.

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

7: 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.

8: The permission hereby approved does not include the replacement or rebuilding of the following;

- The main house roof and previously approved extension and roof,
- Front and side walls of the main house,
- Previously approved and built extensions (*with the exception of the removal of the first floor rear dormer window required by condition 6*)

Reason: To safeguard the amenities of the occupiers of adjoining premises and to clearly define the permission





## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 17.**

**Reason for bringing to committee: Significant Community Interest**

**Location:** 1A, THE GRANARY, ALDRIDGE, WALSALL, WS9 8NY

**Proposal:** GROUND FLOOR REAR EXTENSION TO KITCHEN

**Application Number:** 16/0816  
**Applicant:** Mr David Wheeler  
**Agent:** Mr Otto De Weijer  
**Application Type:** Full Application

**Case Officer:** James Chatterton  
**Ward:** Aldridge Central And South  
**Expired Date:** 25-Jul-2016  
**Time Extension Expiry:**

**Recommendation Summary:** Grant Permission Subject to Conditions



## **Application and site details**

The property is a detached barn conversion situated on the South side of The Granary within the Aldridge Conservation Area. The dwelling frontage is set back 6m from the street access. The frontage includes a driveway suitable for two cars and lawn area with shrubbery to the western edge.

The proposal is for a ground floor rear extension to the kitchen. The proposed extension is 2.2m long and 1.6m deep with a brick base and full height hardwood frame window. The proposed roof is extended from the original roof with glazing following the original roof pitch.

The dwelling is of brick build and features an attached garage and dormer windows to the first floor. This is common throughout the street scene. The rear of the property is shielded from Neighbours (1 and 1b) by mature trees and fencing. The rear is a mixture of laid slabs and low lying plants. The southern boundary of the site features a wall of approximately 1m in height and a hedge row of 2m; this separates the proposal site from the end of the 35m rear garden of 19 Walsall Wood Road. The rear of the dwelling cannot be slightly seen from one pedestrian position from Noddy Park Road only.

## **Relevant Policies**

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

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

- **NPPF 12 – Conserving and enhancing the Historic Environment.**

## **Local Policy**

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

### **Unitary Development Plan**

- GP2: Environmental Protection
- ENV2: Historic Character and Local Distinctiveness
- ENV28: Conservation Areas
- ENV32: Design and Development Proposals

## **Supplementary Planning Document**

### **Designing Walsall**

- DW3 Character
- Appendix D

## **Conservation Principles Policies and Guidance for the Sustainable Management of the Historic Environment: English Heritage**

### **Historic Environment Good Practice**

- Advice Notes 2 and 3

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

**Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)**

### **Relevant Planning History**

16/0432 Lawful Development Certificate for Proposed Use - Single storey rear extension to existing kitchen. – Refused 23/05/16. This was for identical proposals to those now applied for but was not lawful development as permitted development rights have been removed for this development.

BC31713P/C – Erection of two no. detached houses. Granted Subject to Conditions and remove PD for extensions, garage conversions, side facing windows and new accesses – GSC 18/04/91

### **Consultation Replies**

**Conservation Officer** - The extension is disproportionate with the design of the existing building and will cause less than substantial harm to the character and appearance of the conservation area but further amendments are required to enable this scheme to be appropriate. The proposed glazing is excessive and looks awkward against what is a traditionally designed building. The full height glazing is not a feature commonly found in barns and has a very modern appearance which appears awkward against traditional segmented headed windows. The glazed roof accentuates the very modern appearance

PAGE 189 OF 203

## **Representations**

None received.

## **Determining Issues**

- Amenity of nearby residents
- Conservation Area Character

## **Observations**

### **Amenity of Nearby Residents**

The intended development is to the South elevation of the property, and could only be seen by one neighbouring property, 19 Walsall Wood Road. However, due to the long plot length of this neighbour and the shielding trees and mature shrubbery, it is considered that there would not be any significant adverse effect to amenity in terms of outlook, privacy or overlooking..

