



## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 2<sup>nd</sup> May 2013

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2	29	12/1598/FL	FORMER BARLEY MOW PUBLIC HOUSE, GOSCOTE LANE, WALSALL	Proposed erection of 14 no 3 bedroom houses and associated works.	Grant Permission Subject to Conditions and a Planning Obligation
3	48	12/1554/CC	41-43 HIGH STREET, 10-30 (EVEN) DIGBETH & CAR PARK AND 1-10 LOWER HALL LANE, WALSALL	Conservation Area Consent: To demolish existing buildings fronting High Street, Digbeth and Lower Hall Lane and Former Multi-Storey Car Park to allow for redevelopment for retail development.	Grant Conservation Area Consent

3	48	12/1553/FL	41-43 HIGH STREET, 10-30 (EVEN) DIGBETH & CAR PARK AND 1-10 LOWER HALL LANE, WALSALL	Proposed retail parade with provision for upper floor space together with associated secure rear servicing, access and relocated substation. Enabling works include the demolition of the existing retail parade along Digbeth and Lower Hall Lane, the decked car park accessed from Lower Hall Lane and ancillary workshop building from the former Shannons Mill site.	Grant Permission Subject to Conditions
4	75	12/1486/FL	FORMER ST. MARGARETS HOSPITAL, QUESLETT ROAD, WALSALL, B43 7EZ	Minor material amendment to permission 09/0753/RM to vary condition 2 allowing substitution of house types for plots 378-415 (phase 3) of residential development of 141 dwellings.	Grant with conditions, subject to no new information raising new material issues
5	89	13/0306/FL	Former Students' Union Building (Building WC),Walsall Campus,Gorway Road,Walsall, WS1 3BD	Change of use of former Students Union building to an enterprise and innovation centre with administration offices and external alterations and new stair tower.	Grant Permission Subject to Conditions

6	96	13/0305/FL	MANOR HOSPITAL ,MOAT ROAD,WALSALL, WS2 9PS	Variation to Condition 2 of Planning Permission 06/1415/FL/W1 to retain the existing temporary modular building whose permission expires on 21 September 2015 for a further 7years (to 2022).	Grant Permission Subject to Conditions
7	103	12/1733/FL	38 BLAKENALL LANE, WALSALL, WS3 1HG	Change of use from shop with commercial units to 7 no. self contained living units with first floor rear extension, parking and amenity area.	Refuse
8	114	13/0284/FL	107 CHAPEL LANE, GREAT BARR, BIRMINGHAM, B43 7BA	Subdivision of residential farm complex with first floor extension to provide 2 no. additional duplex residential dwellings with associated alterations, landscaping and parking areas.	Grant Permission Subject to Conditions
9	129	13/0248/FL	REAR OF 57 STAFFORD ROAD, BLOXWICH, WALSALL, WS3 3NJ	Erection of a detached, 4 bedroom property and realignment of highway access	Grant Permission Subject to Conditions
10	144	12/1670/FL	LAND AT REAR OF 160 THORNHILL ROAD, STREETLY, B74 2EH	Erection of two dwellings with access from Millcroft Road.	Grant Permission Subject to Conditions

11	161	12/1138/FL	90-92 SALTERS ROAD, WALSALL,	Change of use from A1 (retail) to A5 (hot food takeaways) with new brick built riser containing new extraction ductwork, and formation of new car parking spaces	Refuse
12	170	13/0428/PT	TELECOMMUNICATIONS INSTALLATION FRONTING 123 - 129 CHESTER ROAD, STREETLY, B74 2HT	Prior approval for the installation of a replacement 12.5m high streetworks pole with 3 shrouded antennae & 2 additional equipment cabinets.	Prior Notification Approve Details Tel.
13	179	12/1574/FL	130-140 WALSTEAD ROAD, WALSALL, WS5 4LU	Change use to a tuition centre open for the local community.	Grant Permission Subject to Conditions
14	190	13/0380/FL	11 GREENSLADE ROAD, WALSALL, WS5 3QH	Retrospective application to retain minor additional height of flat top roof to house	Refuse
15	199	12/0137/FL	10 NORMAN ROAD, WALSALL, WS5 3QJ	Pitched roof above existing garage and utility room, chimney removal, front porch extension, side door to garage and extension to driveway (part retrospective).	Grant Permission Subject to Conditions
16	210	12/0981/FL	84 BELVIDERE ROAD, WALSALL, WS1 3AU	Resubmission of 12/0041/FL: Front boundary walls and proposed automatic gates and railings.	Grant Permission Subject to Conditions
17	220	12/1410/FL	LAND ADJACENT 11 LITTLE CROSS STREET, WEDNESBURY	Proposed garage for domestic use by No. 11 Little Cross Street.	Grant Permission Subject to Conditions



## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 1.**

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

**Application Number:** 12/1693/FL  
**Application Type:** Full application

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652603  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:**

**Applicant:** Taylor Wimpey

**Proposal:** Application for 112 houses and flats with associated access, car parking, gardens, landscaping, balancing pond and associated works following demolition of existing industrial buildings.

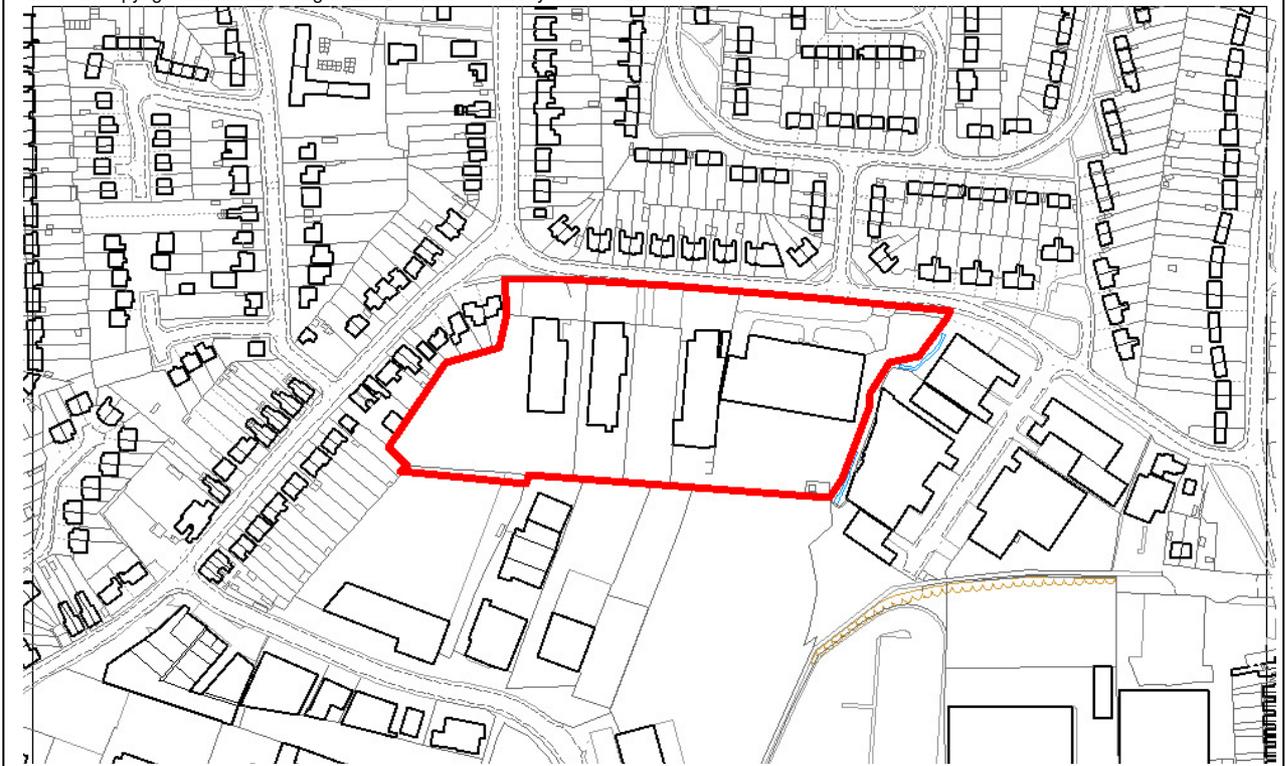
**Location:** Land at Spring Lane, Willenhall, WV12 4HW

**Ward:** Short Heath

**Expired Date:** 19/03/2013

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

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## **Application and Site Details**

The application site is to the south of Spring Lane. The site consists of five individual properties located on Spring Lane, Willenhall. Four of the units are currently occupied and current land uses include Brimonn (manufacturers of quarry screens), C L Refurbishments (gas and electric meter refurbishers), Welded Mesh Products (manufacturers of sheet metal products) and a builder's yard (currently vacant). The remaining unit is a derelict factory building which formerly manufactured boxes and packaging products. The units generally comprise brick walls, with asbestos cement roofs and guttering. On the opposite side of Spring Lane is 1950's residential development including two storey housing and flats. A small stream is present along the eastern site boundary, partially in culvert. A second culvert is present along part of the northern and southern boundaries and passes between the buildings through the centre of the site.

The application proposes 112 houses in a schedule of

6, 2-bedroom apartments (each being 54sqm)

33, 2-bedroom houses (ranging from 56sqm-63sqm)

59, 3-bedroom houses (ranging from 74-90sqm)

14, 4-bedroom houses (each being 107sqft)

The application site is 2.37ha in size and therefore the proposed density would be 47dwellings per hectare. There would be 224 car parking spaces. The principal access to the proposed development would be opposite 11-13 Spring Lane with additional accesses servicing the houses fronting Spring Lane.

The proposals also include a landscaped area to the rear of Ashmore Lake Road and an ornamental/balancing pond. The development would be built using tradition brick, tile and render construction and be predominantly two storeys in height.

The applicant confirms that 63 houses will be built to Level 4 of the Code for Sustainable Homes with the remainder built to meet at least the current building regulations standards but will incorporate some enhancements in water efficiency and energy.

The application is supported by the following:

A *Planning Statement* sets out the benefits and opportunities of the proposals including Developing a sustainable community on redundant employment land within a regeneration corridor: Spatial Objective 3 of the Black Country Core Strategy (February 2011); Enhancing an existing residential area by regenerating adjacent land: Spatial Objective 4 of the Black Country Core Strategy (February 2011); The site is within close proximity to existing local services, including the centre of Willenhall, and is in a sustainable location; The site can be developed without significant implications for environmental, cultural or historical assets and can be accommodated within existing infrastructure, allowing for early delivery; The delivery of housing on a site well related to the existing built up area of Willenhall; The delivery of a noise barrier may reduce noise impact on existing residents from the neighbouring employment land; and The site is available and deliverable now so can be delivered in the short term.

The *Planning Statement* also notes that the proposed scheme has taken account of the National Planning Policy Framework, in particular the promotion of sustainable development, environmental enhancement and the provision of high quality places. The development will deliver economic, social and environmental gains for the area and the planning application represents the culmination of extensive public consultation alongside technical and design work prior to submission. Overall, the proposals represent an opportunity to deliver high quality residential development which meets housing need in a sustainable location.

The submitted *Design and Access Statement* highlights how the proposed development has taken into account the nearby housing developments in the scale and layout as well as best practice and guidance on highway design. The proposals take into account an appropriate scale and layout and urban design principles.

The submitted *Transport Assessment* concludes that the transport issues relating to a proposed residential development and reviewing the policy context of the development,

including relevant national, regional and local transportation and planning policies. The report has considered the existing conditions in the vicinity of the site, and has set out the baseline transport data. The location and characteristics of the site have been considered, alongside details of the current level of sustainable transport provision to the site. It is considered that the development offers good opportunities for the use of sustainable travel and that the development will achieve safe and suitable access for all people. Details have been provided on the proposed development, and the transport implications in terms of vehicular trip generation. A comparison exercise has been undertaken which compares the trip generation of the existing land use, with the proposed residential usage. This concludes that the peak hour traffic impact of the proposed development would not be significant compared to the existing use. PICADY junction modelling has demonstrated that the local highway network would be relatively unaffected by the development and continue to operate safely and without any significant increase in delay. The Transport Assessment concludes that there are no transport grounds for refusal of the planning application.

*Ground Investigation Report* highlights that there are two mineshafts, made ground, and contamination across the site ranging from a suite of metals, metalloids, phenol, cyanides, sulphate, polycyclic aromatic hydrocarbons, asbestos and ground gas that will need to be remediated.

The submitted *Flood Risk Assessment* notes a small stream runs down the eastern edge of the site but is below the threshold for which the EA determines the formal flood zone. The stream is fed by a surface-water sewer system draining housing north of Spring Lane and the sewer size will limit the flood flow that can pass down this channel. The ground profile at this boundary is such that the main body of the site is 1.5-2m higher than the stream. There is a lower corridor along the boundary that could, in the event of a flood flow, contain this flow. Accordingly, the site is considered to fall within Flood Zone 1.

A culvert also passes through the site, thought to be a partial diversion of the same watercourse from farther upstream. It runs approximately 4m deep and is not considered to pose a material risk of flooding to the site. The removal of the industrial buildings and parking and replacement with a residential layout will, if anything, reduce further the risk of surface flooding from excess runoff in very heavy rainfall conditions.

The new development will be provided with a separate stormwater drainage system that will use attenuation in the form of an off-line detention basin and oversized sewers or other sub-surface features as appropriate. The discharge rates for the outfall will be limited to green-field rates for the site at the corresponding event severity.

The attenuation will be sized to hold the site run-off under a 100-year+climate-change event. The climate-change factor for the residential use is 30% (design life of 100 years).

*Tree Survey* discusses tree preservation orders and trees on the site including TPO11 of 2009 and TPO33 of 1981 as assesses the importance of these trees and the health and longevity of the trees.

*Ecological Survey* – Several ecological reports have been received since the application was submitted. Initially the ecologists found no evidence of protected species but recommended the retention of the woodland area and a line of weeping willows. A subsequent report has now recommended that the woodland can be removed subject to a much smaller replacement replanting scheme.

*Noise Assessment* concludes that it is considered that suitable internal noise levels within habitable rooms could be achieved by specifying appropriate glazing and ventilation systems. In order to see that there is no loss of amenity in gardens due to noise associated with the surrounding industrial units, a 2.5 metre high acoustic barrier has been recommended along the southern site boundary

The applicant carried out a pre-submission consultation exercise with local residents and has submitted detail of the exhibition held and responses received with 31 residents attending the applicant's exhibition on 3<sup>rd</sup> October 2012.

### **Relevant Planning History**

12/1581/TR – Application to fell 8 Sycamore trees – on same agenda

#### **Cardboard Box Factory**

08/1936/OL – Proposed primary health care facility with integral pharmacy - Refused 9 March 2009

07/2762/OL/W5 - Outline: 45 dwellings (layout and access for approval). Refused 26 March 2008

07/0346/OL/W3 - Outline: erection of 63 residential units. Refused 6 June 2007

#### **C L Refurbishments and land to the South**

07/1773/OL/W5 - Residential Development – Refused – 7 November 2007

07/0347/OL/W5 – Outline: erection of residential units – Refused 18 June 2007

04/1059/FL/W5 – Temporary permission for use as a training centre for heavy goods vehicle drivers – Refused – 21 July 2004. Appeal Allowed 21 April 2005.

#### **Builder's Yard, Spring Lane**

05/1680/FL/W3 - Erection of 3 units for B1, B2 and B8 use including access and car parking – Granted 3 November 2005 (Not implemented)

The applications relating to housing were refused for reasons relating to loss of Core Employment land and its piecemeal redevelopment; lack of information in respect of highway matters, an ecological assessment or an arboricultural assessment. There were also various concerns relating to the quality of the proposed layouts and their impact on amenity.

**Relevant Planning Policy Summary** (*Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website*)

#### **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*".

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
- Reuse land that has been previously developed
- Take account of the different roles and character of different areas
- Every effort should be made to identify and meet development needs for the area
- Support the transition to a low carbon future
- Contribute to conserving and enhancing the natural environment
- Promote mixed use development and encourage multiple benefits from the use of land, recognising that some open land can perform many functions
- 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 sustainable.
- Take account of and support local strategies to improve health, social and cultural wellbeing for all and deliver sufficient community and cultural facilities and services to meet local needs

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

A key priority is the deliver new homes.

18-21 encourage Planning Authorities to support and put significant weight on economic growth and to proactively to meet the development needs of business whilst protecting strategically important economic areas from encroachment.

35. Opportunities for the use of sustainable transport modes should be protected and exploited.

39. If setting parking standards, LPA's should take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

47-55 aim to deliver those aims, encouraging the recycling of buildings and land and ensuring that housing needs are met by the developments.

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

103 – seeks to ensure that development is located in appropriate areas at low risk of flooding and does not exacerbate the risk of flooding.

109, 117, 118 and 125 that protected species and ecology should be addressed fully in determining this application.

123 seeks to ensure that development mitigates against pollution, including 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.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas whilst policies PA5 and PA6 seek to enhance the quality of Employment Areas and the portfolio of employment land.

Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations.

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

## **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 states that the councils will create cohesive, healthy and prosperous communities.

**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

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.

2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.

The above are supported by the following policies which have superseded UDP Waste Management Policies:

CSP1 - sets out the targets for sustainable regeneration of the Black Country.

CSP2 – notes that additional windfall housing developments will occur on previously developed land.

CSP3 – Seeks to improve environmental infrastructure

CSP4 – develops the need for high quality place making and design

CSP5 – sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

DEL1 – sets out to seek appropriate developer contributions and infrastructure improvements from development.

DEL2 – seeks to ensure the retention of an adequate supply of occupied and available employment land to meet defined needs as set out in Policies EMP2, EMP3 and EMP4.

Highlights that the availability of employment land within the area, the quality of the site and its geographical market will be taken into account.

EMP1-4 – Seeks to secure, safeguard and provide appropriate levels of employment land to aid sustainable economic growth.

HOU2 – Sets criteria for Housing Density, Type and Accessibility

HOU3 – Seeks to deliver affordable housing

TRAN5 Sets out the requirement for development to focus on moving away from the reliance on the private car.

ENV1 - Development within the Black Country will safeguard nature conservation ... by ensuring that:

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

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

Adequate information must be submitted with planning applications for proposals which may affect any designated site or any important habitat, species or geological feature to ensure that the likely impacts of the proposal can be fully assessed. Without this there will be a presumption against granting permission.

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

All appropriate development should positively contribute to the natural environment of the Black Country by:

- extending nature conservation sites;

- improving wildlife movement; and/or

- restoring or creating habitats/ geological features which actively contribute to the implementation of Biodiversity Action Plans (BAPS) and/or Geodiversity Action Plans (GAPs) at a national, regional or local level.

Details of how improvements (which are appropriate to the location and scale) will contribute to the natural environment and their ongoing management for the benefit of biodiversity and geodiversity will be expected to accompany planning applications.

ENV 3 sets out the criteria for design quality

ENV5 seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage

ENV7 seeks to ensure new development promotes renewable energy provision

### **Saved Policies of Walsall Unitary Development Plan March 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)*”.

GP2 expects development to make a positive contribution to the environment and considers (II) the susceptibility to pollution of any kind as an adverse impact which would not be permitted, and VII. Adequacy of access will be taken into account.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

ENV10 states that development which may give rise to pollution such as noise and smell will only be permitted where it would not have an adverse effect on adjoining uses/potential uses.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land.

ENV18: Protects trees and woodlands protected by TPOs from development unless development is in the interests of good arboriculture and would have no adverse impacts on wildlife or the desirability of the development significantly outweighs the ecological or amenity value of the trees. Where developments are permitted which involve the loss of trees or hedgerows developers will be required to minimise the loss and to provide appropriate planting of commensurate value; wherever possible, this should involve native species of local provenance.

ENV23: Seeks to ensure that new development takes proper account of the natural environment in both retaining features of value and enhancing the application site for nature conservation.

ENV24b: New development which would unacceptably harm the integrity of ecological 'stepping stone' features such as small woodlands will not normally be permitted

ENV32 states that poorly designed proposals which fail to take account of the context or surroundings will not be permitted.

ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

H3: encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

JP1 – designates land allocated for employment uses.

JP5 – seeks to protect land allocated for the purposes of Core Employment uses.

7.1: Seeks to promote an efficient highway network;

T7 and T13 seeks to ensure that car parking and servicing is well laid out and car parking is provided for at an appropriate level.

T8: To help existing pedestrians and encourage greater use of walking as a healthy and sustainable form of travel the Council will provide good pedestrian links within a development. All pedestrian links must be safe, direct and convenient and well lit.

T9: Seeks to promote cycling

### **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 SPD*

Aims to achieve high quality development that reflects the Borough's local distinctiveness and character, through key design principles

#### *Natural Environment SPD*

Policies NE1, NE2, NE3, NE4, NE5, NE8, NE9 & NE10 deal with the need to fully assess protected species, assess, protect and secure compensatory planting for trees. Protection is proposed for protected animals, plants etc.

#### *Affordable Housing SPD*

Sets out the thresholds, tenure, mix and type of affordable housing sought from residential developments.

#### *Urban Open Space SPD*

Sets out the thresholds and contributions sought from developments to enhance open space in the Borough.

### **Consultations**

**Transportation** – No objection subject to conditions

## **Pollution Control**

*Contaminated Land Team* – No objection subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the site. Conditions to address these concerns have been provided.

*Scientific Team* – No objection subject to conditions on working hours and dust mitigation measures are implemented during the demolition/construction phase and noise mitigation measures are implemented to protect the dwellings prior to occupancy.

*Flood Risk Management* – No objection in respect of flood risk management, sustainable drainage or land drainage, provided commensurate controls are applied.

## **Environment Agency:**

### *Flood Risk & Surface Water Management*

The proposed development will only meet the requirements of the National Planning Policy Framework if the following measures as detailed in the Flood Risk Assessment and other planning documents Supplementary Information submitted with this application are implemented and secured by way of a planning condition on any planning permission.

### *Groundwater & Land Contamination*

Having reviewed ground investigation desk study report and conclusion and recommendation part of the site investigation report. No objection subject to appropriate planning conditions.

### **Natural Environment Team (Ecology) - Object**

- While there is no objection to the principle of the development, this planning application should be refused unless serious layout issues are resolved which properly conserve the trees on the site.
- The proposed layout shows the loss of most trees and the western woodland area. This is unacceptable in ecological terms.
  
- The applicant's ecological assessment lacks any evidence of fieldwork. Little justification is given for the conclusions reached. (A local resident provided more useful detail of the species seen within the western woodland area.)
- This is a part of Willenhall that has relatively few habitat features and those features present must be properly assessed and incorporated into the development. These features are on the fringes of the site and could be easily incorporated into any development.
- The proposed landscape works provide little compensation for the features lost and there is a high risk that the landscape proposals will prove impractical.
- The proposed tree planting will cause nuisance as they mature and some of the species proposed are unlikely to be retained within small rear gardens.

### **Natural Environment Team (Trees) - Object**

- Most trees on the site are justifiably protected by Tree Preservation Orders and most trees will be lost.
- The woodland to the west of the site should be retained and enhanced with further planting (tree, shrub and ground cover).
- The 3 weeping willows to the east of the site contribute significantly to the amenity, aesthetic and landscape value of the area and should be retained.
- Recommend that further amendments are made to the layout to the west of the site to allow for the retention or sufficient space to enable substantial tree replacement planting. This should consist of retaining a strip of land running the whole length of the western boundary at least 15m in width.

- In addition, further layout amendments are required to the north-east corner to allow for tree retention or sufficient space to enable substantial tree replacement planting. The removal of Plots 111 and 112 should suffice in this respect.
- The amended landscape proposals are inadequate with poorly chosen species for their particular locations and there are too few species that will mature into feature trees of reasonable amenity value. The majority of planting is indicated in small soft landscaped areas to the front of the proposed properties where their lifespan will be severely reduced by restricted rooting environments and reliant on property owner's desire to accommodate trees in small gardens.
- In summary, the majority of the trees to be removed are worthy of retention and their removal will be detrimental to the amenity, aesthetic and landscape value of the area.

**Housing Strategy** - This residential development proposal is fully supported by Housing Strategy. It offers a good mix of housing types, including many starter homes for first time buyers.

A 25% affordable housing is sought in line with Black Country Core Strategy policy HOU3, and Walsall's Affordable Housing SPD. However, it is understood that this is a low value area, and that financial viability may render an affordable housing contribution unviable.

**Walsall Children Services – Serco** - At the point these houses are expected to be occupied we will have significant pressure on Primary places within the accepted 2 mile travel distance for pupils attending Primary provision in the Borough. Whilst this is known, and is as a result of increasing birth rates, we are developing proposals to create additional capacity. This development however will have a direct effect on the shortfall of primary places. The Department for Education expect Local Authorities to operate with a 5% surplus of places in the primary sector. As you will see the projected available surplus at the point we believe these properties would be occupied is 0%. We would accept that we need to be doing something [irrespective of this development] to improve the situation and we do have plans to increase capacity at a minimum of 1 of the schools in this locality. This process will be a statutory consultation so we cannot pre-empt that by stating which school we will be expanding at this stage. As a result of the above we would expect the number of places required to increase as a direct result of this development. Additional pupils we are requesting a contribution towards the education infrastructure of 22 additional pupils x the basic need calculator figure of £11,031.3. A contribution of £242,688.60 is sought. If this funding is not received there will be a financial risk to the Council as there is a statutory duty for the Council to provide sufficient pupil places.

**Wildlife Trust** - The survey and report are lacking:

- The report did not say how long the survey process took.
- There is no phase 1 habitat survey supporting the report.
- It failed to note the small woodland present on site.
- It failed to identify the impact of the loss of the small woodland.
- The value of the brook is understated despite poor water quality.
- The recommendations and conclusions are brief.
- There are no recommendations for the future management of the site.

Little consideration has been given to nature improvement:

- The small woodland should be retained as positive feature within the development.
- The brook should be retained and enhanced as a positive feature of the development.
- The nature improvement measures that have been put forward should be implemented.

- The gardens of houses also have the potential to support nature improvement -wildlife gardening advice could be provided by the developer to potential purchasers to encourage wildlife in the area.

**Landscape Team** – The increased area for mitigation planting, as extract below from the revised planning layout drawing, is welcome. A precise landscape scheme is required.

**Severn Trent** – No objection subject to drainage details being submitted.

**Coal Authority** – No objection - Subject to the imposition of a condition to address the coal mining legacy issues present on the application site.

**Fire Service** - No objections to this application providing that there are sufficient water supplies are provided for fire fighting.

**Economic Development Team** - Our records indicate there are up to 60 people employed by the three existing businesses. Following relocation, there may be a net increase of 1 job if their current proposals are realised. All wish to relocate in the immediate vicinity. There are available premises meeting Brimonn's space requirements on Ashmore Lake Way to the south of the site – however, Wedfab and C/L Refurbishments require larger premises, which are far less frequent on the market. There are two available premises that may be suitable for each of these businesses in Willenhall.

It appears that as yet no suitable locations have been identified or arrangements to find suitable premises put in place by the applicant. While Development & Delivery is happy to assist, there is still concern that existing uses and consequently the employment base could be prejudiced if the application is approved without certainty being provided around suitable relocation sites.

It is estimated that 168 estimate temporary construction jobs will be created and the applicants should be recommended to use [www.finditinwalsall.co.uk](http://www.finditinwalsall.co.uk) to promote any subcontract and supplier packages to Walsall businesses either directly via the website or through more direct contact (by phone or a meet-the-buyer event) via officers in Development & Delivery.

**District Valuers Service** – having tested the submitted financial assessment, the proposals could not offer S106 contributions and be viable.

### **Representations**

11 Letters have been received, including a petition with 11 signatures, raising the following objections:

#### *On Principle of Development*

- Taking into account high unemployment figures site should be retained for employment
- Attraction and retention of quality employment development must be at the forefront of policy,
- Loss of land will lead to further social inequality and unemployment
- Willenhall has lost many large employers in favour of housing development
- Site is occupied by SMEs who should be encouraged
- Advantage should be taken of proximity to i54 and JLR (8.8miles away)
- Proposals will result in the loss of local jobs.
- Proposals will create conflict between residential and industrial occupiers.
- Contrary to climate change and sustainable development policies.
- Previous planning refusals of employment land to housing and retail.
- Application rationale in arguing against previous decisions is based on the Black Country Core Strategy, a document now so out of date as to be functionally defunct.

#### *Traffic*

- The submitted Transport Assessment paints an ostensibly rosy picture of the prevailing traffic situation and is demonstrably riddled with factual inaccuracies, mistakes and misinformation.
- Spring Lane is a dangerously narrow road with two bends and has weight restrictions
- Accidents may go unreported and therefore the accident data is inaccurate.
- The methodology employed to assess traffic is accurate and unreliable
- The assessment should have taken into account wider traffic implications
- Car ownership figures are too low and data is out of date (based on the 2001 Census).
- With current UK average car ownership standing at 2.1 per household this would suggest an extra 250 cars being added into the current totals. However the number of young people now choosing or forced to live with parents, together with the larger families suggested by the number of 3 and 4 bedroom properties may result in this figure being much closer to 300 extra vehicles.
- Schools and local facilities are not within walking distance.
- The existing situation has been inflated.
- The increased pressure on an already heavily congested area will inevitably spill out into surrounding residential area
- Will generate 881,400 extra car miles over 3,390 extra car journeys.

#### *Local Services and Facilities*

- There is a lack of school places from nursery schools upwards
- There is a lack of places at doctors, dentists or pharmacy facilities.
- Pressure on waiting times and facilities if new residents were encouraged into the Borough.

#### *Flood Risk*

- The site is on a high water table and known underground aquifers.
- Loss of trees from the site will exacerbate flooding problem.
- Proposals will increase flood risk due to increased site coverage.
- Increase in flooding and rainfall from climate change – 2012 rainfall will be more commonplace

#### *Need and Suitability*

- There are 880 properties on the market at this time in a 3mile radius (Zoopla search 7<sup>th</sup> January 2013).
- No need for the housing
- Only need is for low density, one-storey accommodation for elderly.
- Houses will not be affordable

#### *Loss of trees and ecology*

- The proposals will result in a significant number of trees including those retained under tree preservation orders.
- The woodland (to be removed by the development is abundant in wild berries, cherries and fruits that attract and sustain a bird population that would be a credit to a much larger site, both in terms of variety or population density, with 29 species of bird identified on the site in the period May to December 2012.
- There are also butterflies and moths and a strong insect population with hedgehogs, toads and bats also present.
- The loss of the area would represent the destruction of this coppice the removal of an important visual amenity, and undervalued but intensely significant ecosystem.
- The loss of trees will result in heave and structural problems to neighbouring houses.

#### *Noise and Pollution*

- There has been an increase in noise and disturbance from developments in recent years (e.g. Morrisons, Bentley Road South)
- The proposed development will involve between two and three years, (according to Taylor Wimpey) of heavy traffic, building works, mud and dust.
- The removal of the woodland will further expose neighbouring houses at Ashmore Lake Road to the full brunt of this disturbance. Houses on Spring Lane will be equally exposed.

- The factories currently occupying the land are largely regarded as good neighbours, with tidy sites and little disturbance. Residents are accepting of the occasional night shift worked by local firms, as well as the night-time noise generated by the Nightfreight depot on Ashmore Lake Way.

The Council carried out its own public consultation exercise on the evenings of 6<sup>th</sup> and 7<sup>th</sup> February 2013. There was a recorded turnout of 30 residents and representatives of businesses. Residents who left comments responded as follows:

7 residents in favour of the development

1 resident was against the development.

5 residents made general comments and concerns about the traffic, drainage and trees but chose not to object.

Many of the residents who attended the scheme and indicating that they were objecting to the development have written separately to the Council as detailed above. The results are broadly similar to the applicant's own consultation exercise.

### **Determining Issues**

- Principle of the Development
- Relationship of the development to neighbouring residential properties
- Relationship of the development to neighbouring industry
- Ecology, trees and landscaping
- Flood Risk
- Traffic and highways
- Affordable Housing, Education and Urban Open Space contributions
- Local financial considerations

### **Observations**

#### **Principle of the Development**

The concerns of local residents as to the loss of employment land, jobs and occupiers and the previous loss of jobs from Willenhall are noted. As noted above there have been previous refusals on individual parcels of the site.

The application is allocated within the saved policies of the Unitary Development Plan as Core Employment Area as part of the Ashmore Lake industrial park. As such the application is a Departure from the Development Plan allocation (JP5) and has been advertised accordingly.

The previous planning applications for housing were refusals based on a piecemeal development and/or encroached into the Ashmore Lake Core Employment Area further to the south. The relationship of the individual parcels of land to other uses and the lack of information with the applications lead to previous refusals. This is the first application to consider the site as a whole and be submitted with the appropriate level of information required for such an application. The previous applications are before the adopted of the Black Country Core Strategy and associated evidence base. Whilst the previous refusals are noted the application and are carefully considered there is a material change in circumstances from these applications.

The Local Planning Authority has commenced work on the Site Allocation Document for the Borough but has already carried out a review of employment land under the evidence base to the Black Country Core Strategy, the Employment Land Review (ELR), which was updated in November 2012. The Site Allocation Document will take forward further evidence and documents to manage the site allocations up to 2026.

In the ELR, it was noted that Ashmore Lake did not benefit from the major Black Country road improvements of the 1980s and 1990s which provided the Keyway and Black Country Route. It is noted therefore that this employment area remains relatively isolated from the main road network. However the core of the Ashmore Lake industrial area remains a well

occupied industrial area including relevantly new mix of properties; most of which are reasonable quality and fit for purpose.

Outside of the area's core, that part accessed from Ashmore Lake Way, vacancy rates are generally higher and a number of the units require investment and renewal. The northern edge, along Spring Lane, has particularly poor access and any intensification of the employment use could adversely affect the amenity of the nearby, and opposite, residential area. Due to these constraints, the employment land, including that in the application site, it was suggested in the Core Strategy evidence base that there is little merit in trying to proactively encourage redevelopment for industrial when the buildings become obsolete and the site should be considered for alternative uses.

The retention and balance of employment land, diversifying the economic base and ensuring the needs of modern industry and employment in town centres, and balancing this against appropriate levels of housing is one of the key challenges of the planning system.

As noted by residents, Willenhall, like most of the Borough, has experienced a change in the economic base with many of the traditional industries moving out of town centre to newer industrial parks, close to the principal arterial routes of the Black Country New Route, the Keyway and with easy access to the Strategic Highways Network. Spring Lane, and the application site, would not meet this need.

Generally the Borough needs larger units (>60,000sqft) for modern industry, with high internal ceilings, and this is required on small premises (which can be akin to a 3 or 4 storey residential building). The Borough has a good supply of smaller units for start up business. The Local Planning Authority has successfully defended sites where larger industrial units can be delivered from housing developments (e.g. Reedswood Way) and have delivered industrial planning permissions (e.g. Bull Lane, Moxley) on viable and deliverable employment sites.

In addition to the industrial needs, modern town centres rely on office, leisure and residential development to support their retail offer. Willenhall Leisure Centre, for example, has already been delivered to support banqueting and conference needs and the delivery of housing and retail (e.g. Morrison's) is improving the viability of the centre. This represents sustainable development.

The concerns of residents are noted on the ongoing development of the Willenhall area the development being carried out have been in line with the aims and objectives of sustainable development.

The need for housing and catering for population growth are an essential part of the housing needs of the Borough. The application would support the housing needs to 2026 and the overall delivery of new housing is an important part of the housing supply. Whilst there are a number of properties on the market at this time, the proposed housing could represent uplift to the existing housing stock and is not resisted on housing needs.

In considering the site, and the conclusions of the Employment Land Review, the proximity of residential development and the narrow nature of the highway would not lend itself to industrial development of any significant scale.

The existing buildings are ageing and in need of investment. The box factory is derelict. The nearby estate of smaller industrial properties is currently fully occupied.

The applicant (Taylor Wimpey) is currently under option with the landowner and therefore establishing a strategy for assisting relocation has not been practicable or possible.

However, the Council's economic development officer's comments are noted and the compliance with policy DEL2, to relocate existing companies, has not been achieved but there is scope to assist existing companies to remain functional and suitable premises are available in the Borough.

The potential loss of 60 permanent jobs from the site is noted and the potential creation of approximately 168 jobs in the construction programme is also noted. The construction jobs would not override the employment designation.

Officers have also assessed the land to the south of the application site in the commercial core. There is no reason to suggest that commercial and industrial development would be compromised as a result of the proposed development.

On balance, the conclusions of the ELR and the constraints of the site, it is concluded in this instance that considering the site for release to housing would be appropriate and the proposals should not be resisted in principle subject to consideration of detailed issues discussed below.

#### **Relationship of the development to neighbouring residential properties**

The concerns of neighbouring residents are carefully considered in relation to noise, disturbance, and the impact from the development. Officers note that current commercial occupiers and firms appear relatively low key in terms of manufacturing and disturbance but there could be more intensive development, particularly with a manufacturing process being introduced. It is also noted that the box factory is not in use and a large part of the site is not in use.

The proposed development would result in a changed relationship, but it is not considered that residential occupiers would result in increased noise and disturbance than the industrial occupiers. Development itself could be controlled through the appropriate use of planning conditions on the hours of work and dust suppression.

Planting and improved boundary treatment to Ashmore Lake Road would ensure that the development would not impact on the security and the presence of residential development would add to the security on the site.

The note with regard to heaving and tree removal is noted however works to ensure ground stability and finding of the mineshafts which are within the wooded area form part of the abnormal costs and ground remediation. The applicant and residents will need to ensure, under the party wall act, that the proposed development does not impact on the structural stability of the neighbouring residents. This is not a planning matter as it is dealt with under separate legislation.

The relationship of new properties to existing is comparable to a normal residential relationship with the development and separation distances meeting Designing Walsall standards and are of an appropriate layout.

#### **Relationship of the development to neighbouring industry**

The concerns of residents and businesses have been carefully considered alongside the information submitted by the applicant and the proposed noise assessment. The inclusion of a 2.5m high fence along the southern boundary, combined with appropriate glazing specification would allow for an appropriate relationship to be formed.

In addition the planting and separation distances are sufficient to allow a suitable relationship to be formed and the proposed development would not compromise the continued use of the Employment Area of Ashmore Lake in line with the recommendations of the Employment Land Review and therefore the aims and objectives of DEL2 of the Black Country Core Strategy.

#### **Ecology, trees and landscaping**

The development proposes the removal of most of the trees on the site. Many are mature specimens and have been long protected by Tree Preservation Orders. The loss of a small area of woodland on the boundary with Ashmore Lake Road is the principal objection of many of residents backing onto the development. While the applicant's own ecological assessment lacks much detail, one of the principal objectors to the scheme has compiled records of birds and bats in the area.

Officers have had discussions with the applicant to ensure that these features are incorporated into the development. Apart from a few minor adjustments most trees will be lost, including the small woodland. The applicant has proposed two small areas, one with a replacement woodland and one with an ornamental pond as well as a belt of planting which separates the western part of the development from the industrial uses to the south. Planting

is also proposed within the development. It is the view of the Council's ecologist that the replacement habitat provides inadequate compensation for the features lost and much of the planting within gardens is unlikely to persist once the development is brought into use. Some of the tree species proposed and the few existing trees remaining will cast dense shade on small rear gardens and houses leading to their early removal or heavy containment pruning. The development proposes the removal of many (almost all) of the trees that are internal to the site and there is a loss of trees on the boundary with Ashmore Lake Road which is the principal objection of many of residents backing onto the development. Due to lack of management or disturbance, the area has become an area with some ecological potential and one of the principal objectors to the scheme has noted birds and bats in the area. Officers have worked with the applicant in incorporating ecological and replacement wooded areas into the scheme which would allow for development to be carried out and contamination and mineshafts to be found and also for a replacement area to be formed which would be of value and provide a new area for ecological enhancement. Based on the results of the initial findings it is likely that remediation of the land will be necessary. The area around the balancing pond and the open culvert, as well as the southern boundary would allow further opportunity for planting and ecological value to be incorporated into the development.

The Council's ecologist has liaised with the applicant's own consultants and whilst the preference would be for the existing wooded area to remain, the position of the area on the site would negate development (either for residential or a revised industrial development) and the need to find the mineshafts and ensure the site is adequately remediated to an appropriate standard

Overall, the proposals, in the applicant's view, have been designed to maximise and compensates against the loss of the wooded area to the rear of Ashmore Lake Road. The development offers new planting and a new area of mitigation as well as an opportunity to enhance the local environment. Having regard to the balance of development, in terms of the visual improvement, the proposals are considered acceptable.

### **Flood Risk**

Whilst the comments of the local residents are noted, the applicant has liaised with Council drainage officers and the Environment Agency and the issue of flooding has been satisfactorily mitigated in accordance with the aims and objectives of national guidance and local planning policy.

The proposals include a balancing pond and works to the open culvert and in addition drainage solutions, through the size of pipes that would enhance the drainage situation from the site to meet Greenfield run-off rates which are a substantive improvement.

Previous flooding issues on Spring Lane may have been caused by lack of maintenance of the open culvert but with improved 'trash screens' and maintenance to this area, flooding will be mitigated by the proposed development.

The concerns of residents are noted and the previous flooding in the area is acknowledged but on the advice of officers and the Environment Agency, the proposals are acceptable and would not cause flooding in the area.

### **Traffic and highways**

Residents have raised concern over the traffic situation and the impact of the development on the local highway. The applicant includes in their proposals traffic calming measures to reduce the speed of traffic and improve the safety of Spring Lane.

The submitted Transport Assessment is also disputed by objectors, claiming that there are higher levels of traffic as a result of the development. The other matter to consider is the proposed reduction in HGVs from the proposed development. The site is not an accident black spot.

One objector claims that the development would create circa 881,400 extra car miles a year over approximately 3,600 journeys per week. However this does not take into account linked

trips with regard to workplace and other journeys, delivery services. The existing journeys, trips and traffic generation of the existing uses with c. 120 car parking spaces, service yards and HGV movements are also not factored in the objection. The weight limits on Spring Lane should also be noted, particularly with regard to the attractiveness for continued employment uses.

One of the principal objections is the “rat-run” between Ashmore Lake Road and Sandbeds Road and narrowness of Spring Lane. The introduction of traffic calming measures would improve the highway safety and slow traffic down, improving the flow of traffic and the safety of residential traffic.

Transportation Officers have carefully reviewed the proposed development and the submitted Transport Assessment and confirm that the proposed development would not cause a significant adverse impact on the highway network and should be supported.

### **Affordable Housing, Education and Urban Open Space contributions**

Due to issues of viability and the contamination of the site, no contribution is offered to deliver either Affordable Housing, Urban Open Space or Education contributions.

The Council seek contributions of:

25% Affordable Housing

£242,688.60 – towards primary school education enhancement in the area

£215,523 towards urban open space enhancement

The scheme has been tested through an independent openbook exercise through the District Valuers Service. The proposals, when tested, would include approximately £1,037,000 of abnormal costs but would not be viable to support any S106 contribution. It is noted that grant funding is being sought to support the delivery of higher levels of sustainability under the Code for Sustainable Homes.

Planning Authorities are instructed that where obligations are being appropriately, they sought be sufficiently flexible to prevent planned development being stalled. Therefore as the development cannot sustain a contribution and remain viable, no contribution is sought in this instance.

### **Local financial 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 112 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 792 new homes during 2010-2011 the award of £1,095,219 (which included a premium for affordable housing but also a deduction for an increase in vacancies) 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 might 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.

### **Conclusion**

The application site is a constrained site in terms of continued use of the site for employment uses with the Council’s Development Plan evidence base suggesting the site should be released.

The proposed redevelopment of the site for housing has been balanced against the visual improvement from redevelopment of the derelict factory and other premises in need of investment and the loss of the existing wooded area and other trees on the site is considered in terms of the impact on trees and wildlife.

There is a need to remediate the land and having regard to former uses the site it is likely that contamination and heavy metals will be present. The presence of mineshafts is also noted and will need to be treated. The proposals are supported by adequate flooding and transport assessments.

New planting is proposed as part of the development and highway improvement is also provided to enhance highway safety.

Having considered all the representations received and the impact of the development to neighbouring residents will not result in the loss of amenity by virtue of overlooking, loss of light or an overbearing form

Overall, whilst there are positive and negative aspects to the proposed development the application, on balance, is supported.

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

Officers have met and discussed with the applicant's agent in response to concerns raised to enable full support to be given to the scheme.

#### **Summary of Reasons for Granting Planning Permission**

The decision has been made having full consideration to the Development Plan, national guidance and comments of consultees and local residents and objectors with regard to the loss of industrial land, the principle of housing, the layout and impact of the development on wildlife and trees, the impact on highway safety and the amount of traffic generated, flood risk and impact on the area.

The loss of employment land has been balanced against the requirements of modern industry and the findings of the Council's evidence base to the Black Country Core Strategy in particular, the Employment Land Review (November 2012). The supply of housing and the importance of meeting housing needs for the Borough are also noted. The constraints of the highway (in terms of width and weight restriction) and the impact on residential occupiers are important factors in the consideration of the release of this employment land in this instance but does not set a precedent for other Employment Areas.

The balance of the loss of trees and wildlife habitats is balanced against the need to remediate the land and locate and treat mineshafts and secure an appropriate development density. The proposals include compensation including the creation of two new areas on the site and further planting throughout the site. The proposals are therefore considered to give a net gain in ecological value.

The proposals are supported by a thorough and robust Flood Risk Assessment and it is demonstrated that the proposals would not have an adverse impact or result in flooding in the area. This view is supported by the Environment Agency.

The proposals offer a satisfactory highway layout and car parking provision and would include works to Spring Lane that would improve highway safety. The proposals are supported by an appropriate and robust Transport Assessment and the Local Highways Authority are satisfied with this assessment.

A viability assessment with regard to contributions sought by the Local Planning Authority from development and an independent openbook viability assessment has been undertaken. The scheme, cannot support contributions towards affordable housing, education and urban open space and remain viable. In accordance with guidance, no contribution is sought in this instance.

The proposed development has considered the relevant policies of the development plan, in particular policies CF1, CF3, CF4, CF5, PA5, PA6, UR1, UR1a, UR1b, UR1c, QE2, QE3, QE4, QE7, QE8, T2, T3, T4, T5 and T7 of the Regional Strategy; policies CSP1, CSP2, CSP3, CSP4, CSP5, DEL1, DEL2, EMP1, EMP2, EMP3, EMP4, HOU2, HOU3, TRAN5, ENV, ENV3, ENV5, and ENV7 of the Black Country Core Strategy; and saved policies GP2,

GP3, ENV10, ENV14, ENV18, ENV23, ENV24, ENV32, ENV33, ENV40, H3, JP1, JP5, T7, T8, T9 and T13 of Walsall Unitary Development Plan, and the Council's Supplementary Planning Documents. On balance, having taken into account all material planning considerations, including the aims and objectives of the NPPF and sustainable development, the proposal is acceptable.

**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) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) (Spring Lane Willenhall Job No. MID3385, Report No. R.002 by JMP Consultants Limited) and (Supplementary Information, 14<sup>th</sup> March 2013, By JMP Ltd) and the following mitigation measures detailed within the FRA:

i) Limiting the surface water run-off generated by the 1 in 100 year plus climate change critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

ii) Install suitably designed Trash Screens to the watercourse to the eastern edge of the development.

b) The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme.

*Reason:* To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; to reduce the risk of flooding from blockages to the existing culvert(s) and to reduce the risk of flooding to the proposed development and future occupants.

3a) Prior to the commencement of demolition, construction or engineering works, dust mitigation measures shall be submitted to and agreed in writing with the Local Planning Authority.

b) The measures shall be implemented and retained throughout the demolition and construction of development.

*Reason:* To safeguard the amenities of neighbouring residents.

4. The facing materials for the development shall be carried out in accordance with details shown on materials plan 30325 Revision A.

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

5a) Noise mitigation measures to protect the future residents of the development, with reference to noise report (Ref B6926/ENVIRONMENT/P2, by RPS, dated 15<sup>th</sup> November 2012) shall be fully implemented and prior to the occupancy of the residential premises as follows:

- glazing specification of 10 mm pane-12 mm air gap-4 mm pane to properties facing the southern and eastern boundary.

- trickle vent, set within window heads, rated by the manufacturer at  $\Delta D_{n,w} + C_{tr}$  28 dB to properties facing the southern and eastern boundary.

b) Prior to the completion of development a validation report detailing that the appropriate specification has been installed shall be submitted to and agreed by the Local Planning Authority.

*Reason:* in order to safeguard the amenities of future residents of the development

6a) Prior to the commencement of built development details of boundary treatment and gates, including the 2.5m high acoustic fencing along the boundaries that are shared with industrial premises on Ashmore Lake Way and Spring Lane [Southerly and Easterly boundaries].

b) The development shall be carried out in accordance with the approved details and retained thereafter.

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

7i) 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)

*Reason:* To ensure safe development of the site and to protect human health and the environment.

8a) Prior to the commencement of development details of parking for site operatives and visitors has been provided within the application site shall be submitted to and approved by the Local Planning Authority.

b) The agreed provision shall be retained and kept available during construction of the development.

*Reason:* To prevent indiscriminate parking in the interest of highway safety.

9a) Prior to the commencement of any part of the development hereby permitted, drainage plans for the disposal of surface water and foul sewage shall have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall include sustainable drainage and shall:

i) provide information about the design storm period (being 1, 30 and 100 years with an appropriate allowance for climate change) and rate of rainfall intensity, pre and post development surface water run-off rates and volumes, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

ii) include a timetable for its implementation; and

iii) provide a management and maintenance plan for the development which shall include the arrangements for adoption by an appropriate authority, body or statutory undertaker.

b) The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use and retained and maintained thereafter.

*Reason:* To ensure that the drainage for the development is suitably catered for as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

10. Prior to the first occupation of any dwelling to which this permission relates all existing redundant vehicular accesses onto the adjoining highway shall be permanently closed. Details of the means of closure and reinstatement of this existing access shall be submitted to and approved in writing by the Local Planning Authority.

*Reason:* To ensure the safe and free flow of traffic using the adjoining highway.

11a) Prior to the commencement of built development a detailed landscaping scheme and maintenance strategy for the development (including any necessary phasing of implementation and replacement strategy) 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 and proposed ground levels

ii) site preparation

iii) topsoil depth of 450mm

iii) tree planting to include Victoria Plum, Cox's Orange Pippin and Conference Pear

iv) plant species/densities; tree species/sizes and locations

v) ecological enhancement implementation

vi) arrangements to be made for the disposal of surface water

vii) hard landscaping works.

b) The approved scheme shall be implemented in accordance with the submitted details and retained thereafter.

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

12a) Prior to the commencement of development details of the proposed pond shall be submitted to and agreed 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) pond puddled clay specification

ii) levels and cross-sectional details

iii) any plant species to be planted

iv) any proposed boundary treatment (e.g. fencing and gates)

v) maintenance and management strategy

b) The approved scheme shall be implemented in accordance with the submitted details and retained thereafter.

*Reason:* The proposed area shall be incorporated as private amenity space to the proposed flats and the boundary treatment proposed should reflect this, to ensure the satisfactory appearance of the development and maximise the landscape and ecological value of the site.

13. No development shall commence until details of proposed measures to achieve a high quality sustainable design to meet code level 4 of the Code for Sustainable Homes (for at least 60 of the proposed houses) and code level 3 to the remaining have been submitted to and approved in writing by the Local Planning Authority. Examples may include the following: -

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)

- i. Measures to reduce water consumption (e.g. recycling surface water or grey water)
- ii. Responsible sourcing of materials
- iii. Reduction of surface water run-off (e.g. surface water management and management of flood risk)
- iv. Household recycling, construction waste management and composting facilities
- v. Means of reducing pollution and emissions
- vi. Health and wellbeing measures (e.g. daylighting, sound insulation, private space, Lifetime Homes)
- vii. Management opportunities (e.g. home user guide and considerate constructors scheme)
- viii. Ecological enhancements

The development shall be carried out in accordance with the approved details, and the dwellings shall not be occupied before the approved facilities have been 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.

14. Prior to the first occupation of any dwelling to which this permission relates the accessways, turning areas and parking facilities shown on the approved plan shall have been properly consolidated, surfaced, drained, free of loose stone and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall be thereafter be retained and kept available for those uses at all times.

*Reason:* In the interest of Highway Safety, and ensure the free flow of traffic using the adjoining Highway.

15a) Prior to the commencement of any development, the following details shall be submitted for approval in writing by the Local Planning Authority and in conjunction with the Highway Authority and Walsall Council's Street Lighting partner Amey;

- full engineering details and location of the proposed new Traffic Calming measures on Spring Lane as specified on the approved plans.
- full engineering details and location of the proposed new metal barrier by plot 62 as specified on the approved plans.

b) Prior to the occupation of the development, all highway infrastructure works detailed and agreed, shall be fully implemented, completed and brought into use to the satisfaction of the Highway Authority.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development and in accordance with saved UDP policy T6.

16. Prior to the commencement of the development, a Traffic Regulation Order (TRO) shall be made to introduce a 20mph speed restriction on Spring Lane to be agreed in writing with the Local Planning Authority in consultation with the Local Highway Authority. The TRO shall be confirmed and fully implemented to the satisfaction of the Highway Authority prior to the first occupation of any residential unit on the development, the full costs of which shall be borne by the applicant

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development and in accordance with UDP Policy T6.

17. Prior to the occupation of the buildings hereby approved any existing vehicular accesses onto the adjoining highway shall be permanently closed. Details of the means of closure and reinstatement of these existing accesses shall be submitted to and approved in writing by the Local Planning Authority.

*Reason:* In the interests of Highway Safety.

18. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation) and deliveries to the site, 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)

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking and re-enacting that Order with or without modification, no structure shall be erected within 5m of the culverted watercourse running to the south of Spring Lane and then southwards through the site and the along the southern boundary of the site as delineated on 30325-20 Rev H.

*Reason:* To protect the culvert from inappropriate development that would jeopardise the ongoing maintenance and potential replacement of the culvert.

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking, re-enacting or modifying that Order), no additional extensions, outbuildings, structures or means of enclosure (e.g. walls, gates, or fences) shall be erected without prior written approval of the Local Planning Authority.

*Reason:* Having regard to the size of the approved back gardens, relationship to neighbouring properties and possible ground contamination on the site.

21. The development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Plans and Drawings:

Site Location Plan

30325-20 Rev H

30325-03 Rev A – Materials Plan

A550 and A580 Apartment Plans

A550 and A580 Apartment Elevations

House Type PA22

House Type PA24

House Type PA31

House Type PA31 – Enhanced Elevation  
House Type PA38  
House Type PD32  
House Type PD32 – Enhanced Elevation  
House Type PD48  
House Type PD48 – Enhanced Elevation  
MS40775-D106 Rev A  
MS40775-D102 Rev B  
MS40775-D103 Rev B  
MS40775-D104 Rev B  
Landscape Proposals Sheet 1 of 3 – Rev A  
Landscape Proposals Sheet 2 of 3 – Rev A  
Landscape Proposals Sheet 3 of 3 – Rev A  
Perspective Views  
30325-01 Street Scenes  
30325-02 Street Scenes

Documents:

Design and Access Statement prepared by Barton Willmore (Ref: 21774 Spring Lane Willenhall Rev D)  
Planning Statement prepared by Barton Willmore (Ref: 21774/A5/P1/RC)  
Transport Assessment prepared by JMP (Ref: MID3385 – 001, Nov 2012)  
Acoustic Report prepared by RPS (Ref: B6926/ENVIRONMENT/P2, 15<sup>th</sup> Nov 2012)  
Flood Risk Assessment prepared by JMP (Ref: MID3385- R.002 by JMP Consultants Limited) supported supplementary Information, dated 14<sup>th</sup> March 2013, By JMP Ltd)  
Arboricultural Report prepared by Marlow Consulting Ltd (dated 14<sup>th</sup> Dec 2012)  
Baseline Ecological Assessment prepared by Betts Ecology (Ref: 6107/3926/1, dated June 2012, amended Feb 2013)  
Biodiversity Potential Statement (June 2012)  
Additional Biodiversity Statement prepared by Betts Ecology (ref 6107/CWE, 16 April 2013)  
Landscape Schedules (April 2013) [*To be read in conjunction with plans Landscape Proposals Sheets 1-3 Rev A*]  
Ground Investigation Letters prepared by Wardell Armstrong (ref: DJ//WM10620/002, dated 9 July 2012)  
Site Investigation prepared by Wardell Armstrong (ref: WM10620/001)  
Mining Report – ref: C269923  
Non-Technical Summary Relating to Land Drainage  
*Reason:* In order to define the permission.

NOTES FOR APPLICANT:

**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.

**Section 278 Agreement**

No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into.

**Section 38 Agreement**

If it is the developers intention to request the Walsall Council, as the Highways Authority, to adopt the proposed roadwork's as maintainable at the public expense, then details of the layout and alignment, widths and levels of the proposed road works, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all the necessary drainage arrangements and run off calculations shall be submitted to Walsall Council. No works on the site of

the development shall be commenced until these details have been approved and an agreement under Section 38 of the Highways Act, 1980 entered into.

**No Drainage to Discharge to Highway**

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does 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.

Contaminated Land

CL1) Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in the National Planning Policy Framework 2012; 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, 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.

93A Ashmore Lake Road  
Willenhall  
WV12 4LN  
31<sup>st</sup> December 2012

Dear Mr Thompson,

I am writing in connection to the planning application No

12/1693/FL.

I would like to oppose the application on the following grounds

- The application includes the destruction of the woodland habitat adjacent to Ashmore Lake Road with a few token trees being reinstated within the proposed development. The wood is more than a collection of trees with preservation orders it has now become a haven for various wildlife some of which is considered at risk (I am sure that other residents who have far more knowledge of the subject will outline which species). Taylor Wimpey has already cut down several trees and drove roads through the wood in the name of research. Why has this been allowed to carry on when the council have been informed and in fact made a site visit? I suspect a convenient report claiming that trees are diseased or unsafe and needing demolition will surely follow. The wood doesn't need human interference, in fact that's why it's such a wildlife haven and should in my opinion be enlarged and protected as a woodland habitat. Perhaps Taylor Wimpey would like to put up one of their 2.5 metre fences and keep out.

What will be the impact on local infrastructure and services of all these extra people moving to the area?

Possibly 200 extra cars using Spring Lane because the new residents will all have to commute out of the area for work.

Where will the extra 100 to 200 children go to find school places and recreation areas locally (the nearest little park used to be through the alley between Sheppard's Drive and Hayley Street when I was a child but it's now closed).

Where will adults and children alike go for health care (Willenhall town centre), there's none locally.

Looking down Spring Lane currently there is only the former box factory empty, the other units are currently occupied and providing local jobs. They have sufficient frontage to provide staff parking and don't cause a nuisance.

I agree the box factory is unsuitable for modern small industry in its current form and would certainly benefit from redevelopment.

Further to a most informative meeting with Mr Shires I understand that the Spring Lane area is designated for regeneration with a view to attracting high tech industries possibly attracting work from the new Jaguar Land Rover engine plant at I54.

We certainly don't want to miss out on attracting new jobs to Willenhall.

I note the proposed development is bounded on two sides by further industrial land.

Surely this will create friction in the future between residents and factory bosses unless of

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course sound doesn't travel over a 2.5 metre close boarded fence?

There is already exists sufficient resale property in the local area cheaper than the new houses Mr Wimpey will be offering. Should local residents want a new house this is catered for locally already.

So I see no need to destroy our wood and evict local businesses who are providing local jobs in these difficult times

Yours Sincerely

██████████

I agree with the contents of the attached letter and am opposed to the planning application

30 Tildesley Drive,  
Willenhall

9 Spring Lane  
Willenhall

13 Spring Lane  
Willenhall

15 Spring Lane

87 Ashmore Lake Road

95 Ashmore Lake Rd.

85 Ashmore Lake Road

83 Ashmore Lake Rd.

91, Ashmore Lake Rd.

93 Ashmore Lake Road.

72 Ashmore Lake Road



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 2.**

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

**Application Number:** 12/1598/FL  
**Application Type:** Full application

**Case Officer:** Alison Ives  
**Telephone Number:** 01922 652604  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Mr Pryce

**Applicant:** Mr John Bowen

**Proposal:** Proposed erection of 14 no 3 bedroom houses and associated works.

**Location:** FORMER BARLEY MOW PUBLIC HOUSE, GOSCOTE LANE, WALSALL

**Ward:** Blakenall

**Expired Date:** 19/03/2013

**Recommendation Summary:** Grant Permission Subject to Conditions and a Planning Obligation

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### **Current Status**

The application was withdrawn from the Planning Committee agenda on 4<sup>th</sup> April 2013 to ensure there was the opportunity to present full ecological advice to members in advance of the Committee. Further comments from the Council Ecologist have been updated in the following report and conditions amended accordingly.

Prior to this the application was deferred by Planning Committee on 7<sup>th</sup> March for the applicant to consider the following matters:

- Review of the design
- Highway visibility
- Ecological issues
- Sustainability build standards
- The request that the applicant's liaise with local residents

The applicant has responded as follows: -

#### **Review of the design**

The views of local residents have been expressed through the application process and at Planning Committee so a public consultation exercise event is unlikely to produce any different responses. The feedback we have is that local residents do not want any new housing facing Henley Close and would prefer back gardens backing onto the highway in Henley Close to enable retention of the fence. This type of layout would be contrary to officer's recommendations and conflicts with advice in SPD Designing Walsall and could be refused on this basis. In light of this it is requested that the application is reported back to Planning Committee and determined on the basis of the submitted scheme.

In addition the design changes made throughout the application process were to address residents concerns as much as possible and provide a scheme that integrates with the existing properties.

#### **Highway visibility**

A plan has been provided that demonstrates the visibility splays for all accesses achieve a 2.4m X 43m visibility splay which is the standard requirement for a 30 mph road as this is.

#### **Ecological issues**

The optimum time to carry out a reptile survey is April and May and it is considered that the previous condition as drafted in the report (6a & 6b) will address this. Landscaping to the canal corridor is a matter that can also be addressed by condition to create a wildlife habitat. The buffer strip alongside the canal will be under separate ownership to the future occupiers. The dense planting will prevent access from the new dwellings and this will be covenanted. Boundary treatment comprises a 1.2m high post and rail fence to afford views over the canal without shading the canal corridor. The landscaping areas will be maintained by a landscape management company.

#### **Sustainability build standards**

The build construction of the proposed houses will be to latest building regulation standards which incorporates sustainable measures.

#### **The request that the applicant's liaise with local residents**

See comments above under the review of the design.

The original report now follows with updates to reflect the comments in the supplementary paper of the 7<sup>th</sup> March committee. Comments on the Black Country Core Strategy and the Council Ecologist comments have also been updated.

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

The proposal is for erection of 14 houses on vacant land formerly occupied by the Barley Mow Public House and its car park. There are 4 detached houses facing Henley Close, 4 semi-detached houses facing Livingston Road and 6 houses (2 pairs of semis and 2 detached houses) sharing a parking court off Goscote Lane. Plots 7-10 back onto the canal where it is proposed to create a 3m wide landscape buffer. The houses on plots 9 and 10

are positioned in line with the existing house 34 Henley Close but the perimeter fencing at the head of Henley Close is to remain preventing access through.

The proposal includes a new 2m wide footway along Goscote Lane. The parking court for the Goscote Lane properties utilises the existing access and is gated. Each house has 2 off-street parking spaces. A new access between the two pairs of semis facing Livingstone Road is also included to provide driveways for plots 2 and 3. There is a sewer easement which passes in front of the houses on Goscote Lane and returns along the rear of plots 7-10.

The existing trees at the corner of Henley Close/Livingstone Road are to be removed along with any trees within the visibility splay on Goscote Lane near Goscote Works Bridge. New tree planting is proposed throughout the site including front and rear gardens of the proposed houses.

The site has boundaries to Livingstone Road, Goscote Lane and Henley Close and the Wyrley and Essington Canal adjoins the northern boundary. Goscote Works Bridge over the canal is near the north-western corner of the site. Henley Close is a cul-de-sac of predominantly semi-detached houses. There are blocks of three storey flats opposite at the junction of Livingstone Road and Goscote Lane. The site is relatively flat.

House type A (plots 7 & 8) is a three storey house with rooms in the roof and a Juliet balcony on the front elevation. House type Eb (plots 1-4 and 11-13) is a two storey house with the corner plots having a side facing bay window at ground floor. House type H1 (plots 5 & 6) are angled two-storey houses. House type Ha (plots 9, 10 & 14) are detached two storey houses with a two storey projecting gable with feature staircase window.

The site area is 0.39 hectares giving a density of 36 dwellings per hectare.

The developer requests that the trigger for provision of urban open space is deferred until first occupation of the dwellings.

The Design & Access Statement – Describes the site and location, design of the proposals and access, sustainability, landscape design, ecology and refuse collection and the policy context. It concludes the proposals are a viable option for redevelopment of this vacant site, the design takes account of existing properties in Henley Close, maximise amenity benefits, create a secure environment, respect views and create a sustainable development.

The Pre-Development Tree Survey – Identifies 5 individual trees and two groups of trees on the site and proposed works to accommodate the development.

The Bat and Bird Survey – States there was no evidence of bats using the former building or of birds nesting. Redevelopment offers opportunities to create new roosting opportunities under ridge tiles of new dwellings.

The Extended Phase 1 Survey – Identifies vegetated gravel/rubble where the former public house stood, semi-mature and mature trees and the canal. There were no structures or trees suitable for bat roosting but the adjacent canal may be used for bat foraging. No badgers or otters were evidenced but the banks of the canal are suitable for water vole although none were found a water vole survey is recommended. The grassland habitat may also be suitable for reptiles. It states new gardens will replace existing habitats providing foraging for bats, a water vole survey and reptile survey should be undertaken, protection of nesting birds during construction and provision of nesting boxes. A buffer zone along the canal would enhance conservation benefits.

The Water Vole Survey – Found no evidence of water vole within the site or along the 1km stretch of canal. Water voles are not a constraint to development but it is recommended that a 3m buffer zone is incorporated with vegetation protected from encroachment by future residents.

The Phase 1 Geo-Environmental Assessment – Examines the geology, radon and coal mining constraints, environmental setting, on and off site receptors and a geotechnical assessment. It identifies potential development constraints as potential cellars for the former public house or backfilled cellars of a former boiler house near the Goscote Works Bridge,

potential asbestos contamination and potential for tree roots to require specific foundation design.

### **Relevant Planning History**

11/1431/PD – Demolition of public house – Approved December 2011.

#### **Rear part of site only**

06/1987/FL/E2 – Erection of 14 flats – Refused for four reasons broadly relating to (1) poor layout, over-dominant parking areas, inappropriate siting and design and inadequate landscaping (2) inadequate information to assess the impact of the development on the canal embankment (3) inadequate information on landscaping and ecological habitats (4) Unacceptable pressure on education and open space provision in the locality. The application was dismissed at Appeal in November 2007.

### **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:

- Always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings
- Take account of different roles and character of different areas

#### **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 9 encourages sustainable development that involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life such as improving the conditions in which people live and widening the choice of high quality homes.

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

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

Paragraph 63 attaches great weight to outstanding or innovative design which helps raise the standard of design more generally in the area.

Paragraph 64 states permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of the area and the way it functions.

Paragraph 111 encourages the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value.

Paragraph 118 aims to conserve and enhance biodiversity and protect habitats.

Paragraph 120 states the effects of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Contamination or land stability issues should be addressed by the developer.

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.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until/unless it is abolished by order of the Secretary of State.

Relevant RS policies are:

CF1: Seeks to significantly improve the quality of existing housing stock, increase the scale and range of new housing development opportunities in appropriate locations and create attractive urban communities and living environments.

CF4: Encourages opportunities for re-use of redundant employment land and premises in urban areas for housing purposes.

CF5: Seeks to create more balanced and mixed communities through provision of a range of housing types and tenures within new housing development.

QE1: Supports regeneration and creation of new high quality built and natural environments. Also supports protection and enhancement of irreplaceable assets such as specific wildlife habitats.

QE3: Promotes high quality design.

### **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

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors linking the Strategic Centres will provide: high quality employment land, new homes in sustainable communities built on redundant employment land and other brownfield sites close to existing public transport routes and canal networks and locations with the best access to residential services, at moderate densities that allow for a range of house types.

CSP2: Outside strategic centres and regeneration corridors will provide a mix of good quality residential areas where people choose to live.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

ENV1: Safeguards nature conservation resources.

ENV2: Development should preserve and enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV4: The canal network must be safeguarded and protected and enhanced for its nature conservation value and to enhance visual amenity amongst other matters.

ENV7: residential developments of 10 units or more gross (whether new build or conversion) must incorporate generation of energy from renewable sources sufficient to off-set at least 10% of the estimated residual energy demand of the development on completion.

DEL1: 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.  
TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

### **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:

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.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: The Council will ensure the protection, positive management and enhancement of trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

3.116 & ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

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.

LC8: Seeks to protect local community facilities including public houses.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T8: Development should seek to provide and improve pedestrian routes.

T11: Where pedestrian links are considered to be substandard measures must be taken to improve them.

T13: Parking Provision

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.

1, 2 and 3 bed houses 2 spaces per unit

### **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:

#### **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;  
DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;  
DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. 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.

#### **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.

#### **Urban Open Space (SPD) (April 2006)**

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 subject to conditions to provision of visibility splays, details of highway works and surfacing car parking areas. The parking provision at 200% accords with policy T13. The developer should enter into agreements under the Highways Acts for adoptable highway works which is recommended as a note for applicant.

**Pollution Control (Scientific Team)** – Recommend that construction times are controlled by condition and acoustic glazing and ventilation installed in bedrooms fronting Livingstone Road.

**Pollution Control (Contaminated Land)** – No objections subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues as recommended in the Geo-Environmental Assessment (dated 5th September 2011 reference AJM/19563). Conditions to address these concerns have been provided.

**Landscape** – Full details of landscaping and boundary treatments should be secured prior to commencement of any development.

**Ecology** – No objections. The concern about the relationship of housing to the canal corridor has been resolved by the applicant's commitment to retain a strip of land at the rear of the houses abutting the canal in separate ownership. This should be secured via a suitable condition or S106 Agreement. No reptile survey has been provided despite a recommendation in the ecology report but as reptiles are unlikely on this former pub car park, exceptionally a reptile survey can be secured by condition. A landscape plan and management plan is required. Conditions should be imposed to address bat and bird issues.

**Tree Officer** – No objections subject to a condition to secure implementation of the measures identified in the tree survey.

**Canal & River Trust** – No objections subject to conditions to secure details of boundary treatments, finished levels and details of lighting to protect the canal corridor.

**Inland Waterways** – No objections. Fencing at the rear of plots 7-10 should be lower to give views over the canal.

**Natural England** – The supporting information has not identified there will be any significant impacts on statutorily protected sites, species or on priority Biodiversity Action Plan habitats. The Council should consider opportunities to incorporate biodiversity measures throughout the development.

**Police Architectural Liaison Officer** – No objections in principle. As there is a high level of recorded crime in the area Secured by Design criteria should be encouraged. Parking for plots 1 and 4 is still vulnerable but would be acceptable if retractable bollards are included. Boundary fencing and gates should be secured to deter criminals.

**Fire Service** – No objections.

**Severn Trent Water** – No objections subject to provision of drainage details which can be secured by condition.

### **Public Participation Response**

There are 11 letters of objection from residents in Henley Close plus objections from Councillor Smith. The objections are summarised as follows: -

- Henley Close is narrow and the proposal would lead to increased vehicles, parking congestion and highway safety issues
- It is already difficult for residents in Henley Close to reverse off drives with vehicles parked on street opposite
- Inadequate parking which may encourage on-street parking
- Refuse and emergency vehicles already have to negotiate parked vehicles
- Concern that building contractors will park vehicles in Henley Close
- Object to opening up the cul-de-sac in Henley Close
- Visibility at the junction of Livingstone Road with Goscote Lane and Henley Close should be maintained – fences or refuse bins could impair this
- Henley Close cannot accommodate more driveways
- All new houses should face and use the access off Goscote Lane
- Adverse impact on the outlook for existing residents
- Overdevelopment of the site when there are vacant properties available nearby
- The boundary fence at the head of Henley Close should be retained
- Object to the introduction of alleyways as they create a security issue
- Proximity of new dwellings to existing properties may block light
- No access from the canal should be allowed as this encourages misuse by criminals
- Enlarging the cul-de-sac with more houses is out of keeping and results in extra noise and disturbance
- What impact will there be on local schools and public transport?
- Have all previous objections on the earlier scheme been addressed?
- The new access between plots 2 and 3 creates a highway safety hazard and may interrupt junction visibility
- The developer has fenced off land that is outside the earlier boundary fence of the pub and may have been required for safety purposes
- Photos demonstrating parking congestion in Henley Close are provided

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Principle of residential development
- Layout and Design
- Relationship to the canal
- Relationship to adjoining properties
- Access and parking
- Provision for urban open space
- Local Finance Considerations

### **Observations**

#### **Principle of residential development**

The public house had been closed for a number of years and was demolished last year. There is no justification to retain the site for this use and given that it is a brownfield site in an urban area residential redevelopment is appropriate. Development of the land at the rear of the park, which was subject to an earlier refusal for residential development and was dismissed at appeal but the Inspector, who considered the site was acceptable in principle for residential development.

Despite objectors concerns that there is no need for the development as there are vacant properties nearby housing is the most appropriate use of the site and will assist the regeneration of the borough by developing a currently vacant site.

### **Layout and Design**

The proposal creates new housing with direct frontages to Henley Close, Livingstone Road and Goscote Lane and clearly defined public and private areas. The layout of the houses is considered appropriate to the surrounding context and is designed to achieve the Council's space and separation distances in respect of existing housing. Where distances between facing elevations are below 24m (between plot 1 and 2 Henley Close, plot 5 and the flats at 173-189 Goscote Lane, plots 6 and 7 and between plot 11 and 34 Henley Close) this is across a highway where overlooking is more likely to be from users of the highway than occupiers of new dwellings. Each property has ample garden space. The density is 36 dwellings per hectare slightly less than the Henley Close development at 42 dwellings per hectare. This is considered appropriate and does not create a cramped overdevelopment of the site.

Objectors consider no new properties should face or be served off Henley Close and the boundary fence at the head of cul-de-sac should be retained. Some objectors also object to enlarging Henley Close as they consider this would be out of keeping and result in additional noise and disturbance. The proposals do not open up Henley Close which remains a cul-de-sac and the provision of 5 additional houses served off Henley Close is considered not to create significant additional disturbance.

Although there are trees to be removed on the corner of Livingstone Road and Henley Close the tree officer does not object and there is adequate replacement planting throughout the site to compensate for this.

The Police consider that boundary fencing should be increased in height from 1.8 to 2.1m to deter crime, including the boundary with the canal. Objectors are also concerned about unauthorised access from the canal. The rear gardens of the proposed houses have secure boundary fencing and where there are boundaries exposed within the street the house types incorporate side facing bay windows to increase natural surveillance. The parking court will also be controlled by a gated access and there is no public access to the canal from the street, in order to secure this boundary. Final details of boundary treatments are recommended to be submitted for approval.

Some objections relate to an earlier layout that included narrow private access to remote parking spaces that could be a security issue but these have now been removed. With regard to whether all previous objections have been addressed in terms of the earlier application dismissed at appeal this was for development of only part of the site and was a scheme for flats which is entirely different from that now proposed. It was also a different developer. Nevertheless the key concerns in relation to scale, layout and relationship to the canal and surrounding properties have been addressed in this alternative proposal.

The proposal offers a mix of house type and size and the design of the houses is appropriate in this area.

With regard to the potential impact on local school provision and public transport the size of the development does not trigger any policy requirement for provision towards these matters.

The first layout indicated a footpath link to the canal at the rear of the site for the benefit of occupiers. This raised concerns from the Police, Ecology officer and residents. The scheme has been amended so that there is now a 3m landscape buffer along the boundary with the

canal which will prevent unauthorised access from the canal and enhance the ecological habitats to benefit wildlife. This addresses the concerns raised.

On balance the layout and design is considered acceptable.

#### **Relationship to the canal**

The proposals have been amended to incorporate a 3m wide landscape buffer to the canal at the rear of plots 7-10 which will protect the embankment and provide an enhanced ecological habitat. It will also prevent encroachment by residents onto the canal edge. Inland Waterways and the Canal & River Trust support the proposals subject to provision of details of boundary treatments, finished levels and any lighting to protect the canal corridor.

Appropriate conditions are included.

The Phase1 Survey recommended that a Reptile survey was carried out. This has not been provided but a condition is recommended to secure this and any required mitigation prior to any development commencing.

#### **Relationship to adjoining properties**

The proposed layout maintains adequate distance between existing and proposed residential properties. There are some instances where the distance between dwellings is less than 24m but this is across a highway. For example there is 18m between plot 11 and 34 Henley Close, 20m between plot 1 and 2 Henley Close, 20.5m between plot 5 and the three storey flats in Goscote Lane. There is a highway intervening between these areas so the potential for the new development to significantly affect the privacy of existing residents is low.

Objectors have raised concerns over the proximity of the new dwellings and potential impact on loss of light. The closest distance between dwellings is 18m and as the dwellings are closest dwellings are only two storeys high this will not significantly affect the outlook or daylight of existing residents.

#### **Access and parking**

The proposal includes five new properties accessed off Henley Close, 2 off Livingstone Road and 7 off Goscote Lane. Each property has its own driveway and 2 off-street parking spaces which comply with Council policy despite objectors concerns that there is not enough parking to serve the development. There is a gated parking court serving plots 6-10 off Goscote Lane where parking is secure and well observed. The introduction of just two driveways off Livingstone Road is considered appropriate and although they are located between two road junctions the Transportation officer is satisfied this will not cause significant highway safety issues. There is no proposal to open up the cul-de-sac and create a through road as residents have objected to.

Only 2 corner plots (1 & 4) have a driveway which is not immediately visible from their front door but they are accessible from the gardens and are observed by other properties so are likely to be used by occupiers. The police recommend these spaces are bollarded to improve security but this would detract from the appearance of the development and given the above comments is considered unnecessary.

Residents in Henley Close object to the introduction of any new properties accessed off the close as there are existing difficulties with parking congestion, refuse collection access and in manoeuvring off drives. They are also concerned that construction traffic may utilise Henley Close creating further problems. As stated the development provides adequate off street parking to serve each property in accordance with Council policy. The likelihood of visitors parking on street is no greater than for existing residents in Henley Close. There are no parking restrictions in Henley Close. Although objectors state the road is narrow the carriageway is at least 5.5m wide with footways on each side so is not considered so narrow as to be dangerous. The photos demonstrating parking congestion in Henley Close do not conclusively show introduction of further vehicles would create a hazard. In the circumstances, even with increased vehicle numbers the proposal will not create significant highway safety issues in Henley Close.

There is adequate space in gardens to store refuse bins so they would only be on the footway on collection day for a limited period. Transportation officers are satisfied that this would not cause any significant interruption to visibility of either of the highway junctions which have adequate visibility.

The proposal has incorporated properties facing Henley Close to create an active street frontage and offers improved security benefits and increased surveillance. If all new houses faced Goscote Lane as requested by the objectors this would result in a poor street scene to Henley Close with properties “turning their back” on existing properties and vulnerable garden boundaries.

The introduction of the new access between plots 2 and 3 meets the minimum junction spacing requirements and the Transportation officer is satisfied this arrangement is acceptable and will not cause a significant highway safety hazard as visibility is adequate.

The fenced off land at the front of the site is all within the applicant’s ownership and does not form part of a highway visibility.

The access and parking provision proposed for the development is considered acceptable.

#### **Provision for urban open space**

In accordance with the provisions of policies DEL1 of the BCCS, policies GP3 and LC1 of the UDP and SPD Urban Open Space the proposals trigger the requirement for provision of urban open space. This equates to a contribution of £28,770.00 for a development of this size. The developer has agreed to enter into a S106 Agreement to secure this provision. The request that the trigger for payment is deferred until first occupation is considered reasonable and should be included in any S106 Agreement.

#### **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 14 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 scheme with the applicant’s agent and in response to concerns raised, amended plans and supporting information has been submitted to enable full support to be given to the scheme.

#### **Recommendation**

Grant permission subject to conditions and a S106 Agreement to secure provision for urban open space.

### **Summary of Reasons for Granting Planning Permission**

The public house had been closed for a number of years before being demolished so there is no justification to retain the site for this use. Development of a brownfield site for residential development is appropriate as supported by a previous appeal Inspector. Housing is the most appropriate use of the site and will assist the regeneration of the borough by developing a currently vacant site.

The proposal creates new housing with direct road frontages and clearly defined public and private areas and is considered appropriate in this area. There is adequate space and separation between dwellings and where there are distances below 24m this is across a highway. Each property has ample garden space. The proposals do not open up the cul-de-sac in Henley Close despite objectors concerns and provision of 5 additional houses served off Henley Close is considered not to create significant additional disturbance.

The tree officer does not object to removal of trees as there is adequate replacement planting throughout the site to compensate for this. Boundary treatment and security throughout the site are considered adequate and final details will be secured by condition to address police concerns.

Some objections relate to an earlier layout that included narrow private access to remote parking spaces that could be a security issue but these have now been removed. The earlier application dismissed at appeal related to development of flats on only part of the site so entirely different from that now proposed. Nevertheless the key concerns in relation to scale, layout and relationship to the canal and surrounding properties have been addressed in this alternative proposal. The mix of house types and design of the houses is appropriate in this area.

With regard to the potential impact on local school provision and public transport the size of the development does not trigger any policy requirement for provision towards these matters.

A 3m landscape buffer is provided along the boundary with the canal which will prevent unauthorised access and enhance the ecological habitats to benefit wildlife. It will also prevent encroachment by residents onto the canal edge and conditions are recommended to require details of levels, boundary treatments and lighting to address consultee requirements.

The Phase1 Survey recommended that a Reptile survey was carried out. This has not been provided but a condition is recommended to secure this and any required mitigation prior to any development commencing.

There are some instances where the distance between existing and proposed dwellings is less than 24m but this is across a highway so the potential for the new development to significantly affect the privacy of existing residents is low. Even the closest properties are 18m away from each other so will not significantly affect the outlook or daylight of existing residents.

The parking provision accords with Council policy despite objectors concerns that there is not enough parking to serve the development. The Transportation officer is satisfied that introduction of two driveways off Livingstone Road will not cause significant highway safety issues. It is considered unnecessary to require parking for plots 1 and 4 to have bollards as they are well observed.

Residents in Henley Close object to the introduction of any new properties accessed off the close citing existing difficulties with parking congestion, refuse collection access and in manoeuvring off drives. They are also concerned that construction traffic may utilise Henley Close creating further problems. The development provides adequate off street parking to serve each property and requirement for visitors parking on street the same as for existing residents in Henley Close. The carriageway is at least 5.5m wide with footways on each side so is not considered so narrow as to be dangerous. In the circumstances, even with increased vehicle numbers the proposal will not create significant highway safety issues in Henley Close. Transportation officers are satisfied that there is adequate junction visibility.

To position the houses so they all face Goscote Lane would result in a poor street scene to Henley Close with properties “turning their back” on existing properties and vulnerable garden boundaries.

The access and parking provision proposed for the development is considered acceptable. The developer has agreed to enter into a S106 Agreement to secure provision for urban open space.

This application proposes 14 new homes and consideration should be given to the New Homes Bonus but the weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

In light of the above the proposals are considered to accord with the aims and objectives of the National Planning Policy Framework and sustainable development, the aims and objectives of the Black Country Core Strategy policies in particular CSP1, CSP2, CSP4, TRAN1, HOU2, ENV1, ENV2, ENV3, ENV4, ENV7 and DEL1, the aims and objectives of the Walsall Unitary Development Plan saved policies GP2, GP3, H3, ENV14, ENV18, ENV23, ENV32, ENV33, 3.116, 3.117, LC1, LC8, T7, T8, T11 and T13 and Supplementary Planning Documents: Designing Walsall, Conserving Walsall’s Natural Environment and Urban Open Space.

**Recommendation:** Grant Permission Subject to Conditions and a Planning Obligation

1. The 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. 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)

*Reason:* To ensure safe development of the site and to protect human health and the environment.

3a. No development shall take place until suitable noise mitigation measures to protect internal areas to Plots 1 to 4 have been agreed in writing with the local planning authority to demonstrate acoustic glazing and ventilation (minimum Rw of 38 dB) in bedrooms and a reasonable level of glazing in other habitable rooms (minimum Rw of 31 dB).

3b. The development shall not be occupied until the agreed measures have been fully implemented and maintained thereafter.

*Reason:* To protect the amenities of future occupiers from traffic noise.

4a. Prior to the commencement of the development details of the disposal of both surface and foul water drainage shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be completed with the approved details and retained as such.

*Reason:* To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

5a. No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority.

5b. The development shall be completed with the approved details and retained thereafter.

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

6a. No development shall commence and no works of site clearance or demolition shall take place until a reptile survey has been carried out and completed to nationally accepted standards by persons qualified and experienced in this group of animals. In the event that reptiles are discovered a Scheme of Reptile Mitigation shall be submitted in writing to the Local Planning Authority for approval. The Scheme of Reptile Mitigation shall include clear and specific measures to safeguard protected species identified on the site; details of the location of any reptile-exclusion fencing to be installed during the carrying out of works; measures necessary to protect species for which the site is habitat rich; details of habitat enhancement and future management; and any other compensation/mitigation measures appropriate for the safeguarding of reptiles on the site. No site clearance shall commence until a mitigation strategy is approved in writing by the local planning authority and the development shall thereafter be carried out in accordance with the agreed strategy.

6b. The development shall be implemented in accordance with the measures set out in any approved Scheme of Reptile Mitigation and under the supervision of a suitably qualified ecologist.

*Reason:* To ensure safeguarding of reptiles on the site and protection of habitats.

7a. No development shall commence until a landscape scheme has been submitted and approved in writing by the Local Planning Authority. The scheme shall incorporate ecological treatment to the canal frontage and a brief management plan for the future management of the buffer strip to secure ecological benefits. The scheme shall also include full details and specifications, planting numbers and locations and shall incorporate planting of native seed/fruit to create a landscape which provides a foraging resource for bats, birds and invertebrates.

7b. The approved landscape plan shall be implemented before any part of the development is brought into use.

7c. All planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any trees, shrubs or plants which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

*Reason:* To enhance the nature conservation value of the neighbourhood in accordance with UDP policy ENV23: Nature Conservation and New Development.

8a. Prior to the commencement of any construction works on site the recommendations and guidelines detailed in the tree survey by Midland Tree Surgeons dated 9 November 2011, shall be adhered to and the protection of the retained trees full implemented until completion

of the development.

8b. The land enclosed in accordance with part 5a of this condition shall be kept clear of all contractor's materials and machinery at all times, as laid out in British Standard 5837.

*Reason:* To safeguard trees to be retained on site.

9a. Prior to the commencement of the development and notwithstanding the details shown on the approved planning layout (AAH4970/04 Rev E) full details of all boundary treatments shall be submitted to and approved in writing by the local planning authority.

9b. The development shall be implemented in accordance with the approved details and retained thereafter.

*Reason:* To preserve the visual amenities of the area including the canal.

10a. Prior to the commencement of the development and notwithstanding the site sections shown on drawing AA/4970/11 full details of finished levels (to include finished garden levels adjacent to the canal) shall be submitted to and approved in writing by the local planning authority.

10b. The development shall be implemented in accordance with the approved details and retained thereafter.

*Reason:* To preserve the visual amenities of the area including the canal.

11a. Prior to the commencement of site clearance or development, a scheme for the erection of bird boxes on the site shall be submitted for approval by the Local Planning Authority.

11b. The approved scheme shall be installed before any part of the development is brought into use and retained thereafter with access openings maintained free of obstructions at all times.