### **Conservation Area Character**

The Conservation Officer considers the extensive glazing is too modern a design and not typical of the design of the original dwelling which was intended to have the appearance of a traditional barn. On this basis the Conservation officer does not support the proposals . However, the supplied details highlight materials to match the existing dwelling. On balance the proposals are for a small extension which is considered minimal and remains sympathetic and subservient to the existing dwelling and surrounding area and not prominently visible from the wider conservation area This will not cause significant harm to the appearance of the Conservation area.

## **Positive and Proactive working with the applicant**

The agent has responded to any queries the Officer raised during the decision making process. The design is considered acceptable to enable support for the proposals.

## **Recommendation: Grant of permission subject to conditions.**

1: This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2: This development shall not be carried out other than in accordance with the plans submitted alongside the application (dated 31/05/2016)

-Drawing Numbers 9687/SK01 and 9687/SK02

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

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

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.







## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 18.**

**Reason for bringing to committee: Called in by Councillor Wilson as delicate judgement is required.**

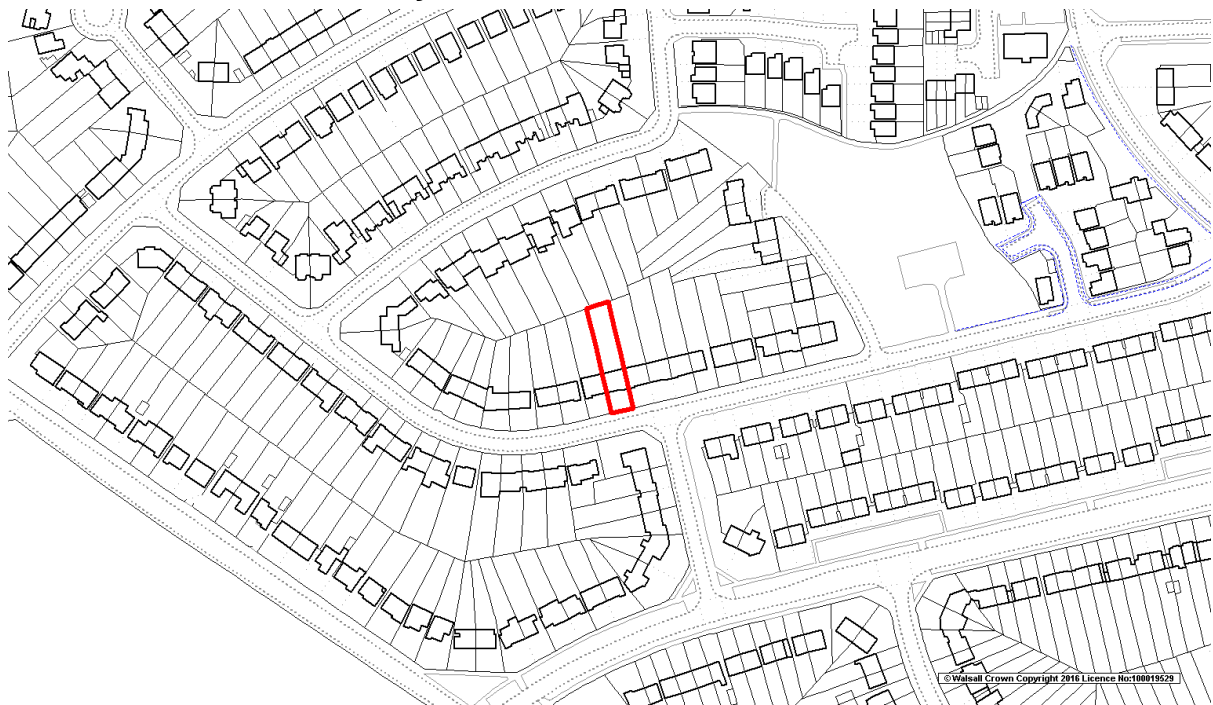
**Location:** 31 , BERRYFIELDS, ALDRIDGE, WS9 0EL

**Proposal:** DOUBLE STOREY SIDE AND REAR EXTENSION AND SINGLE STOREY REAR.

**Application Number:** 16/0760  
**Applicant:** Kulvinder Doal  
**Agent:** Rouhel Ahmed  
**Application Type:** Full Application

**Case Officer:** Jenny Townsend  
**Ward:** Aldridge Central And South  
**Expired Date:** 12-Jul-2016  
**Time Extension Expiry:**

**Recommendation Summary:** Refuse



## **Application and Site Details**

This application is for a two storey side and rear extension and a single storey extension to the rear of a semi detached house that would replace the existing single storey garage, store, WC and utility room on the right-hand side of the house next to number 33 Berryfields.