*Reason:* To protect local bird populations.

12a. No external lighting scheme shall be installed to rear of plots 7, 8, 9 and 10 other than in accordance with the requirements set out below.

- i. There shall be no direct illumination of the new bat roosts installed.
- ii. Any lighting installed shall be low wattage down lights to provide security and safety lighting which will be set no higher than head height.
- iii. Any security lighting shall use PIR's to ensure they turn off automatically once movement has ceased.

12b. Prior to the installation of any lighting in accordance with condition 12a details of proposed lighting including details of foundations, luminance in candelas and hours of operation shall be submitted to and approved in writing by the Local Planning Authority.

12c. The development shall be implemented in accordance with the approved details and retained thereafter.

*Reason:* To conserve local bat populations along the canal corridor and protect the integrity of the waterway infrastructure in accordance with policies ENV3 and ENV4 of the adopted Black Country Joint Core Strategy.

13a. Prior to the first occupation of the dwellings a scheme for the provision of bat roosting sites as set out on pages 14-16 of S Christopher Smith's bat report dated 12 January 2012 shall be installed within the houses of plots 9 and 10

13b. The approved bat roosting sites shall be retained thereafter with access openings maintained free of obstructions at all times.

*Reason:* To conserve local bat populations.

14. No planting or structures shall be introduced onto that part of the existing embankment in Goscote Lane that falls within the 2.4m x 43m visibility splay in a northerly direction at the new access point, as shown on the approved drawing AAH4970/04 Rev E.

*Reason:* To ensure adequate visibility at the access point along Goscote Lane is retained at all times, in the interests of highway safety.

15a. Prior to the development first coming into use, full engineering details of all adoptable highway works, including the new footway and access point on Goscote Lane, new vehicle

footway crossings in Henley Close and tactile pedestrian crossings at the Goscote Lane/Livingstone Road junction and the Henley Close/Goscote Lane junction, shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.

15b. The approved details shall be fully implemented prior to the first occupation of any new dwelling on the development and retained thereafter.

*Reason:* To ensure the satisfactory completion and operation of the development and in the interests of highway safety.

16. All new driveway access points on Henley Close shall have 2.4m x 3.4m pedestrian visibility splays within which no planting or structures exceeding 600mm in height above ground level shall be permitted.

*Reason:* In the interests of highway safety.

17a. Prior to the first occupation of any new dwelling, all accesses, vehicle hard standing and parking areas serving that dwelling shall be fully consolidated, hard surfaced and drained.

17b. These areas shall thereafter be retained and used for no other purpose.

*Reason:* To ensure adequate off street parking is available and retained, to minimise on street parking in the interests of highway safety.

18. All site clearance and building dismantling shall take place outside the bird nesting season (the bird nesting season is March to September inclusive). Where this is unavoidable a breeding birds survey (particularly looking for black redstart and peregrine falcon) shall be undertaken by a suitably qualified and experienced ecologist prior to any works commencing. If breeding birds are discovered site clearance and other operations should be delayed until young birds have fledged. All wild birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 and subsequent amending legislation. It is an offence to damage or destroy a nest of a wild bird. If nesting birds are discovered clearance works should be delayed and advice sought from the ecologist or Natural England.

*Reason:* To protect local bird populations.

19. No development within Classes A (enlargement, improvement or alteration to the dwelling) and E (buildings within the curtilage) of Part 1 and Class A (fences, walls or means of enclosure) of Part 2 to Schedule 2 of the Town and Country Planning (General Permitted Development Order 1995) (Amendment No.2)(England) Order 2008, or succeeding Orders shall be carried out to the dwellings on plots 7, 8, 9 and 10 which back on to the canal, as appropriate, without the prior submission and approval of a planning application.

*Reason:* To protect the canal corridor from encroachment.

20. No 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 otherwise only take place between the hours of 08.00 to 18.00 Mondays to Fridays 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.

\* Note - Bank Holidays and Public holidays for this purpose shall be taken to include: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.

*Reason:* In order to protect the residential amenities of nearby occupiers.

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

- Location Plan (AAH4970/05) received 26/11/12
- Planning Layout (AAH4970/04 Rev E) received 12/2/13
- House Type A (AAH4970/01) received 26/11/12
- House Type Ebington (Eb) Detached (AAH4970/02) received 26/11/12

- House Type H1 (AAH4970/10) received 26/11/12
- House Type Ha (AAH4970/03) received 18/12/12
- Street Scene to Livingstone Rd (AAH4970/06) received 26/11/12 (to be updated)
- Site Sections (AAH4970/11) received 18/12/12
- Landscape Strategy (LS-01) received 18/12/12 (to be updated)
- Topographical Survey as of 18/10/11 (WH/R-S5500/201) received 26/11/12
- Design & Access Statement prepared by RPS (AA4970) received 26/11/12
- Pre-Development Tree Survey prepared by Midland Tree Surgeons Ltd received 26/11/12
- Bat and Bird Survey prepared by Christopher Smith MRICS received 26/11/12
- Extended Phase 1 Survey prepared by Absolute Ecology Wildlife Surveys received 26/11/12
- Water Vole Survey prepared by Absolute Ecology Wildlife Surveys received 26/11/12
- Phase 1 Geo-Environmental Assessment prepared by GIP received 18/12/12

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

#### **Notes to applicant – Public Sewer**

There is a public sewer located within the application site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. The developer is advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist the developer in 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 metres of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent Water can direct building control officers to refuse building regulations approval. If you require any further information please contact Rhiannon Thomas on 01902 793883.

#### **Note to applicant – adopted highways**

The developer will be required to enter into an agreement under S38/278 of the Highways Act 1980 in respect of all adoptable highway works.

#### **Notes for Applicant – Contaminated Land**

##### **CL1**

Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in the National Planning Policy Framework (2012); 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, 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.



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 3.**

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

**Application Number:** 12/1553/FL  
**Application Type:** Full application

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652603  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Applicant:** Norton & Proffitt Developments Ltd

**Agent:** Stephen George & Partners

**Proposal:** Proposed retail parade with provision for upper floor space together with associated secure rear servicing, access and relocated substation. Enabling works include the demolition of the existing retail parade along Digbeth and Lower Hall Lane, the decked car park accessed from Lower Hall Lane and ancillary workshop building from the former Shannons Mill site.

**Location:** 41-43 HIGH STREET, 10-30 (EVEN) DIGBETH & CAR PARK AND 1-10 LOWER HALL LANE, WALSALL

**Ward:** St. Matthews

**Expired Date:** 18/02/2013

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

**Application Number:** 12/1554/CC  
**Application Type:** Conservation Area Consent

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652603  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Applicant:** Norton & Proffitt Developments Ltd

**Agent:** Stephen George & Partners

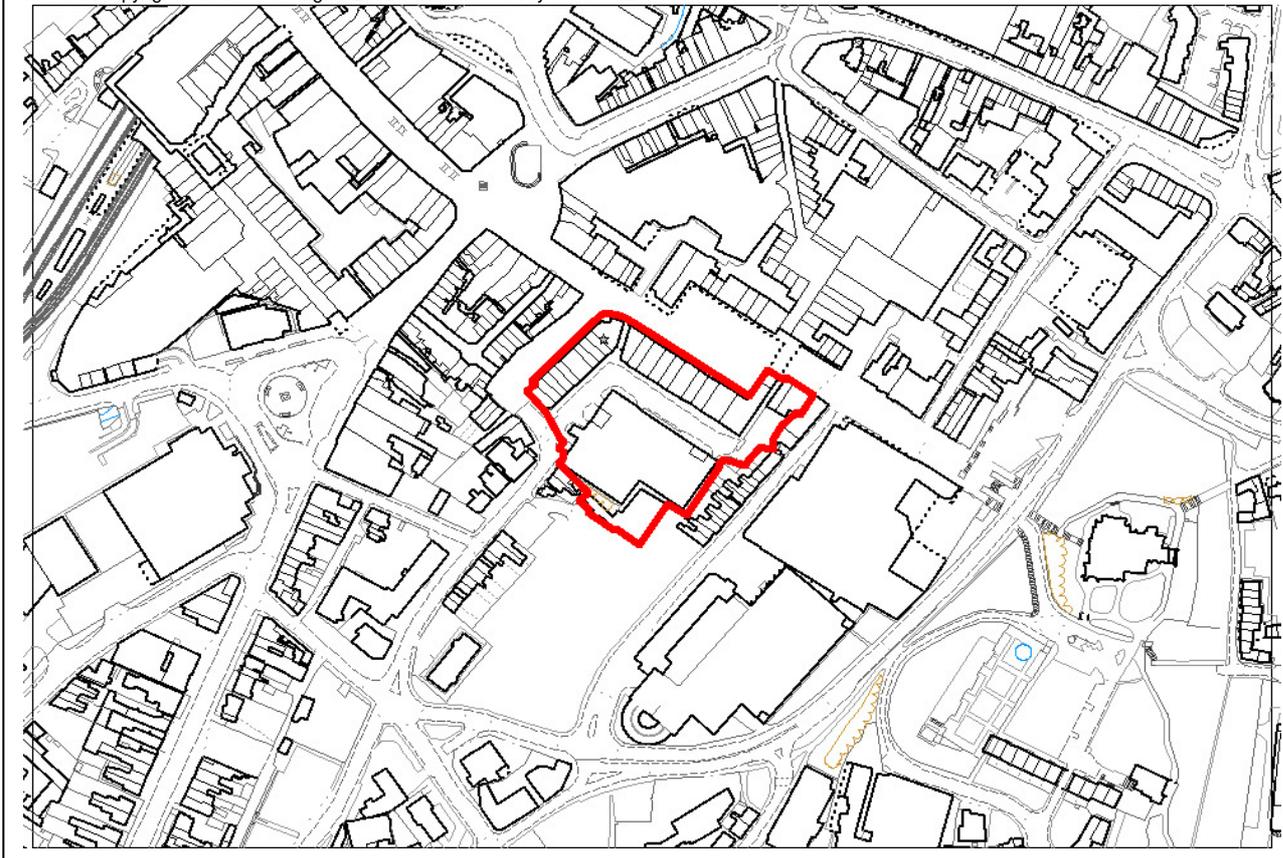
**Proposal:** Conservation Area Consent: To demolish existing buildings fronting High Street, Digbeth and Lower Hall Lane and Former Multi-Storey Car Park to allow for redevelopment for retail development.

**Location:** 41-43 HIGH STREET, 10-30 (EVEN) DIGBETH & CAR PARK AND 1-10 LOWER HALL LANE, WALSALL

**Ward:** St. Matthews

**Expired Date:** 14/01/2013

#### Recommendation Summary: Grant Conservation Area Consent



## Report for application 12/1553/FL

### Application and Site Details

The application relates to the redevelopment of 41-43 High Street, the even numbers of 10-30 Digbeth, the multi-storey car park and 1-10 Lower Hall Lane. The development also seeks Conservation Area Consent for the demolition works under reference 12/1554/CC and this is considered also within this report.

The proposal includes the demolition of existing 2 and 3storey buildings built in the late 1960s which are of modernist design. The total gross internal floorspace offered by the retail element of the existing buildings totals approximately 3,715m. The site area is 0.95Ha (2.35 Acres).

It is proposed to replace these buildings by the following:

Construction of a two storey retail units (Use Class A1) fronting Digbeth and High Street

The current proposals outline the provision of 11 individual units. However, where site levels allow, some may be combined to create larger units.

Unit 1 (uses A1 A2, A5) - 156sqm – mezzanine – 156sqm

Unit 2 (use A1) - 474sqm – mezzanine 237sqm

Unit 3 (use A1) - 511sqm - mezzanine 255.5sqm

Unit 4 (use A1) - 511sqm - mezzanine 255.5sqm

Unit 5 (Use A1) - 985sqm - mezzanine 613sqm

Unit 6 (Use A1) - 789.5sqm - mezzanine 492sqm

Unit 7 (Use A1) – 511sqm - mezzanine 255.5sqm

Unit 8(Uses A1, A3, B1a, D1, D2) - 827m - mezzanine 827sqm

Unit 9 (Uses A1, A2, A3, A5, D2) – 139sqm - mezzanine 139sqm

Unit 10 (Uses A1, A2, A3, A5, D2) – 139sqm - mezzanine 139sqm  
Unit 11 (Uses A1, A2, A3, A5, D2) 139sqm - mezzanine 139sqm

Total Ground Floor – 5,181.5sqm  
Proposed Mezzanine – 3,508.5sqm  
Total Floorspace – 8,690sqm

As clarification Members are reminded of the following use classes:

A1 – Retail

A2 – Financial and Professional Services

A3 – Restaurant/Café

A4 – Drinking Establishment

D1 – Non-residential institutions (including clinics, health centres, crèches, day nurseries, day centres, libraries, and training centres).

D2 – Leisure (including Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating, rinks, gymnasiums)

Supporting the application are the following Documents

*Planning Statement* concludes that the site is currently occupied by a poor quality terrace of two storeys along the Lower Hall Lane frontage and three storeys to the Digbeth frontage. This terrace consists of retail units at ground floor level and associated offices above. Also within the site boundary there is currently a vacant multi-storey car park and an outbuilding associated with a factory lost to fire in 2007. The development will provide a net gain of comparison retail floorspace of 4,975sqm, based upon the removal of 3,715m<sup>2</sup> (40,000ft<sup>2</sup>) of existing retail floorspace, and the development of up to 8,690m<sup>2</sup> (88,880ft<sup>2</sup>) of new retail floorspace in the Primary Shopping Area.

*Design and Access Statement* concludes that Front of house' entrances are provided to all units along High Street, Digbeth and Lower Hall Lane, contributing to the creation of an active frontage. Challenging site topography has driven the location of front entrances, with doors grouped together where the proposed finished floor levels meet the existing street level.

*Archaeological Assessment* highlights that there is a potential for the presence of archaeological features within the site, especially related to the medieval and post medieval occupation and industrial activity, as the site lies within an area known to comprise the medieval core of Walsall. Although the potential for the presence of archaeological features may have been reduced by modern development, the extent of this disturbance is unknown and the fragmentary survival of archaeological resource cannot be ruled out, especially within the footprint of the existing service road, which is thought to have suffered limited modern damage.

*Noise Assessment* recommends that further assessment may be required later in the development process, to see that plant associated with each individual retail unit does not cause the cumulative noise level to exceed these limiting values but that the development should not give rise to adverse noise conditions.

The submitted *Drainage Strategy* concludes that adopting the methods and proposals outlined in the submitted strategy, a suitable drainage solution can be provided which will not lead to an increase in flood risk. Due to the nature of the redevelopment proposals the proposed site will remain 100% impermeable it is calculated the existing 1 year run off rate which equates to 104 lit/sec and restricted the proposed discharge rate to 73 lit/sec. This new discharge rate provides the minimum 30% betterment.

The submitted *Transport Statement and Travel Plan* conclude that the site is accessible by foot, cycle, bus and rail, and car parking is available nearby. The traffic generation falls well within the agreed traffic envelope associated with the ongoing regeneration of St Matthews Quarter, and in real terms will have no noticeable impact on the network. In summary access to this site is safe, convenient, and it can be serviced without constraint. It is clear that in transport terms, this is an excellent site for redevelopment.

A submitted *Technical Note* on electricity supply highlights the site has a number of electrical supplies crossing it servicing the existing units and adjacent properties. A substation is located within the fabric of the multi store car park that sits behind the units. As part of the demolition works and subsequent construction, the substation will need to be removed and all the cables crossing the site decommissioned. Some adjacent units are serviced from the site network and alternative temporary supplies will be required. Once the demolition is complete and construction commences a new substation will be constructed near the rear entrance. This will act as the main substation for the site and for any adjacent properties that need to be reconnected. The supply to adjacent units will be maintained except for brief period while supplies are switched. Western Power Distribution has been contacted regarding this scheme and preliminary diversions and resupply estimate has been provided.

*The Contaminated Land Assessment* submitted highlights that the site has been heavily developed over history, housing a range of residential and commercial units. The site is currently occupied by a range of retail units to the north and northeast of Lower Hall Lane. A derelict former market store building with rooftop car park and a derelict annex of the former Shannon's Mill are located to the south. An existing sub-station is indicated on the east, within the former market store. The site slopes generally from south/southeast to north/northeast. The derelict mill annex in the southern corner of the site is elevated higher than the rest of the site. An allowance should be made for the demolition of onsite buildings. It is recommended an allowance be made for a full site asbestos survey prior to demolition. Consideration will need to be given to providing appropriate access to the new development.

### **Relevant Planning History**

The planning applications for the area has been numerous and diverse ranging from the approval of the original St Matthews master plan (now defunct due to the Shannons Mill Fire), and a now expired outline planning permission for redevelopment of the Old Square and operational requirements and permissions for the former Tesco Store (signs, storage, and gates). The demolition of the Overstrand is the most recent related application.

#### **Shannons Mill**

04/0431/FL/W2 - Redevelopment comprising supermarket, retail and multi storey car park at Land Bounded by Dudley Street, George Street and High Street, Walsall. Granted 21 September 2005

#### **Vine Trust**

09/0081/FL and 09/0083/LB - Proposed erection of a learning centre with performance space for Vine Trust with first floor link to 15 and 16 Lower Hall Lane (Grade II Listed Buildings). Proposals include refurbishment and part demolition of 15 and 16 Lower Hall Lane and inclusion of consulting rooms to existing office use. Granted 2 April 2009

#### **Old Square**

BC57770P/C – Outline – proposed retail redevelopment scheme – Granted – 30 January 2002.

11/0560/FL - Demolition of existing buildings and construction of a two storey retail unit (Use Class A1) fronting Digbeth; a four storey unit fronting Bridge Street (ground floor Use Class A1, upper floors Use Classes A2, A3, A4, B1a, D1 and/or D2) and a new retail unit (Use Class A1 and/or A2) within the Old Square Shopping Centre together with service yard and new service access from Bridge Street including alterations to Greybury House and associated highway and landscape works. Granted 21 September 2011

11/0561/CC - Conservation Area Consent for demolition of existing buildings to allow for mixed use retail-led development under reference 11/0560/FL. Granted 25 August 2011

12/1605/FL - The conversion of the existing frontage of the former Tesco Metro building (to the same footprint as approved under 11/0560/FL). The proposals would alter the shopfront and frontage to the building but not include offices above the existing shop as previously approved.

12/1666/FL - Variation to Condition 2 of 11/0561/CC which relates to linking the demolition to redevelopment of the site to include reference to the above planning application (12/1605/FL).

### **The Overstrand**

11/0161/FL - Demolition of the Overstrand and associated works. Granted 11 March 2011. Demolition is now complete.

### **The Market**

09/1277/FL – Relocation of existing Walsall Town Centre Market (100Stalls) to new temporary location (trading from 8am to 5pm, seven days) – option to include 8 stalls in Park Street). Temporary 12month permission – Granted 28 October 2009

10/1181/FL – Application for temporary permission for a further 12months for Walsall Town Centre Market (100Stalls) in Lower Hall Lane (only to be used if redevelopment requires future relocations) and removing 5 stalls from Bradford Place, The Bridge and elsewhere in Digbeth – Granted 22 October 2010

11/1118/FL - Variation of Condition 1 of planning permission 10/1181/FL to extended for a period of 18 months until April 2013. Granted 14 October 2011.

13/0443/FL - - Variation of Condition 1 of planning permission 11/1118/FL to extended until April 2015. Awaiting Determination.

### **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*".

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
- Reuse land that has been previously developed
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.

Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth and

- 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:

Paragraphs 18-21 encourage Planning Authorities to support and put significant weight on economic growth.

23. Decisions should support and develop strong and vibrant town centres with community and cultural development identified as town centre uses

30. LPAs should support a pattern of development that facilitates the use of sustainable modes of transport.

58 developments should respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;

61 Address the connections between people and places and the integration of new development into the natural, built and historic environment

123 seeks to ensure that development mitigates against pollution, including noise.

131 In determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

132 indicates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

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

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.

### **Regional Spatial Strategy for the West Midlands (RSS 11)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas.

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

### **Black Country Joint Core Strategy (JCS)**

**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 above are supported by the following policies:

CSP1 – sets out the targets for sustainable regeneration of the Black Country including enhancement of the town centre.

CSP4 – develops the need for high quality place making and design

CSP5 – sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

CEN1, CEN2, CEN3 – Strategic Centres provide the focus for comparison shopping, office employment, leisure and culture in the Black Country.

CEN4 – Seeks to regenerate the strategic centres - Retail capacity in Town Centres will largely be met by existing commitments, planning permissions and allocations, and any redistribution of floorspace between Centres to meet strategic priorities.

TRAN1 sets the priorities for the development of the transport network and promoting sustainable transport modes.

TRAN2 requires development proposals to manage transport impacts of new development

TRAN5 Sets out the requirement for development to focus on moving away from the reliance on the private car.

ENV 1, ENV 2 and ENV 3 set out the criteria for nature conservation, the historic environment and design quality.

Although Diagrammatic – Walsall Town Centre is shown on the Walsall Strategic Centre Diagram. These are supplemented by the following policies

SC3.1 By 2026 Walsall town centre will have been regenerated as a sub-regional focus for the local economy and the community. It will provide its catchment area with an attractive choice of comparison shopping and leisure, entertainment and cultural facilities, as well as supporting a thriving office market. Walsall will also support modern town centre living. The centre will bring all of these activities together in a vibrant, safe, attractive and accessible environment that combines local heritage with modern design.

SC3.5 highlights

- Growth in convenience floorspace for the strategic centre is likely to be delivered through existing commitments
- The Primary Shopping Area will remain the preferred location for retail development in the town centre and the town centre boundary will continue to provide opportunities for development which can extend and complement the role of the centre.

### **Saved policies of the Unitary Development Plan**

GP2 – Environmental Protection – seeks to ensure that pollution impacts from development are designed out.

ENV10 – Seeks to prevent pollution, including noise and drainage and prevent uses that would have an adverse effect on neighbouring land uses and/or restrict the types of development that could be permitted in the locality.

ENV14 – seeks appropriate redevelopment of derelict and previously developed sites.

ENV29 – seeks to preserve and enhance the quality of the Conservation Areas in the Borough and their setting

ENV32 – seeks to ensure high quality design from developments.

ENV33 – seeks to secure high quality landscape design from developments.

5.8, S1, S2, S3 – Defines town centre uses, the town centre hierarchy and the boundaries of town centre. (in-centre is within Inset Map boundary, except that retailing must be within or directly adjoining the defined PSA)

S4 – Sets the general principles for town centre development including:

(a) The Council will seek to sustain and enhance the range and quality of shopping, leisure and other town centre uses which these centres provide, consistent with the role and function of a centre within the hierarchy defined in Policy S2, in order to meet the needs and aspirations of all who use the centres.

(f) The Council will seek to further improve the environment of these centres, with particular stress on maintaining and enhancing their individual character.

Improvements will be sought both through new investments and developments and through the Council's own actions.

I. Development proposals will be required to have a high standard of design (in accordance with Policies ENV32 and ENV35 in Chapter 3) with special regard to Conservation Areas and commercial frontages and fascias.

T2- seeks to promote bus services and accessibility to their service.

T7 – seeks to ensure high quality car parking design

T13 – seeks to ensure an appropriate level of car parking is provided.

WA1 – defines the Primary Shopping Area for Walsall Town Centre.

WA3 – sets out guidance with regard to town centre uses.

WA10 - (a) Major comparison goods retail investment in Walsall Town Centre over the next 5-10 years will be concentrated in the Digbeth / Old Square area in order to strengthen the position and role of this area within the centre.

b) Both developments, whether carried out separately or in tandem, should take a comprehensive approach, to make the fullest use of the development opportunities in each area. In particular, they will be expected to connect and integrate - in terms of internal mall entrances and shopper circulation – with each other as well as the rest of the shopping centre, and generally contribute to improved pedestrian and shopper circulation in the Digbeth area. The provision of urban design guidelines will be introduced to achieve this.

(d) The developments should provide more modern retail accommodation to meet the requirements of retailers not currently represented in the town centre and those existing retailers who wish to occupy more suitable accommodation.

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

#### *Designing Walsall SPD*

Seeks to guide development and deliver high quality design through local distinctiveness and sustainable design.

### **Consultations**

**Transportation** - Objects to the current proposal regarding the development has failed adequately demonstrate that the servicing arrangements can cater for the potential level of HGV vehicles accessing the service yard and their associated movements in and out of the service yard, i.e. Articulated HGVs. No HGV parking/waiting area has been shown should more than one vehicle arrive at any one time therefore this may result in a number of HGV's waiting on the public highway to the detriment of free flow of traffic and highway safety.

Having reviewed the Auto Track plan and consider that it does not demonstrate that the servicing arrangements can cater for the needs of the development. Therefore the potential for a number of service vehicles waiting on the public highway to the detriment of free flow of traffic and highway safety still remains of a concern. However a Servicing Management Strategy, if submitted, would allow the Highway Authority to remove the objection. Request that should this be provided we have sufficient time to provide any conditions appropriate to be included within any planning permission.

### **Pollution Control**

*Contaminated Land Team* – No objection subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the various former uses of the site as recommended by the “*St Matthews Quarter, Walsall Phase 1 Desk Study*” (dated 29<sup>th</sup> October 20120 reference E12/098) submitted as part of the application. Conditions to address these concerns have been provided.

*Scientific Team* – No objection subject to odour and noise mitigation measures are undertaken prior to any businesses commencing.

**English Heritage** - The site is within the setting of the Bridge Street and Church Hill Conservation Areas and development would be likely to affect the character and appearance of those areas. It is proposed to demolish existing buildings and to redevelop the site for retail use. The Council will seek to consider the merits of the proposal in the light of its own local plan policies and of national guidance in the National Planning Policy Framework. In this case English Heritage has no objection to the principle of the proposal but urges further consideration of the design of the rear elevations of the proposed buildings.

**Built Environment Team (Conservation)** – No objection - the development replaces a harmful development in a significant location adjacent to two conservation areas and a number a listed buildings. In its place it proposes a scheme that is more sympathetic to historic context. The design solution has been amended to address many of the critical

impacts on designated heritage, and whilst some aspects of the overall design, including that of the abstract roof profile, appear still to be a little contrived and lacking in detail, the overall heritage balance concerning indirect impact to surrounding heritage is considered to be an improvement and many of the most harmful aspects of the existing arrangement are removed.

**Walsall Civic Society** – Object – the proposals are unsatisfactory and a disappointment.

- 1) The roofscape and frontages are monotonous.
- 2) There appears to be no provision for mixed use – including residential
- 3) The presentation to Lower Hall Lane is poor.
- 4) Failure to respect traditional pedestrian access
- 5) The standard of provision for the market is not considered.

**Western Power** – Apparatus is located in the area. The proposals appear to block up a walk way which has High and Low Voltage cabling installed within it. *[The applicant has submitted further evidence of discussions with Western Power]*

**Natural England** – No objection however ecological enhancement should be sought, wherever practicable.

**Natural Environment Team (Ecology)** - No objections in principle to the proposals. However, consideration should be given to the provision of habitat for black redstarts.

**Fire Officer** – No objection

**Access Officer** – No objection however the scheme will need to meet its legal and good practice requirements for access and use by disabled people, set out the guidance and reliable standards that will be applied and set out any reasons for departing from the guidance and the rationale for the design approach adopted.

**WM Police** - Palisade fencing is to be utilised for the rear perimeter security, bearing in mind the amount of crime in the area. The 2.4m height is acceptable but would recommend that a Secure By Design standard fencing product is used instead, such as Expamet close welded mesh fencing. Palisade fencing is easily by passed by offenders, if it is to be used then to improve its security element it should be of the tamper proof variety with the bottom 12" of the fence concreted into the ground, which will stop offenders pulling up the bottom of the fence and climbing under.

**Centro** – No objection - The existing proposal does not affect any of Centro's infrastructure or services. Centro believe that the developer should ensure that its town centre location favours access by sustainable means of transport and that information regarding public transport is available for staff and visitors alike.

**Severn Trent** – No objection subject to details of drainage being submitted.

### **Public Participation Responses**

2 letters of objection/comment have been received raising the following comments:

- All this new development will do is create another load of empty shops (adding to what we already have), in the age of the giant store.
- The units are far too big for existing small business operators and would have an adverse impact on those existing operators who have been in the town for many years.

- Developers ignoring small independent businesses that do not allow the developers to attain maximum profit on the future sale of the development.
- Welcome any renovations and expansions to the town centre - simply wish to be a part of these plans and continue to trade where we always have.

*All letters of representation are available for inspection upon publication of this committee report.*

### **Determining Issues**

- Principle of retail redevelopment
- Impact of demolition works
- Proposed layout and design and impact on Listed Buildings and Conservation Areas
- Servicing and access
- Impact on the Market

### **Observations**

#### **Principle of the development**

The principal retail elements of the proposals are located in the Primary Shopping Area of Walsall Town Centre and are largely a replacement of the existing retail units and ancillary accommodation. The creation of a large footprint unit is especially welcomed and would strengthen the town centre.

The use of the upper floors for alternative and ancillary uses (e.g. Non-Residential Education, Leisure and Restaurant) is also welcomed in adding diversity to the town centre environment.

The lack of commercial space or additional upper floors is noted, and is a lost opportunity.

The proposals are designed to attract budget operators (of which Walsall has many) not the middle or high end of the market (in which Walsall is lacking). A higher end development relies on a "retail experience" would require significant improvement to the proposed designs.

The proposals are however in accordance with the overarching aims of national and local planning policy in seeking to deliver retail development in the Primary Shopping Area and therefore are acceptable in principle.

#### **Impact of demolition works**

The existing buildings are a prominent feature on the Digbeth frontage. None of the buildings however are of particular architectural merit that would warrant their preservation. The decay and lack of maintenance of these buildings, especially on the upper floors is noted, with the buildings needing substantive investment if they were to remain.

The safety of users of the market and town centre users are also taken into consideration, and could be designed around to reduce any concerns of public safety.

Noise and dust suppression is recommended by condition and any asbestos in the existing buildings would need to be removed in accordance with appropriate legislation.

As such, the demolition of the existing buildings does not raise significant environmental concerns and their loss is not considered significant in the context of the proposed replacement buildings. The proposed demolition should not be commenced without replacement development being secured.

## **Proposed layout and design and impact on Listed Buildings and Conservation Areas**

The proposals are not aspirational in quality. The acceptability is balanced against the investment and economic element of the proposal and the harm of the existing buildings.

The site is closely associated with the mediaeval extent of the town, including the market area that was granted by charter in 1220. The site is part within and adjacent to the Church Hill Conservation Area and adjacent to the Bridge Street Conservation Area, the former wrapping round the southeast and south west boundary of the site and the latter along the northwest boundary of the site.

Moreover, there are a number of listed buildings located on all sides of the site, including those at:

- 56-65 George Street (Shops/workshops with accommodation over) (Grade II);
- 12 & 13 Lower Hall Street (pair of Georgian houses) (Grade II);
- 14 Lower Hall Street (lodge) (Grade II);
- Victorian Arcade, Lower Hall Street (Grade II);
- Green Dragon Inn, High Street (Grade II);
- Former office adjacent to the Green Dragon Inn (Grade II); and
- Guildhall, High Street (Grade II\*).

The site occupies three critical frontages onto Digbeth and Lower Hall Street (which bends round to the rear of the site). This presents the site with the difficulty of needing to offer active and well designed frontages on several sides, including access for deliveries.

The shop front elevations (Digbeth and Lower Hall Street) have undergone several iterations of amendments and now comprise a series of sections that replicate individual shop units with clearly defined entrances, upper floors and modulated cladding that responds to the gradient of the hill. The overall roof profile of the building is abstract and still considered to be a little discordant, but it does pick up on other contemporary development such as the ASDA superstore further up the street.

The development is contemporary and makes a clear distinction between heritage and new build, unlike postmodern solutions sought in the past. The design replicates some of the rhythm of the street without mocking historic architecture.

At this stage detailed specifications have not been submitted and it is these that will ensure the development satisfies the wider character of the area. Materials are indicated on the plans to be brick, metal cladding and glazing, the exact colour and detailing of this will be controlled through condition.

The greatest challenge has been the organisation of the rear elevation, access gates and substation on Lower Hall Street. This aspect has been rigorously redesigned to replace much of the visible rear section of the building with brickwork in place of metal cladding. Moreover, the substation has been simplified and amalgamated into the boundary walling and gates. Amendments have lessened the impact on the setting of the Grade II listed buildings at 12 & 13 Lower Hall Street and simplified the termination of the street when viewed from the far southwest end.

The limitations of the development are noted but it is the view of the Head of Planning that the investment in the town centre retail core is considered to outweigh the concerns raised.

The application will result in the comprehensive redevelopment of a large portion of the area and the design clearly attempts to respond to the individual plot rhythm that traditionally would have defined individual parcels of land.

### **Servicing and access**

In respect of this application Transportation Officers considers that in principle the impact of the development is not severe however therefore raises concerns/objections to the current proposal regarding:-

From the proposals the applicant has failed adequately demonstrate that the servicing arrangements can cater for the potential level of HGV vehicles accessing the service yard and their associated movements in and out of the service yard, i.e. Articulated HGVs. No HGV parking/waiting area has been shown should more than one vehicle arrive at any one time therefore this may result in a number of HGV's waiting on the public highway to the detriment of free flow of traffic and highway safety.

This is particularly concerning with regard to the nearby Vine Trust and Victorian Arcade and focus that this has on pedestrian activity and the town centre retail environment which could be compromised by queuing HGVs. A suitable condition, akin to that on the Primark development, requiring details of management of the service yard is therefore imposed.

The concern of Western Power and the proposed substation are noted. Notwithstanding the design of the proposed substation, the sequence of the required electrical work will be as follows:

- All existing connections to on site properties will be isolated
- The substation will then be isolated from the network and temporary diversions instigated that ensure continuity of supply to all other users in the area.
- The substation will be removed
- Demolition will take place and the site re-graded.
- A new substation will be constructed as part of the Works and connections made to the new development and any temporary connections to other units re-established.
- The substation will be energised and all connections made live.

A budget estimate of the works has been submitted. It is considered that this and the Technical Note submitted gives satisfactory comfort with regard to the concerns raised by Western Power.

A condition is suggested for street sweeping during construction in order to keep the adopted highway clear of mud and debris.

### **Impact on the market users**

The proposals involve the demolition of significant buildings in the town centre which are adjoined by the temporary location of the market. The proposals would have an impact on the market if it were to remain in the current location. However with the demolition of the Overstrand the position of the market, with expiry of the temporary permission in October 2011, will be resolved naturally and in full knowledge of the application in the coming months before the start of works on site.

As such the proposals would have no material impact on the market that has not been programmed within the extant temporary permission and cannot be accommodated within the programming of the development and existing regeneration projects.

### **Impact on Protected Species**

The main ecological issue in this location is the presence or not of black redstarts. Since the species is migratory, survey work at this time of the year will have no benefits. Since the site is not near to transport corridors the risk of the species is not high. Peregrine falcons also nest in the town centre, although the buildings in this application are probably too low for this species. The risk of these bird species being present can be dealt with through the imposition of a planning condition.

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

Officers have met with the applicant's agent and in response to concerns raised to enable support to be given to the scheme

#### **Summary of Reasons for Granting Planning Permission**

The proposals are for the redevelopment of existing 1960s buildings fronting Digbeth and High Street. The loss of the existing buildings is not considered to raise significant environmental issues.

The impact of the proposed service yard and gates are noted and the concerns of Transportation Officers are noted. It is considered that this is a balance between the improvement to Digbeth and the Primary Shopping Area.

The proposals represent an investment in the retail core and the removal of poorly designed buildings is noted. The proposed designs are not of high quality and the materials shown on the submitted plans and the location and detail proposed substation would need to be improved. The design is not of high quality but the provision of large retail units is noted with regard to the Core Strategy retail needs.

The proposals will need to deliver a minimum level of retail floorspace and subdivision should be resisted. Convenience retail is resisted in the larger retail units.

Having considered carefully all material planning considerations, consultation and public participation responses, the proposed development meets the aims, vision and strategic objectives as well as policies CSP1, CSP2, CSP3, CEN1, CEN2, CEN3, CEN4, ENV 1, ENV 2, ENV 3, ENV7, TRAN1, TRAN2, TRAN3 and TRAN4 of the Black Country Joint Core Strategy and the following saved policies GP2, ENV10, ENV29, ENV32, ENV33, ENV40, S1, S2, S3, S4, T2, T7, T13, WA1, WA3 and WA10 of Walsall Unitary Development Plan, Supplementary Planning Document Designing Walsall, Regional Planning Policy and National Planning Policy Statements and Guidance.

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

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

#### **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.

2i) 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 as recommended by the “*St Matthews Quarter, Walsall Phase 1 Desk Study*” (dated 29th October 2012 reference E12/098). (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)

*Reason:* To ensure safe development of the site and to protect human health and the environment.

3a) Prior to the installation details of plant, machine and extraction systems shall be submitted to and agreed in writing by the Local Planning Authority. The submitted details shall comply with the recommendations of the Noise Impact Assessment submitted as part of the application (ref 1006795-RPT-00002, by Cundall and Johnston and Partners LLP, dated 25/10/2012).

b) The agreed plant, machine and extraction systems shall be installed in accordance with the agreed systems prior to the development being brought into use.

*Reason:* In order to ensure that the scheme does not adversely affect

4a) Prior to their installation, details of external flues (including location, external appearance, materials and cleaning and maintenance regime) to serve commercial hot food cooking points shall be submitted to and agreed in writing by the Local Planning Authority.

b) The extraction flues shall be installed prior to the systems coming into use.

*Reason:* External flues are discouraged in this sensitive location and should be designed into the building and to ensure satisfactory functioning and appearance of the development and to preserve and enhance the character of the Conservation Area and to safeguard the amenities of neighbouring and nearby residents.

5a) Prior to the occupation of any unit, a system to control grease, oil and fat discharges to drainage/sewerage systems shall be agreed in writing with the local planning authority

b) The agreed scheme shall be implemented prior to use.

*Reason:* To ensure that the drainage system is not adversely affected by grease, oil and fat discharges.

6a) Before the development is brought into use, details of a scheme of decorative and functional external lighting for the development, shall have been submitted to and approved in writing by the Local Planning Authority. Any External lighting shall be directed away from residential properties and shall comply with the recommendations by the Institute of Lighting Engineers/Professionals for the reduction of light pollution.

b) The development shall be implemented and completed in accordance with the approved details

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

b) The agreed scheme shall be implemented prior to the first use of any lighting on the development.

*Reason:* To ensure satisfactory functioning and appearance of the development and to preserve and enhance the character of the Conservation Area and to safeguard the amenities of neighbouring and nearby residents.

7a) Notwithstanding the detail shown on the submitted plans, prior to the commencement of development a full schedule of materials shall be submitted to and agreed in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with the approved details

*Reason:* To preserve and enhance the character of the Conservation Area and to ensure satisfactory appearance of the development.

8a) Prior to the commencement of development a programme of archaeological work shall be submitted to and agreed in writing by the Local Planning Authority.

b) Any significant findings shall be adequately recorded and detailed prior to built development commencing.

*Reason.* The site is in an area of archaeological interest, and an appropriate study is necessary to safeguard the possible historic significance of the site.

9a) Prior to the commencement of work on the development hereby approved full details, management and operation of the proposed service yard and gates shall be submitted to

and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

b) The service yard shall be operated in accordance with the submitted detail.

*Reason:* To preserve and enhance the character of the Conservation Area, in the interest of Highway Safety, and ensure the free flow of traffic using the adjoining Highway.

10a) Prior to the commencement of development the details and locations of cycle stores shall be submitted for the approval of the Local Planning Authority.

b) The approved details shall be implemented prior to the first occupation.

*Reason:* To ensure the satisfactory appearance of the development, and to promote use of the bike, and minimise use of the car.

11a) No development shall commence until drainage plans for the disposal of surface water and foul sewage, including sustainable drainage systems and rainwater harvesting detail, have been submitted to and approved in writing by the Local Planning Authority.

b) The scheme shall be 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.

12. A Full Travel Plan shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority and Integrated Transport Authority, after 6 months of operation.

*Reason:* To promote sustainable travel with a view to reduce congestion, the environmental impact of car use, and improve health.

13a) Prior to the commencement of work on the development hereby approved a detailed Construction Phase Method Statement shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

b) The development shall be carried out in accordance with the agreed Method Statement.

*Reason:* In the interest of Highway Safety, and ensure the free flow of traffic using the adjoining Highway.

14a) Prior to the commencement of development details of the access and service area surface materials shown on the approved plan shall be submitted to and approved in writing by the Local Planning Authority.

b) The service yard shall have been properly consolidated, surfaced, drained, free of loose stone prior to its first use

Reason: In the interest of Highway Safety, and ensure the free flow of traffic using the adjoining Highway.

15a) Prior to the installation of any CCTV cameras details giving substantial coverage of the exterior of the development have been submitted to and approved in writing by the Local Planning Authority. The submitted details will provide that the installation will be part of the wider Town Centre CCTV system, and be of a quality and arrangement suitable to be used as evidence in a court of law. The design of the CCTV installation will have regard to the lighting installations to be made on the site.

b) The approved details will be implemented concurrently with the relevant part of development to which they are attached, and will thereafter be retained in working order.

*Reason.* To create a secure and safe environment, and contribute to the control of crime in the town centre.

18a) Notwithstanding the notation on the submitted plans, no built development will be commenced until details of the proposed boundary treatment of the development (including measures to control use of paved areas by skateboarders etc.), have been submitted for the approval of the Local Planning Authority.

b) The development will not be brought into use until the approved scheme has been implemented and completed. The approved scheme will thereafter be retained.

*Reason:* The submitted boundary treatment detail is of inadequate design quality and fails to preserve or enhance the setting of listed buildings or the quality of the Conservation Area.

16a) No built development will be commenced until details of proposed litter bins in public areas and siting of refuse facilities have been approved in writing by the Local Planning Authority. The approved facilities will be installed before that part of the development is brought into use, and will be thereafter retained as approved.

b) No materials, goods or refuse other than in the compactors shown on the deposited plans will be stored or deposited in the open on any part of the site other than in a refuse container as approved under part (A) of this condition. For the purposes of this condition, the area under the canopy is classed as being in the open.

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

17a) No built development will be commenced until details of how the proposed development will conserve and make efficient use of energy, including liquid pumping, the provision of compressed air or electricity, heating, compacting, mechanical ventilation or air conditioning to be located within the main building structure have been submitted to and approved in writing by the Local Planning Authority.

b) The approved details shall be implemented as part of the construction of the building, and thereafter retained, as appropriate.

*Reason.* Conservation of energy in building design is an important element in environmental protection.

18a) No development hereby approved shall be commenced, until full details consisting of sections at a minimum scale of 1:20 of all external joinery including fenestration and doors and proposed exterior finish, have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with the approved details.

*Reason:* To preserve and enhance the character of the Conservation Area

19. Within the service yard, service vehicles shall not use the audible 'beeping' reversing alarms. Alternative alarms should be sought such as the use of white noise, infrared, or visible alarm systems.

*Reason:* To ensure that the amenities of neighbouring residents or occupiers are not unduly inconvenienced by servicing of the site

20. No public address facility or tannoy system shall be installed on the construction site without the prior written approval of the Local Planning Authority and thereafter it shall not be modified from any approved details.

*Reason.* To safeguard the amenity of neighbouring and nearby residential occupiers.

21. The business, including deliveries and collections, shall only be permitted to operate between the hours of 07.00 and 23.00 Monday to Saturday. 10.00 to 17.00 on Sundays, Bank and Public Holidays.

*Reason.* To safeguard the amenity of neighbouring and nearby residential occupiers.

22. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation) and deliveries to the site, 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 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.

23. Noise from plant, machinery and extraction systems shall be designed and operated, with due regard to the Noise Impact Assessment submitted as part of the application (ref 1006795-RPT-00002, by Cundall and Johnston and Partners LLP, dated 25/10/2012), to ensure that noise emissions do not give rise to a Rating Level of 5 dB at nearby residential premises as determined in accordance with British Standard BS 4142: 1997 '*Method for Rating industrial noise affecting mixed residential and industrial areas*'.

24. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, there shall be no vehicular access to the site, other than through the accesses as shown on the deposited plans, without the prior approval of a planning application.

*Reason:* In the interests of highway safety.

25. All windows and areas of glazing shall be kept free of applied signage or other significant screening which would hinder views into the retail unit and/ or the passive surveillance of public areas.

*Reason:* To aid the security of users of the site and satisfactory appearance of the application site.

26. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order and the Town and Country Planning (General Permitted Development) Order, as amended or revoked by subsequent legislation. The proposed development shall deliver units as follows:

i) The approved use classes are as set out below:

Unit 1 (uses A1, A2, A5)

Unit 2 (use A1)

Unit 3 (use A1)

Unit 4 (use A1)

Unit 5 (Use A1)

Unit 6 (Use A1)

Unit 7 (Use A1)

Unit 8(Ground Floor Uses A1, First Floor Uses A1, A3, B1a, D1, D2)

Unit 9 (Uses A1, A2, A3, A5, D2)

Unit 10 (Uses A1, A2, A3, A5, D2)

Unit 11 (Uses A1, A2, A3, A5, D2)

ii) The Ground Floor of units 2, 3, 4, 5, 6, 7 and 8 shall only be occupied by Use Class A1 (retail).

iii) The maximum number of shops shall not exceed 11 individual units and shall not be further sub-divided without the written permission of the local planning authority.

*Reason:* The proposed development is key to the delivery of retail comparison floorspace in the Black Country Core Strategy, larger units are essential to meet retail needs of the Primary Shopping Area.

27. Unless amendment is required under the above conditions, the development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Plans and Drawings:

10-131-002 P001 Rev B;

10-131-002 P002 Rev B;

10-131-002 P003 Rev E;

10-131-002 P004 Rev E;

10-131-002 P005 Rev B;

10-131-002 P006 Rev J;

10-131-002 P007-Proposed Tracking Plan Rev A;

10-131-002 K011 Rev A

Documents:

Planning Statement prepared by Stephen George and Partners (ref: 00-FM102 v8 20120718)

Design and Access Statement prepared by Stephen George and Partners

Noise Assessment prepared by Cundall (ref 1006795-RPT-00002)

Heritage Statement prepared by Wessex Archaeology (ref: 87360.01)

Transport Statement prepared by Phil Jones Associates (ref: PJA.1022)

Technical Note prepared by Rodgers Leask (ref: D12-188 - Doc 5)

Drainage Strategy prepared by Rodgers Leask (ref: D12/188)

*Reason:* In order to define the permission.

## **NOTES FOR APPLICANT**

### **Contaminated Land**

CL1) Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in the National Planning Policy Framework (2012); 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, 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.

### **Extraction Flues**

A) Extract ventilation flues and associated fan and motor units shall be fitted with vibration isolation mounting systems and ductwork shall be de-coupled from fan and motor units.

B) Extract-ventilation systems shall be designed and operated to ensure that noise emissions do not give rise to a Rating Level of 5 dB as determined in accordance with British Standard BS 4142: 1997 ‘*Method for Rating industrial noise affecting mixed residential and industrial areas*’.

C) Extract-ventilation systems shall be designed and operated to ensure that noise emissions do not give rise to a Noise Rating Exceeding NR 25 1m from the façade of occupied residential rooms.

### **S278 Works**

No work on the site should commence until any engineering detail of improvements to the public highway have been approved by the Highway Authority, and an agreement under S278 of the Highways Act 1980 entered into. Any agreement for street lighting should be agreed in writing with Walsall Metropolitan Borough Councils Street lighting partner Amey.

A Section 50 notice will be required for any excavation in the highway, if the existing notice has expired or the work is undertaken by a different contractor, and necessary approvals should be obtained for any excavation in the service yard.

### **Traffic Regulation Orders (TRO's)**

The attention of the applicant is drawn to the requirement to modify existing TRO's on Bridge Street at their expense, prior to the development being brought into operation. The applicant is advised to contact the Council's Traffic Manager Mr Stephen Griffiths on 01922 652558 to discuss this matter further.

### **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**

No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

A) For the purposes of Condition 21 and 22, Bank and Public holidays 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

## **Report for application 12/1554/CC**

The impact of the proposed service yard and gates are noted and the concerns of Transportation Officers are noted. It is considered that this is a balance between the improvement to Digbeth and the Primary Shopping Area.

The proposals represent an investment in the retail core and the removal of poorly designed buildings is noted. The proposed designs are not of high quality and the materials shown on the submitted plans and the location and detail proposed substation would need to be improved. The design is not of high quality but the provision of large retail units is noted with regard to the Core Strategy retail needs.

The proposals will need to deliver a minimum level of retail floorspace and subdivision should be resisted. Convenience retail is resisted in the larger retail units.

Having considered carefully all material planning considerations, consultation and public participation responses, the proposed development meets the aims, vision and strategic objectives as well as policies CSP1, CSP2, CSP3, CEN1, CEN2, CEN3, CEN4, ENV 1, ENV 2, ENV 3, ENV7, TRAN1, TRAN2, TRAN3 and TRAN4 of the Black Country Joint Core Strategy and the following saved policies GP2, ENV10, ENV29, ENV32, ENV33, ENV40, S1, S2, S3, S4, T2, T7, T13, WA1, WA3 and WA10 of Walsall Unitary Development Plan, Supplementary Planning Document Designing Walsall, Regional Planning Policy and National Planning Policy Statements and Guidance.

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

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

### **Recommendation: Grant Conservation Area Consent.**

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. Demolition shall not take place until a contract for the redevelopment of the site in accordance with planning permission no. 12/1553/FL has been signed and a copy lodged with, and acknowledged by the local planning authority.

*Reason:* To ensure that the primary shopping area is not compromised by the presence of a vacant site.

3. The applicant or person undertaking the works shall serve notice, in writing, on the Local Planning Authority 14 days before the commencement of any work on site. The developer shall thereafter afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority, and shall allow him to observe the (building demolition/excavations) and record items of interest and finds.

*Reason:* To ensure that ample opportunity is provided to investigate the historic past of the site.

4. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place until a method statement has been submitted to and agreed in writing by the Local Planning Authority. The statement shall include:

- i) Programme and timetable of works
- ii) Control of noise and dust arising from works
- iii) Method of demolition and positioning of equipment
- iii) Method of dealing with asbestos

*Reason:* In the interests of amenities of nearby residents and public safety

5. Unless otherwise agreed in writing by the Local Planning Authority or for the purposes of public safety, access shall be maintained at all times during the demolition to neighbouring commercial and residential occupiers.

*Reason:* To ensure that neighbouring residents or occupiers are not unduly inconvenienced by the works.

6. 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 unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* To safeguard the amenities of neighbouring and nearby residents

7. Levels of ground and/or structure-borne vibration transmitted to occupied buildings shall not exceed the lowest specified criteria for 'low probability of adverse comment' (0.02 m.s-1.75 for clarity) assessed with reference to British Standard BS 6472:1 2008 'Guide to Evaluation of human exposure to vibration in buildings.

*Reason:* To safeguard the amenities of neighbouring and nearby residents

8. All hand-held pneumatic machinery used in respect of demolition or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), including breakers and chisels, shall be of an integrally silenced design; breakers and chisels shall only be used with muted steels.

*Reason:* To safeguard the amenities of neighbouring and nearby residents

9. All plant and machinery in use shall be maintained and silenced in accordance with the manufacturers' and/or supplier's instructions or recommendations. Mobile and portable air compressors, pumps and electricity generating sets shall be of a recognised proprietary low-noise design, and wherever practicable, mains electricity shall be utilised in preference to electricity generating sets.

*Reason:* To safeguard the amenities of neighbouring and nearby residents

10. No operations or activities incorporating explosive blasting, drop-balling or thermic/thermal lances shall be undertaken.

*Reason:* To safeguard the amenities of neighbouring and nearby residents

11. All site clearance and building demolition shall take place outside the bird nesting season (the bird nesting season is March to September inclusive). Where this is unavoidable a breeding birds survey (particularly looking for black redstart and peregrine falcon) shall be undertaken by a suitably qualified and experienced ecologist prior to any works commencing. If breeding birds are discovered site clearance and other operations should be delayed until young birds have fledged. All wild birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 and subsequent amending legislation. It is an offence to damage or destroy a nest of a wild bird. If nesting birds are discovered clearance works should be delayed and advice sought from the ecologist or Natural England.

*Reason:* To protect local bird populations.

### **Summary of Reasons for Granting Conservation Area Consent**

The proposals are for the redevelopment of existing 1960s buildings fronting Digbeth and High Street. The loss of the existing buildings is not considered to raise significant environmental issues.

The impact of the proposed service yard and gates are noted and the concerns of Transportation Officers are noted. It is considered that this is a balance between the improvement to Digbeth and the Primary Shopping Area.

The proposals represent an investment in the retail core and the removal of poorly designed buildings is noted. The proposed designs are not of high quality and the materials shown on the submitted plans and the location and detail proposed substation would need to be improved. The design is not of high quality but the provision of large retail units is noted with regard to the Core Strategy retail needs.

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Having considered carefully all material planning considerations, consultation and public participation responses, the proposed development meets the aims, vision and strategic objectives as well as policies CSP1, CSP2, CSP3, CEN1, CEN2, CEN3, CEN4, ENV 1, ENV 2, ENV 3, ENV7, TRAN1, TRAN2, TRAN3 and TRAN4 of the Black Country Joint Core Strategy and the following saved policies GP2, ENV10, ENV29, ENV32, ENV33, ENV40, S1, S2, S3, S4, T2, T7, T13, WA1, WA3 and WA10 of Walsall Unitary Development Plan, Supplementary Planning Document Designing Walsall, Regional Planning Policy and National Planning Policy Statements and Guidance.

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

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

#### **Recommendation: Grant Conservation Area Consent**

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. Demolition shall not take place until a contract for the redevelopment of the site in accordance with planning permission no. 12/1553/FL has been signed and a copy lodged with, and acknowledged by the local planning authority.

*Reason:* To ensure that the primary shopping area is not compromised by the presence of a vacant site.

3. The applicant or person undertaking the works shall serve notice, in writing, on the Local Planning Authority 14 days before the commencement of any work on site. The developer shall thereafter afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority, and shall allow him to observe the (building demolition/excavations) and record items of interest and finds.

*Reason:* To ensure that ample opportunity is provided to investigate the historic past of the site.

4. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place until a method statement has been submitted to and agreed in writing by the Local Planning Authority. The statement shall include:

- i) Programme and timetable of works
- ii) Control of noise and dust arising from works
- iii) Method of demolition and positioning of equipment
- iii) Method of dealing with asbestos

*Reason:* In the interests of amenities of nearby residents and public safety

5. Unless otherwise agreed in writing by the Local Planning Authority or for the purposes of public safety, access shall be maintained at all times during the demolition to neighbouring commercial and residential occupiers.

*Reason:* To ensure that neighbouring residents or occupiers are not unduly inconvenienced by the works.

6. 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 unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* To safeguard the amenities of neighbouring and nearby residents

7. Levels of ground and/or structure-borne vibration transmitted to occupied buildings shall not exceed the lowest specified criteria for 'low probability of adverse comment' (0.02 m.s-1.75 for clarity) assessed with reference to British Standard BS 6472:1 2008 'Guide to Evaluation of human exposure to vibration in buildings.

*Reason:* To safeguard the amenities of neighbouring and nearby residents

8. All hand-held pneumatic machinery used in respect of demolition or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), including breakers and chisels, shall be of an integrally silenced design; breakers and chisels shall only be used with muted steels.

*Reason:* To safeguard the amenities of neighbouring and nearby residents

9. All plant and machinery in use shall be maintained and silenced in accordance with the manufacturers' and/or supplier's instructions or recommendations. Mobile and portable air compressors, pumps and electricity generating sets shall be of a recognised proprietary low-noise design, and wherever practicable, mains electricity shall be utilised in preference to electricity generating sets.

*Reason:* To safeguard the amenities of neighbouring and nearby residents

10. No operations or activities incorporating explosive blasting, drop-balling or thermic/thermal lances shall be undertaken.

*Reason:* To safeguard the amenities of neighbouring and nearby residents

11. All site clearance and building demolition shall take place outside the bird nesting season (the bird nesting season is March to September inclusive). Where this is unavoidable a breeding birds survey (particularly looking for black redstart and peregrine falcon) shall be undertaken by a suitably qualified and experienced ecologist prior to any works commencing. If breeding birds are discovered site clearance and other operations should be delayed until young birds have fledged. All wild birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 and subsequent amending legislation. It is an offence to damage or destroy a nest of a wild bird. If nesting birds are discovered clearance works should be delayed and advice sought from the ecologist or Natural England.

*Reason:* To protect local bird populations.



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 4.**

#### Reason for bringing to committee: **Major application**

**Application Number:** 12/1486/FL  
**Application Type:** Full application

**Case Officer:** Alison Ives  
**Telephone Number:** 01922 652604  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Neil Boddison Associates LTD

**Applicant:** Bovis Homes Central Region

**Proposal:** Minor material amendment to permission 09/0753/RM to vary condition 2 allowing substitution of house types for plots 378-415 (phase 3) of residential development of 141 dwellings.

**Location:** FORMER ST. MARGARETS HOSPITAL, QUESLETT ROAD, WALSALL, B43 7EZ

**Ward:** Pheasey Park Farm

**Expired Date:** 22/02/2013

**Recommendation Summary:** Grant with conditions, subject to no new information raising new material issues

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### **Current Status**

The application was first considered by Committee on 7<sup>th</sup> February 2013. The Committee resolved to grant permission subject to conditions and a Deed of Variation to the existing Agreement for the whole site being entered into, should this become necessary to secure affordable housing within Phase 3, as referred to in the supplementary paper for that committee.

One of the agenda items for this committee is a request from the developer seeking agreement for a Deed of Variation to the original Agreement for the site as a whole offering a commuted sum of £199,500 instead of 3 shared ownership affordable homes. If committee agree this report the Deed of Variation will secure the remaining affordable housing obligations for the site and the current application could be determined.

The developers are now proposing to amend the proposals for phase three by removing four protected trees at the rear of plots 393, 394 & 395. They state that the trees need to be removed to allow the construction of a retaining wall to deal with the large change in ground level in this area of the site and enable implementation of the current scheme under consideration. The trees in their current form are in a state of decline and would not be suitable if retained in their position in the rear gardens of the plots. The proposal is to replace each tree removed with 3 additional trees which will be far more sustainable in the long term and will create a greater visual impact in the short and long term. The trees to be removed on the opposite side of the road were shown to be removed on the original application.

The original report now follows with updates including comments on the Black Country Core Strategy. Updated consultation responses will be reported at committee. The section of the report relating to the impact on trees has been updated and the recommended condition listing approved plans has also been revised to refer to the latest tree removal plan.

### **Application and Site Details**

The proposal is a minor material amendment to permission 09/0753/RM to allow a substitution of house types for plots 378-415 (phase 3) of the approved development for 141 dwellings at the site of the former St. Margaret's Hospital now known as Nether Hall Park. The plots affected are located along the eastern edge of the estate adjacent to woodland at the rear of Park Farm Road.

The proposal affects 35 plots out of 38 on Phase 3D. The type of housing and building heights remains largely unchanged and includes 2, 2.5 and 3 storey detached, semi-detached and terraced houses as previously approved. The main amendments are plot 394 which is rotated 90 degrees, plots 392 and 393 change from a pair of semi-detached houses to two detached houses and plots 389 and 390 change from two detached houses to a pair of semi-detached houses. The terraced house types are wider yet shorter to provide an improved internal layout. The appearance of the dwellings changes from that previously approved in terms of amended door and window designs, removal of gable features and replacing cladding around doorways and at upper floors with brickwork.

Some of the plots front Horseshoe Crescent but most are located off a new cul-de-sac. All plots have a garage and off-street parking space except for plots 395 & 396 that just have off-street parking.

The highway arrangement remains unchanged from the approved layout and continues up to the boundary of the site maintaining access to the as yet undeveloped former Queslett Centre and the remaining hospital buildings.

St. Margaret's Hospital grounds, along with Great Barr Hall and Estate, whilst providing a unique development opportunity, remain one of the most sensitive sites within the Borough. The site lies within the Green Belt and Beacon Regional Park, forms part of the Great Barr Conservation Area, includes 2 Sites of Importance for Nature Conservation (the lakes and the Duckery), 6 Sites of Local Importance for Nature Conservation, and 3 areas of Ancient Woodland (the Duckery, High Wood and Gilberts Wood). Great Barr Hall is a Grade II\* listed building, whilst its remaining estate is a Grade II listed Park of Special Historic Interest.

The Design & Access Addendum – Identifies that the proposal seeks consent for substitution of 35 out of 38 house types on Phase 3D due to the approved contemporary style elevations and floor layouts proving unpopular with prospective purchasers. In light of this a traditional design approach is now favoured and internal arrangements to the dwellings have been made. The proposed houses are in broadly the same position and are no closer to TPO trees than the approved scheme. Materials are the same as approved elsewhere on site to provide consistency. The road layout is unchanged.

### **Relevant Planning History**

09/0753/RM - Erection of 141 dwellings as phase 3 of the residential development of the former St. Margaret's Hospital site -

06/1974/RM/E8 - 146 Apartments and Houses - Reserved Matters to Outline Permission  
02/2417/OL/E2 (Phase 2) – Granted subject to conditions 01/02/07.

05/0395/RM/H1 – Reserved matters application 152 apartments/houses, garages and associated works (Phase 1) – Granted subject to conditions 21/09/04.

02/2417/OL/E2 – Outline application to redevelop the former St Margaret's Hospital for residential development, alterations to existing access at Queslett Road including repositioning of gate posts and associated development. Application accompanied by an Environmental Statement and Master Plan providing up to a maximum of 445 dwellings and Design Statement – Granted on Appeal 13/09/04. A Section 229A Agreement (equivalent to a Section 106 Agreement) was completed to secure provision of Education, Transport Contributions and Facilities, Highway Works, Affordable Housing Primary Care and Community Facilities, Landscaped Areas and Public Open Space and works of restoration to the Lodge. Variations to this agreement have subsequently been approved in relation to provision of affordable housing including tenure and amount which has been reduced to 18% in total throughout the site.

### **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:

- Always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings
- Take account of different roles and character of different areas

**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.

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

Paragraph 64 states permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of the 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. 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.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until/unless it is abolished by order of the Secretary of State.

Relevant RS policies are:

CF1: Seeks to significantly improve the quality of existing housing stock, increase the scale and range of new housing development opportunities in appropriate locations and create attractive urban communities and living environments.

QE1: Supports regeneration and creation of new high quality built and natural environments. Also supports protection and enhancement of irreplaceable assets such as specific wildlife habitats.

QE3: Promotes high quality design.

### **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

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP2: Outside strategic centres and regeneration corridors will provide a mix of good quality residential areas where people choose to live.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

HOU3: Will seek to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable.

ENV2: Development should preserve and enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

DEL1: 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.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

### **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:

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.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

3.21 & ENV1: Defines the purpose of the Green Belt.

ENV2: Allows limited infilling or redevelopment of major existing developed sites in accordance with policy ENV4.

ENV3: Identifies more detailed considerations for proposals in the Green Belt.

ENV4: allows for infilling or redevelopment of major developed sites in the Green Belt provided proposals have no greater impact than the existing development on the openness and purpose of the Green Belt.

ENV8: New development on Great Barr Hall and Estate and St. Margaret's Hospital other than that which is normally appropriate in the Green Belt will be limited to the replacement footprint of existing buildings. All proposals must provide for preservation, enhancement and improvement of the character of buildings of architectural or historic interest, and management of the historic landscape and SINC's, and preservation and enhancement of Great Barr Conservation Area.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: Seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: The Council will ensure the protection, positive management and enhancement of

existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV24: New development should maintain the integrity of wildlife corridors.

ENV25: Proposals for development which affect archaeological sites will normally need to be accompanied by an evaluation of the archaeological resource.

ENV29: Development should preserve or enhance the character and appearance of a Conservation Area. In the event the Council grants permission for demolition of a Conservation Area property possessing architectural or historic interest the Council will require a building recording scheme.

ENV30: Protects the Borough's registered parks and gardens from the effects of inappropriate built development.

3.116 & ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

8.8: Residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing these facilities

8.9: On housing sites of 1 hectare (or 30 dwellings) or more accessible community healthcare facilities should be provided to serve the development. The Council may require a contribution from developers towards such provision.

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.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T8: Development should seek to provide and improve pedestrian routes.

T13: Parking Provision

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.

1, 2 & 3 bedroom houses – 2 spaces per unit

4 bedroom houses and above - 83 spaces per unit

### **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:

### **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;

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

DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. 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.

### **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.

### **Affordable Housing (SPD) (April 2008)**

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

### **Urban Open Space (SPD) (April 2006)**

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. The number of units remains unchanged and the proposed parking provision is 221% which accords with policy.

**Pollution Control (Scientific Team)** – No comments.

**Pollution Control (Contaminated Land)** – No specific contaminated land requirements.

**Environmental Health** – No adverse comments.

**Ecology** – No objections provided the new house types are no nearer to the trees at the edge of the development than those previously approved. Updated comments on the revised proposals will be reported at committee.

**Tree Officer** – No arboricultural objections. The dwellings are no closer to the woodland of protected trees than the previously approved plans and consequently have no objections.

**Conservation** – No objections. The substitution of approved house types with those already approved on the larger site will not adversely affect the character and appearance of the conservation area.

**Police Architectural Liaison Officer** – No comments.

**Walsall Children's Services – Serco** – No objections provided the Education contribution secured under the earlier permission is unchanged.

**Fire Service** – No objections.

**Severn Trent Water** – No objections subject to provision of drainage details which can be secured by condition.

**Environment Agency** – No comments.

### **Public Participation Response**

There are two letters of objections which are summarised as follows: -

- Green Belt land has been spoilt by the development
- These are the future ugly slums
- Unclear what changes are proposed
- Recent works at the rear of Kinross Crescent has destroyed trees resulting in loss of view and wildlife habitats

All letters of representation are available for inspection upon publication of this committee report.

The consultation period expires after the committee date hence the recommendation is to grant subject to no further representations raising new material planning matters.

### **Determining Issues**

- Layout and Design
- Relationship to adjoining properties
- Impact on trees
- Access and parking
- Provision for affordable housing
- Implications on existing Planning Obligation requirements

### **Observations**

#### **Layout and Design**

The principle of new housing on this part of the site has been approved. Although one objector considers the new housing has spoilt the Green Belt consideration of the potential impact new housing has on the area has already been made on the outline and reserved matters permissions.

The proposal is for alternative house types for plots 378-415 which the developer states will improve the marketability of the plots. The proposed new house types are of traditional appearance as featured elsewhere on the estate rather than the contemporary design previously approved. The proposal maintains the same number of plots (38 plots on phase 3D) and there are only minor changes to the footprint of the houses to reflect the changes to the internal layouts. The layout of the estate is almost identical with only minor changes to reflect the amended footprint of new house types.

As the design is the same as approved elsewhere on the site the proposed new house types will not have any adverse impact on the appearance of the Conservation Area despite the objector's concern that these houses will be the slums of the future.

On balance the layout and design is considered acceptable.

#### **Relationship to adjoining properties**

The site boundary is over 38m away from the boundary of rear gardens of houses in Park Farm Road and is separated by existing woodland. Given the distance the proposals would not lead to potential overlooking, loss of privacy or loss of daylight as a result of the proposed house type substitution.

Residents in Kinross Crescent to the north of the site are over 300m away from this part of the site and although they object to loss of view caused by loss of trees in the area they are too far away to be affected by this substitution of house types.

Given the above comments the proposals will not significantly harm residential amenities of surrounding occupiers.

### **Impact on Trees**

The proposals include removal of four trees at the rear of plots 393, 394 and 395. The trees are unlikely to survive due to the engineering work required to construct the necessary retaining structures as there is a significant difference in levels at this part of the site. The trees are also very close to the proposed new housing and would be likely to cause problems for future occupiers. The proposal is to replace each tree with 3 trees (12 trees in total) of a more appropriate size and position so as not to detract significantly from the appearance of the site. On balance it is considered that the removal of trees and their replacement with new trees is acceptable and will enable the development to be constructed satisfactorily.

Residents in Kinross Crescent who object to loss of trees resulting in loss of views and wildlife habitats are referring to the clearance of trees at the walled garden which forms part of the wider permission encompassing the grounds of Great Barr Hall. These works are being carried out in accordance with the existing permission 02/2417/OL/E2 and do not affect the current proposal for a substitution of house types.

### **Access and parking**

The means of access remains as approved under permission 09/0753/RM and as there is at least 2 parking spaces for each plot the level of parking provision is acceptable.

### **Provision for affordable housing**

The level of affordable housing units across the whole site equates to 18% of the entire scheme (445 dwellings) which was approved by Committee in December 2009. The proposal does not affect the level of affordable housing provision which can be secured by condition.

### **Implications on existing Planning Obligation requirements**

A planning obligation was completed for the outline planning permission dated 31<sup>st</sup> March 2004. This included provision of contributions towards education, integrated transport, highway improvement works and primary care and provision of an aggregate of 20% affordable housing units (a lower level of 18% affordable housing was subsequently approved by Committee in December 2009). Managed open space areas within the site were also included.

As the financial contributions have already been made there is no further need for additional contributions.

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

Officers have given pre-application advice to the applicant about the proposals and supporting information provided to accompany the current application has enabled officers to give full support to the scheme.

## **Summary of Reasons for Granting Planning Permission**

The principle of new housing on this part of the site has been approved and consideration already given to the potential impact on the area. The proposed alternative house types are featured elsewhere on the estate and are acceptable. The layout is almost identical with only minor changes to reflect the amended footprint of new house types. The proposals do not have any significant impact on the appearance of the Conservation Area despite the objector's concern that these houses will be the slums of the future.

The proposals are adequate distance away from the nearest houses in Park Farm Road and would not lead to potential overlooking, loss of privacy or loss of daylight as a result of the proposed house type substitution. Other residents in Kinross Crescent are too far away to be affected by this substitution of house types. The proposals will not significantly harm residential amenities of surrounding occupiers.

The removal of trees is considered acceptable in the interests of enabling the development to be brought forward and the current constraint they represent to development. Replacement trees will help protect the visual amenities of the area. Residents concerns about loss of trees are those in the walled garden that are being carried out in accordance with the existing permission 02/2417/OL/E2 and do not affect the current proposal for a substitution of house types.

The means of access remains as approved under permission 09/0753/RM and the level of parking provision is acceptable.

There is 18% affordable housing across the whole site and the current proposals do not affect the level of affordable housing provision which can be secured by condition.

A planning obligation was completed for the outline planning permission dated 31<sup>st</sup> March 2004. As the financial contributions have already been made there is no further need for additional contributions.

In light of the above the proposals are considered to accord with the aims and objectives of the National Planning Policy Framework and sustainable development, the aims and objectives of the Black Country Core Strategy policies in particular CSP2, CSP4, TRAN1, HOU2, HOU3, ENV2, ENV3 and DEL1, the aims and objectives of the Walsall Unitary Development Plan saved policies GP2, GP3, H3, ENV1, ENV2, ENV3, ENV4, ENV8, ENV10, ENV14, ENV18, ENV23, ENV24, ENV25, ENV29, ENV30, ENV32, ENV33, 3.116, 3.117, 8.8, 8.9, LC1, T7, T8 and T13 and Supplementary Planning Documents: Designing Walsall, Conserving Walsall's Natural Environment, Affordable Housing, Urban Open Space.

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

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

**Recommendation:** Grant with conditions, subject to no new information raising new material issues

1. The 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 only be carried out in accordance with the details approved under the original permission 09/0753/RM namely; approved detail (Phase 3 Drainage Strategy, Bovis Homes, Drg No MARG-5-800, 29/10/09) and the following mitigation measures detailed therewith: -

(i) Appropriate soakaway assessments carried out under Building Research Establishment (BRE) Digest 365 and where shown on plan Phase 3 Drainage Strategy, Bovis Homes, Drg No MARG-5-800, 29/10/09.

(ii) A drainage strategy including sustainable (SuDS) components as described on Phase 3 Drainage Strategy, Bovis Homes, Drg No MARG-5-800, 29/10/09 and including details how the scheme shall be maintained and managed after completion.

*Reason:* To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and prevent increased risk of flooding, to protect water quality, improve habitat and amenity and ensure future maintenance of such.

3a. Prior to the occupation of the development hereby approved the landscape scheme shall be completed in accordance with the approved details submitted and approved under application 09/0753/RM as shown on the landscape plans MARG-03-131-C, sheet 1, 2 & 3 and retained as such.

3b. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme.

3c. 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.

4. The approved tree protection measures as approved under application 09/0753/RM and detailed in plan STMG/03/133 dated 28 May 2009 shall be fully implemented prior to the commencement of any works on site and shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2005

*Reason:* To safeguard the trees included in the Tree Preservation Order on the site.

5. No digging of trenches or changes in ground level shall be undertaken within the canopy of any tree to be retained on the site without the written approval of the Local Planning Authority.

*Reason:* To safeguard the trees included in the Tree Preservation Order on the site.

6a. Prior to the commencement of the development, the following details shall be submitted for approval in writing by the Local Planning Authority in conjunction with the Highway Authority and Walsall Council's street lighting partner Amey;

- full details of all adoptable highway works including the layout, alignments, widths and levels, together with all necessary drainage arrangements and run off calculations, which shall comply with any plans approved under the planning consent.

6b. Prior to the occupation of the development, all approved highway infrastructure works shall be fully implemented, completed and brought in to use.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

7. The development shall be completed in accordance with the approved materials schedule (STMG/02/550-3D) and retained thereafter.

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

8a. Prior to the first occupation of any new dwelling, all accesses and parking areas serving that dwelling shall be fully consolidated, hard surfaced and be available for use.

8b. These areas shall thereafter be retained and used for no other purpose.

*Reason:* To ensure the satisfactory completion and operation of the development and to ensure adequate off street parking is provided in the interests of highway safety.

9a. No more than 25 dwellings shall be built on the application site, unless the applicant has made appropriate on-site provision towards affordable housing in accordance with policies HOU3 of the Black Country Core Strategy, policy GP3 of Walsall Unitary Development Plan and the Affordable Housing Supplementary Planning Document.

9b. The affordable housing shall be retained thereafter.

*Reason:* To ensure that affordable housing needs are met in accordance with policy HOU3 of the BCCS and policy GP3 of the Unitary Development Plan and SPD: Affordable Housing.

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

- Location Plan – Phase 3D (STMG3D/02/105) received 20/11/12
- Planning Layout (STMAG 3D/02/300) received 2/11/12
- Material Schedule for Phase 3D: Plots 378-415 (STMG/02/550-3D) received 2/11/12
- House Type 3 Bed/6 Person Town House Proposed Plans (HTPD\_A344) received 2/11/12
- House Type 3 Bed/6 Person Town House Proposed Elevations (HTPD\_A344) received 2/11/12
- House Type 3 Bed/5 Person Town House (Plots 400-403 and 413-415) Proposed Plans & Elevations (HTPD\_P308) received 2/11/12
- House Type 3 Bed/5 Person Town House (Plots 404-412) Proposed Plans & Elevations (HTPD\_P308) received 2/11/12

- House Type 3 Bed Cottage (Plot 394) Proposed Plans & Elevations (HTPD\_P303) received 2/11/12
- House Type 3 Bed Cottage (Plot 391) Proposed Plans & Elevations (HTPD\_P303/VT1) received 2/11/12
- House Type 3 Bed Cottage Proposed Plans & Elevations (Brick) (HTPD\_P301) received 2/11/12
- House Type 3 Bed Cottage Proposed Plans & Elevations (Render Front) (HTPD\_P301) received 2/11/12
- House Type 4 Bed Cottage (Plot 383) Proposed Plans & Elevations (HTPD\_P402) received 2/11/12
- House Type 4 Bed Cottage (Additional Window to Plot 392) Proposed Plans & Elevations (HTPD\_P402) received 2/11/12
- Garages Proposed Plans & Elevations (AGS2/1, AGS2 & AGS2x2) received 2/11/12
- Street Scenes (STMG/3D/02/400) received 2/11/12
- Landscape Proposals – Tree Removal/Retention & Protection Plan (STMARG03-88) received 22/4/13
- Design & Access Addendum prepared by Boddison 3/10/12

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

**Note to application – Highway works**

All highway works detailed and specified within the agreement under Section 38 of the Highways Act 1980 shall be fully implemented, completed and brought in to use to the satisfaction of the Highway Authority.

**Notes to applicant – Public Sewer**

There is a public sewer located within the application site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. The developer is advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist the developer in 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 metres of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent Water can direct building control officers to refuse building regulations approval. If you require any further information please contact Rhiannon Thomas on 01902 793883.



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 5.**

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

**Application Number:** 13/0306/FL  
**Application Type:** Full application

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652603  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Delta Planning

**Applicant:** University of Wolverhampton

**Proposal:** Change of use of former Students Union building to an enterprise and innovation centre with administration offices and external alterations and new stair tower.

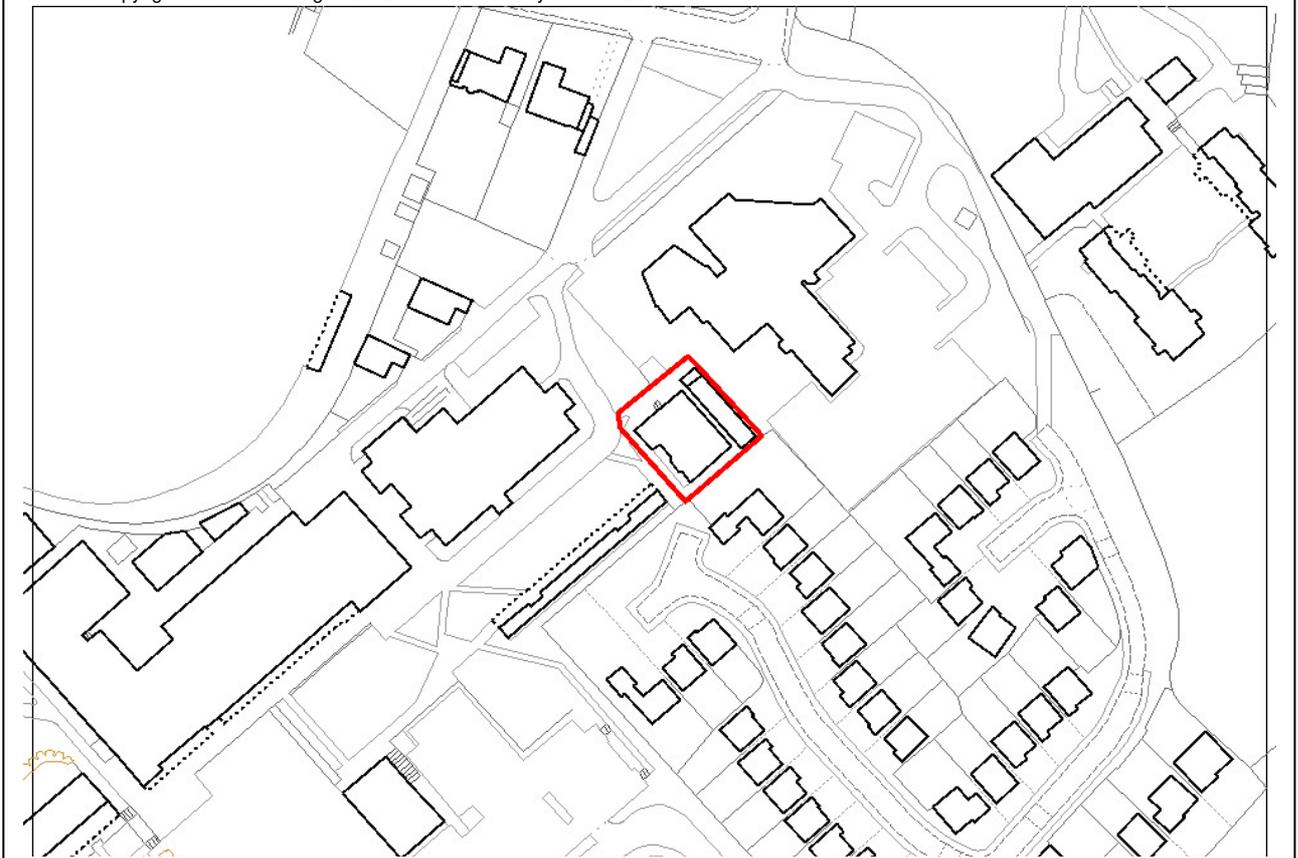
**Location:** Former Students' Union Building (Building WC), Walsall Campus, Gorway Road, Walsall, WS1 3BD

**Ward:** St. Matthews

**Expired Date:** 29/05/2013

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

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### **Application and Site Details**

The application site is the former Students' Union Building on the Walsall Campus of the University of Wolverhampton (known as building WC on the Campus) which is a building of modernist architecture on the north-eastern part of the campus near Gorway Road. The building is currently used for storage, student pastoral needs and for occasional office use.

To the rear of the building is a conifer hedge which shields the building from residents on St Catherine's Close.

The application seeks to change the existing building into an enterprise and innovation centre with administration offices and external alterations and new stair tower. The WC Building is currently 4 storeys and the total floorspace is approximately 1,100sqm.

The proposed new stairwell, replacing an external staircase, has a footprint of approximately 20sqm over 3 floors (total floorspace proposed is 60sqm).

No changes are proposed to the access arrangements to and within the Walsall Campus. No specific vehicular access is required to the building and pedestrian access is via existing Campus infrastructure.

In support of the application, the applicant has submitted a Planning and Design and Access Statement which states that:

The University is committed to providing students and graduates with the best possible employment prospects post-graduation, as well as supporting the local economy by encouraging and supporting new business creations and existing business growth opportunities. As such the University is looking to provide physical resources at its Walsall Campus to help entrepreneurs and fledgling businesses to start-up and grow in a supported environment, taking advantage of both the direct and indirect benefits of on-campus co-location.

The potential introduction of incubation facilities on-campus will not only provide new and existing companies with a quality location from which to trade, but will also provide them with knowledge transfer and applied research opportunities via the University academic base to help grow their businesses. The facility will afford students and graduates the opportunity to gain work experience/employment both with the tenant companies and as part of the operational team for the facility.

The Telford Campus of the University of Wolverhampton has an e-Innovation Centre that is similar to what is proposed in this application.

### **Relevant Planning History**

There has been a wide number of planning applications on the site.

### **Relevant Planning Policy Summary (Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)**

#### **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 of land and buildings
- Take account of the different roles and character of different areas
- Every effort should be made to identify and meet development needs for the area
- Support the transition to a low carbon future
- Contribute to conserving and enhancing the natural environment
- Promote mixed use development and encourage multiple benefits from the use of land, recognising that some open land can perform many functions
- 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 sustainable.
- Take account of and support local strategies to improve health, social and cultural wellbeing for all and deliver sufficient community and cultural facilities and services to meet local needs

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

32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Assessment and account should be taken of the opportunities for sustainable transport modes

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people

58. Policies should set out the quality of development that will be expected of an area, including:

- Will function well and add to the overall quality of an area
  - Establish a strong sense of place
  - Optimise the potential of the site to accommodate development
  - Respond to local character and history and reflect the identity of local surroundings and materials
  - Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
  - Are visually attractive as a result of good architecture and appropriate landscaping
70. To deliver the social, recreational and cultural facilities and services the community needs, ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

On **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.

## **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered that the relevant RS policy is;

UR4: Social Infrastructure – point (a)i refers to provision of new social infrastructure in or on edge of appropriate level of centres – can justify edge of local centre and appropriately located on main public transport route between Brownhills, Aldridge, Walsall etc

QE3: Creating a High Quality Built Environment for All

Creation of high quality built environment through use of architecture, urban design and landscape design which respects local character.

QE4: Greenery, Urban Greenspace and Public Spaces – despite some loss of open space, the proposal is increasing the value of recreation provision in the local area through provision of junior pitches, football campus approach with Walsall Wood FC etc

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF.

## **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)

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 BCCS states that the councils will create cohesive, healthy and prosperous communities.

The relevant policies are:

Spatial Objective 8

A sustainable network of community services, particularly high quality lifelong learning, health care and sport and recreation facilities, which are easily accessible to all residents at a neighbourhood level.

ENV3: Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits

### **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: 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.

ENV32: (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

T7 and T13: All development should satisfy the car parking standards set out in Policy T13, and be well designed.

T8: To help existing pedestrians and encourage greater use of walking as a healthy and sustainable form of travel the Council will provide good pedestrian links within a development. All pedestrian links must be safe, direct and convenient and well lit.

T9: Cycling The Council will assess the suitability of cycle-related improvements.

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

### **Consultations**

**Natural Environment (Ecology)** – No objection

**Natural Environment (Trees)** – No objection

**Landscape Team** – No objection

**Fire Service** – No objection

**WM Police** – No objection

### **Representations**

None received

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Principle of development
- Impact of proposed alterations to nearby residents and the character of the area
- Car parking and Servicing

### **Observations**

#### **Principle of development**

The proposed use, as an innovation centre, has become a commonplace feature of Universities and Colleges over many years with initiatives such as Science Parks and Innovation/Enterprise Centres used as ways of facilitating students wishing to set up new companies whilst providing the support and infrastructure and resources of the University as well as allowing students access to business and commercial awareness.

The proposed use is acceptable in principle and would offer an additional feature to the existing Campus which is supported.

### **Impact of proposed alterations to nearby residents and the character of the area**

The proposed changes, including the new staircase will take place on the north elevation, furthest away from residential properties on St Catherine's Close which is to the rear of the building. The proposed alterations would modernise and refresh a building which needs updating and remove the external staircase which is a clumsy and poor addition to the building.

The proposed alterations are acceptable.

### **Car parking and Servicing**

With regards to car parking provision, some designated parking may be provided to the rear of the adjacent building but none is formally proposed as part of the application.

There is visitor car parking on the campus and in front of the building and existing service routes to the building.

The proposed car parking needs will therefore be managed through the University's existing Travel Plan and Car Parking Management Plan. The proposal is acceptable in parking policy.

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

Officers have met and discussed with the applicant's agent in response to concerns raised to enable full support to be given to the scheme.

## **Summary of Reasons for Granting Planning Permission**

### **Reason for Approval**

The application site is the former Students' Union Building on the Walsall Campus of the University of Wolverhampton (known as building WC on the Campus) which is a building of modernist architecture on the north-eastern part of the campus near Gorway Road. The building is currently used for storage, student pastoral needs and for occasional office use.

The application seeks to change the existing building into an enterprise and innovation centre with administration offices and external alterations and new stair tower.

The potential introduction of incubation facilities on-campus will not only provide new and existing companies with a quality location from which to trade, but will also provide them with knowledge transfer and applied research opportunities via the University academic base to help grow their businesses. The proposed use, as an innovation centre, has become a commonplace feature of Universities and Colleges. The proposed use is acceptable in principle and would offer an additional feature to the existing Campus which is supported.

The proposed changes, including the new staircase will take place on the north elevation, furthest away from residential properties on St Catherine's Close. The proposed alterations modernise and update the building and are acceptable.

With regards to car parking provision, some designated parking may be provided to the rear of the adjacent building but none is formally proposed as part of the application. There is visitor car parking on the campus and in front of the building and existing service routes to the building. The proposed car parking needs will therefore be managed through the University's existing Travel Plan and Car Parking Management Plan.

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies QE3 of the Regional Strategy, policies CSP3, CSP4, and ENV3 of the Black Country Core Strategy; saved policies GP2, ENV10, ENV14, ENV32, ENV33, T7 and T13 of Walsall Unitary Development Plan, and the Council's Supplementary Planning Documents. On balance, having taken into account all material planning considerations, including the aims and objectives of the NPPF and sustainable development, the proposal is acceptable.