The application site is in a residential area and is a 1950's house with a hipped roof and double curved bays at the front. The area is a mix of detached and semi detached houses that vary in design. Most of the houses on this side of Berryfields have single storey sections to the side that are built to the boundary with the neighbour. There are some first floor side extensions at similar styled houses nearby that have disrupted the regular pattern of gaps between the first floor part of the houses and to the west of the application house on the opposite side of the road, the houses have long sloping roofs with front dormers, no single storey side sections and are much closer together.

The proposed extension would provide a new WC, store, wet room, utility area and kitchen/diner at ground floor and enlarge one of the existing bedrooms, add a 4<sup>th</sup> bedroom, new bathroom and en-suite shower room at first floor level. The extension would project 0.8 metres forward from the front of the existing house at ground floor but would be in line at first floor with the existing front wall. The extension would be narrower than the existing single storey side section introducing a 0.6 metre wide gap alongside the boundary with number 33 allowing for access to the rear of the property. A hipped roof in line at the ridge with the original roof is proposed over the extension.

The two storey extension would run alongside the full length of the house and would project 2.4 metres beyond the existing rear wall. The proposed single storey extension would be 3.5 metres deep and across the whole of the rear elevation including the side extension, where it would be 1.1 metres longer than the two storey extension. A sloping roof with rooflights is proposed over the section next to number 29 Berryfields, the other half of the pair. This roof would be continued over the remainder of the ground floor part of the extension nearest to number 33.

Windows and a door are proposed in the side elevation facing number 33 which all serve non habitable rooms except one at first floor which is a secondary window to the new rear bedroom. The windows in the first floor bathroom and ground floor wet room are shown to be obscurely glazed.

Windows to the new WC at ground floor and the enlarged bedroom at first floor are proposed on the front elevation with a window to the rear bedroom at first floor and doors and windows to the kitchen/diner at ground floor proposed on the rear.

Number 29 is to the west and in line at the front and rear with the application house. On the rear number 29 has patio doors at ground floor serving a dining room and a bedroom window at first floor level nearest to the boundary. At the time of the site visit there was no fence or wall on the boundary directly to the rear of the houses but there was a 1.8 metre high fence further down the garden.

Number 33 is to the east and has a garage at the front with a window to the kitchen nearest to the boundary on the rear elevation. The houses are in line with each other at both the front and rear and the first floor part of number 33 is set in approximately 3 metres from the boundary with a landing window facing across the garage towards the application house. At the rear on the boundary between the houses there is a fence approximately 1.5 metres high.

The long rear garden backs onto the rear garden of 16 The Leaslow which is a similar length giving a separation of approximately 55 metres between the rears of the houses,

The frontage of the house is large enough to provide 3 parking spaces.

## **Relevant Policies**

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

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

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

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

**Key provisions** of the NPPF relevant in this case:

- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **Local Policy**

#### **Black Country Core Strategy**

- ENV3: Design Quality

#### **Unitary Development Plan**

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

### **Supplementary Planning Document**

#### **Designing Walsall**

- Appendix D

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

**Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)**

## **Relevant Planning History**

None.

## **Consultation Replies**

None.

## **Representations**

Three letters of objection to the original plans and an objection in relation to the amended scheme, on the following grounds:

- Will block hours of sunlight and light to their dining room;
- No other two storey rear extensions nearby;
- Extension will be an eyesore that will change the shape of the original building completely;
- Extension will completely block sunlight to kitchen and patio;
- The 0.6m gap to the side is a security weakness;
- Extension will devalue their property;
- Size and visual impact.

In relation to the amended plans;

- Proposal still too large and will set a precedent for other houses on the estate to do the same;
- Pitched roof to rear extension will look out of place and reduce sunlight – would prefer a flat roof;
- Concerns regarding moving the drains to accommodate the extension potentially causing future problems.

They state they have no objection to building above the garage and a suitable single storey rear extension as long as the drainage is reinstalled correctly.

All letters of representation are available for inspection upon publication of this committee report.

## **Determining Issues**

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

## **Observations**

### **Design of Extension and Character of Area**

The design of the extension is compatible with the existing house. Whilst there is no set back at first floor this is similar to the other first floor extensions nearby some of which have flat roofs. The hipped roof to the extension would reflect the original roof shape and is considered an improvement to the first floor extensions that have flat roofs.

The infill of most of the space to the side would be similar to the houses that have built above the garages and there would remain space to the side of the extension above the garage belonging to number 33, together with the 0.6 metre wide gap to the side of the extension. The proposal is considered would be in keeping with the existing character of the area and would not harm the appearance of the house or character of the area.

The proposed WC window is narrow and off set, giving an unbalanced appearance to the front of the house. This could be amended if the proposal were acceptable in all other aspects but in light of the recommendation to refuse the applicant has not been asked to amend this design. .

### **Amenity of Nearby Residents**

The front of the extension would project forward from the front of number 33 but as this property has a garage nearest to the boundary, this would have no significant impact on the amenity of the occupiers.

The first floor window in the side of number 33 is a landing window which is a non habitable room. Whilst it is acknowledged that there would be some reduction in the light to this window due to the extension being closer to the boundary, this is considered would not warrant a refusal of the application for this reason alone.

The two storey extension would project 2.4 metres beyond the rear of number 33 and whilst the plans show that this would meet with the 45 degree code guidance measured from the quarter point of the kitchen window of number 33, the height, proximity and orientation of the extension is considered would result in an overbearing impact and loss of light to the window and patio area of number 33 which would have a detrimental impact on the amenity of the occupiers of this property. In this instance it is considered that the harm to the living conditions of the occupiers of number 33 would outweigh the compliance with the 45 degree code which is for guidance only.

Officers have advised the applicant's agent that a two storey extension in line with the rear of the existing house would be supported as it is considered that there would be little additional harm to the living conditions of the occupiers of number 33 as a result of such a proposal. Whilst it is acknowledged that the plans have been amended to reduce the length of both the two and single storey extensions on the rear, nevertheless it is considered in this instance that the changes are not sufficient to overcome the harm to the living conditions of the occupiers of the neighbouring property number 33.

The applicant's agent has supplied a sunlight path for the site which they claim shows that 80-85% of the sunlight throughout the day will fall to the rear of number 33 and that shadowing will be to a minimum.

The single storey extension would breach the 45 degree code measured from the nearest habitable room windows and doors on both of the neighbouring properties however it would not exceed 3.5 metres in length measured from these windows and doors, which is considered acceptable for single storey extensions only that would otherwise breach the code. The 45 degree code is used to assess light and outlook.

The separation to the houses at the rear exceeds the minimum 24 metres required by policy to protect the amenity and privacy of neighbours.

With regard to the neighbour's comments, drainage is dealt with under Building Regulations legislation; devaluation of property is not a material planning matter. All other aspects have been covered in the above observations.

### **Parking**

There is space on the frontage of the house to provide 3 parking spaces which would accord with UDP policy for a house with 4 or more bedrooms. However the existing dropped kerb would need to be repositioned in order to facilitate access to these spaces.

### **Positive and Proactive working with the applicant**

Officers have spoken with the applicant's agent and despite receipt of amended plans reducing the length of the rear extensions (both the single and two storey extensions), in this instance officers are still unable to support the proposal due to the overbearing impact on the amenities of the adjacent neighbour at number 33.

### **Recommendation: Refuse**

The height, proximity and orientation of the two storey extension are considered would result in an overbearing impact on the kitchen window and patio area of number 33 Berryfields and a loss of light and would lead to a detrimental impact on the living conditions of the occupiers of this property. As such the proposal is contrary to the aims and objectives of the National Planning Policy Framework including paragraphs 56, 57, 58, and 64, Walsall's Saved Unitary Development Plan policies, in particular GP2, ENV32 and the Supplementary Planning Documents "Designing Walsall".