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

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

### **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) Prior to the commencement of development a schedule of facing material shall be submitted to and approved in writing by the Local Planning Authority.

b) The development thereafter implemented in accordance with the agreed details.

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

3. The development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Plans and Drawings:

2232-001; 2232-009 A; 2232-017 A; 2232-018 B; 2232-019 A; 2232-020 C; and 2232-021 B.

Documents:

Planning and Design and Access Statement prepared by Delta Planning

*Reason:* In order to define the permission.



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 6.**

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

**Application Number:** 13/0305/FL  
**Application Type:** Full application

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652603  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:**

**Applicant:** Walsall Healthcare NHS Trust

**Proposal:** Variation to Condition 2 of Planning Permission 06/1415/FL/W1 to retain the existing temporary modular building whose permission expires on 21 September 2015 for a further 7years (to 2022).

**Location:** MANOR HOSPITAL ,MOAT ROAD,WALSALL,WS29PS

**Ward:** Pleck

**Expired Date:** 30/05/2013

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

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### **Application and Site Details**

The application seeks to vary the timescale of the current 5-storey modular building which is a temporary building and given a temporary consent of 9 years (i.e. to 2015), due to the building programme at the Manor Hospital.

Members will be aware that extensions approved under the 2007 planning permission are now complete.

The current condition 2 states that:

*The development hereby permitted shall be removed prior to the expiration of 9 years from the date of this permission, unless otherwise agreed in writing by the Local Planning Authority. All materials arising from the demolition shall be removed and the site left in a neat and tidy condition.*

The reason for supporting the building of non-descript design was that the building is supporting a building programme, and is on a building site.

The Hospital Trust is currently reviewing the estate strategy and further works and the need for additional floorspace and car park management. The building currently provides staff support to bed and inpatient wards.

### **Relevant Planning History**

There has been a wide number of planning applications on the hospital site with Walsall Manor undergoing significant transformation in recent years. The relevant recent planning applications are:

BC58026P – Outline: Demolitions, New Build & Rationalisation of On-site Circulation & Parking Associated with proposal for Rationalised re-provision of Paediatric, Gynaecological & Out-Patient and other works - Granted 13/03/2003

06/0227/FL/W1 – Extension of time to submit the Reserved Matters submission to BC58026P – Granted – 30/06/2006

06/1415/FL/W1 - Erection of Modular Ward Building – Granted 25/09/06

07/0606/RM/W1 - Reserved Matters to Planning Application No. 06/0227/FL/W1 for partial redevelopment of the Hospital to improve healthcare facilities, educational and administration facilities, roads and car parking, demolition of older building and a range of submissions addressing (in whole or in part) the requirements of 15 of the conditions on the outline permission – Approved

### **Relevant Planning Policy Summary (Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)**

#### **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 of land and buildings

- Take account of the different roles and character of different areas
- Every effort should be made to identify and meet development needs for the area
- Support the transition to a low carbon future
- Contribute to conserving and enhancing the natural environment
- Promote mixed use development and encourage multiple benefits from the use of land, recognising that some open land can perform many functions
- 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 sustainable.
- Take account of and support local strategies to improve health, social and cultural wellbeing for all and deliver sufficient community and cultural facilities and services to meet local needs

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

32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Assessment and account should be taken of the opportunities for sustainable transport modes

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people

58. Policies should set out the quality of development that will be expected of an area, including:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

70. To deliver the social, recreational and cultural facilities and services the community needs, ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

On **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.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered that the relevant RS policy is;

UR4: Social Infrastructure – point (a)i) refers to provision of new social infrastructure in or on edge of appropriate level of centres – can justify edge of local centre and appropriately located on main public transport route between Brownhills, Aldridge, Walsall etc

QE3: Creating a High Quality Built Environment for All

Creation of high quality built environment through use of architecture, urban design and landscape design which respects local character.

QE4: Greenery, Urban Greenspace and Public Spaces – despite some loss of open space, the proposal is increasing the value of recreation provision in the local area through provision of junior pitches, football campus approach with Walsall Wood FC etc

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF.

### **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)

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 BCCS states that the councils will create cohesive, healthy and prosperous communities.

The relevant policies are:

Spatial Objective 8

A sustainable network of community services, particularly high quality lifelong learning, health care and sport and recreation facilities, which are easily accessible to all residents at a neighbourhood level.

ENV3: Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits

#### **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: 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.

ENV32: (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

T7 and T13: All development should satisfy the car parking standards, and be well designed.

T8: To help existing pedestrians and encourage greater use of walking as a healthy and sustainable form of travel the Council will provide good pedestrian links within a development. All pedestrian links must be safe, direct and convenient and well lit.

T9: Cycling The Council will assess the suitability of cycle-related improvements.

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

## **Consultations**

### **Pollution Control**

Scientific Team – No objection

### **Representations**

None received

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Principle of development
- Impact of the modular building to nearby residents and the character of the area
- Further retention

### **Observations**

#### **Principle of development**

The principle of providing adequate healthcare needs is supported and provides the basis for the expansion and improvement to the Manor Hospital.

The retention of the building is supported in principle although it would not be supported as a permanent solution to the healthcare needs as the building is not of high quality.

#### **Impact of the modular building to nearby residents and the character of the area**

The building is set in the middle of the Manor Hospital estate and therefore there is limited visual impact to neighbouring residents from the building. The building is set into the ground and this reduces the bulk and mass of the building further.

The existing building is visible from the main entrance to the A&E and also to visitor parking and the functional areas of the hospital. As a temporary solution to space needs it is acceptable but the building would not be an appropriate permanent solution to space needs and will need to be replaced by the time the temporary period expires.

### **Further retention**

The work undertaken in recent years has significantly improved the approach to Manor Hospital from the Pleck Road perspective with A&E and rear facing areas, including the extensive areas of staff car parking remaining largely unchanged.

It is these areas of the hospital, on which the existing modular building sits, is the location of next phases of the hospital estate strategy will need to focus.

Further applications for the retention of the modular building is very unlikely to be acceptable given the length of time being allowed for alternative and permanent solutions. The design and lack of quality to the modular building are also prohibitive factors in further retention applications.

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

Officers have met and discussed with the applicant's agent in response to concerns raised to enable full support to be given to the scheme.

### **Summary of Reasons for Granting Planning Permission**

The application seeks to vary the timescale of the current 5-storey modular building which is a temporary building and given a temporary consent of 9years (i.e. to 2015), due to the building programme at the Manor Hospital.

The Hospital Trust is currently reviewing the estate strategy and further works and the need for additional floorspace and car park management. The building currently provides staff support to bed and inpatient wards.

The principle of providing adequate healthcare needs is supported and provides the basis for the expansion and improvement to the Manor Hospital. The work undertaken in recent years has significantly improved the approach to Manor Hospital from the Pleck Road perspective with A&E and rear facing areas, including the extensive areas of staff car parking remaining largely unchanged.

The building is set in the middle of the Manor Hospital estate and therefore there is limited visual impact to neighbouring residents from the building.

The existing building is visible from the main entrance to the A&E and also to visitor parking and the functional areas of the hospital. As a temporary solution to space needs it is acceptable but the building would not be an appropriate permanent solution to space needs and will need to be replaced by the time the temporary period expires.

The retention of the building is supported in principle although it would not be supported as a permanent solution to the healthcare needs. Further applications for the retention of the modular building are very unlikely to be acceptable given the length of time being allowed for alternative and permanent solutions. The design and lack of quality to the modular building are also prohibitive factors in further retention applications.

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies QE3 of the Regional Strategy, policies CSP3, CSP4, and ENV3 of the Black Country Core Strategy; saved policies GP2, ENV10, ENV14, ENV32, ENV33, T7 and T13 of Walsall Unitary Development Plan, and the Council's Supplementary Planning Documents. On balance, having taken into account all material planning

considerations, including the aims and objectives of the NPPF and sustainable development, the proposal is acceptable.

**Positive and Proactive working with the applicant**

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

**Recommendation:** Grant Permission Subject to Conditions

**Conditions**

1. The development hereby permitted shall be removed prior to the expiration of 9 years from the date of this permission, unless otherwise agreed in writing by the Local Planning Authority. All materials arising from the demolition shall be removed and the site left in a neat and tidy condition.

*Reason:* The building is of a visually non-descript design and does not provide a high quality working environment. The building currently supports beds and inpatient provision. Given the length of time provided for in the planning permissions granted, further retention for longer will not be accepted. By the expiry time (2022) there will have been significant time for a permanent solution to be brought forward.

2. The development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Plans and Drawings:

YKO158808-01 RevX;

YKO158808-02 RevX;

YKO158808-03 RevX;

YKO158808-04 RevX;

YKO158808-05 RevB;

YKO158808-07 RevJ;

YKO158808-14 RevA;

001-A-DWG-MWB-XX-00-10D Rev B01

001-A-DWG-MWB-04-00-361 Rev B01

*Reason:* In order to define the permission.



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 7.**

**Reason for bringing to committee: Called in by Councillor Young - who supports the development, as a regenerative opportunity, whilst recognising that there are Development Plan policy objections.**

**Application Number:** 12/1733/FL  
**Application Type:** Full application

**Case Officer:** Paul Hinton  
**Telephone Number:** 01922 652607  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Sueshire Services

**Applicant:** F.H. Wood

**Proposal:** Change of use from shop with commercial units to 7 no. self contained living units with first floor rear extension, parking and amenity area.

**Location:** 38 BLAKENALL LANE, WALSALL, WS3 1HG

**Ward:** Blakenall

**Expired Date:** 22/04/2013

**Recommendation Summary:** Refuse

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## **Application and Site Details**

This application seeks planning permission for the change of use of an existing corn and seed shop (with offices and hairdressers at first floor – both now vacant) to seven self contained living units. The proposal includes raising the height of the existing roof and extending to the front elevation, with a first and partial second floor rear extension. The proposal would demolish part of the existing rear ground floor of the building, currently used as a dental technicians and office and demolish three outbuildings in the rear yard to create parking and amenity areas.

Two of the living units would be directly accessed from the street. The other five living units would be accessed through a door to the side of the building leading to an internal staircase. Thirteen parking spaces are proposed within the rear of the site, accessed through the existing drive between the application site and the next door house 44 Blakenall Lane. Two of the parking spaces would be reserved for the neighbouring houses at 36 and 44. An amenity area of 98.5m<sup>2</sup> is proposed between the rear of the building and the parking area. Bedroom and kitchen windows are to be inserted to both side elevations at ground, first and second floors. Two roof lights are proposed within the roof facing Blakenall Lane. A 2m high screen fence is proposed to the rear perimeter boundary and the creation of a rear garden to number 44 which currently has no amenity space.

The application site is located within the middle of a residential area. There is no off street parking in the immediate locality, with double yellow lines for a short length opposite the application site. Leamore Park is 90m away, which includes a bowling green and tennis court. Leamore Local Centre is 120m away with Blakenall Local Centre 420m away. The density of Blakenall Lane immediately next to the application site is 52.5 dwellings per hectare (dph). The site area is 0.059ha which gives the proposal a density of 119dph.

The Design & Access Statement –Explains that the outbuilding to the rear used to be occupied by several commercial tenants; however tenants can no longer be found. The shop itself is no longer financially viable. To make the proposal viable it is necessary to get as many rentable units as possible. The new rear wing has been set into the site to lessen the impact on the two adjoining houses which are in ownership of the applicant and his family. The units would be aimed at the older tenants who require small units with little or no maintenance. Most tenants would be DSS funded. The development would clear the rear of the site of unsightly storage units and part of the ground floor section to the shop. The commercial use is quite disturbing as a lot of deliveries come at night and the vehicles are large. The existing driveway causes problems for commercial vehicles with both its width and access point. Development would remove the only commercial shop in the area.

## **Relevant Planning History**

BC940 – Replacement of commercial building. Granted subject to conditions 4/12/1974.

### Rear of number 44

BC30201P – Change of use of garage to storage and residential garden area to commercial. Refused 20/2/1991.

## **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:

1. Delivering sustainable development

19 Planning should encourage sustainable growth.

4. Promoting sustainable transport

32 All development should have safe and suitable access to the site for all people.

Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

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 Seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

7. Requiring good design

58 Developments should function well and add to the overall quality of the area. 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. Respond to local character and history, and reflect the identity of local surroundings and materials. Create safe and accessible environments that are visually attractive as a result of good architecture.

61 Securing high quality design goes beyond aesthetic considerations. Decisions should address the connections between people and places and the integration of the new development into the built 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.

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...air...or noise pollution.

118. Local planning authorities should aim to conserve and enhance biodiversity by....incorporate biodiversity in and around developments.

123. Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts

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.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until/unless it is abolished by order of the Secretary of State.

Relevant RS policies are:

CF1: Seeks to significantly improve the quality of existing housing stock, increase the scale and range of new housing development opportunities in appropriate locations and create attractive urban communities and living environments.

QE1: Supports regeneration and creation of new high quality built and natural environments. Also supports protection and enhancement of irreplaceable assets such as specific wildlife habitats.

QE3: Promotes high quality design.

### **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 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:

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

CPS4: The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers.

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs.
- The level of accessibility by sustainable transport.
- The need to achieve high quality design and minimise amenity impacts.

All developments will aim to achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Provision of a high quality network of streets, buildings and spaces

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

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:

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.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV32 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

Policy H3: Windfall Sites and Conversion of Existing Buildings

(a) The Council will encourage the provision of additional housing through the re-use of brownfield windfall sites and through the conversion of existing buildings, including vacant dwellings and the upper floors above shops and other business premises, provided that:-

- I. A satisfactory residential environment can be achieved, taking into account the considerations set out in Policy ENV11.
- II. There is no overriding need for the land or buildings to be retained for employment or any other use.
- III. The proposal would have good accessibility by a choice of means of transport and be well related to schools, shops and other social and community facilities.
- IV. Residential development would not unacceptably constrain the development of any adjacent site for its allocated or identified use.
- V. The proposal is acceptable in terms of other policies of the Plan.

H5: Encourages provision of housing for people with special needs including single people and the elderly.

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.

T8: Encourages greater use of walking as a healthy and sustainable form of travel.

T9: New developments should meet the accessibility standards for cyclists. The design of cycling infrastructure should be safe and secure for all users.

T10 (a): Refers to accessibility standards. The standards for residential car parking should be seen as neither maximum nor minimum but the typical requirement. Certain site specific and locational circumstances will justify a reduction.

T12: Residential development should be within 400m walking distance to a bus stop which has a service frequency of at least 1 bus every 30mins during the day (12.00 and 19.00), 1 bus every hour on Sundays between 12.00 and 19.00.

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.

10% of all parking spaces should be reserved for disabled people.

Flats with Communal Parking 1.5 spaces per unit

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 NPPF policy. The relevant SPD's are:

#### **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;

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 E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 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 and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid

terracing and provision of boundary walls. 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.

It is considered in this case that the relevant provisions of SPD Designing Walsall are consistent with the NPPF.

### **Consultations**

**Transportation** – no objection subject to the use of recommended conditions in regard to revisions to the fence next to parking space 44, the submission of details of a cycle shelter, provision of parking spaces prior to occupation, reinstatement of the redundant dropped crossing, and prevention of any structure within the visibility splay. The development looks to meet the parking standard for communal spaces in full and provide parking for the two adjacent properties. Whilst the development will result in an intensification of the access, it will remove an element of commercial traffic to the site in a residential area which is welcomed by the Highway Authority.

**Pollution Control (Scientific Team)** – no objection subject to a condition controlling construction hours.

**Pollution Control (Contaminated Land)** – no objection.

**Environmental Health** – no objection.

**Natural Environment** – no objection. The application does not require a bat survey.

**Coal Authority** – no objection, an informative note for applicant is recommended. The site is in an area subject to past coal mining activities. There will be no significant operational development resulting from this proposal that intersects the ground and could therefore present risk to the coal mining features.

**Fire Service** – no objection.

**Severn Trent Water** – no objections subject to the use of a recommended condition requiring the submission of a drainage plan and a note for applicant.

**Police Architectural Liaison Officer** – to be reported at the meeting.

### **Public Participation Responses**

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

- Encroach on the access to the rear of no.s 44-50 Blakenall Lane.
- Removal of sheds and unrestricted access would decrease security for adjoining properties by providing almost unobstructed access to surrounding gardens.
- Boundary fence not high enough to secure the neighbouring gardens.
- Parking area should be secured by automatic gates.
- The unrestricted access would increase disturbance and reduce privacy during and outside working hours.
- Reduce property values.
- Off-street parking only benefits the tenants/owners.

- Right of way exists for access from the side of number 44 to the rear of 48 and 50 Blakenall Lane.
- Visitors likely to park in front of neighbours properties causing existing residents to park down the street.
- Could residents only parking be introduced in the street?
- Boundary fence should be no higher than 5ft to allow sunlight into garden.
- If flats rented concerned about the quality of people renting them.
- Loss of privacy.
- Increase in noise.
- Light pollution.

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Principle of residential development
- Layout and design
- Relationship to surrounding properties
- Access and Parking
- Local finance considerations

### **Observations**

#### **Principle of residential development**

This commercial building is in a sustainable location between two local centres in the heart of a residential area; its conversion to residential use is acceptable as it would put forward a part vacant and underused building which is in accordance with UDP policy ENV14. UDP policy H3 also encourages provision of additional housing through the re-use of previously developed land and the NPPF encourages the effective use of land by reusing land that has previously been developed. The principle of residential development on this vacant site is considered appropriate subject to a satisfactory appearance and residential environment being achieved.

#### **Impact upon the appearance of the area**

The proposal includes a first floor extension to the front. This would bring the whole of the building's frontage in line with the established building line to the benefit of continuity. The design includes stone cills which are a character of the street. The eaves of the existing building are below the neighbouring properties and the proposal would retain this height. The main roof height is lower than its neighbours and would be raised 0.7m above both neighbouring properties. The combination of lower eaves and higher roof height would be out of keeping with the roof proportions in the street. The proposal has not fully considered the existing design and fails to take the opportunities available for improving the character of the area.

#### **Impact upon residential amenity**

The existing two storey building has a single storey wing to the rear. The proposal would reduce the length of the rear wing by 3.5m. The first floor part of the existing building projects 3.1m from the rear facing bedroom window of both neighbouring houses. The proposed first floor extension would project a further 11m creating a rear two storey wing projecting 14m to the rear compared to the neighbouring bedroom windows. This mass of built development would have a significant overbearing impact on the amenity available at the rear of these properties, impacting on the outlook from bedroom windows and would

breach the Council's '45<sup>o</sup> code'. The applicant's agent has confirmed that the adjoining properties are in the same family ownership who would have no objection to the proposal. Although there are no representations on these grounds from public consultation, the development would nonetheless impact upon the amenity of all future occupiers of these bedrooms. The neighbouring properties also have conservatories and kitchen windows on their side elevation, the extent of the first floor extension would further impact upon residential amenity by virtue of loss of light and outlook.

The proposal would use the existing access between the application site and the house at number 44. At present the access is used in association with the storage yard and three outbuildings and therefore a level of commercial activity already exists. The provision of 13 parking spaces would increase the frequency of vehicle and people movements along the access and within the proposed parking area at all times of the day and night. The present activity would be most noticeable to both houses either side of the application site. The removal of the outbuildings would be a benefit to visual amenity, but would further expose the rear yard and also open up the boundary to 2 St. Clements Avenue, 8 Hollemeadow Avenue and 46 Blakenall Lane. The access drive and parking area would expose the private realm to public access, this is likely to give rise to additional noise and disturbance as occupiers and their visitors' vehicles pass in close proximity to these boundaries, reducing security to neighbouring boundaries to the detriment of residential amenity. While a 2m high fence could be erected to this boundary it is not insurmountable nor provides a defensive barrier from the public realm which would provide little deterrent to anti-social activity in this isolated location.

Neighbour's comments about reducing the height of the fence to increase sunlight into gardens would reduce security further. Neighbours have suggested automatic gates to secure the access and in turn secure the parking area. There are no proposals for a gate, which depending on its location and means of operation could impact upon the amenity of adjoining properties.

The only window to the only bedroom of plots 1 and 6 would be 1.1m from the side blank brick elevation of number 36. The only bedroom window plots 2 and 5 would be 3.5m from the blank brick elevation of number 44. There is no bedroom window for plots 3 and 4. As a consequence there would be a poor outlook for the future occupiers of these plots creating an unsatisfactory residential environment. Further, the lounge and kitchen windows of the ground floor of plot 3 would be next to the communal amenity area. The use of this area by others would impact upon the privacy of occupiers of plot 3 to the detriment of residential amenity.

The density of the immediate area is 52.5 dwellings per hectare (dph); the proposal more than doubles this at 119dph. Policy HOU2 of the BCCS states that all developments should aim to achieve a minimum net density of 35 dwellings per hectare. It also states density and type of new housing will be informed by the need for a range of types and sizes of accommodation and the need to achieve high quality design and minimise amenity impacts. Over development results in designs which impact unduly on the character and amenity of the locality. Policy CSP4 states that design of spaces and buildings will be influenced by their context. The layout fails to respond to local context. On balance the accommodation does not provide a satisfactory layout that impacts upon residential amenity and due to the bulk of development is overdevelopment of the site contrary to policies CSP4 and HOU2 of the JCS, ENV32 of the UDP.

Neighbours object on grounds of loss of privacy to the rear of the proposal. It is not considered that the rear would give rise to privacy issues given the separation between

habitable windows and the inclusion of a boundary fence. Concern has also been raised about the quality of people renting the units. The National Planning Policy Framework encourages a mix of housing types and tenures. The planning application cannot be refused on grounds on the type of occupiers. Impact upon property values is not a material planning consideration.

The provision of a rear garden to number 44 is positive and improves residential amenity for that property.

Three 250w security lights, two to the rear and one to the side are proposed and would have security and safety benefits. One letter of objection objects to these on grounds of light pollution. The rear of the nearest property would be 40m from the security lights. The level of illumination is typical of a domestic security light. The inclusion of these lights would not give rise to loss of amenity to warrant refusal of the application.

### **Access and parking**

The proposal retains street frontage access. The existing vehicle access to the side of the building would continue to be used. The removal of commercial traffic has a benefit to highway safety. Transportation raise no objection to the proposal as the number of parking spaces to serve 7 living units meets the Council's policy. The additional parking space to the two neighbouring properties increases off-street parking. The level of vehicle movements and use of the existing access raises no issues to warrant refusal of the application on highway grounds.

Concern has been raised about visitors to the development parking in front of existing housing. The proposal meets the policy requirement for the amount of parking spaces and therefore has appropriate provision. It is also recognised that parking in the area is on street and existing residents have no control over who parks in front of their properties. Transportation raise no objection. While there would be no policy grounds to require residential permits in the area, this is outside the remit of planning powers.

Neighbours comment that they have a right of access along the access drive and behind 44 Blakenall Lane to access to the rear of numbers 46-50. The proposal does not show access being retained. While the concern is recognised this would not be a reason to refuse planning permission. This would be a civil matter between the adjoining land owners.

### **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 7 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**

The applicant through his planning agent sought pre-application advice before the submission of this detailed planning application. Officers advised that any planning application would be likely to be refused due to the impact upon residential amenity. Following formal consideration of the application support cannot be given to the proposal as it is contrary to planning policies.

### **Recommendation:** Refuse

1. The proposal would have a detrimental impact on the amenity currently enjoyed by occupants of numbers 36 and 44 Blakenall Lane by reason of the overbearing impact and loss of light and outlook that would arise from the first floor rear extension at close proximity to habitable room windows. Furthermore, the limited aspect distance between proposed bedroom windows and the blank walls of these adjoining properties, the absence of bedroom windows to two units and the relationship with the proposed amenity area would create a poor residential environment for future occupiers. As a consequence of the density of the development the proposal is considered not to be of high quality design and does not provide a satisfactory residential environment. Accordingly the proposal is contrary to the aims and objectives of National Planning Policy Guidance, policies QE1 and QE3 of the Regional Spatial Strategy, policies CSP4, HOU2, ENV2 and ENV3 of the Black Country Core Strategy and saved policies 3.6, GP2, ENV32, and H3 of the Unitary Development Plan and Supplementary Planning Document: Designing Walsall.
2. The proposal by virtue of the increased use of the access way and creation of a parking area would blur the public and private realm and result in additional noise and disturbance by way of the comings and goings of persons and vehicles at all times of the day and night. This together with general noise of car doors opening and closing, people's voices, car horns and headlights shining during the evening would collectively reduce the level of amenity that is currently available to the neighbouring houses. The proposal by virtue of unrestricted access to the parking area would expose the rear gardens of adjoining properties reducing the security to the neighbouring dwellings and gardens to the detriment of residential amenity. The proposal is therefore contrary to the aims and objectives of National Planning Policy Guidance, policies QE1 and QE3 of the Regional Spatial Strategy, policies CSP4, HOU2, ENV2 and ENV3 of the Black Country Core Strategy and saved policies 3.6, GP2, ENV32, and H3 of the Unitary Development Plan and Supplementary Planning Document: Designing Walsall.
3. The proposal due to the lower eaves height but higher roof height compared to the neighbouring properties creates a roof proportion out of keeping with its surroundings. As a result the proposal would appear at odds with its surroundings to the detriment of visual amenity. The proposal is therefore contrary to the aims and objectives of National Planning Policy Guidance, policies QE1 and QE3 of the Regional Spatial Strategy, policies CSP4, HOU2, ENV2 and ENV3 of the Black Country Core Strategy and saved policies 3.6, GP2, ENV32, and H3 of the Unitary Development Plan and Supplementary Planning Document: Designing Walsall.



## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 8.**

**Reason for bringing to committee: Significant Community Interest.**

**Application Number:** 13/0284/FL  
**Application Type:** Full application

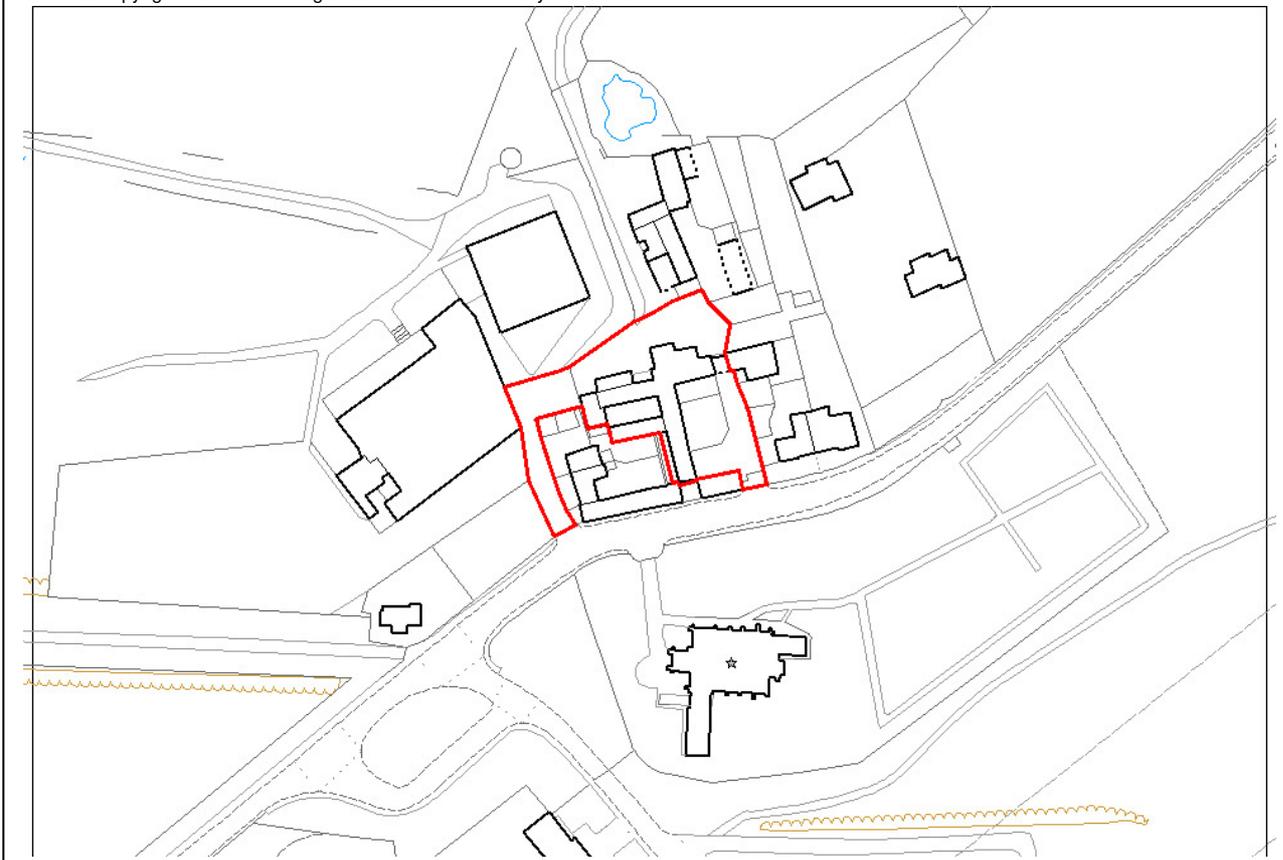
**Case Officer:** Barbara Toy  
**Telephone Number:** 01922 652615  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Mr Felipe Guzman

**Applicant:** Prestige Homes Ltd  
**Proposal:** Subdivision of residential farm complex with first floor extension to provide 2 no. additional duplex residential dwellings with associated alterations, landscaping and parking areas.  
**Location:** 107 CHAPEL LANE, GREAT BARR, BIRMINGHAM, B43 7BA  
**Ward:** Pheasey Park Farm

**Expired Date:** 22/04/2013

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

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### **Application and Site Details**

The property lies within an eight unit residential complex of former farm buildings which is situated on the northern side of Chapel Lane, within the Green Belt and Great Barr conservation area. The property comprises a two storey, 7 bedroom residential unit situated in the centre of the complex with a single storey wing along the rear boundary, set around a private courtyard. The frontage of the property faces a communal courtyard with vehicle access for use by the application property and 5 other properties in the complex.

Immediately to the south of the development on the opposite side of Chapel Lane is St Margaret's Church (grade II listed building), to the west the church car park, Great Barr golf club, club house and car park, joint access drive and 95 and 97 Chapel Lane, a pair of semi detached houses that back on to the application site and internal courtyard. Immediately to the rear (north) of the development is Chapel Farm with a large modern farm building immediately beyond the shared the access drive to the rear of the wing.

This application is a resubmission following a previous refusal for subdivision of the property, with a first floor extension to provide 5 duplex residential units, associated alterations, landscaping and parking.

This application now proposes subdivision of the property, with a first floor extension to provide two additional duplex residential dwellings with associated alterations, landscaping and parking areas.

A first floor extension to the existing single storey wing previously allowed at appeal (02-02-10 now lapsed) is incorporated into this scheme. The extension would be situated over the existing rear single storey wing element of the property and would have a gable roof with four velux roof lights in the northern facing roof slope, a small dormer window facing the inner courtyard (amenity space) and first floor windows on both elevations.

The existing two storey residential wing would remain as existing and provide a 7 bedroom property.

The existing single storey wing would have a first floor extension added as per the previous appeal and would be subdivided into 2 two bedroom units, (74sqm and 116 sqm respectively). Access to each unit would be from the rear. The existing garage would be converted to provide two parking spaces and secure refuse and cycle storage.

7 parking spaces would be provided: 2 disabled spaces within the communal courtyard area to the frontage of the main building, 2 spaces within the existing garage area and 3 spaces to the rear of 97's garage adjacent to the shared access drive.

The existing internal courtyard amenity space would be split by a boundary wall to provide a separate area for the 7 bed house (73sqm) and a shared space for the two new units (48sqm).

The following reports have been submitted in support of the application:

#### **Bat Report (updated)**

The report concludes that there are a number of access points where bats could enter the void space above the garage, but no evidence of bat presence or usage was found. The nocturnal and dawn surveys revealed no bats emerging or entering but a small number of

pipistrelles were foraging in the general vicinity. The report recommends additional surveys if any time delay in development and if bats are found during work on site then work should stop and advice sought. Features suitable for use by bats should be incorporated into the design.

### Planning Statement

Discusses the proposals, site and surroundings, current use, planning history, planning policy and comments in support of the proposals. The previous appeal inspector's decision and appeal statement are appended.

### Design and Access Statement

Discusses the design, policy, site context, constraints, use, proposals, amount, design and layout, scale, landscaping, appearance and accessibility.

### **Relevant Planning History**

BC07353P Conversion of outbuildings to 2 residential units. Granted subject to Conditions April 1983.

BC27418P Renovation of barns and outbuildings and conversion to 2 no. dwellings. Granted subject to Conditions 09/02/90. Condition 2 restricted occupation to persons employed in agriculture.

BC59765P/C Removal of condition 2 of planning permission BC27418P. Granted November 1999.

BC64421P New roof to car port/car parking area and extension to garden room with new pitched roof. Granted subject to Conditions November 2001.

08/1746/FL First floor extension to provide additional bedrooms and bathrooms. Refused 03/04/09. Subsequent appeal allowed 02-02-10.

09/0914/FL, resubmission of 08/1746/FL, amending the size and layout of the first floor extension. Granted subject to conditions 26-01-11.

12/0377/FL, subdivision of residential farm complex with first floor extension to provide 5 duplex residential dwellings with associated alterations, landscaping and parking, refused 29-11-12.

Reasons for refusal:

1. The proposals would increase the number of residential units in an unsustainable location. There is already a plentiful supply of available housing land in Walsall. Sites with planning permission provide well in excess of sufficient capacity to meet the borough's housing land needs for the next 5 years, and other identified potential housing sites provide in excess of a 15 year housing land supply. There is no requirement therefore for housing development in order to meet the housing land requirement in the Black Country Core Strategy. The development of this site in the Green Belt would be contrary to the Black Country Core Strategy, in particular the Vision, Sustainability Principles and Policies CSP2 and HOU1.

2. The proposals would intensify the use of this former group of small buildings now in residential use which by its nature has limited shared space around the buildings. The proposals would result in increased parking around the buildings and increased comings and goings to the detriment of the openness and character of the Green Belt and the Great Barr Conservation Area and the amenities of the surrounding occupiers. As such the proposals would be contrary to the National Planning Policy Framework (2012), policies HOU2, ENV2

and ENV3 of the Black Country Core Strategy (2011) and saved policies GP2, H3, ENV2, ENV3, ENV29 and ENV32 of Walsall's Unitary Development Plan (2005).

3. The proposals would intensify the use of the access and increase the traffic flow along the shared access drive to the detriment of highway safety when taking into account the existing farm traffic, golf club and church car park that also use the access drive. As such the proposals would be contrary to the National Planning Policy Framework (2012), policy TRAN2 of the Black Country Core Strategy (2011) and saved policies GP2, ENV29 and ENV32 of Walsall's Unitary Development Plan (2005).

### **Relevant Planning Policy Summary**

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

The NPPF was published on Tuesday 27<sup>th</sup> March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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:

- Proactive drive and support sustainable economic development to deliver homes taking account of the needs of the residential and business community
- Seek to secure high quality design and good standards of amenity for all existing and future occupants

Key issues from the NPPF Delivering Sustainable Development relevant in this case:

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. Deliver a wide choice of high quality homes and provide a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

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 places better for people

61. High quality and inclusive design goes beyond aesthetic consideration

9. Protecting Green Belt land

79. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

80. Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- buildings for agriculture and forestry;
- provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

## 12. Conserving and Enhancing the Historic Environment

132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be.

134. Where development proposals will lead to less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal.

On **planning obligations** and **conditions** the NPPF says;

Planning obligations should only be sought where they meet all of the following tests;

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

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 aspects.

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.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered that the relevant RS policies are;

QE3: Creating High Quality Built Environment for All

A Promote the creation of high quality built environments as part of urban and rural renaissance

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF

### **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)

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

It states that the councils will create cohesive, healthy and prosperous communities with equal access to a mix of affordable and aspirational housing.

The relevant policies are:

HOU2: Housing Density, Type and Accessibility

The need to provide a range of types and sizes of accommodation to meet local needs. States that the density and type of new housing provided on each site will be informed by, amongst other factors, the need to achieve high quality design and minimise amenity impacts, taking into account the characteristics in the area where the proposal is located. All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Design Quality

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

### **Saved Policies of Walsall's Unitary Development Plan (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

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.

II. Susceptibility to pollution of any kind

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

Para 3.3 and ENV1: The Boundary of the Green Belt -The character and function of the Green Belt will be safeguarded against inappropriate development.

ENV2: Control of Development in the Green Belt - Building extensions or associated uses of land within the Green Belt should not conflict with the openness and purpose of the Green Belt. Consideration will be given to preservation of buildings of historic or architectural importance or interest that contribute to the local character.

ENV3: Detailed Evaluation of Proposals within the Green Belt - Proposals will be assessed for their impact on;

II. The colour and suitability of building materials, having regard for local styles and materials.

ENV29: Conservation Areas

The Council will determine whether a development preserves or enhances the character and appearance of a conservation area

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. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

(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.
- The integration and co-ordination of buildings and external space.
- Community safety and security
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The proposed vehicular and pedestrian circulation patterns.
- The integration of existing natural and built features of value.
- The maintenance requirements of the developments.

### H3: Windfall Sites on Previously Developed Land

The Council will encourage the provision of additional housing through the re-use of previously developed windfall sites.

#### T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

#### T13: Parking Provision

Flats with communal parking – 1.5 spaces per unit

Flats with individual parking spaces – 2 spaces per unit

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. 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 & 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

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

DW10 – Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

The Vision: Homes, provides guidance on designing homes in Walsall.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 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 and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. 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.

It is considered in this case that the relevant provisions of Designing Walsall SPD are consistent with the NPPF.

## **Consultations**

**Transportation** – No objections

**Conservation Officer** – No objections subject to conditions. The site is situated in the Great Barr conservation Area. The extension was granted on appeal, the works for the subdivision are minor with the subdivision of the courtyard having the greatest impact. This cannot be seen from outside the development and therefore constitutes very limited harm. Conditions re materials etc should be as per the appeal inspector decision.

**Fire Officer** – No objections

**Housing Strategy** – No objections, there is a need for additional smaller accommodation.

**West Midlands Police** – No objections.

**Natural Environment** – No reason to refuse on ecological grounds, but conditions recommended re precautions to be taken during implementation re bats. The bat survey found low risks that bats may be present.

## **Public Participation**

Seven objections received.

Objections include:

- Inadequate parking facilities and the parking areas in the courtyard and adjacent to the access drive are too small
- Parking adjacent to access likely to caused access and health and safety issues for farm, golf club and other residents
- Increase in vehicle activity adding to existing residential and farm traffic causing a health and safety issue
- Will restrict access to parking for adjacent residential units
- Loss of views and noise and disturbance
- Change of outlook to overlooking a car park in the courtyard, creating noise and disturbance
- Create claustrophobia
- Planning consent for first floor extension now lapsed (appeal decision 02-02-10) so no consent for the extension
- The redline boundary is misleading as it includes shared roadways and land in other ownership.
- Breaking the property up to sell off despite comments on appeal case
- Two additional dwellings will change the character of the existing development and the courtyard which is inappropriate in the conservation area, the development was designed as low density
- The wall between 107 and 109 is very thin with no sound insulation, so increased noise from additional new dwellings
- Sewerage system already at its limit with ongoing problems, unable to cope with additional dwellings.
- Loss of light from extension to obscure glazed window at 109
- Use of land not in the ownership of the applicant
- Inaccuracies on the plans in terms of parking allocations for existing properties
- Development will destroy the history, heritage and integrity of the old buildings

- Question the safety of parking over a former well in the courtyard area (now covered over)
- Property devaluation (*not a material planning consideration*)

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

Whether the proposals overcome the previous reasons for refusal in terms of:

- Housing Needs
- Intensification of use and impact on the openness and character of the green Belt and the Great Barr Conservation Area
- Highway Safety

Additional issues for consideration

- Impact on the surrounding occupiers
- Impact on Protected Species
- Local Finance Considerations

### **Observations**

#### **Housing Needs**

The proposals would now provide two additional 2 bed units and retention of the existing 7 bed property, compared to the previous refusal which sought to provide 4 x 2 bed units and 1 x 1 bed unit. The proposals would now provide family accommodation and two smaller units, a mix of housing types, in compliance with paragraph 50 of the NPPF and policy HOU2 of the BCCS.

The proposals would provide a satisfactory residential environment for each residential unit with an appropriate level of amenity space to comply with guidance in Appendix E of Designing Walsall (more than 68sqm for the family unit and more than 20sqm for each of the new duplex apartments).

A need for both family accommodation and smaller units has been identified. As such it is considered that the type of accommodation now proposed would overcome the previous first reason for refusal relating to housing needs.

#### **Intensification of the use and impact on the openness and character of the Green Belt and Great Barr Conservation Area**

The proposals would provide only two additional residential units compared to four on the previous refusal, significantly reducing the intensification of the use and the comings and goings to the development as a whole.

The number of parking spaces provided would reduce from 8 to 7 with two spaces provided in the existing garage area for the property, reducing the number of vehicles parked around the buildings.

It is considered that the two additional units proposed would not change the overall character of the complex.

The proposed first floor extension was previously approved by a planning inspector in 2010 (consent now lapsed). The inspector concluded that the height, size and scale of the

extension would not result in disproportionate additions to the existing property and would not be inappropriate development in the Green Belt. The inspector further confirmed that the design of the extension would integrate well with the immediate surroundings and would not materially harm the character of the adjoining dwellings or the complex as a whole. The development would not adversely affect the general appearance, openness or character of the Green Belt or the conservation area. The extension would have no adverse impact on the amenities of the surrounding occupiers in terms of loss of light.

It is considered that the proposals would overcome the second previous reason for refusal and would have no adverse impact on the openness or character of the surrounding green belt or conservation area.

### **Highway safety**

The proposals would provide 7 parking spaces in total, 2 within the walled area in the main car park for the 7 bed unit, 2 within the existing garage area, (1 space for each of the new units) and 3 visitor spaces to the rear of the existing garage for No 97. This would provide parking that would comply with policy T13 of the UDP in terms of numbers and size of spaces. The parking layout is amended from the previous refusal and is considered appropriate and would not adversely impact on existing parking for other units within the complex.

The reduced number of units to be provided would reduce the intensification and traffic flows within the access drive to a level that is now considered appropriate and would have no adverse impact on highway safety, overcoming the third reason for refusal on the previous application.

### **Impact on surrounding occupiers**

It is considered that the proposals would have no adverse impact on the amenities of the surrounding residential occupiers, those residents within the complex and the surrounding land uses (church car park, golf club and adjoining farm).

The main courtyard area already provides parking for existing units in the complex and it is considered that two additional spaces would have no significant difference in terms of outlook or noise and disturbance to other residents.

Whilst objectors have raised concerns regarding the redline boundary incorporating the shared access and land not in the applicants ownership, this is required to show the access to the properties and the appropriate certificates of ownership have been completed and notices served.

The issues raised by objectors re sound insulation would be dealt with under building regulations and drainage and sewer issues dealt with by Severn Trent Water and not matters for this application.

The issue of the safety of using an area of a historic well for parking should be investigated by the applicant and an informative is recommended regarding this.

### **Impact on Protected Species**

The bat survey found low risks that bats may be present. The proposals would result in no adverse impact on protected species subject to conditions to ensure care taken during demolition and if bats are found the action to be taken and to ensure the incorporation of bat roosting features within the development.

### **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 two 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 sought clarification of details of the proposed extension during the course of the application.

### **Summary of Reasons for Granting Planning Permission**

It is considered that the number of units and type of accommodation to be provided would meet the housing needs in the area and the mix of accommodation will comply with policy guidance in the NPPF and the BCCS.

The number of units proposed will reduce the intensification of the use and the comings and goings to the site over the previous application. The increased traffic flow within the access drive will have no adverse impact on highway safety.

The number, size and location of parking spaces is considered appropriate and will reduce the number of vehicles parked around the buildings and have no additional adverse impact on the surrounding occupiers in terms of outlook or noise and disturbance.

It is considered that the two additional units proposed will not change the overall character of the complex.