## Planning Committee

Report of Head of Planning, Engineering and Transportation on 06-Oct-2016

**Plans List Item Number: 19.**

**Reason for bringing to committee: Significant community interest**

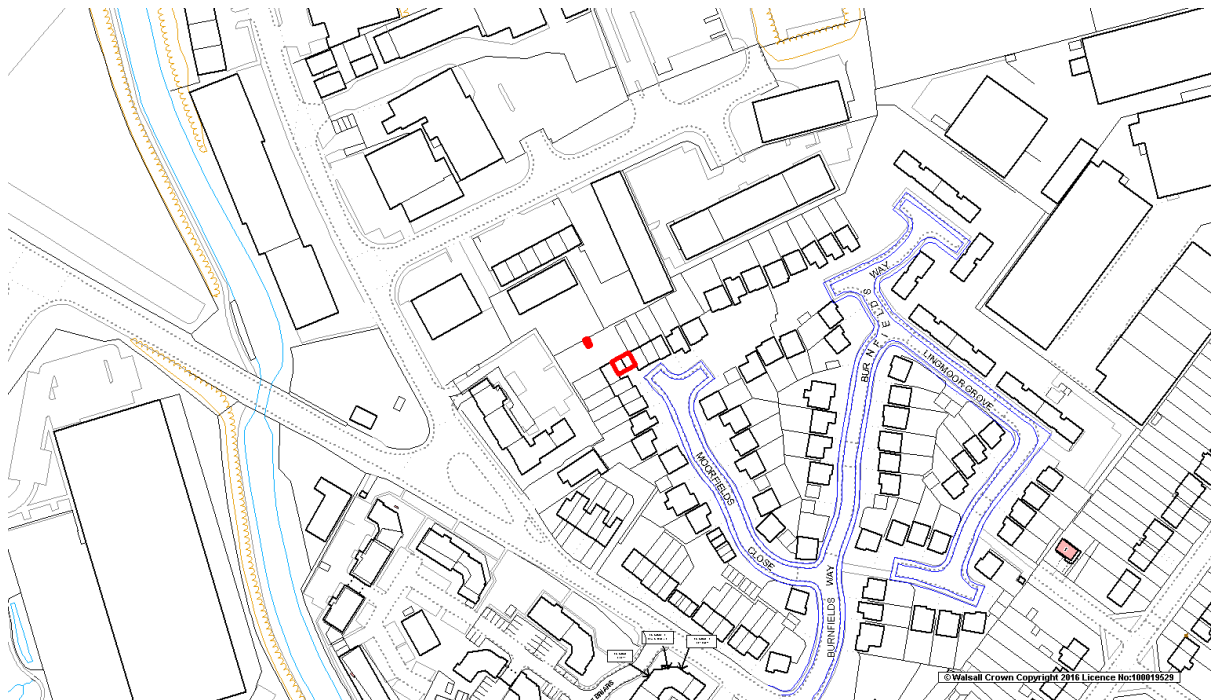
**Location:** 47 , MOORFIELDS CLOSE, ALDRIDGE, WS9 8BP

**Proposal:** CONVERSION OF EXISTING GARAGE TO HABITABLE ROOM

**Application Number:** 16/0800  
**Applicant:** Eleanor Anderton  
**Agent:**  
**Application Type:** Full Application

**Case Officer:** Jenny Townsend  
**Ward:** Aldridge Central And South  
**Expired Date:** 18-Jul-2016  
**Time Extension Expiry:**

**Recommendation Summary:** Grant Permission Subject to Conditions



## **Application and Site Details**

This application seeks to convert the existing garage in a single bedroom dwelling to create an additional room that would include a shower room. The plans do not state that the room is to be used as a bedroom but it is acknowledged that there is potential for it to be used as such.

The application site is on a residential estate with an underpass leading to a parking court at the rear beneath part of the first floor of the dwelling. The existing garage door is in the rear wall facing onto the parking area and the application proposes to replace this with a wall and window in the same position that would match with the window frames and bricks of the existing building.

The application property has one allocated parking space in the parking court with all of the other marked out spaces belonging to neighbouring properties. There is space alongside the side wall and fence of number 45 Moorfields Close which is unmarked. The submitted plans show three potential spaces to the southern boundary of the parking court but these are indicative only. At the time of the site visit there was a car parked in this area which shows that there is already parking taking place in this unallocated space.