The first floor extension was previously approved by a planning inspector in 2010. The inspector concluded that the height, size and scale of the extension will not result in disproportionate additions to the property and the design of the extension would integrate well with the immediate surroundings and will not materially harm the character of the adjoining dwellings or the complex as a whole. The development will not adversely affect the general appearance, openness or character of the Green Belt or the conservation area. The extension would have no adverse impact on the amenities of the surrounding occupiers in terms of loss of light.

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

The application includes access arrangements and the required ownership certificates and notices were served.

Property insulation will be dealt with under Building Regulations and drainage and sewer issues will be dealt with by Severn Trent Water.

The proposals would result in no adverse impact on protected species.

As such the development is considered to be consistent with the aims and objectives of the NPPF and sustainable development, the Regional Strategy in particular policy QE3, the Black Country Core Strategy policies HOU2, ENV2 and ENV3, Walsall's Unitary Development Plan (UDP) policies GP2, 3.3, ENV1, ENV2, ENV3, ENV29, ENV32, H3, T7 and T13 and Supplementary Planning document: Designing Walsall (2008).

**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)

2a. No development shall commence until:

- Samples of all facing and roofing materials to match the existing in colour form and texture
- Details of timber casement windows

have been submitted to and approved in writing by the Local Planning Authority.

2b. The development shall be completed with the approved details and retained as such.

*Reason:* To ensure the facing and roofing materials and windows harmonise with those in the surrounding vicinity.

3a. No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority.

3b. The development shall be completed with the approved details and retained as such.

*Reason:* To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

4a. No development shall commence on site until details of a landscaping scheme, to include details of planting, boundary treatment (including division between the amenity space in the internal courtyard) and hard surfacing are submitted to and approved by the Local Planning Authority.

4b. The scheme shall be completed in accordance with the approved details before the development is occupied.

4c. 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.

5a. Contractors undertaking dismantling works shall be made aware that bats may be present and instructed on actions to be taken if bats are discovered. Dismantling works shall be carried out in the expectation that bats may be found. Roof tiles should be lifted off individually and inspected and not slid or dragged. Other dismantling works should be undertaken carefully with hand tools where bats could potentially be roosting. If no bats or evidence of bats are found during these operations, the approved works can continue.

5b. If bats or evidence of bats are found during these operations:

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

*Reason:* To conserve local bat populations.

6a. No development shall commence until proposals to incorporate bat roosting features into the proposed development have been submitted to and approved in writing by the Local Planning Authority.

6b. The approved scheme shall be incorporated into the development before any part is brought into use and retained thereafter.

*Reason:* To conserve local bat populations.

7. No demolition, engineering or construction works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours 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.

*Reason:* To safeguard the amenity of occupiers of premises within the vicinity.

8. The works hereby approved shall only be carried out in accordance with details contained within drawings:

Location Plan Drawing 009 submitted 26<sup>th</sup> February 2013

Existing Plans drawing 001 Rev C submitted 26<sup>th</sup> February 2013

Existing Elevations drawing 002 Rev A submitted 26<sup>th</sup> February 2013

Existing Plans drawing 003 Rev C submitted 26<sup>th</sup> February 2013

Proposed Plans drawing 004 Rev B submitted 25<sup>th</sup> February 2013

Proposed Elevations drawing 005 Rev B submitted 25<sup>th</sup> February 2013

Parking/Ownership Changes drawing 006 Rev B submitted 25<sup>th</sup> February 2013

Courtyard Views drawing 007 Rev A submitted 26<sup>th</sup> February 2013

Courtyard Indicative Proposals drawing 008 Rev A submitted 26<sup>th</sup> February 2013

Planning Statement submitted 4<sup>th</sup> March 2013

Design and Access Statement submitted 25<sup>th</sup> February 2013

Bat Surveys by Middlemarch Environmental Ltd dated September 2012 and October 2010 submitted 25<sup>th</sup> February 2013

*Reason:* In order to define the permission.

**Note to Applicant**

Due to the agricultural nature of the former farmyard, the possibility of below ground structures such as wells should be investigated in advance of the storage of heavy goods and machinery, as well as the parking of vehicles, in this area. It would be in the owners interest to consult the Black Country Archaeologist in advance of undertaking any work to identify any dangerous below ground structures such as wells, as well as a full on site investigation. The Black Country Archaeologist can be contacted at Wolverhampton City Council, Civic Centre, St Peter's Square, Wolverhampton. WV1 1RP.



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 9.**

**Reason for bringing to committee: Significant community interest**

**Application Number:** 13/0248/FL  
**Application Type:** Full application

**Case Officer:** Devinder Matharu  
**Telephone Number:** 01922 652602  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** WRA LTD

**Applicant:** Cameron Homes Limited

**Proposal:** Erection of a detached, 4 bedroom property and realignment of highway access

**Location:** REAR OF 57 STAFFORD ROAD, BLOXWICH, WALSALL, WS3 3NJ

**Ward:** Bloxwich West

**Expired Date:** 25/04/2013

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

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### **Application and Site Details**

The application site forms part of the rear garden of 57 Stafford Road. The current rear garden of 57 Stafford Road is approximately 40m long and set 0.4m higher than the house. Towards the rear of the site there are conifers and shrubs within the garden and along the boundary with 59 Stafford Road a laurel hedge which exceeds 2m in height in places.

57 Stafford is a detached property with a rear single storey extension. The property has a long front garden and driveway. There are 4 semi mature trees within the front garden.

Towards the rear of numbers 53a to 65 Stafford Road is a cul de sac serving three bungalows and a dormer bungalow. Number 55c sits directly opposite the rear of 57 Stafford Road with 55b sitting at an angle to the rear of 57. A single access off Stafford Road provides access to the properties at the rear of 57 Stafford Road, number 57 is accessed from an access road off this single access. Stafford Road is a red route.

The properties along Stafford Road vary from bungalows to semi detached and detached and have long front gardens and driveways. The majority of the front gardens are landscaped with semi mature and mature trees and a mixture of low boundary wall and hedges which form the boundary with the public highway. Architectural details of the properties along Stafford Road include single and double fronted bay windows, chimneys, gable and hipped roofs, gable features, decorative timber framing, brick and timber horizontal cladding and a mixture of brick and render finishing materials.

The bungalows and dormer bungalow towards the rear of 53a to 65 Stafford Road have projecting porches, bow windows and chimneys and are constructed out of an orange facing brick with dark roofing tiles.

The site is located 370m from the edge of Bloxwich District Centre. Three bus services 1, 351 and 951A provides both half hourly and hourly services from Walsall to Cannock along the Stafford Road.

The application proposes the erection of a four bedroom detached properties to sit opposite 55c Stafford Road. The property would have a foot print of 23 square metres and would have double fronted bay windows. The house would be positioned 14m back into the site. The garage would be set back from the main front elevation by 1.7m. The scheme would provide an integral garage and parking for 3 vehicles. The rear garden would have an average length of 11m and a total amenity area of 105 square metres.

The proposal would retain a 10.5m rear garden length with an amenity area of 105 square metres for 57 Stafford Road.

The existing density of the immediate vicinity is 22 dwellings per hectare (dph) and the development would have a density of 20dph.

The following documents have been submitted with the application:

**Design and Access Statement** – the proposal represents contemporary design, the scale and massing of the proposed development reflects the character of the surroundings to fully integrate the development with the existing development.

**Arboricultural survey plan** which identifies trees on site.

Arboricultural Survey - identifying trees on site and how to protect them during construction.

Planning permission has been granted for the erection of 8 detached properties to the rear of numbers 49 to 55 Stafford Road under planning reference 12/1372/FL.

### **Relevant Planning History**

BC23090P granted permission for erection of the three bungalows to the north (55A, B and C). Granted subject to conditions 27 July 1988.

05/0325/FL/E5. Land adjacent to 55c Stafford Road, Bloxwich. Erection of detached dwelling and layout of driveway. Granted subject to conditions 2004.

12/1372/FL. 55D Stafford Road. Partial demolition of no. 55D Stafford Road and erection of 8 no. detached dwellings, associated access road and garaging. Granted subject to conditions December 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:

- 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:

#### 4: Promoting Sustainable Transport

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

39. If setting parking standards for residential LPA's should also take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

#### 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

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

#### 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 places better for people

60. It is proper to seek to promote or reinforce local distinctiveness

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.

#### 11. Conserving and enhancing the natural environment

118. opportunities to incorporate biodiversity in and around developments should be encouraged.

On **conditions** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

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.

### **Other Relevant National Policy**

The Planning System: General Principles

This has not been superseded by the NPPF. Paragraph 15 indicates that a planning application should be determined on its merits in light of all material considerations.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered that the relevant RS policy is;

QE1: Conserving and enhancing the natural environment

protect and enhance the distinctive character of different parts of the Region as recognised by the natural and character areas

QE3: Creating a High Quality Built Environment for All

Creation of high quality built environment through use of architecture, urban design and landscape design which respects local character.

CF4: The reuse of Land and buildings for housing

Optimise opportunities for new housing development.

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF.

### **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)

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*”.

It states that the councils will create cohesive, healthy and prosperous communities with equal access to a mix of affordable and aspirational housing.

The relevant policies are:

HOU2: Housing Density, Type and Accessibility

States that the density and type of new housing provided on each site will be informed by, amongst other factors, the need to achieve high quality design and minimise amenity impacts, taking into account the characteristics in the area where the proposal is located. All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness.

ENV2: Historic Character and Local Distinctiveness

proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

ENV3: Design Quality

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)

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:

Policies GP2, 3.6, 3.7 seek to make a positive contribution to the quality of the environment, whilst protecting people and not permitting 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.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV14 encourages the development of previously developed land.

ENV18: Seeks to protect, manage and enhance existing trees.

ENV17 new planting will be encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

H3 encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

T10: Accessibility Standards – General

(b) Standards will apply to all development proposals with the exception of:

i small residential developments within existing residential areas including infill plots

7.51: Easy walking/cycling distance will depend on local circumstances but the maximum will normally be regarded as 1000m.

T13: Parking Provision

3 bedroom houses and above, 2 spaces per unit

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. The following are the relevant policies;

DW3 – Character -design to respect and enhance local identity;

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 E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 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 and 20m<sup>2</sup> per dwelling where communal provision is made, setbacks to avoid terracing and provision of boundary walls. 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.

#### **Conserving Walsall's Natural Environment (April 2008)**

Expands on the policies contained within the environment chapter of the UDP. The document provides criteria for European Protected Species survey requirements.

### **Consultations**

**Transportation** –No objection

**Pollution Control Contaminated Land Team** – No objection

**Pollution Control Scientific Team** – No objection subject to condition to control working hours on site to protect the amenity of the adjoining residential occupiers.

**Fire Service** – No objection

**Environmental Health** – No objection

**Police** - No objection but comments that the developer should be mindful to Secure by Design.

**Nature Environment** – No objection

**Severn Trent Water** – No objection subject to a condition relating to drainage.

**Coal Authority** – No objection

**Arboricultural Officer** – No objection subject to a condition to ensure fencing to protect existing trees remains in situ whilst construction works is being undertaken.

### **Public Participation Responses**

Three letters have been received objecting to the scheme on the following grounds:

- Existing bungalows to the rear of 59.
- Financial gain.
- Enough land available to build on without impacting on privacy.
- Closer to 55 Stafford Road.
- Overlooking.
- Loss of privacy.
- Loss of light.
- Noise pollution.
- Affect occupiers and occupier's grandchildren's lives.
- Entrance on very tight turn in road.
- Increase in accidents at the rear of the site.
- Another access on a small turning point at the rear of the site in front of the bungalows.

One letter with three signatures has been received objecting on the grounds highlighted above.

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Principle of the Development
- Design and Layout
- Impact on the Amenities of Surrounding Occupiers
- Impact on Trees and wildlife
- Parking and Access
- Local Finance Considerations

### **Observations**

#### **Principle of the Development**

The site is situated within a well established residential area within easy walking distance (maximum of 1000m defined in paragraph 7.51 of the UDP) of Bloxwich District Centre. Along Stafford Road there are regular bus services to and from Walsall. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP.

The proposals would result in the development of part of a residential garden which can be accepted if well designed and would not have any adverse impacts.

The principle of residential development towards the rear of numbers 49 to 65 Stafford Road has been established through the granting of permission for residential development in 1988, 2004 and 2012.

The principle of an additional house is considered appropriate in this location reflecting its immediate character subject to detailed design matters being resolved.

### **Design and Layout**

The design of the proposed house would reflect the design of properties along this part of Stafford Road by replicating architectural features such as double front bay windows and a gable roof.

The design and layout of the proposed houses reflect the character of this part of Stafford Road and as such the proposal is considered acceptable in this instance.

There are 4 houses located at the rear of 53a to 65 Stafford Road. Planning permission under planning reference 12/1372/FL has been given for the development of 8 houses towards the rear of numbers 49 to 55 Stafford Road. The proposed house would be set 17m back into the application site and would be seen in the context of the whole development of this part of Stafford Road and as such the proposal for an additional single house would be considered acceptable.

Designing Walsall requires housing proposals to either provide a rear garden length of 12m or a total amenity area of 68 square metres; in this case, the total amenity area for both the proposed house and the remainder of 57 Stafford Road exceeds the 68 square metre garden size by 37 square metres.

The density of the site is 20 dwellings per hectare, reflecting the character of this part of Stafford Road. It is considered that the proposed house would not result in overdevelopment or overcrowding of the site.

### **Impact on the amenities of surrounding occupiers**

The proposed house would be positioned to back onto the rear of 57 Stafford Road. The proposal falls short of the Council's residential separation distance between ground habitable rooms of the proposed house and the ground floor habitable room windows of 57 Stafford Road by 2.5m. Whilst there is a shortfall in the habitable room separation distances, this would not unduly result in loss of amenity for either the existing occupiers of 57 or the proposed occupiers, if a suitable boundary treatment was secured to protect any direct overlooking and loss of privacy between the properties at ground floor level. At first floor level the proposal meets the habitable room separation distance of 25m.

The proposal exceeds the Council's residential separation distances between habitable room windows of 55b and 55c and the proposed house by 8m and 3m and therefore the proposal would not result in any unacceptable overlooking or loss of privacy of these properties.

The proposed dwelling would be positioned adjacent the very rear part of the garden of 59 Stafford Road. The proposed house would result in some shading to this part of the garden during the day. It is considered that this is part of the garden is the area that would not be used as often as the area immediately adjacent the rear elevation of the house and as such the proposal would not unduly result in loss of sunlight to this part of the rear garden.

The proposed house would face the rear of 57 Stafford Road and would not result in direct overlooking or loss of privacy to numbers 55 or 59 Stafford Road. Any views across to these adjacent properties would be interrupted views and as such would not unduly impact upon the amenities of these occupiers. Side facing windows in the elevations are proposed but these can be secured as obscure through an appropriate condition. Furthermore, planting can be secured through an appropriate condition within the rear garden of the proposed house, in particular along the side boundaries to protect the amenities of these adjacent occupiers.

The proposed house would be positioned to the north of the proposed garden for plot 1 under planning reference 12/1372/FL and as such would not unduly result in loss of sunlight to this rear garden.

A condition restricting the hours of construction work on site can be imposed to protect the amenity of surrounding residential occupiers during the building period.

Financial gain is not considered to be a material planning consideration in this case.

### **Impact on Trees and wildlife**

The proposals have been assessed by the Natural Environment team who confirm that a bat survey was not required in support of this application.

The majority of the trees within the rear garden of 57 Stafford Road are conifers and whilst these do attribute to the character of the area their removal is considered acceptable subject to adequate replacement planting being sought by condition.

### **Parking and Access**

The proposal provides 3 off road parking spaces in line with Policy T13 of the UDP. The proposal provides a turning facility within the application site ensuring vehicles are able to enter and exit in a forward gear ensuring drivers have adequate vehicle visibility. The vehicular access to the site utilises an existing access and Transportation have no objection to the proposal.

The traffic from an additional house would not unduly impact on the safe operation of the highway network, Stafford Road. There is no evidence to suggest the development of an additional house would increase vehicle incidents at the rear of the site and as such Transportation have no objection to the proposal.

### **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 a single 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 delivery of homes in previous years the total amount awarded this year was £2,583,252 (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 might 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**

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

### **Summary of Reasons for Granting Planning Permission**

1. The 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. Prior to the commencement of this permission samples of all facing, roofing and driveway surface materials shall be submitted to and approved in writing by the Local Planning Authority.

2b. The development shall be fully completed with the approved details and retained as such.

*Reason:* To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

3a. Prior to the commencement of this permission drainage details for the disposal of surface water and foul sewage shall be submitted to and approved in writing 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 the development is provided with 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.

4a. Prior to the commencement of this permission, a detailed landscaping scheme illustrating/detailing:

- all planting within the site, including planting on the rear boundary
- planting densities
- planting numbers
- size of plants to be planted
- soil depth
- soil specification
- all proposed hard surfaces

- all boundary walls and fences
  - access features
  - details of all existing hedges and trees to be retained
  - details of existing vegetation to be protected during the construction phase
- shall be submitted to and approved in writing by the Local Planning Authority.

4b. The boundary fences / walls shall be erected prior to the first occupation of the proposed dwelling.

4c. The approved landscaping scheme shall be implemented within 12 months of any part of the development being brought into use.

4d. Within 5 years from the date of planting any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted.

*Reason:* In order to safeguard the satisfactory appearance and safety of the development of the application site.

5a. Prior to the commencement of this permission, details of all external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall include manufacturer's details.

5b. All external lighting shall be carried out in accordance with the approved details and retained and maintained at all times.

*Reason:* To protect the amenity of adjoining residential occupiers.

6. Prior to the commencement of this permission, tree protection fencing shall be constructed as specified in paragraph 7.06 of the BS: 5837 Tree Survey and Arboricultural Impact Assessment by Peter Jackson of Design Construction Management Services, dated 20 March 2013. All tree protection fencing shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2012.

*Reason:* To safeguard the retained trees on the site.

7a. Prior to the first occupation of the development, the driveway and parking area within the curtilage of the site shall be fully consolidated, hard surfaced and drained.

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

*Reason:* To ensure the satisfactory completion and operation of the development.

8. No demolition, engineering or construction works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday\*, and otherwise such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours 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 Years Day, Good Friday, Easter Monday, May Day, Spring Bank Holiday Monday and August Bank Holiday Monday.)

*Reason:* To safeguard the amenity of occupiers of premises within the vicinity.

9a. The side facing ensuite windows as shown on drawing number 2041/36 submitted on 19 February 2013 hereby approved shall comprise of obscure glazing which meet Pilkington level 4 or equivalent and shall be bottom hinged and be retained thereafter.

9b. The side facing landing window as shown on drawing number 2041/36 submitted on 19 February 2013 hereby approved shall comprise of obscure glazing which meet Pilkington level 4 or equivalent and shall be non opening and retained thereafter.

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

10. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Amendment) (N02) (England) Order 2008, or succeeding Orders, no works shall be carried out under Part 1, Classes A to E.

*Reason:* To enable the Local Planning Authority to retain effective control over future development of this site.

11. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1990, Schedule 2, Part 2, Class A no fence, wall or other boundary structure exceeding 600mm in height above ground level shall be erected around the property frontage.

*Reason:* To ensure adequate visibility at the access point.

12. The works hereby approved shall only be carried out in accordance with details contained within drawings:

- 2041/36 - House type Silverdale planning drawing elevations submitted 19<sup>th</sup> February 2013.
- 2041/37- House type Silverdale planning drawing floor plans submitted 19<sup>th</sup> February 2013.
- 2041/N – planning layout submitted 25 March 2013.

*Reason:* To define the permission.

#### Notes for Applicant

The Police have advised that the developer be mindful to Secure by Design.

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

1. The 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. Prior to the commencement of this permission samples of all facing, roofing and driveway surface materials shall be submitted to and approved in writing by the Local Planning Authority.

2b. The development shall be fully completed with the approved details and retained as such.

*Reason:* To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

3a. Prior to the commencement of this permission drainage details for the disposal of surface water and foul sewage shall be submitted to and approved in writing 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 the development is provided with 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.

4a. Prior to the commencement of this permission, a detailed landscaping scheme illustrating/detailing:

- all planting within the site
  - planting densities
  - planting numbers
  - size of plants to be planted
  - soil depth
  - soil specification
  - all proposed hard surfaces
  - all boundary walls and fences
  - access features
  - details of all existing hedges and trees to be retained
  - details of existing vegetation to be protected during the construction phase
- shall be submitted to and approved in writing by the Local Planning Authority.

4b. The boundary fences / walls shall be erected prior to the first occupation of the proposed dwelling.

4c. The approved landscaping scheme shall be implemented within 12 months of any part of the development being brought into use.

4d. Within 5 years from the date of planting any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted.

*Reason:* In order to safeguard the satisfactory appearance and safety of the development of the application site.

5a. Prior to the commencement of this permission, details of all external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall include manufacturer's details.

5b. All external lighting shall be carried out in accordance with the approved details and retained and maintained at all times.

*Reason:* To protect the amenity of adjoining residential occupiers.

6. Prior to the commencement of this permission, the recommendations and guidelines as detailed in the BS: 5837 Tree Survey and Arboricultural Impact Assessment and associated plans 1, 2 and 3 by Peter Jackson of Design Construction Management Services, received on 21 March 2013 shall be fully implemented and all tree protection fencing shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2012.

*Reason:* To safeguard the retained trees on the site.

7a. Prior to the first occupation of the development, the driveway and parking area within the curtilage of the site shall be fully consolidated, hard surfaced and drained.

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

*Reason:* To ensure the satisfactory completion and operation of the development.

8. No demolition, engineering or construction works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday\*, and otherwise such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours 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 Years Day, Good Friday, Easter Monday, May Day, Spring Bank Holiday Monday and August Bank Holiday Monday.)

*Reason:* To safeguard the amenity of occupiers of premises within the vicinity.

9a. The side facing ensuite windows as shown on drawing number 2041/36 submitted on 19 February 2013 hereby approved shall comprise of obscure glazing which meet Pilkington level 4 or equivalent and shall be bottom hinged and be retained thereafter.

9b. The side facing landing window as shown on drawing number 2041/36 submitted on 19 February 2013 hereby approved shall comprise of obscure glazing which meet Pilkington level 4 or equivalent and shall be non opening and retained thereafter.

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

10. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Amendment) (N02) (England) Order 2008, or succeeding Orders, no works shall be carried out under Part 1, Classes A to E.

Reason: To enable the Local Planning Authority to retain effective control over future development of this site.

11. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1990, Schedule 2, Part 2, Class A no fence, wall or other boundary structure exceeding 600mm in height above ground level shall be erected around the property frontage.

*Reason:* To ensure adequate visibility at the access point.

12. The works hereby approved shall only be carried out in accordance with details contained within drawings:

- 2041/36 - House type Silverdale planning drawing elevations submitted 19<sup>th</sup> February 2013.
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- 2041/N – planning layout submitted 25 March 2013.

*Reason:* To define the permission.

Notes for Applicant

The Police have advised that the developer be mindful to Secure by Design.



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 10.**

**Reason for bringing to committee: Significant community interest**

**Application Number:** 12/1670/FL  
**Application Type:** Full application

**Case Officer:** Devinder Matharu  
**Telephone Number:** 01922 652602  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** The Tyler-Parkes Partnership Ltd

**Applicant:** Kingswood Homes (West Midlands) Ltd

**Proposal:** Erection of two dwellings with access from Millcroft Road.

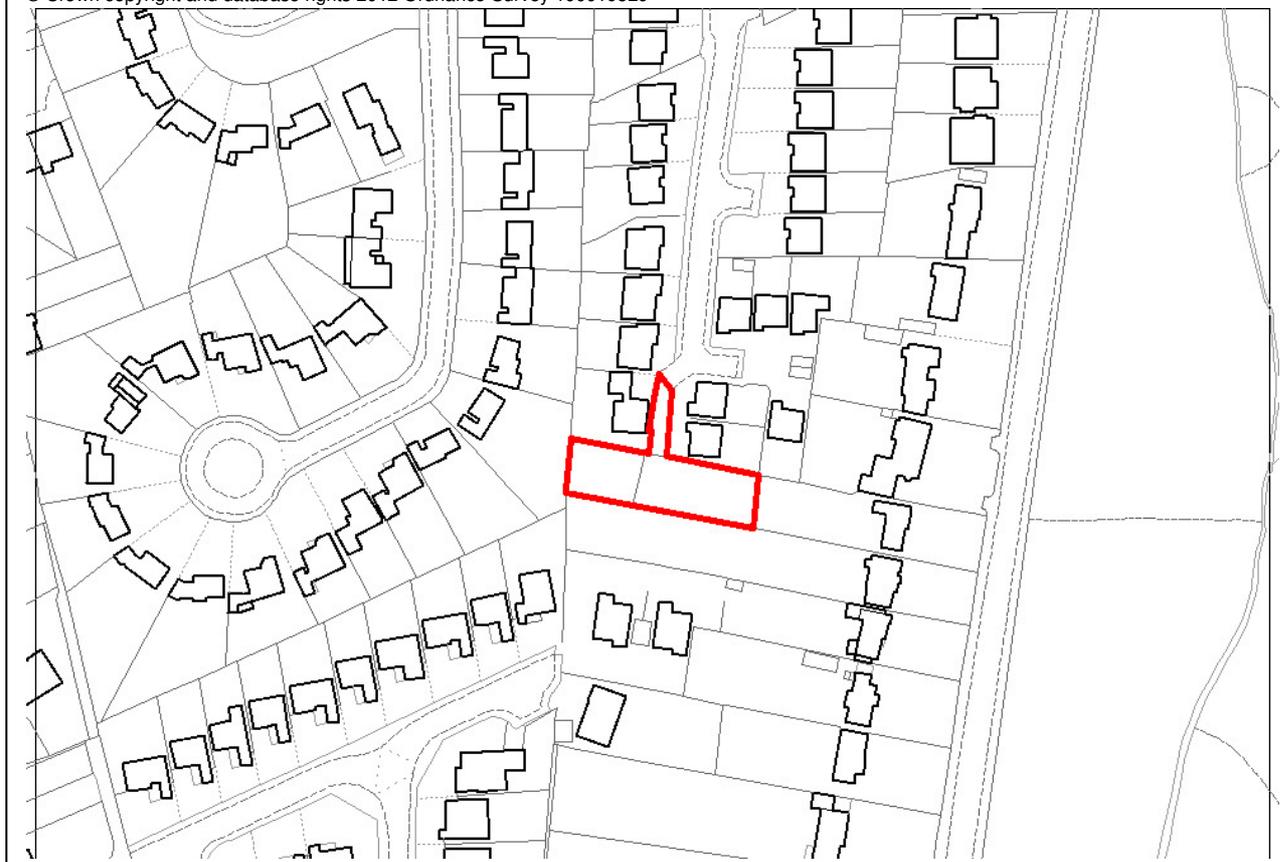
**Location:** LAND AT REAR OF 160 THORNHILL ROAD, STREETLY, B74 2EH

**Ward:** Streetly

**Expired Date:** 28/02/2013

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

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### **Current Status**

The application was deferred at the 7<sup>th</sup> March 2013 Planning Committee to allow the agent to review the scheme to address the concerns of the occupiers of 30 Millcroft Road.

Plot 2 has been redesigned and repositioned to incorporate:

- The height of the whole roof has been lowered by a maximum of 1.1m nearest to 30 Millcroft Road and amended from a gable to a hip roof incorporating dormer windows to the front and rear.
- The house is set 0.7m further back into the site.
- The floor area has increased from 99 square metres to 129 square metres.
- The rear garden length has been reduced from 9.5m to 7.2m and the total amenity area has been reduced from 138 square metres to 100 square metres.

The dimensions remain the same as on the original scheme.

The original report now follows with updates that refer to the amended plans.

### **Application and Site Details**

The application site forms part of the rear garden of 160 Thornhill Road. The current rear garden of 160 Thornhill Road is approximately 81m long, split into four sections. The first section being 0.6m higher than the house ground level, the second level being 0.5m higher than the first section, the third and fourth section being 0.6m higher than the second level, in total the application site sits 1.7m higher than 160 Thornhill Road but at the same level as Millcroft Road. There are a number of trees and shrubs within the garden and along the boundaries with the adjoining properties. At the very end of the garden, adjacent 30 Millcroft Road is a tennis court.

160 Thornhill Road is a large detached property with rear two and single storey extensions.

Along part of the rear garden, towards the north is Millcroft Road. The southern end of Millcroft Road forks into two with the western end serving 4 properties, numbers 28, 30, 33 and 35 with 30 and 35 sitting parallel to the application site and 31 facing the rear garden of 160.

Numbers 35 and 33 sit facing number 30 across the private drive way. Number 30 is a corner plot that is positioned with the front elevation facing number 28 and the rear elevation facing towards 160 Thornhill Road and the side elevation facing the access drive. This side elevation is blank at first floor with two small windows at ground floor. These ground floor windows are screened from the access drive by a brick wall approximately 2m high. The rear elevation of 30 has a bedroom window at first floor and two kitchen windows at ground floor. The kitchen windows overlook the side garden which varies in length from 4.6m to 3.8m.

Number 35 has no windows on the side gable facing the rear garden of 160 Thornhill Road.

To the south of the application site is number 162 Thornhill Road, a large detached property that sits in line with 160 and has an 80m long rear garden. To the east of the site is 17 Tudor Grove, a house set at an angle to the application site, with a large average length rear garden of 22m.

Millcroft Road is a modern cul de sac of detached properties, accessed Thornhill Road between numbers 144 and 148. On Thornhill Road there are a mix of large detached properties, some of which are arts and crafts in design.

The application proposes the erection of 2 four bedroom detached properties to sit adjacent 35 and 30 Millcroft Road. Both properties are “L” shaped with integral garages of traditional brick and tile construction, reflecting the design of houses in Millcroft Road and include;

-**Plot 1**, 95 square metres floor area, height 7.2metres, includes ground floor bay window, 3 off road parking spaces, rear garden length of 9.5m and garden amenity of 138 square metres.

-**Plot 2**, 129 square metres floor area, height 6.4 metres to include 4 dormers on the front and rear and a hipped roof adjacent 30 Millcroft Road, 3 off road parking spaces, rear garden length of 7.2m and garden amenity of 100 square metres.

The site is 1300 metres from Streetly Local Centre and 1200m from Streetly Village just over the Walsall boundary in Lichfield. Across Thornhill Road is Sutton Park.

The proposal would retain a 29m rear garden length with an amenity area of 421 square metres for 160 Thornhill Road.

The existing density of the immediate vicinity is 42 dwellings per hectare (dph) for Millcroft Road, for numbers 148 to 168 Thornhill Road is 12 dph and for the northern end of Linforth Drive –Rowthorn Close and Leandor Drive is 17 dph and for Ryknild Drive is 6 dph. The development would have a density of 33 dph.

The following documents have been submitted with the application:

**Design and Access Statement** – which states the built form is designed with reference to the local vernacular, buildings will convey an overall sense of unity, a mixture of building types and roof forms is incorporated to add interest and vitality, the dwellings have been designed at two storey. The report concludes by stating the proposal would provide an opportunity to create a high quality residential development.

**Planning Support Statement** – which states:

- the site is on the eastern side of Thornhill Road characterised by large detached properties, interspersed with various drives and cul de sacs.
- Opposite side of Thornhill Road is Sutton Park.
- Northern boundary of site 3 detached properties in Millcroft Road.
- Proposal to provide 2 detached properties with access from an extension to the existing private drive which serves 30, 33 and 35 Millcroft Road.
- The house type is traditional with facing brickwork and pitched tiled roofs.
- Appropriate windfall site within a residential area with good access services and public transport
- The design, scale and massing of the proposed dwellings is in keeping with Millcroft Road.
- Habitable room window at first floor of number 30, plot 2 designed to provide a 12m separation distance between this window and the side facing wall.
- Rear gardens have areas in excess of 68 square metres.
- No trees of any merit which would be affected.
- Each plot has 2 parking spaces and an integral garage.

**Traffic and Transportation Statement** which states:

- The proposal has the provision of 2 off road parking spaces and an integral garage
- Layout includes sufficient manoeuvring to allow a private car to enter and leave the driveway in a forward gear.
- New owners can place wheelie bins on verge in accordance with manual for streets.
- A housing development of 2 properties on an existing cul de sac of 44 properties at Millcroft cannot be described to have a severe traffic impact
- The existing infrastructure of Millcroft is adequate to serve the development

- The route of Thornhill Road accommodates high traffic flows but the traffic from additional two houses using the junction with Millcroft Road would not have a material impact on safety.
- Inter-visibility is available between vehicles manoeuvring and emerging from each private area is such that there is a negligible safety risk at this location at the termination of public highway.

**Tree survey plan** which identifies trees and shrubs on site, in particular a number of conifer trees.

### **Relevant Planning History**

None

### **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:

- 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:

#### 4: Promoting Sustainable Transport

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

39. If setting parking standards for residential LPA's should also take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

#### 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

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

#### 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 places better for people

60. It is, proper to seek to promote or reinforce local distinctiveness

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.

#### 11. Conserving and enhancing the natural environment

118. opportunities to incorporate biodiversity in and around developments should be encouraged.

On **conditions** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

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.

### **Other Relevant National Policy**

The Planning System: General Principles

This has not been superseded by the NPPF. Paragraph 15 indicates that a planning application should be determined on its merits in light of all material considerations.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered that the relevant RS policy is;

QE1: Conserving and enhancing the natural environment

protect and enhance the distinctive character of different parts of the Region as recognised by the natural and character areas

QE3: Creating a High Quality Built Environment for All

Creation of high quality built environment through use of architecture, urban design and landscape design which respects local character.

CF4: The reuse of Land and buildings for housing

Optimise opportunities for new housing development.

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF.

### **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)

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*".

It states that the councils will create cohesive, healthy and prosperous communities with equal access to a mix of affordable and aspirational housing.

The relevant policies are:

HOU2: Housing Density, Type and Accessibility

States that the density and type of new housing provided on each site will be informed by, amongst other factors, the need to achieve high quality design and minimise amenity impacts, taking into account the characteristics in the area where the proposal is located. All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness.

ENV2: Historic Character and Local Distinctiveness

proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

ENV3: Design Quality

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)

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:

Policies GP2, 3.6, 3.7 seek to make a positive contribution to the quality of the environment, whilst protecting people and not permitting 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.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV14 encourages the development of previously developed land.

ENV18: Seeks to protect, manage and enhance existing trees.

ENV17 new planting will be encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

H3 encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

T10: Accessibility Standards – General

(b) Standards will apply to all development proposals with the exception of:  
i small residential developments within existing residential areas including infill plots  
7.51: Easy walking/cycling distance will depend on local circumstances but the maximum will normally be regarded as 1000m.

T13: Parking Provision

3 bedroom houses and above, 2 spaces per unit

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. The following are the relevant policies;

DW3 – Character -design to respect and enhance local identity;

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 E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 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 and 20m<sup>2</sup> per dwelling where communal provision is made, setbacks to avoid terracing and provision of boundary walls. 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.

#### **Conserving Walsall's Natural Environment (April 2008)**

Expands on the policies contained within the environment chapter of the UDP. The document provides criteria for European Protected Species survey requirements.

### **Consultations**

**Transportation** – No objection subject to a condition relating to the parking and driveways.

**Pollution Control Scientific Team** – No objection subject to a noise condition to protect the amenity of neighbouring occupiers.

**Pollution Control Contaminated Land Team** – No objection

**Fire Service** – No objection

**Severn Trent Water** - No objection subject to drainage details being submitted and approved in writing.

**Ecology Officer-** No objection subject to a condition to ensure all site clearance work is undertaken outside the bird nesting season.

**Arboricultural Officer** – No objection subject to a landscaping scheme

### **Public Participation Responses**

Thirty six letters from thirty one residents have been received objecting to the original scheme on the following grounds:

- Site history incorrect.
- Rural character of area.
- Harm local area.
- Impact on character and identity of local area.
- Not previously developed land.
- Garden land.
- No street frontage.
- Design inappropriate.
- House sizes not proportion to plot sizes.
- Height of building.
- Overdevelopment.
- High density development in surrounding area already.
- Loss of privacy.
- Close proximity of habitable room windows facing application site.
- Loss of outlook.
- Overlooking.
- Overbearing impact.
- Loss of sunlight and daylight.
- Shading.
- Right to light.
- Light pollution.
- Impact on amenity and living conditions of residents due to noise and disturbance.
- Existing drainage problems.
- Impact on trees and wildlife.
- Impact on protect bat species.
- Increase in number of wheelie bins at the entrance of the site.
- Already a number of wheelie bins on site.
- Security issues.
- Access and parking issues - no parking facilities for construction workers, congestion, increase in traffic, obstruction to existing residents, narrow access serves 3 properties, vehicle near misses, additional traffic pulling onto Thornhill Road, not in keeping with road width and depth, access for emergency vehicles and loss of parking for existing properties.
- Increased collisions between vehicles and pedestrians.
- Lack of footpath.
- Does not meet separation distances.
- Devalue of property.

Six letters have been received objecting to the amended proposal on the following grounds:

- Inappropriate development
- Overbearing
- Overdevelopment
- Overlooking
- Loss of privacy
- Loss of daylight

- Loss of sunlight
- Overshadowing
- Loss of outlook
- Impact on quality of life of existing residents
- Impact on amenity and living conditions of residents due to noise and disturbance.
- Garden lengths insufficient
- Excavation of site result in rubble removed off site
- Access and parking issues - access to 30, 33, and 35 restricted during construction, additional traffic, heavy goods vehicles drive past homes to access construction site, narrow access serves 3 properties, vehicle near misses, single access point, obstruction to existing residents, access for emergency vehicles and no account taken off width of access drive.
- Increase in number of wheelie bins at the entrance of the site.

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Principle of the Development
- Design and Layout
- Impact on the Amenities of Surrounding Occupiers
- Impact on Trees and wildlife
- Parking and Access
- Local Finance Considerations

### **Observations**

#### **Principle of the Development**

The proposed houses would be in a residential area within easy walking distance of Streetly local centre (Chester Road) and Streetly Village local centre (Lichfield DC). Although these centres are over the maximum 1000m as defined in paragraph 7.51 of the UDP, these centres are only marginally over the 1000m thresholds not dissimilar to the surrounding houses and considered to be consistent with guidance in the NPPF, BCCS and UDP.

Whilst the proposals would result in the development of part of a residential garden which is not defined as previously developed land in the NPPF, in this case it is considered that the proposals would not harm the local area and would not adversely impact on the character and identity of the vicinity as the houses are considered to reflect the immediate character.

Whilst Thornhill Road has a semi rural character fronting onto Sutton Park, Millcroft Road has a more urban character and environment with houses with street frontages and houses to their rears. The proposal reflects the character of Millcroft Road.

An appropriate level of private amenity would be retained for 160 Thornhill Road whilst creating an appropriate level of private amenity for both new houses.

Officers are aware of the site history, which is over 20 years old and as such not relevant as any new proposal would be assessed against current planning policy.

The principle of 2 additional houses is considered appropriate in this location reflecting its immediate character.

#### **Design and Layout**

The proposed houses would sit adjacent to numbers 30 and 35 Millcroft Road within relatively similar plot sizes and similar house designs. Plot 2 has been repositioned to sit further back into the site by 0.7m whilst still reflecting the layout of Millcroft Road.

The ridge height of the plot 1 would be lower than 35 Millcroft Road reducing any visual impact within the street scene.

The ridge height of plot 2 has been amended to include a lower roof line of approximately a metre and includes a hip adjacent 30 Millcroft Road. The reduced ridgeline would ensure the property sits comfortably within the street scene and adjoining property. Dormer windows are proposed within the roofspace of plot 2 to provide light into the first floor of the proposed house. Whilst Dormer windows are not characteristic along Millcroft Road, in this case the dormer windows break up the mass of the roof space and add character to the house.

The design and layout of the proposed houses reflect the character of Millcroft Road and as such the proposal is considered acceptable in this instance.

Designing Walsall requires housing proposals to either provide a rear garden length of 12m or a total amenity area of 68 square metres; In this case, the total amenity area for both houses exceeds the 68 square metre garden size by 70 and 32 square metres.

Boundary treatments can be sought via condition to ensure all adjoining surrounding properties are secured. Residents have concerns about security. The two properties would provide additional natural surveillance of locality adding to the security of the vicinity.

Residents concerns regarding the existing drainage problems in the area, Severn Trent Water have no objection to the proposal subject to drainage details being submitted and agreed at a later stage via an appropriate condition.

Residents concerns about the number of wheelie bins currently at the entrance of the private drive and further wheelie bins would be placed in an already crowded area. The issue of wheelie bins being placed outside on the street frontage for bin collection is not a material planning consideration; this is a matter for street pride to review their operating procedures.

The density of the site is 33 dwellings per hectare, reflecting the character of Millcroft Road. It is considered that the proposed house would not result in overdevelopment or overcrowding of the site.

### **Impact on the amenities of surrounding occupiers**

The proposal would not unduly result in the overlooking of the rear garden of 162 Thornhill Road, numbers 9 and 11 Rowthorn Close or numbers 20 and 35 Millcroft Road as there are no side facing windows on the proposed houses which would also prevent any loss of privacy for these occupiers.

The occupier of 162 Thornhill Road, to the south of the application site is concerned the proposed houses would be overbearing. The proposed houses would be positioned over half way down the rear garden, some 30 metres away from the objector's house, exceeding Designing Walsall minimum standards. Whilst the new houses would be seen from the rear garden of 162 Thornhill Road, the new houses would be seen in the context of the existing properties on Millcroft Road, plus the new houses would be to the north of 162's garden, minimising any loss of light and shadowing concerns, as such would not have an overbearing impact upon the amenities of the occupiers to warrant refusal of the application.

The proposal exceeds the Council's residential separation distances between habitable room windows between plot 1 and 160 Thornhill Road and plot 2 and 17 Tudor Grove and therefore the proposal is unlikely to result in overlooking or loss of privacy of these properties.

Number 30 has habitable room windows facing the application site at both ground and first floor. Plot 2 has been repositioned to sit 0.7m further back into the site to avoid overlapping both the ground and first floor habitable room windows of 30 Millcroft Road. The separation distance from the side facing habitable room windows of Millcroft to the side gable to plot 2 meets the Council's 13m separation distance between habitable room windows and blank walls exceeding 3m high.

It is considered that due to the positioning of the 'L' shaped footprint, the reduced roof height and the hipped element to the roof of plot 2, this proposed house would not unduly upon the amenities of the occupiers of 30 Millcroft Road by way of loss of daylight or sunlight.

Plot 2 may result in some shading of the side garden of 30 Millcroft Road, however, it is considered due to the orientation, separation distance and shape and design of the house, this would minimise any shadowing impact due to the shadow being dissipated over the length of the shadow.

The occupiers of 9 and 11 Rowthorn Close to the south of the application site have sought clarification as to whether the 45 degree code would apply from their property. These properties are at least 24m away, meeting the Council's minimum separation distance, with a third party garden between. The proposal is considered not to impact upon the amenities of these occupiers by way of loss of light as they are south facing with a 24m separation distance between the houses.

Residents have raised concerns over light pollution; any external lighting to be installed can be conditioned.

A condition restricting the hours of construction work on site can be imposed to protect the amenity of surrounding residential occupiers during the building period.

Residents have referred to right to light; this issue is a civil matter residents would need to take up with the developer.

Loss of outlook and devaluing of property are not material planning considerations.

### **Impact on Trees and wildlife**

The proposals have been assessed by the Natural Environment team who confirm that a bat survey was not required in support of this application. There are no major trees or buildings on the site where bats could be expected to roost. The application site is a tennis court which has negligible value as foraging habitat for bats. There are a number of hedges, shrubs and small trees, which may be adversely affected. However, bats can range several kilometres from their roosts so the loss of a tiny bit of habitat will not be significant. The development would not result in the loss or damage to any key habitat features for bats.

The majority of the trees within the rear garden of 160 Thornhill Road are conifers and whilst these do attribute to the character of the area their removal is considered acceptable subject to adequate replacement planting being sought by condition.

### **Parking and Access**

The proposal provides 3 off road parking spaces for each of the houses in line with Policy T13 of the UDP. The vehicular access to the site utilises an existing private access point adjacent numbers 30 and 35 Millcroft Road, which serves these two existing properties and number 33 Millcroft Road. The width of this existing driveway is wide enough for 2 way traffic and Transportation have no objection to the proposal.

Residents concerns regarding disruption during construction of the houses in particular construction vehicles driving past their homes, it is accepted there may be a small amount of disruption during the construction of 2 houses. It is considered there would be a limited amount of construction vehicles on site to result in access issues to other houses on Millcroft Road. There is parking within the curtilage of 160 Thornhill Road, which could be used during the construction phase of the development. Any works would be undertaken during the daytime hours to minimise any potential access issues. It is considered that in this instance, the level of disruption to neighbours during the construction period would not be enough to sustain a reason for refusal.

The traffic from 2 additional houses would not unduly impact on the safe operation of the highway network, Millcroft Road and Thornhill Road and as such Transportation have no objection to the proposal. Transportation confirms that it is not a highway requirement to provide a segregated footpath on a shared private drive serving up to 5 houses. The proposed driveway would be a shared surface for both vehicles and pedestrians.

Emergency vehicles would be able to utilise the existing private driveway to gain access to the proposed houses. The Fire Officer has no objection to the proposal.

Residents have stated that the private drive is used for the parking of vehicles by existing disabled residents. The private drive is owned by the developer and any existing parking issues would need to be taken up with the developer as a private matter. The properties in Millcroft Road have adequate off road parking facilities within the curtilage of their properties to accommodate their vehicles without utilising third party land.

### **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 2 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 delivery of homes in previous years the total amount awarded this year was £2,583,252 (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 might 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**

During the processing of the application, the agent was advised to amend the scheme to reduce the height of the proposed dwellings.

### **Summary of Reasons for Granting Planning Permission**

The proposed houses are situated within a well established residential area in a sustainable location. Whilst the proposals would result in the development of a residential garden, the proposals would not harm the local area and would not adversely impact the character and identity of the vicinity as the houses are considered to reflect the immediate character.

The sizes of the plots are sufficient to accommodate 2 additional houses with appropriate amenity space being provided for the proposed houses and adequate amenity space being retained for the existing property.

The plot sizes and design of the proposed houses are reflective of the design and plot sizes of the properties along Millcroft Road and as such the proposal is considered acceptable in this instance.

The ridge height of plot 2 has been amended to include a lower roof line of approximately a metre and includes a hip adjacent 30 Millcroft Road. The reduced ridgeline would ensure the property sits comfortably within the street scene and adjoining property. Dormer windows are proposed within the roofspace of plot 2. Whilst Dormer windows are not characteristic along Millcroft Road, the dormer windows would break up the mass of the roof space and add character to the house.

Replacement planting and all boundary treatments would be sought at a later date.

The two properties would provide additional natural surveillance of locality adding to the security of the vicinity.

The issue of wheelie bins being placed outside on the street frontage for bin collection is not a material planning consideration; this is a matter for street pride to review their operating procedures.

The density of the site is reflective of the character of Millcroft Road and therefore would not result in overdevelopment or overcrowding of the site.

Drainage can be agreed at a later stage.

There are no side facing windows on the proposed plots reducing any loss of privacy or overlooking for adjoining residential occupiers.

The houses would be seen against the back drop of the existing properties on Millcroft Road and as such would not have an overbearing impact.

The proposal exceeds the habitable room separation distances from the rear of 162 Thornhill Road, 17 Tudor Grove and meets the habitable room separation distance from the rear of 9 and 11 Rowthorn Close. The proposal is considered not to impact upon the amenities of the occupiers of this property by way of overlooking or loss of privacy. The proposed houses would be north of 162 Thornhill Road and 9 and 11 Rowthorn Close minimising loss of light and shadowing concerns.

Plot 2 has been repositioned to sit 0.7m further back into the site to avoid overlapping both the ground and first floor habitable room windows of 30 Millcroft Road. The separation distance from the side facing habitable room windows of Millcroft to the side gable to plot 2 meets the Council's 13m separation distance between habitable room windows and blank walls exceeding 3m high.

Due to the positioning of the 'L' shaped footprint, the reduced roof height and the hipped element to the roof of plot 2, this proposed house would not unduly upon the amenities of the occupiers of 30 Millcroft Road by way of loss of daylight or sunlight.

Plot 2 may result in some shading of the side garden of 30 Millcroft Road, however, it is considered due to the orientation, separation distance and shape and design of the house, this would minimise any shadowing impact due to the shadow being dissipated over the length of the shadow.

External lighting can be agreed at a later date.

A condition restricting construction work on site would be imposed to protect the amenity of surrounding residential occupiers.

Residents have referred to right to light; this issue is a civil matter residents would need to take up with the developer.

Loss of outlook and devaluing of property are not material planning considerations in this case.

The development would not result in the loss or damage to any key habitat features for bats.

The proposal provides 3 off road parking spaces for the proposed houses in line with Policy T13 of the UDP.

It is accepted there may be a small amount of disruption during the construction of 2 houses. It is considered there would be a limited amount of construction vehicles on site to result in access issues to other houses on Millcroft Road. There is parking within the curtilage of 160 Thornhill Road, which could be used during the construction phase of the development. Any works would be undertaken during the daytime hours to minimise any potential access issues. It is considered that in this instance, the level of disruption to neighbours during the construction period, would not be enough to sustain a reason for refusal.

The traffic from 2 additional houses would not unduly impact on the safe operation of the highway network, Millcroft Road and Thornhill Road. It is not a highway requirement to provide a segregated footpath on a shared private drive serving up to 5 dwellings. The proposed driveway would be a shared surface for both vehicles and pedestrians.

Emergency vehicles would be able to utilise the excising private driveway to gain access to the proposed houses.

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 a 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 2 new homes. The local finance contributions are weighed in this decision but are not considered to be a determinative issue.

The proposal is consistent with the NPPF and is considered to accord with the aims and objectives of the Regional Strategy (2008), the Black Country Core Strategy (2011), in particular policies HOU2, ENV3 and ENV2, Walsall Unitary Development Plan (2005), in particular saved policies GP2, ENV32, ENV33, T7, T10, 7.51 and T13 and Supplementary Planning Documents – Designing Walsall (2008) and Natural Environment (2008).

**Recommendation:** Grant Permission Subject to Conditions

1. The 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. Prior to the commencement of this permission samples of all facing, roofing and driveway surface materials shall be submitted to and approved in writing by the Local Planning Authority.

2b. The development shall be fully completed with the approved details and retained as such.

*Reason:* To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

3a. Prior to the commencement of this permission drainage details for the disposal of surface water and foul sewage shall be submitted to and approved in writing 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 the development is provided with 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.

4a. Prior to the commencement of this permission, a detailed landscaping scheme illustrating/detailing:

- all planting within the site
  - planting densities
  - planting numbers
  - size of plants to be planted
  - soil depth
  - soil specification
  - all proposed hard surfaces
  - all boundary walls and fences
  - access features
  - details of all existing hedges and trees to be retained
  - details of existing vegetation to be protected during the construction phase
- shall be submitted to and approved in writing by the Local Planning Authority.

4b. The boundary fences / walls shall be erected prior to the first occupation of the proposed dwelling.

4c. The approved landscaping scheme shall be implemented within 12 months of any part of the development being brought into use.

4d. Within 5 years from the date of planting any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted.

*Reason:* In order to safeguard the satisfactory appearance and safety of the development of the application site.

5a. Prior to the commencement of this permission, details of all external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall include manufacturer's details.

5b. All external lighting shall be carried out in accordance with the approved details and retained and maintained at all times.

*Reason:* To protect the amenity of adjoining residential occupiers.

6. All site clearance shall take place outside the bird-nesting season (the bird nesting season is March to September inclusive). Where this is unavoidable a breeding birds survey shall be undertaken by a suitably qualified and experienced ecologist prior to any works commencing. If breeding birds are discovered site clearance and other operations should be delayed until young birds have fledged. All wild birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 and subsequent amending legislation. It is an offence to damage or destroy a nest of a wild bird. If nesting birds are discovered clearance works should be delayed and advice sought from the ecologist or Natural England.

*Reason:* To protect local wildlife.

7a. Prior to the first occupation of either of the new dwellings, the extended private shared access drive and the vehicle hard standing and driveways areas serving that dwelling shall be fully consolidated, hard surfaced and drained.

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

*Reason:* To ensure the satisfactory completion and operation of the development.

8. No demolition, engineering or construction works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday\*, and otherwise such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours 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 Years Day, Good Friday, Easter Monday, May Day, Spring Bank Holiday Monday and August Bank Holiday Monday.)

*Reason:* To safeguard the amenity of occupiers of premises within the vicinity.

9. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Amendment) (N02) (England) Order 2008, or succeeding Orders, no works shall be carried out under Part 1, Classes A to E.

Reason: To enable the Local Planning Authority to retain effective control over future development of this site.

10. The works hereby approved shall only be carried out in accordance with details contained within drawings:

- Location and block plans submitted 14<sup>th</sup> December 2012.
- KH/TR\_SE/08– street elevation B-B submitted 8 February 2013.
- KH/TR\_HT1/03A – House type plot 1 elevations submitted 8 February 2013.
- KH/TR\_HT1/02 – House type plot 1 plans submitted 8 February 2013.
- KH/TR\_CP/06B – Context plan submitted 21 March 2013.
- KH/TR\_HT2/05b– House type plot 2 elevations submitted 21 March 2013.
- KH/TR\_HT2/04a– House type plot 2 plans submitted 21 March 2013.
- KH/TR\_SE/09 – Sectional elevation A-A submitted 21 March 2013.
- KH/TR\_LP/01b– layout plan submitted 21 March 2013.

*Reason:* To define the permission.



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 11.**

#### Reason for bringing to committee: **Significant Community Involvement**

**Application Number:** 12/1138/FL  
**Application Type:** Full application

**Case Officer:** Barbara Toy  
**Telephone Number:** 01922 652615  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Tesha Ltd

**Applicant:** Mr Sarfraz Khan

**Proposal:** Change of use from A1 (retail) to A5 (hot food takeaways) with new brick built riser containing new extraction ductwork, and formation of new car parking spaces

**Location:** 90-92 SALTERS ROAD, WALSALL,

**Ward:** Aldridge North and Walsall Wood

**Expired Date:** 01/11/2012

#### Recommendation Summary: Refuse

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## **Application and site details**

The site is situated on the western side of Salters Road (a district distributor route) and comprises two vacant retail units on the southern end of a block of 6 similar retail units with residential flats above. Three of the units in the block now form one convenience store and the one remaining unit is in use as a hot food takeaway. There are four further retail units immediately to the north of the application block.

The block has parking spaces on the frontage within a service road access and vehicle access either side of the building to a rear service area. An existing hand car wash facility operates within the rear service area which is the subject of a further report on this agenda.

The site is situated in a predominantly residential area with interwar semi detached houses immediately to the south and west in Salters Road and within Coronation Road to the east (rear gardens back onto the service area to the rear of the block). The closest residential accommodation are the flats above the shops and No 94 Salters Road a semi detached house set to the south of the access drive to the rear of the shops. There is a pedestrian crossing in front of the site within Salters Road.

The application is a resubmission following a previous refusal, and proposes the change of use from A1 retail to A5 hot food takeaway with a new brick built riser (with timber cladding) containing new extraction ductwork and formation of new car parking spaces.

It is proposed that the premises would be open to the public 1700 – 2300 hours Monday – Friday and 1200 – 2330 hours on Saturdays, with no Sunday or bank holiday opening. The use would employ 4 full time and 1 part time members of staff and 17 off street parking spaces are proposed. 12 spaces within the front service road for customers of the block as a whole, and 5 spaces within the rear service yard for use by staff and residents. A one way traffic system would operate through the rear service yard with access from the north and exit from the southern point. Two refuse storage areas are proposed to the rear either end of the parking area. An extraction system for the kitchen is proposed to the southern elevation of the building which would comprise an external flue enclosed within timber cladding projecting 1m above the roof of the building. The enclosure would measure 800mm by 1m wide and would be set back 5.6m from the front elevation of the building. Whilst details of an extraction system have been provided in support of the application no details of odour control or grease filtration have been submitted.

The submission is very similar to that previously refused under planning application 11/0973/FL, with the only differences being one additional parking space now provided to the rear and the deletion of Sunday trading.

## **Relevant planning History**

### **Application premises**

11/0973/FL - change of use from A1 (retail) to A5 (Hot Food Takeaway) with new brick built riser containing new extraction ductwork, and formation of new car parking spaces, refused 6<sup>th</sup> October 2011 for the following reason:

*The proposed hot food takeaway would be in a local shopping parade in an otherwise predominantly residential area with residential properties immediately adjacent the application site. It would be in addition to existing retail businesses which open late into the evening, 7 days a week, and it is considered this would lead to an unacceptable cumulative adverse impact on the amenity of neighbours by virtue of increased noise, activity, and*

*general disturbance at times of the day and week when neighbouring residential properties are most likely to be occupied.*

#### Land R/O 82-92 Salters Road

11/0452/FL – (retrospective) operation of hand car wash, and retention of canopy, report elsewhere on this agenda.

#### 88 Salters Road

BC56631P – change of use to hot food takeaway and installation of flue – refused 15<sup>th</sup> December 1998. The reasons for refusal related to the impact of increased noise, odours and general activity on the amenity of nearby residents, the impact of the proposed flue on visual amenity, and the impact on highway safety as a consequence of indiscriminate on-street parking in the absence of adequate off-street parking.

03/1437/FL/E5 – change of use from shop to pizza takeaway – refused 15<sup>th</sup> December 2003. The reasons for refusal were similar to the reasons for refusing BC62877P and BC56631P.

#### 84 Salters Road

BC62877P – change of use from general retail (A1) to hot food takeaway (A3) – refused 8<sup>th</sup> March 2001. The reasons for refusal were similar to the reasons for refusing BC56631P.

#### 82 Salters Road

BC4576 – change of use from retail grocery store to take-away hot food shop – granted subject to conditions 2<sup>nd</sup> June 1976, with no restriction on opening hours.

#### 80A Salters Road

09/0458/FL – change of use from (A1) retail outlet to (A5) hot food takeaway – refused 29<sup>th</sup> May 2009. The reasons for refusal were similar to the reasons for refusing 03/1437/FL/E5, BC62877P and BC56631P.

### **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 business
- Always seek a high quality design and a good standard of amenity for all existing and future occupants
- Enhance and improve the places in which people live their lives;

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

1: Building a Strong, Competitive Economy

18. The Government is committed to securing economic growth in order to create jobs and prosperity.

19. The planning system should do everything it can to support sustainable growth

20. Meet development needs of businesses

4: Promoting Sustainable Transport

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

#### 7. Requiring good design

56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

- Planning policies and decisions should aim to ensure that developments 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 Healthy Communities

70. Ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable and retained for the benefit of the community.

#### 11. Conserving and Enhancing the Natural Environment

123. Planning policy should aim to avoid noise from giving rise to significant adverse impact on health and quality of life as a result of new development.

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.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

Key planning policy includes:

QE3: Creating a high quality built environment for all

iv) assessing and minimising the impacts of noise and light pollution as a result of development;

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF

### **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)

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 key planning policies include:

CSP4: Place Making

States that the hierarchy of centres will provide a focus and concentration for essential local services and activities with easy access by walking, cycling and public transport.

CEN6: Meeting Local Needs for Shopping & Services

Makes provision for meeting local needs for shopping and services, particularly with emphasis on providing and retaining local services within walking distance of people’s homes. It requires such shops and services to be of an appropriate scale and nature to meet a specific day to day need of a population within a convenient, safe walking distance for new improved facilities.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

#### **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:

3.7: The council will seek to protect people from unacceptable noise, pollution and other environmental problems.

GP2: Environmental Protection

All development should make a positive contribution to the quality of the environment and the principles of sustainable development

I. Visual appearance

II. The creation of, or susceptibility to, pollution of any kind

- VII. The adequacy of the access, and parking.
- XIX. The hours of operation of any activities proposed.
- XX. Any other factor of environmental significance.

#### ENV10: Pollution

States that the development of a facility which may cause pollution will only be permitted if it would not cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

#### ENV32: Design and Development Proposals

(a) states that poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted, particularly within a Town, District or Local Centre.

(b) requires the quality of design of any development proposal to be assessed using the following criteria:

- The appearance of the proposed development
- The height, proportion, scale, and mass of proposed buildings/structures.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The proposed vehicular and pedestrian circulation patterns.

#### S1: Definition of Town Centre Uses

Identifies hot food takeaway uses as town centre uses.

#### S6: Meeting Local Needs

In terms of local need - out-of-centre development may be appropriate to meet such specific local needs and small-scale local facilities, or extensions to existing facilities, will be permitted if it can be shown that

I. The proposal is of a scale and kind to meet a local need for improved facilities.

VII. There must be no significant loss of amenity for neighbouring homes. To ensure this, the establishment of shops or other uses that attract the public in terraced properties adjoining dwellings will not normally be permitted.

#### S10: Hot Food Takeaways

These uses will be appropriate in the Town, District and Local Centres subject to the following considerations:-

- I. The use proposed must not adversely affect the amenities of the existing or proposed dwellings by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.
- II. Where the Council is minded to grant planning permission, the closing time for hot food takeaways will be considered in relation to the amenities of nearby dwellings. In such locations the Council will usually impose a condition requiring the premises to close at 2300 hours Monday to Friday and 2330 hours on Saturdays. Later opening hours and Sunday opening will be considered on their merits.
- III. Permission will not be granted where the absence of adequate off street parking would be likely to lead to on street parking in a hazardous location.
- IV. Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity.

#### T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13 and provide an adequate level of car parking to meet the operational needs of the development.

#### T13: Parking Standards

Hot food takeaways - 4 car park spaces for establishments with a gross floor space up to 50sqm

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

### **Consultations**

**Transportation** – No objections subject to condition to ensure the access ways and parking facilities are properly marked and surfaced and drained. The existing A1 use would require 9 parking spaces and the proposed use would require 10 parking spaces. The application proposes 5 additional spaces to the rear of the site for staff and residents.

**Environmental Health** – Refusal recommended. This property is located between in a small parade of shops in a residential area. There is already an existing hot food takeaway in the parade of shops. The Environmental Health Division regularly receives complaints about odour from hot food takeaways, noise disturbance arising from vehicle deliveries, people congregating in the vicinity of commercial premises and littering/fly tipping. There is the potential that a further hot food takeaway, in a sensitive residential area, will exacerbate such incidents, particularly late at night, and lead to further complaints.

Cooking odours may also give rise to nuisance or complaints. Most ventilation systems rely on high level fume dispersion via a flue together with an odour control device to minimise odours. It is proposed to terminate the extraction ductwork above the roof level to the property: To achieve effective dispersion of such fumes into the atmosphere the extraction ductwork should terminate at least one metre above the highest point of the building and discharge at 15 m/s. Regard must be paid to the Defra guidance on Control of Odour and Noise from Commercial Kitchen Exhaust Systems: Although the cooking type generates a low score, the discharge rate generates a high score and this stipulates that a high level of odour control will be necessary, so the proposed carbon filtration system is insufficient. It is recommended that a three stage extraction system is provided, incorporating grease filtration, carbon filtration and an odour neutralisation system such as the Purified Air ON100 system.

The information provided is conflicting and insufficient so it is not possible to make a valid judgement about whether the extraction and odour control system is appropriate for the proposed use.

### **Public Participation**

A petition in support of the proposals containing 197 signatures has been submitted by the applicant as part of the application. The submission provides no reason for the support.

Eight objections received

Objections:

- Already sufficient takeaways in the Walsall Wood area
- Another takeaway will add to the cumulative adverse impact on the amenities of the neighbouring properties from increased noise, activity and general disturbance
- Another hot food use will not halt the obesity epidemic
- Already a noise problem from the car wash operating to the rear of the shops
- Existing traffic problems which will be increased by the hot food use attracting more cars to park on street which will impede pedestrian access.
- Already experience problems from the shops with rubbish thrown over into residential gardens
- Verbal abuse from residents in flats above the shops

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- Existing problem with dogs kept at the site
- A hot food takeaway would exacerbate existing problems
- Likely increase in loitering, litter and vermin
- Late opening will cause more noise and smell and a nuisance to residents
- Already experience anti social behaviour which is likely to increase
- A local shopping parade in a residential area
- Property devaluation

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

Whether the proposals overcome the previous reason for refusal in terms of: Cumulative adverse impact on the amenities of surrounding occupiers in terms of noise, activity and general disturbance during the hours when neighbouring residential properties are most likely to be occupied.

### **Observations**

Policies S1 and S10 of the UDP identify hot food take-aways as town, district or local centres uses. In this case, the site lies within a predominantly residential area outside of any established centre boundary. Policy S10 requires that such uses should not adversely affect the amenity of existing dwellings or those on upper floors above commercial premises by reason of noise, smell, disturbance or traffic impact and that regard will be given to the cumulative impact on residential amenity.

There is an existing hot food take-away at No 82 Salters Road at the opposite end of the block of shops which has no opening hours restrictions but currently opens till midnight 7 days a week and an existing convenience store adjacent to the site which opens till 2200 hours 7 days a week. It is considered that the cumulative impact of an additional take-away with late night opening would adversely affect the amenities of the residential occupiers of the flats above the application premises and the remainder of the block and the occupiers of the semi detached house at No 94 immediately to the south of the site, by way of noise, general disturbance and activity, particularly during the evenings when residents are most likely to be at home.

Whilst the proposals have been amended since the previous refusal and now indicate no Sunday trading, the business would still be open until 2300 hours Monday to Friday and 2330 hours on a Saturday and would add to the general disturbance to nearby residents. The loss of Sunday trading is not considered significant to overcome the previous reason for refusal for the use and the proposals would continue to conflict with policy S10 of the UDP.

Environmental Health have also expressed concern that due to the nature of the business in that it would operate late in the evening, is likely to bring additional noise, disturbance, and nuisance to the area.

The submitted information regarding extraction equipment, odour control and grease filtration is conflicting and insufficient to make a valid judgement about whether the systems would be appropriate for the proposed use and has raised an objection from Environmental Health.

Since the previous refusal the NPPF has been adopted and paragraph 123 further supports the need to ensure that new development does not give rise to noise that significantly adversely impacts on health and quality of life, giving further weight to the policies used in the previous reason for refusal.

It is considered that this revised submission fails to overcome the previous reason for refusal.

**Positive and Proactive working with the applicant**

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long that they safeguard the natural and built environment, highway network and the amenity of citizens. In this instance the council has not been able to support the proposed development.

**Recommendation:** Refuse

1. It is considered that the cumulative impact of the proposed hot food take-away in addition to the existing take away use and other later night opening shops in the parade of shops would have an adverse impact on the amenity of the surrounding residential occupiers in terms of noise, activity and general disturbance particularly during times when residents are most likely to be at home and as such the proposals would be contrary to the National Planning Policy Framework (2012), policy QE3 of the Regional Spatial Strategy and saved policies 3.7, GP2, ENC10, S1, S6 and S10 of Walsall's Unitary Development Plan (2005).



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 12.**

**Reason for bringing to committee: Requires delicate judgement**

**Application Number:** 13/0428/PT

**Application Type:** Prior approval of siting & Appearance of Telecommunications Apparatus

**Applicant:** Vodafone Limited

**Proposal:** Prior approval for the installation of a replacement 12.5m high streetworks pole with 3 shrouded antennae & 2 additional equipment cabinets.

**Location:** TELECOMMUNICATIONS INSTALLATION FRONTING 123 - 129 CHESTER ROAD, STREETLY, B74 2HT

**Ward:** Streetly

**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652615

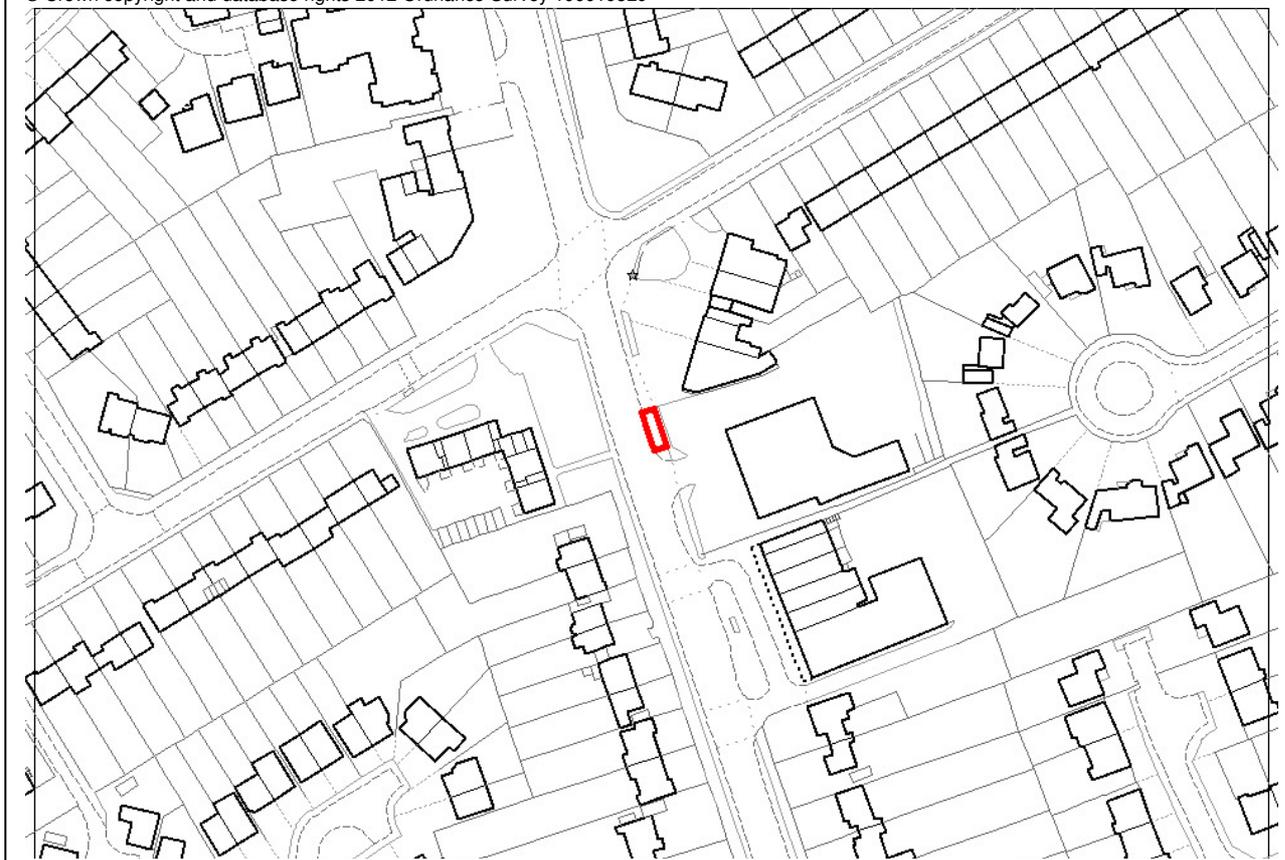
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Mono Consultants Ltd

**Expired Date:** 23/05/2013

**Recommendation Summary:** Prior Notification Approve Details Telecommunications

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### **Application and Site Details**

The application proposes the installation of a replacement 12.5m high dual user monopole housing three antennas mounted together at the top of the structure in a shroud. The main stem of the column is cylindrical and will measure 324mm in diameter tapering to 480mm diameter. There will be 2no. additional radio equipment cabinets located next to the pole. The mast and associated cabinets would be located at the back of the pavement in front of the northern half of the frontage of Nissan car dealership.

Permission in principle, in effect, already exists as 'permitted development' subject to 'prior approval' being secured where required from the council for the detailed siting and appearance. The application is brought before Committee at this early opportunity, before the expiry of the consultation period, because a deemed consent would be automatically put in place in the absence of a decision before the 22 May.

The application site is the public footpath which is parallel with the frontage to the car sales and parking areas of the car showroom. The proposed mast would be between the existing flag poles that are advertising the Nissan dealership and 0.6m to the north of the existing floodlighting column for the front car showroom car park and the existing mast. The proposed cabinets measuring 1898 x 798 x 1648 and 770 x 750 x 1925 would be located approximately 0.5m to the north of the proposed mast.

The car dealership frontage is landscaped with evergreen shrub planting to define the site. To the south of the proposed mast site are two further corporate vertical advertising panels.

Across the Chester Road from the application site is Beacon Court, set 17m back from Chester Road.

The local shopping centre of Streetly is either side of the application site, with three storey 1970's development of a supermarket and other local shops to the south. There are two antenna masts systems on the flat roofed front elevation of the supermarket.

A Declaration of Conformity with ICNIRP (International Commission on Non Ionising Radiation Protection) public exposures guidelines has been submitted.

The existing 12.5 metre street pole would be removed whilst the remaining 1no. radio equipment cabinet and meter cabinet shall remain in situ.

The following documents have been submitted with the application:

Covering letter stating:

- Vodaphone has entered into an agreement with Telefonica UK Limited commonly known as O2, the two companies plan to jointly operate and manage a single network grid across the UK.
- These arrangements will be overseen by Cornerstone Telecommunications Infrastructure Limited.
- The agreement allows both organisations to pool their basic network infrastructure, while running two independent nationwide networks.
- It enables both organisations to consolidate the number of base stations and reduce the environmental impact.

Site specific supplementary information which states:

- application is for an upgrade of an existing base station which has previously been approved and accepted.
- Vodaphone are acting as responsible operator for this part of the UK.

- The choice of design in this latest case has been influenced by the existing base station's siting and appearance as well as future coverage requirements.
- The existing ground based installation in its current form does not meet the operator's technical requirements; hence the existing base station requires upgrading and redevelopment.
- The existing streetworks style monopole is technically obsolete due to its design limitations and its inability to accommodate the required apparatus, in this next of phase infrastructure consolidation hence it needs replacing.
- The antennas would be concealed within a cylindrical shroud which would be integral to the upper most section of the monopole.
- The height of the proposed column at 12.5 metres to top has been kept to its technical minimum and so as not to compromise on the centre line of the existing antennas and to allow for adequate coverage to the target area.
- The dimensions of the structure are the thinnest available so as to be able to support the technically preferred antennas and feeder cables.
- Taking advantage of the Cornerstone initiative, the antennas which function for both operators are closely spaced together so as to keep the profile of the column as thin as possible. In this respect each operator's antennas are not distinguishable as separate elements, whereby taking into account the form and appearance of proposed column as a whole, to the naked eye the mast share monopole gives the illusion of a single operator installation.
- The equipment would connect the site to national network via an underground link rather than rely on a transmission dish, this has simplified the design and hence reduced the proposal's prominence in the street scene.
- The proposed column in its entirety will be grey in which it is considered that this treatment will help assimilate the column into the street scene.
- A slim-line streetworks monopole with shrouded antennas is considered to be appropriate as it would minimise the visual impact of the development within the street scene.
- The proposed equipment cabinets will be grey and have an appearance similar to existing cabinets found in a street scene.

### **Relevant Planning History**

05/0590/PT/E4 – 123-129 Chester Road, Streetly. Prior approval for the installation of a replacement 12.5m high streetworks pole with 3 shrouded antennae & 2 additional equipment cabinets. Refused 13 May 2005 on the grounds that the proposed telecommunications equipment would be detrimental to the area by virtue of its siting and appearance.

The application was allowed on appeal on 30 November 2005 on the grounds that the absence of viable alternative sites outweighs the harm on the character and appearance of the area.

### **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*".

It is based on 12 **core planning principles**; the relevant principles in this case are to:

3. proactively drive and support sustainable economic development
4. always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
6. encourage the reuse of existing resources
9. promote mixed use developments

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

5. Supporting high quality communications infrastructure

42. Advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services.

43. In preparing Local Plans, local planning authorities should support the expansion of electronic communications networks, including telecommunications and high speed broadband. They should aim to keep the numbers of radio and telecommunications masts and the sites for such installations to a minimum consistent with the efficient operation of the network. Existing masts, buildings and other structures should be used, unless the need for a new site has been justified. Where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate.

44. Local planning authorities should not impose a ban on new telecommunications development in certain areas, impose blanket Article 4 directions over a wide area or a wide range of telecommunications development or insist on minimum distances between new telecommunications development and existing development. They should ensure that:

- they have evidence to demonstrate that telecommunications infrastructure will not cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation operated in the national interest; and
- they have considered the possibility of the construction of new buildings or other structures interfering with broadcast and telecommunications services.

45. Applications for telecommunications development (including for prior approval under Part 24 of the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development.

This should include:

- the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college or within a statutory safeguarding zone surrounding an aerodrome or technical site; and
- for an addition to an existing mast or base station, a statement that self certifies that the cumulative exposure, when operational, will not exceed International Commission on non-ionising radiation protection guidelines; or
- for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.

46. Local planning authorities must determine applications on planning grounds. They should not seek to prevent competition between different operators, question the need for the telecommunications system, or determine health safeguards if the proposal meets International Commission guidelines for public exposure.

7. Requiring good design

56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

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.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered there are no relevant RS policies in this case.

### **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)

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 key planning policies include:

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Encourage high quality design that stimulates economic, social and environmental benefits.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

### **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)*".

Key planning policy references include saved policies:

GP2: Environmental Protection

Development should be sustainable and contribute to environmental improvement

ENV32: Design and Development Proposals

Poorly designed proposals which fail to take account of the context or surroundings will not be permitted.

ENV38: Telecommunications:

a) Equipment including cabinets can have significant visual impact and are unlikely to be acceptable in Conservation Areas.

b) Mast and site sharing and use of high buildings recommended

c) Measures to reduce the impact of the equipment, such as screening and mast camouflage, will be required where necessary

d) All proposals should comply with ICNIRP requirements.

3.125: The Council recognises that additional telecommunications apparatus is necessary to cater for the expansion of the communications systems but is concerned about proliferation of equipment which can have a significant

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 Document (SPD)**

On the basis that relevant Unitary Development Plan policies are consistent with National Planning Policy Framework, the related Supplementary Planning Document(s) will also be consistent provided they are applied in a manner consistent with National Planning Policy Framework policy. The relevant Supplementary Planning Document's are:

#### **Designing Walsall SPD**

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.

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

It is considered in this case that the relevant provisions of Designing Walsall

### **Other relevant Guidance**

#### **Code of Best Practice on Mobile Phone Network Development (2002)**

The code provides a principled approach to best practice for the siting and design of telecoms installations.

General principles for the siting and design of installations is contained within paragraph 125:

- Proper assessment of the character of the area concerned. This can protect and enhance positive features which contribute to the sense of the place. It can also identify poor quality elements and seek out opportunities to achieve discernible improvements in these cases. A Landscape Character Assessment may be useful;
  - Design should be holistic and three dimensional showing an appreciation of context; • Analysis of the near and far views of the proposal and to what extent these will be experienced by the public and any residents;
  - Proposals should respect views in relation to existing landmarks and distant vistas;
  - Proposals should seek to preserve the skyline and any roofscapes visible from streets and spaces;
  - Choice of sustainable materials in the construction of the development; and
  - Choice of complementary designs, materials and colours to produce a harmonious development and to minimise contrast between equipment and its surroundings.
- Paragraph 126 options for design will be affected by site conditions, technical constraints, landscape features and capacity requirements and include:
- Mast and/or site sharing;
  - Installation on existing buildings and structures;
  - Camouflaging or disguising equipment;
  - Using small scale equipment;
  - Erecting new ground based masts.

### **Consultations**

**Transportation** – No objection

**Pollution Control Scientific Team** – No objection subject to a condition to ensure continual compliance with National (ICNIRP) requirements following any upgrading or modification to the telecommunication equipment.

### **Public Participation Responses**

The neighbour consultation does not expire until 6<sup>th</sup> May 2013. Any comments received will be reported at the Planning Committee Meeting.

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Principle of development
- Visual amenity
- Health Risks and perception of health risks
- Highway issues

### **Observations**

#### **Principle of the Development**

The principle of a telecommunications mast and associated equipment at this site has been established by way of a planning appeal decision in 2005 under planning reference 05/0590/PT/E4.

#### **Visual amenity**

The mono pole design principle has been established by the planning appeal decision in 2005 which allowed the existing mast.

The main stem of the replacement mast column is cylindrical and will measure 324mm in diameter for the first 8.8m and then tapering out for 0.9m to a width of 480mm diameter for 2.5m. Three antennas would be mounted together at the top of the structure in a shroud. The external finish of the mast would be grey. The slim line column mast would be slightly wider than the existing slim line column mast but of a similar design. For this reason, the mast is considered acceptable.

Two additional radio equipment cabinets would be located next to the slim line column mast. The slim line column mast and associated cabinets would be located at the back of the pavement in front of the northern half of the frontage of Nissan car dealership.

The proposed design and external appearance of the column mast and cabinets reflects the existing apparatus would not have a greater overall visual impact.

The proposed equipment cabinets would be grey and would have an appearance similar to existing cabinets at the site in front of the Nissan car dealership. The additional cabinets are small in size and together with the external finish would blend into the street scene adjacent the existing cabinets, without having a significant visual impact.

#### **Health Risks and perception of health risks**

The applicants have submitted an ICNIRP declaration which certifies that the site is designed to be in full compliance with ICNIRP requirements regarding health aspects and concerns about them.

#### **Highway Issues**

The public footway is sufficiently wide at this location to accommodate the proposed installations whilst retaining approximately 2m of footway width. The proposed mast and cabinets fall outside a robust 2.4m x 70m visibility splay at the adjacent Nissan car dealership access point to the south and the adjacent access point to the corner shops to the north. Transportation have no objection to the proposal.

Officers consider the application can be supported in principle, subject to consideration of any representations, on expiry of the consultation period.

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

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

#### **Summary of Reasons for Granting Planning Permission**

The principle of a telecommunications mast and associated equipment at this site has been established by way of a planning appeal decision in 2005 under planning reference 05/0590/PT/E4.

The proposed design and external appearance of the column mast and cabinets reflects the existing apparatus would not have a greater overall visual impact.

The 2 additional cabinets are small in size and together with the external finish would blend into the street scene without having a significant visual impact.

An ICNIRP certificate has been submitted.

The proposal would retain an adequate width footway and would fall outside the vehicular visibility splays for the access points to the Nissan car dealership to the south and the shops to the north.

The proposal is consistent with the NPPF and is considered to accord with the aims and objectives of the Regional Strategy (2008), the Black Country Core Strategy (2011), in particular policies ENV3 and ENV2, Walsall Unitary Development Plan (2005), in particular saved policies GP2, ENV32, ENV38 and 3.125 and Policy DW9 of the Designing Walsall (2008).

**Recommendation:** Prior Notification Approve Details Telecommunications

That the decision on the application be delegated to officers.



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 13.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 12/1574/FL  
**Application Type:** Full application

**Case Officer:** Karon Hulse  
**Telephone Number:** 01922 652614  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:**

**Applicant:** Mr Adam Loonat

**Proposal:** Change use to a tuition centre open for the local community.

**Location:** 130-140 WALSTEAD ROAD, WALSALL, WS5 4LU

**Ward:** Palfrey

**Expired Date:** 16/04/2013

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

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### **Application and Site Details**

The application site is set on a corner at a cross roads junction in an area of inter-war semi detached houses. The site is occupied by a two storey hip-roofed building, which previously consisted of three separate units having been converted into one large single unit (2005) for use by a local plumbing and heating company as a showroom for their products.

The proposal is to change the use of the whole building into an education/tuition centre. The ground floor will provide 4 classrooms and an office and retain the existing kitchen and lounge on the ground floor for the maisonette on the end of the building.

The first floor will remain the same as existing and will retain 1 no. two bedroom flat and three bedrooms for the maisonette on the end unit, an office, storage room, and staffroom above the proposed classrooms.

The building is approximately in line with the adjoining houses. To the front and side there is an open forecourt which contains a planting bed which open space currently grassed on the corner, the site is enclosed by 2 metre high railings all around the frontage at the back of footpath. At the rear is an enclosed yard which contains a variety of small extensions to the building and a block of three lock up garages which is situated on the boundary so that their rear and southern walls also form the boundary wall.

The forecourt will be used for vehicle parking providing 7 parking spaces with 3 staff parking spaces at the rear and three garages for the residential occupiers. The application also proposes an in/out access arrangement, in from Delves Green Road and out onto Walstead Road.

There are shop units on two of the other corners of the cross roads, one being vacant and boarded up and the other, a local convenience store and post office on the other corner and a pair of semi detached two storey houses on the other corner. The junction crossroads has a bust stop outside the application site on Walstead Road and a pedestrian crossing from the application site to the post office.

Area is predominately residential with St Gabriel's Church 300 metres away along Walstead Road to the west, Delves infant and Junior school to the south approximately 100 metres on Delves Green Road.

The proposed details of the application include the following:

Convert part of the building to an education facility to teach between 30 and 40 children between the ages of 5 and 14

During week days children will be taught in the evenings with some limited classes for adults during the day

The proposed opening hours are 10.00am to 8.00pm Monday to Saturdays and 10.00am to 6.00pm on Sundays and public holidays

All pupils will be from the local area i.e. Sycamore Road, Walstead Road, Hawthorne Road, Blackthorn Road, Botany Road, Ladbury Road, Bell Lane and Poplar Avenue. These are all within walking distance of the centre.

A petition in support of the facility has been signed by 10 persons all within walking distance of the site.

The nearest local centre being Fullbrook on Broadway one km to the north west. There is open space along Walstead Road West Road to the east.

The application is accompanied by a Planning Statement which sets out policy requirements and local need

### **Relevant Planning History**

05/1162/FL/W6 - Rear Store and Boundary Wall. Grant Subject to Conditions

On the opposite corner there is a row of boarded vacant shop units with an open forecourt area.

05/0358/FL/W5 - New Building, Ground Floor General Convenience Store with Post Office, Flats above consisting of First Floor, 3 Flats (Two 2 Bed Flats & A 1 Bed Flat) Second Floor 2 Flats (Studio Flat & 3 Bed Flat for owner of ground floor convenience store)

04/1477/FL/W5 - Proposed Convenience Store/Post Office with 4 no. living units above (re-submission of 03/1483/FL/W3)

03/1438/FL/W3 - Proposed supermarket/post office with no. 4 living units above.

### **National Planning Policy**

#### **National Planning Policy Framework**

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

It includes 12 core planning principles, the relevant principles in this case are:

- Proactive drive and support sustainable economic development
- 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
- Reuse of land that has been previously developed
- Make fullest possible use of public transport, walking and cycling.

Key issues from the NPPF Delivering Sustainable Development relevant in this case:

#### 3: Ensuring the vitality of town centres

23 recognise town centres are the heart of their communities and pursue policies to support their viability and vitality and promote mixed use developments, encourage effective use of land by reusing previously developed land needs of other town centres are met in full.

24. 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. 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.

#### 4: Promoting Sustainable Transport

32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- Safe and suitable access to the site can be achieved for all people; and
- Improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development.

Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

34. Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

- 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;

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

39. If setting parking standards for non residential LPA's should also take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

#### 7: Requiring Good Design

56. Great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

Planning policies and decisions should aim to ensure that 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 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.

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.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

Key planning policies include QE1, QE3, T2, T3, T5, T7 and UR4.

### **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)

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 key planning policies include HOU5, ENV 3, CEN2, CEN6.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

#### **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)”.*

Key planning policy references include saved policies:

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.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

S1 identifies D1 as town centre uses

S6(c) There are some areas, away from established centres, which are poorly served in quantitative and/or qualitative terms by existing local provision for convenience shopping, local services, eating and drinking places, and health, community and local education facilities. Out-of-centre development may be appropriate to meet such specific local needs - otherwise proposals for additional out-of-centre development for town centre uses will be considered against policy S7. Therefore, new small-scale local facilities, or extensions to existing facilities, will be permitted if it can be shown that all of the following requirements will be met:-

I. The proposal is of a scale and kind to meet a local need for improved facilities.

II. The local need cannot be better met by investment in a nearby centre.

III. 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.

IV. There will be no impact on existing local provision such as to leave some local needs unmet, contrary to efforts to promote social inclusion..