## **Relevant Policies**

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

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

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

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

**Key provisions** of the NPPF relevant in this case:

- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

## **Local Policy**

### **Black Country Core Strategy**

- ENV3: Design Quality



## **Unitary Development Plan**

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

## **Supplementary Planning Document**

### **Conserving Walsall's Natural Environment Designing Walsall**

- Appendix D

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

**Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)**

### **Relevant Planning History**

Planning permission for the original estate removed permitted development rights for garage conversions.

### **Consultation Replies**

**Pollution Control** - No objections subject to conditions requiring details of how the ground gas protection measures are to be dealt with and validation/confirmation of installation of agreed works prior to the new habitable room being brought into use.

**Transportation** - No objections subject to a condition which clarifies that the permission does not include any further specific allocated parking for the application property.

### **Representations**

Three neighbours have stated they have no objections to the garage conversion (provided the party wall is double skinned and insulated against noise) but raise objections to the proposed parking on the following grounds:

- potential congestion and access issues;
- blocking of rear gate but no objections if they park in front of the new window;
- extra space would obstruct access to the rear of their gardens and hamper access to their parking spaces;
- additional parking would cause great difficulty in accessing their car parking spaces and affect the turning angle/circle and may result in an accident;
- the parking facilities are already limited.

### **Determining Issues**

- Design and Character of Area
- Amenity of Nearby Residents
- Ground Conditions
- Parking

### **Observations**

#### **Design and Character of Area**

The proposed conversion would only be visible from the parking court and provided the frame and bricks match the existing, it is considered that there would be little impact on the appearance or character of the area from the proposal.

### **Amenity of Nearby Residents**

The window would not face towards any other dwelling and it is considered that there would be little impact on the amenity of nearby occupiers from the conversion.

With regard to the neighbour's comments regarding the party wall and noise insulation, these are covered by separate legislation (Party Wall Act and Building Regulations) and are not material planning matters that can be taken into account

### **Ground Conditions**

The applicant's agent has confirmed that measures will be taken to identify ground gas and any penetrations will be made good and sealed with appropriate materials. They have noted that further assessment/investigation will be necessary during site works (breaking out of ground slab etc) and on completion to ensure ground gas protection measures are maintained.

### **Parking**

One allocated parking space is retained for the site in the rear parking court. Whilst the development will result in the loss of one garage parking space, it is considered the loss of this space will not have severe transportation implications and on balance is acceptable. There is potential for additional parking in the rear parking court, however this is outside the application site boundary and the control of the applicant and therefore has not been considered a material factor. There is evidence that there is already parking in unallocated areas within the court.

The Highway Authority considers an objection on the grounds of the loss of a single parking space alone is unlikely to be sustained in the event of an Appeal and on this basis supports the proposal.

### **Positive and Proactive working with the applicant**

#### **Approve**

Officers have spoken with the applicant's agent and in response to concerns raised regarding ground gas protection measures, additional information has been submitted which enables full support to be given to the scheme.

#### **Recommendation: Grant Subject to Conditions**

1: This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2: This development shall not be carried out other than in conformity with the following approved plans: -

Location plan deposited 24 May 2016;  
Existing block plan, elevations and floor layout plan drawing EA/02 deposited 24 May 2016;  
Proposed elevation and floor layout plans drawing EA/03 deposited 24 May 2016;  
Design and Access Statement deposited 24 May 2016;  
Email from applicant's agent dated 13 September 2016 confirming that additional information will be required regarding ground gas protection measures.

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: Details of ground gas ingress protection measures including materials specifications to be installed in the proposed structure shall be provided to and agreed in writing with the local planning authority prior to development commencing. Additionally the applicant shall demonstrate to the satisfaction of the Local Planning Authority that any ground gas ingress protection measures incorporated into the existing dwelling are not compromised. The protection measures shall be installed before the development is first occupied and shall be thereafter retained.

Reason: To safeguard the occupiers of the application property and to comply with policy ENV10 of Walsall's Unitary Development Plan.

4: The walls and window frame of the conversion shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building as it exists at the time of this application, 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 details shown on the approved plan, the optional additional parking spaces shown in the rear parking court, are indicative only and cannot be allocated to the specifically to the site as they are outside the application site boundary and outside the control of the applicant.

Reason: To define the permission.