V. 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.

VI. The proposal will help to reduce the need to travel, especially by car.

VII. There must be no significant loss of amenity for neighbouring homes.

To ensure this, the establishment of shops or other uses that attract the public in terraced properties adjoining dwellings will not normally be permitted.

VIII. 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.

T4 direct access to be kept to a minimum

T7 all parking standards in T13 to be met

T13 car parking standards - Other community facilities 1 car park space per 22m<sup>2</sup> of gross floorspace.

### **Supplementary Planning Document (SPD)**

On the basis that relevant Unitary Development Plan policies are consistent with National Planning Policy Framework, the related Supplementary Planning Document(s) will also be consistent provided they are applied in a manner consistent with National Planning Policy Framework policy. The relevant Supplementary Planning Document's are:

### **Designing Walsall SPD**

DW3 – Character -design to respect and enhance local identity.

### **Consultations**

**Transportation** - no objections

**Pollution Control (Scientific Team/Contaminated Land)** - no objections

**Severn Trent Water** – no objections

**Fire Service** - no objections

**Police Architectural Liaison Officer** - no objections subject to advice relating to Secure By Design specifications.

**Environmental Health** - no objections

### **Public Participation Responses**

#### *Principle*

- Why need another for tuition. there are 2 schools within 500 yards of the proposed “tuition school” and Whitehall Junior School and Joseph Leckie Academy are within ½ mile.
- The applicant has claimed to have looked at other premises but where is the evidence of their unsuitability, as claimed by the applicant.
- Will pupils be excluded from further a field.
- Number of pupils using the premises (of up to 40 per day) would be an excessive amount for the size of the building.
- Children going to lessons in the evening would not expect to walk
- What type of tutoring will take place?
- Already sufficient community centres and community schools to cater for a wide range of education.

#### *Amenity*

- Number of hours is excessive, ie 10 hours per day Monday to Saturday, and 8 hours Sundays and public holidays
- No respite at weekends or bank holidays.
- Walstead Road and Delves Green Road already have problems and damage caused to grass verges with vehicles using them for parking.
- The surrounding area is primarily residential with a small commercial presence.
- It would make Delves Green Road busy at a time when it ought to be quiet. It is after all a residential road.
- How are the hours of opening going to be adhered to and what penalties are imposed should these hours of opening exceed?
- How is the noise pollution going to be maintained throughout the year, particular when summer arrives and local residents wish to enjoy valuable times with family and friends in the garden and be potentially be overwhelmed by noise from the applicants location?

#### *Highway/Traffic issues*

- Extra traffic movements will cause a safety problem
- Residents of flats require spaces when not using the garages
- Staff will require parking spaces.
- Why two access points required?
- Restricted views with vehicles parked on Walstead Road
- Delves Junior School causes massive congestion and parking problems
- Blocked driveways
- Busy crossroads with lots of accidents

- Only 10 parking places are marked on the proposed Block Plan (13 are indicated on the application)
- Staff and parents will drive to school not walking
- Cars exit onto the busy Walstead Road.
- Proximity of the bus stop.
- There is also a pedestrian crossing with zigzag lines

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Principle of the use/Need
- Impact of the proposals on the amenities of the surrounding residential occupiers
- Parking and highway safety

### **Observations**

#### **Principle of the Use/Need**

The site is located outside of an established centre and policy S1 of the UDP identifies educational facilities as town centre uses that should be located in centres to support their viability and vitality. The NPPF, policy HOU5 of the BCCS and Policy S7 of the UDP require the sequential tests to be carried out for main town centre uses that are not in an existing centre. This requires 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.

The application details have identified that there is a demand for the proposal and has satisfactorily demonstrated, through the submission of the planning statement, a petition in support of the facility which has been signed by 10 persons which are all within walking distance (Walstead Road, Bell Lane and Sycamore Road) of the site and accompanying evidence, why a centre location can not be found due to the requirements of the facility and the units available in centre locations. The proposals therefore accords with UDP Policy S6 and BCCS CEN6.

It is acknowledged that there are other similar type facilities in the area however this will provide a type of education facility that is not currently being provided within this area. The applicant has emphasised that majority of the children are from the Asian community in which case it is usually the responsibility of the mothers for taking the children to and from school it is also the case that usually the mothers do not drive which reaffirms that most journeys to and from the establishment will be by walking there.

Whilst there have been a number of objections from local residents querying the need for another education facility in the area, it has been satisfactorily demonstrated that the use will be meeting a specific local need with it being a small scale education facility to serve the local catchment area and bring a benefit to an element of the local community

It is acknowledge that this is predominately a residential area with the exception of the three corners of this junction as such the use of this vacant commercial buildings as an education centre is a satisfactory reuse and as it has been demonstrated that the use will serve a local need it is therefore considered to be in a sustainable location.

In conclusion, the application has been supported by a 10 signature petition and a planning statement which has demonstrated that there is a specific need for this particular education facility in this location and that it would meet a specific local need, as such the principle of the proposed use is considered appropriate in this location and unlikely to have any adverse impact on the vitality and viability of the nearby local centres of Fullbrook and Caldmore.

### **Impact of the proposals on the amenities of the surrounding residential occupiers**

One of the core principles of the NPPF requires good standards of amenity for all existing and future occupants. The property is a detached building consisting of three units (two residential units and the education facility) which is all within the applicant's ownership and control. The property is located in a predominantly residential area although the immediate area around the crossroad junction has commercial premises on three corners.

Whilst there will be residential immediately adjoining the education facility, these are within the ownership of the applicant. The nearest house occupiers are at 128 Walstead Road and 92 Delves Green Road.

The house at 92 Delves Green Road is side facing onto the rear of the application site and at a distance of 15 metres it is considered that there will be little impact on the amenities of those occupiers by the use of the building as an education centre.

The house at 128 Walstead Road West Road is in line with the frontage of the application site and shares a similar building line. There is a pedestrian access to the application building at the side and a garage to no 128 at the side of that there is a separation distance of 4 metres (including the garage) between the side elevation of the application site and no. 128. This distance again is considered sufficient to protect the amenities of those occupiers.

Furthermore, the proposed opening hours are considered to be acceptable and within the hours when activity would normally be expected within a residential area. Outside those hours the amenity of nearby residents will continue to be protected and a condition will be imposed on any planning permission restricting the hours of opening.

The proposed hours of opening of the education centre 10.00am to 8.00pm Monday to Saturday and 10.00am to 6.00pm on Sundays are more than the previous use as a Plumbing and Heating showroom. However the building could be used as an A1 retail use without any restricted hours of operation and could be open early morning through to late nights which potentially could be more detrimental to the nearby residents amenity.

Given the number of students, the size of the building and the proposed hours of opening it is considered that the proposed use will not significantly affect the surrounding residential properties in terms of noise and general disturbance.

It is not intended to use any of the external area as play areas as such there will be no noise created external to the house which will impact on neighbouring occupiers

### **Parking and highway safety**

The NPPF places great importance on providing sustainable development and making fullest possible use of public transport, walking and cycling. The site is on the crossroads junction of Delves Green Road and Walstead Road with Walstead Road being the main road.

The applicant has provided sufficient information to demonstrate that the site is within a sustainable location and that its catchment area will result in pupils walking to the application site.

There is parking within the curtilage of the property to accommodate a total of 13 parking spaces, three within existing garages at the rear which will be utilised by residents, 3 parking spaces at the rear for staff and 7 spaces at the front for visitors etc. The teaching facility will be run by the owners and two part time staff and therefore it is unlikely that parking will be an issue.

The approval of this application is considered to be acceptable it will not compromise the safe movement of traffic and the safe use of the highway by others and as such will be in accordance with UDP Policies GP2 and T13, the highway authority does not raise any objections.

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

Officers have discussed with the applicant's agent certain aspects of the planning application namely and in response to matters raised additional information to fully satisfy the sequential test requirements has been submitted to the Local Planning Authority which enables full support to be given to the scheme.

### **Summary of Reasons for Granting Planning Permission**

The property is located in a residential area and is surrounded by other houses and commercial properties. The use of the former showroom premises as a facility for education can be supported on the basis that the likely impact on neighbours from noise and disturbance from increased traffic movements and people coming and going is unlikely to be excessive as a result of this proposal. Most activity would be during the evenings for a two hour period during week days and will be low key. It will not be harmful to the residential character of this area. The applicant has indicated that the intended catchment area of this proposal is within walking distance of the application house with students coming from the local area. The submission of a 10 signature petition and a planning statement has satisfactorily demonstrated that there is a specific need for this education facility in this particular location and that it will meet a specific local need, as such the principle of the proposed use is considered appropriate in this location and unlikely to have any adverse impact on the vitality and viability of the nearby local centres of Fullbrook and Caldmore.

The property is located in a predominantly residential area although the immediate area around the crossroad junction has commercial premises on three corners. The nearest houses at 128 Walstead Road and 92 Delves Green Road are considered to be at sufficient distances from the education facility so not to impact on the residential amenity of those residents. The proposed opening hours are considered to be acceptable and within the hours when activity would normally be expected within a residential area. Outside those hours the amenity of nearby residents will continue to be protected by the imposition of a planning condition restricting the hours of opening.

The proposed use will not intensify traffic movements to and from the site or on the junction with Delves Green Road and Walstead Road, it will not impact on car parking around the local area as there is more than adequate off street parking within the site boundary for both the residential and the education facility, there will be no adverse effect on highway safety and the environment.

Given the number of students, the size of the building and the proposed hours of opening it is considered that the proposed use will not significantly affect the surrounding residential properties in terms of noise and general disturbance or impact on highway safety.

As such the proposal is considered to be consistent with the National Planning Policy Framework which requires good standards of amenity for all existing and future occupiers to be protected and meets the aims and objectives of the Regional Strategy policies QE1, QE3, T2, T3, T5, T7 and UR4, Black Country Core Strategy policies HOU5, ENV 3, CEN2, CEN6 Unitary Development Plan policies 3.6, 3.7, GP2, 3.113, 3.114, 3.115, ENV32, 3.116, S6, S7, T4, T7 and T13, Designing Walsall Supplementary Planning Document.

**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. No development shall begin until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority.

2b. The scheme shall be implemented 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.

3. The use of the house for education purposes shall only take place between the hours of 10.00am and 8.00pm Mondays to Saturdays and 10.00am and 6.00pm on Saturdays and Sundays.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises.

4. At no time shall the premises be occupied by more than 40 students.

*Reason:* To retain effective control of the site and on the basis that the site is not large enough for further intensification of the use.

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

- Location Plan received 19/2/13
- Block Plan Existing received 19/2/13
- Block Plan Proposed received 19/2/13
- Ground Floor Plan - Existing received 19/2/13
- Ground Floor Plan - Proposed received 19/2/13
- First Floor Plan - Existing received 19/2/13
- First Floor Plan - Proposed received 19/2/13
- Planning Statement received 19/2/13

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



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 14.**

**Reason for bringing to committee: Delicate Judgement Regarding Character of Area**

**Application Number:** 13/0380/FL  
**Application Type:** Full application

**Case Officer:** Stuart Crossen  
**Telephone Number:** 01922 652608  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Mr Maurice Cotton

**Applicant:** Mr Dhillon

**Proposal:** Retrospective application to retain minor additional height of flat top roof to house

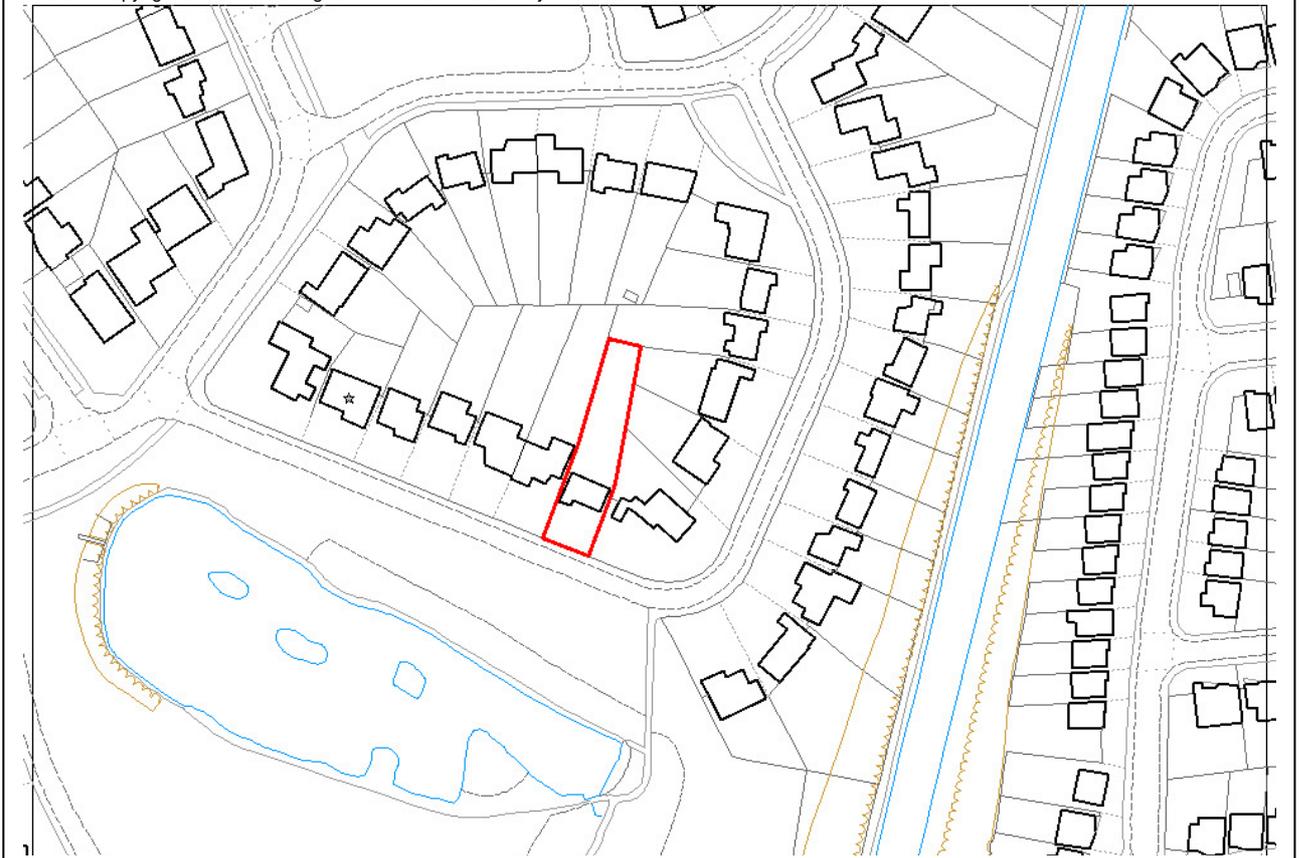
**Location:** 11 GREENSLADE ROAD, WALSALL, WS5 3QH

**Ward:** Paddock

**Expired Date:** 20/05/2013

**Recommendation Summary:** Refuse

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### **Application and Site Details**

The application property is a detached house which faces an area of urban open space and has a prominent position in the street forward of the neighbouring house, no. 9 Greenslade Road. Greenslade Road increases in height from Greaves Avenue towards the application house.

This proposal is an amendment to a previous approval 12/1116/FL to retain a partly implemented increase in overall roof height to that which was approved. That planning permission (12/1116/FL) overcame a previous refusal for a similar development.

The previously approved plan was to retain the roof at the original height. This application proposes an additional 400mm higher roof (8.3 metres high maximum) at the front, sloping down 200mm towards the rear.

The proposal would replace an existing garage, provide a utility room and toilet and reposition an existing kitchen and dining room at ground floor. At first floor two additional bedrooms, two en suites and a new bathroom would be provided. The total number of bedrooms would increase from three to five.

Both the previous application and this application differs from the refused application by setting back the front elevation of the first floor side extension 500mm back from the original front elevation. The front eaves projection would also be increased from the original 350mm deep to 800mm deep.

The extensions are 200mm wider than the original footprint and project 5.1 metres beyond the original rear elevation. An existing chimney has been removed.

The rear two storey extension of the application house projects 1.1 metres rearward of no. 9. The front elevation of no. 9 has a ground floor front facing lounge window within a single storey flat roof front projection set 4 metres back from the first floor side part of the proposal with a first floor bedroom window above; set back a further 0.8 metres. There is a gap between the application house and no. 9 of 2 metres. No. 9 has a two storey rear extension and extends 1.9 metres further back than the rear elevation of the application house. The side elevation of no. 9 has no windows.

No. 11a is a bungalow which occupies a corner position and has a lounge window which faces the side garden boundary with the application property across a separation distance of 16 metres to the proposed rear extension. The lounge window at no. 11a faces an existing single storey extension within the curtilage of 11a. This extension has a pitched roof and is near to the side garden boundary with the application house. There is a habitable room window in the rear elevation of the extension at 11a.

The street has a mixed character of detached houses and bungalows with features which include gable roofs, chimneys and single storey flat roof front extensions.

The rear garden of the application house is approximately 32 metres in depth.

### **Relevant Planning History**

BC17001P – Erection of dining room, utility extension and bathroom alterations – granted permission subject to conditions 5/2/81.

11/0469/FL - Two storey side & rear elevations and increase of roof height. Refused 10/01/12 for the following reasons:

The proposed increase in roof height would amount to a disproportionate addition to the application property and would create a jarring effect that would appear incongruous in the street scene.

The proposed first floor side extension would have an overbearing and unacceptable impact on the adjacent ground and first floor, front, habitable room windows in 9 Greenslade Road because of its excessive length and height in relation to this property.

The combined height and length of the proposed rear two storey extension would have an overbearing and unacceptable impact on the rear lounge window in 11a Greenslade Road.

12/1116/FL - New monopitch roof over existing front single storey projection first floor side extension and two storey rear extension. Granted subject to conditions 26/10/12

12/1668/FL - Two storey rear extension, first floor side extension, front bay window extension with balcony above. Duo-pitched roofs over existing garage and porch (Amendment to approval 12/1116/FL). Undetermined application

### **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*".

**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

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.

#### 11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

**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.

### **Decision-taking**

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.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered that the relevant RS policy is;

QE3: Creating a High Quality Built Environment for All

Creation of high quality built environment through use of architecture, urban design and landscape design which respects local character.

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF.

### **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)

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 relevant policies are:

Policy ENV2 states that all development should aim to protect and promote the special qualities, historic character and local distinctiveness of the Black Country.

### **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 BCSS 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.

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. This policy will be applied to all development but will be particularly significant in the following locations:-
- Areas with a special character arising from the homogeneity of existing development in the neighbourhood.
- (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.
  - The integration and co-ordination of buildings and external space.
  - Community safety and security.
  - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
  - The effect on the local character of the area.
  - The proposed vehicular and pedestrian circulation patterns.
  - The integration of existing natural and built features of value.
  - The maintenance requirements of the development.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

4 bedroom houses and above                      3 spaces per unit

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)

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 E (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.

- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

It is considered in this case that the relevant provisions of Designing Walsall are consistent with the NPPF.

### **Consultations**

**Transportation** – No objections

**Natural Environment – Ecology** – No objections on ecological grounds subject to the inclusion of planning conditions to conserve local bat populations if permission is granted.

**British Waterways** – No comments

### **Public Participation Responses**

A Letter received from Patrick Cluxton 15/02/13 on behalf of the occupiers of 11a Greenslade Road makes numerous points. Those which relate to the current proposal are as follows .

- No professional advice has been taken. [Not a material consideration]
- The builder is not qualified. [Not a material consideration]
- The rear windows of number 15 face the development.
- The works do not comply with Building Regulations. [Not a material consideration]
- The development is subject to restrictive covenants. [Not a material consideration]
- The party wall notice has not been served [Not a material consideration]
- No permission has been granted for the applicant to cross third party land [Not a material consideration]
- The proposals breach the Councils 45 degree code from the nearest ground floor and first floor windows of number 9;
- There should be 24 metres of separation between numbers 11 and number 15 in particular
- There should be 13 metres between metres of space between habitable room windows and blank walls exceeding 3 metres in height.

- Remaining amenity space should be a minimum of 68m<sup>2</sup> and minimum 12 metres long
- Would be contrary to the Councils terracing policy
- The prominent plan box looks horrible and dominates the neighbouring bungalow
- The development dominates number 9 because the ridge line is not lower than the main roof ridge;
- Flat roofs are not an existing feature at Gility Village and Park hall;
- The appearance is not of a side gable roof but one with the top part missing;
- There should have been a rear facing gable roof design;
- The development is contrary to policies GP2, ENV32, the SPD Designing Walsall and the “Gility, Park Hall and Pheasey” design guidelines
- A greater reduction is required than the previous approval
- Not all of the neighbours were consulted on the previous applications
- The owner of number 8 Norman Road has objected on the following grounds:
  - The roof height increase is not minor and totally out of keeping;
  - The dimensions are not on the plans and there is no rule scale, the Council should reject plans without these details;
  - The roof height should be reduced;
  - The flat roof should be replaced with a triple-pitched roof to reduce the profile and allow less blockage of light.

The owner of number 1 Greenslade Road has objected on the following grounds:

- Out of keeping with the area
- Results in overshadowing of neighbouring houses
- Overdominant
- Contrary to covenants and planning rules [Not a material consideration]
- Currently an unpleasant building site with work constantly ongoing, cars parked on verges and footpaths [Not a material consideration]
- Detracts from the value of property [Not a material consideration]
- Overdevelopment

### **Determining Issues**

Whether the proposal overcomes the previous reasons for refusal in respect of

- the increase roof height effect on the street scene .
- the impact of the extensions on the amenity of adjacent neighbours

Impact on Protected Bat Species

### **Observations**

#### **Whether the proposal overcomes the previous refusal reasons**

The design which includes the loss of the chimney, the 400mm increase in roof height and deeper eaves is still in keeping with the 1960's style of the house and in isolation is considered integrates with the original house. The set back at first floor also ensures the side extension also offers some subservience to the original house.

When viewed from 11a the extension does not dominate this neighbouring bungalow due to the orientation and relationship between these houses. However the accumulative impact of the increased roof height coupled with the flat element is considered to have exceeded the acceptable limit of the development of this house resulting in an incongruous development in the street scene when viewed from the direction of number 9 along Greenslade Road. This is exacerbated because the original house is set forward of number 9 in the street creating a jarring effect. Even with the retained 2 metre separation between the development it appears unduly dominant when viewed from the frontage of No 9 and further down the road. The extensions do not overcome the first refusal reason of planning application 11/0469/FL.

The first floor side extension includes a 500mm setback at the front, but this part of the extension is now 200mm closer to number 9 than the original side elevation and 400mm higher. The combination of the increased height of the roof and with it being 200 mm closer to No9 impacts unacceptably on No 9. The extensions also breach the Councils 45 degree code to the adjacent ground and first floor floor, front, habitable room windows at 9 because of the 200mm increase in width. In this respect the proposal does not overcome the previous refused applications second reason for refusal.

The depth of the extended house would be the same as the previous approved application. However, the 400mm increase in height, combined with the approved increased depth over the original house is considered would have an overbearing and unacceptable impact on the rear lounge window in 11a Greenslade Road and does not overcome the third reason for refusal of planning application 11/0469/FL.

### **Impact on protected Species**

The bat survey report is sufficient to indicate that a bat roost is unlikely and the recommendations put forward by the bat consultant would be included in planning conditions if all other aspects of this proposal were acceptable

### **Other issues raised through consultation**

Around the corner number 15 Norman Road faces away from the application house over 12 metres away. It was considered in the previous application that there would be no undue impact on this house.

The proposal and its relationship to numbers 11a and 15 accords with the 24 metre separation policy.

The proposal and its relationship to numbers 11a with an existing extension between accords with the 13 metre separation policy.

The Council's amenity space standards would still be met.

Number 11 is sited further forward than number 9 which itself prevents any terracing effect between these houses and is an existing characteristic of this part of Greenslade Road.

There may be alternative designs to the one which has been submitted, however only the submitted design is for consideration in determining this planning application.

The development is considered against policies GP2, ENV32, the SPD Designing Walsall and the "Gility, Park Hall and Pheasey" design guidelines

Letters were sent to the correct addresses of all neighbours adjoining the application site on all previous applications and the current application.

The submitted plans are to a recognised scale and enable the proper determination of the application.

### **Recommendation: Refuse**

1. The proposed increase in roof height would amount to a disproportionate addition to the application property and would create a jarring effect that would appear incongruous in the street scene. The development would therefore be contrary to the

National Planning Policy Framework in particular paragraphs 56, 57, 58, 64, 109, 186 and 187, the Black Country Joint Core Strategy policies HOU2 and ENV2 and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document, Designing Walsall.

2. The proposed first floor side extension, coupled with the increased roof height, would have an overbearing and unacceptable impact on the adjacent ground and first floor, front habitable room windows in 9 Greenslade Road because of its excessive length and height in relation to this property. The development would therefore be contrary to the National Planning Policy Framework in particular paragraphs 56, 57, 58, 64, 109, 186 and 18, the Black Country Joint Core Strategy policies HOU2 and ENV2 and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document, Designing Walsall
3. The combined height and length of the proposed rear two storey extension would have an overbearing and unacceptable impact on the rear lounge window in 11a Greenslade Road. The development would therefore be contrary to the National Planning Policy Framework in particular paragraphs 56, 57, 58, 64, 109, 186 and 187, the Black Country Joint Core Strategy policies HOU2 and ENV2 and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document, Designing Walsall



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 15.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 12/0137/FL  
**Application Type:** Full application

**Case Officer:** Helen Smith  
**Telephone Number:** 01922 652606  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Silk Plant & Associates

**Applicant:** Mr S Singh Jhooty

**Proposal:** Pitched roof above existing garage and utility room, chimney removal, front porch extension, side door to garage and extension to driveway (part retrospective).

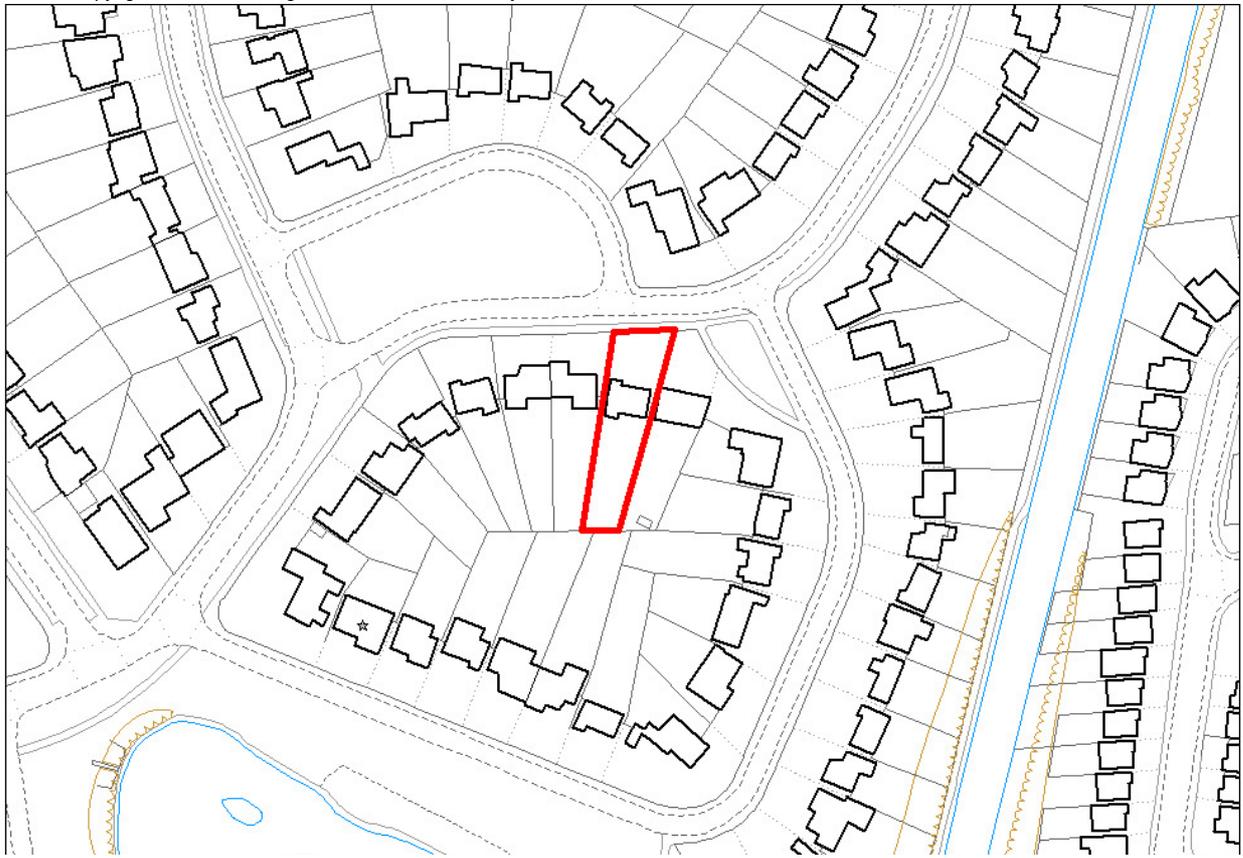
**Location:** 10 NORMAN ROAD, WALSALL, WS5 3QJ

**Ward:** Paddock

**Expired Date:** 22/05/2012

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

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## **Application and Site Details**

The application property is a late 60's early 70's designed detached house located within a row of six similarly designed houses with stepped frontages. The surrounding area benefits from a mix of detached houses and bungalows of varying design. The proposed alterations have been amended to form the current part-retrospective proposal.

This application includes the retention of a new pitched roof above the existing garage and utility plus a gable roof to the front, 2.2 metres high to the eaves and 3.4 metres high to the ridge. The existing utility room extends a further 1.9 metres beyond the original two storey rear elevation. The proposal also includes front porch extension, an enlarged front drive, removal of a chimney and a new pedestrian door to side of existing garage. The walls/gates and railings and loft alterations have been removed from the current application.

There is a 1.2 metres wide gap between the single storey side elevation of number 10 and the boundary with the neighbour at number 8. The front elevation of no. 8 is angled away from the front of number 10. Number 8 has front and rear facing habitable room windows and a blank side elevation next to no. 10 plus a two storey rear extension next to no. 10. There are conifer trees belonging to the occupiers of no. 8 along the shared front garden boundary with number 10.

The front elevation of house no. 12 Norman Road is positioned approx. 1 metre forwards of the front of number 10 and has front facing habitable room windows. The proposed porch would be positioned 7.6 metres from the front garden boundary with no. 12 and the utility room extension is located 8.4 metres from the rear garden boundary with no. 12.

The rear garden is approx. 32 metres in length.

## **Relevant Planning History**

None

## **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:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants

**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.

#### 11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

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.

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.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State. Relevant RS policies are:

POLICY QE3: Creating a High Quality Built Environment for all states;

A. Development Plans and other strategies should promote the creation of high quality built environments as part of urban and rural renaissance and the regeneration strategies for the Region's cities, towns and villages.

B. Particular attention should be given to:

i) securing a high quality of townscape, urban form, building design and urban spaces, through the use of architecture, urban design and landscape design, which respects Regional and local character, culture and history;

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF.

### **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 in planning decisions.

The relevant policies are:

ENV 1, ENV 2 and ENV 3 set out the criteria for nature conservation, the historic environment and design quality.

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: 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.
  - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
  - The effect on the local character of the area.

#### T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13.

#### T13: Parking Provision

1, 2 and 3 bedroom houses 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

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 E (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)).

### **Conserving Walsall's Natural Environment**

Provides guidance on development which may adversely affect trees, important species and habitats.

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

### **Consultation Replies**

The following responses relate to the amended scheme:

**Transportation** – No objections

**Natural Environment, Ecology** – No requirement for a bat survey

### **Public Participation Responses**

Objections have been received from 13 residents in total plus a planning agent acting on behalf of the neighbouring residents. The objections refer to the original proposal to rebuild the house and the current scheme for extensions to the existing house. Only the latter are reported below as relevant to the determination of this application as it now stands.

- Proposal fails ENV32(a) & (b) and Appendix E of Designing Walsall SPD
- Manhole not shown on plans and how will this be accommodated (*not material to the determination of the planning application*)
- Cooking odours near lounge of no. 8 (*not material to the determination of this planning application*)
- Boiler exhaust emitting large quantities of water vapour (*not material to the determination of this planning application*)
- Council should restrict or remove Permitted Development Rights
- Building Regulations approval required (*regularisation application has been received by the Building Control Team for the current scheme*)
- Red line boundary is correct between no. 10 and 12 but when the plan is enlarged it strays onto no. 8
- Description refers to "new front boundary wall/railings and gates" but no mention of side walls (*not part of the planning application*)
- Wall likely to damage roots of 40 year old conifer trees to front of no. 8 (*a private legal matter*)
- Wall contravenes restrictive covenants and the Council risks maladministration if approved with knowledge of a covenant (*covenants are not enforceable by the Local Planning Authority and the walls do not form part of this planning application*)
- Porch wall may have been built without a cavity when it is part of the hall and should be investigated (*not a material planning consideration and would form part of any Building Regulations*)
- Service trenches left open and rats have been seen
- The application form has errors and does not match the revised application
- Gates and walls an unwelcoming feature with spikes and would hinder vehicle access (*removed from the current application*)
- No dimensions on plans (*the agent confirms the drawings are to a scale*)
- Noise and disruption
- Brick structure in rear garden being built (*permitted development rights exist for garden structures but none was evident following a subsequent site visit on 21/02/13*)
- Parking on verges
- Drainage concerns
- Fires
- Works undertaken without securing planning permission first (*at owner's own risk*)
- Appearance of site and impact on property values

### **Determining Issues**

- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Impact on Protected Species
- Impact on Trees

- Parking

## **Observations**

### **Design of Extension and Impact on Character of Area**

The gable roof design above the porch and garage reflects the design of the existing house. The surrounding area benefits from mixed character of housing styles and it is considered the proposal, once complete, would have a limited impact on the appearance of the street scene.

### **Impact on Amenity of Nearby Residents**

The new roof is 1.2 metres from the side boundary with no. 8 which has a blank side elevation. The front elevation of no. 10 does not extend forward of no. 8 whilst the rear utility extension at no. 10 extends approx. 1.9 metres further than the existing two storey rear extension to no. 8. The rear elevations of no's 8 and 10 face south and it is considered this orientation and modest extension would have a limited impact on existing light and visual amenity available to the occupiers of no. 8. The new pedestrian door to the side of the garage would have little impact on neighbours at no. 8 and can be completed using existing permitted development allowances.

The porch extension is located 7.6 metres from the front garden boundary with no. 12 whilst the rear utility extension is positioned 8.4 metres from the rear garden boundary with no. 12. It is considered that these separation distances from no. 12 would limit the impact of these proposals on the existing light and visual amenity experienced by the occupiers' of no. 12.

The application complies with the Council's 45 degree guidance in relation to front and rear facing habitable room windows in no. 8 and 12 Norman Road.

The proposal is considered to be acceptable and complies with planning policies including ENV32 (a) & (b) and Appendix E of Designing Walsall SPD.

It is not considered reasonable or necessary to apply a condition, as objectors propose, restricting current permitted development allowances in respect of the minor extensions and alterations proposed.

Neighbour's concerns about noise and disruption during construction are noted. The current proposal is part retrospective and works are almost complete. Disruption can occur during the construction process, but it is considered to be for a limited period of time and not substantive enough to refuse the planning application.

The construction process can have an effect on the appearance of the street. However, this is generally for a limited time. Should the construction work stop and the site condition deteriorate, then Planning Enforcement Officers can consider taking action to ensure the site is tidied up. Problems with fires and vermin can be dealt with by separate legislation administered by Environmental Health and the Fire Service. Property values are not a material planning consideration.

A new completed application form relating to the current proposal has been provided. An amended plan has been received amending the red line boundary where there was a drafting error encroaching over the boundary onto no. 8. Boundary concerns are a private legal issue rather than a material planning consideration and it is considered the submitted red line plans are adequate to determine this planning application.

Planning applications are determined on the merits of the individual case without setting a precedent. In determining a planning application regard should not be given to land law issues such as easements and rights. Whether the applicant has the right to enter upon land and carry out development following a grant of planning permission is a matter for the applicant and not a matter for the Local Planning Authority to consider in its determination of the planning application.

### **Impact on Protected Species**

Following a site visit by the Council's Ecologist who considers there is no requirement for a bat survey. Initially it was considered necessary as the scheme included a loft conversion and at the request of the agent a visit was made. The development should not interfere with the roof felt and the main risk of disturbance to the roof space is the installation of roof lights which have now been removed from the proposal.

The roof is constructed from interlocking concrete tiles, which allow no cracks or crevices for bats to get into the space between the tiles and roof felt. The ridge tiles are well mortared and provide few, if any, opportunities for roosting bats. The verges are protected by plastic caps and provide limited access opportunities. The soffits are clad in uPVC and there are no opportunities for bats to access the roof. There are no objections to this application on ecological grounds.

### **Impact on Trees**

The Council's Tree Officer has no objections whilst commenting that there are no significant trees on site. There were no protected trees on the site and the applicant's removal of trees was permitted.

Neighbours concerns about the potential impact of the front wall on existing conifer trees which are not protected trees would be a private legal matter between residents and the walls/railings/gates do not form part of this planning application.

### **Parking**

The current scheme would provide three bedrooms. The maximum planning requirement for the provision of off-road parking would be two parking spaces each measuring 2.4 by 4.8 metres.

The existing garage would be retained and the extended drive would provide space for further parking spaces. The drive extension would limit any need for on-road parking and Transportation Officers have raised no objections to the proposal.

A condition would be included requiring details of proposed drive drainage to be submitted prior to construction. Parking on grass verges can be reported directly to Highway Enforcement Officers.

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

Officers have met and liaised with the applicant's agent and in response to concerns raised, amended plans have been submitted to enable full support to be given to the reduced scheme.

## **Summary of Reasons for Granting Planning Permission**

The appearance of the revised proposal is considered to be acceptable and reflects the design of the existing house and would have a limited additional impact on the mixed character of the surrounding area. The extension in relation to the adjoining houses means that it will cause little additional overlooking, loss of privacy, or loss of daylight or sunlight to these properties, and it will comply with planning policy and the numerical guidelines in the SPD.

There is space to the front of the property, with the garage also, to accommodate two vehicles to meet policy requirements. A condition would be included requiring details of proposed drive drainage shall be required prior to construction of the drive.

The Council's Transportation Officers, Ecologist and Tree Officers have raised no objections to the proposal.

A number of neighbour concerns were raised in relation to the initial proposal for a new house and are considered no longer relate to the revised, reduced scheme. The scale of the development has been reduced to new roof above an existing garage, a new porch, side garage door, chimney removal and a drive extension plus the removal of a proposed new wall/railings and gates from the application.

Planning applications are determined on the merits of the individual case without setting a precedent. In determining a planning application regard should not be given to land law issues such as easements and rights. Whether the applicant has the right to enter upon land and carry out development following a grant of planning permission is a matter for the applicant and not a matter for the LPA to consider in its determination of the planning application.

Any damage arising from a fallen tree during removal would be a private matter for the neighbour and there were no protected trees on the application site to prevent removal. Any impact on water supply to or root damage to neighbours conifer trees would be a private rather than a planning matter.

Residents may report parking on grass verges to Highways Enforcement Officers and the lighting of fires and vermin to Environmental Health.

Any works carried out without first obtaining planning permission would be at the owners own risk. Any impact on property values is not a material planning consideration.

Some disruption and noise during construction is likely to be experienced by residents but as this proposal is part retrospective and is now reduced in scale it is considered this impact would be limited.

Permitted Development Rights exist for garden buildings and can be investigated by Planning Enforcement Officers.

The site is currently undergoing development which will affect the appearance of the street. If the condition of the site worsens then Planning Enforcement Officers have the option of considering seeking approval for a Section 215 Notice as suggested.

A new application form and a revised site plan have been received amending the red line boundary in relation to no's 8 and 12 Norman Road. The submitted red line plan is

considered to be sufficient to enable the determination of this application and boundary issues are a private legal matter.

The position or impact of a development on a manhole, cooking odours, and position of the boiler exhaust related to the initial proposal and are not material to the determination of the planning application.

It is not considered reasonable or necessary to apply a condition, as objectors propose, restricting current permitted development allowances in respect of the minor extensions and alterations proposed.

There is considered to be sufficient information of the submitted drawings and within the application form to determine this proposal. The plans are scale drawings and there is no need for dimensions to be provided separately. An application for Building Regulations approval has been submitted for the current scheme which will also examine the construction of the porch if the internal door has been removed to the main house.

The proposed development is considered to be consistent with the National Planning Policy Framework and meets the aims and objectives of the Black Country Core Strategy policies in particular ENV2, the Walsall Unitary Development Plan policies in particular GP2, ENV29, ENV32, T7 and T13, and the Supplementary Planning Documents Designing Walsall and Conserving Walsall's Natural Environment.

### **POSITIVE AND PROACTIVE STATEMENT**

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

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

1: The walls and roof of the extension shall comprise facing materials that match 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.

2: a) Within 2 months of this decision a plan shall be submitted in writing to the Local Planning Authority to include drainage for the hard-surfaced front drive to the existing storm drains.

b) The approved details shall be fully implemented within 6 months and retained thereafter.

Reason: To ensure water run-off from the hard surface does not run onto the highway, and in accordance with policies T7 and T13 of Walsall's Unitary Development Plan.

3: This decision does not include the front walls, gates and railings included on the plans.

Reason: To define the application.

4: This development shall not be carried out other than in conformity with the following approved plans: -

- Existing Plans and Elevations – drawing no. 02, deposited 31/01/13
- Block, Site Location and Proposed Site Plan – drawing no. 01 Revision B, deposited 19/03/13
- Proposed Plans and Elevations – drawing no. 03 Revision D, deposited 19/03/13
- Existing and Proposed Driveway with Gate Details and Street Scene – drawing no. 05 Revision B, deposited 19/03/13 (Gates and Wall subject to Condition no. 3).

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).



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 16.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 12/0981/FL  
**Application Type:** Full application

**Case Officer:** Helen Smith  
**Telephone Number:** 01922 652606  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:**

**Applicant:** Mr Amrit Panesar

**Proposal:** Resubmission of 12/0041/FL: Front boundary walls and proposed automatic gates and railings.

**Location:** 84 BELVIDERE ROAD, WALSALL, WS1 3AU

**Ward:** St. Matthews

**Expired Date:** 10/04/2013

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

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## **Application and Site Details**

This application is a resubmission following an earlier refusal. The property is a 1920/30's detached house with an existing hard-surfaced frontage and front boundary walls which have been in situ since 2006. The site is opposite the Highgate Conservation Area (Article 4 Direction) boundary at the road junction with Jesson Road.

The street benefits from a mixed character of mainly detached houses of different design and age and a school opposite. Front boundary treatments along this side of Belvidere and Jesson Road consist mainly of low walls and hedges whilst there are examples of higher boundary walls opposite this site plus similar walls, railings and gates along the western section of Belvidere Road.

The existing front/side brick walls are 0.86 metres high with 1.2 metres high brick piers. There are protected trees on the frontage, one of which was recently felled following approval of an application to carry out works to a protected tree.

The current proposal would retain the existing piers and the height of the wall between the piers would be 0.75 metres. The 2.9 metres wide gaps between the piers would be infilled with arch topped, black, metal railings with a maximum height of 1.46 metres. A row of existing brickwork would be removed from the wall sections and a thin stone slab installed above the brickwork.

Electrically operated 1.6 metres high metal gates would be erected supported on posts which would be 1.2 metres high.

House no. 85 Belvidere Road has a hedge along the side boundary with the application house which is approx. 1.6 metres high and front facing habitable room windows.

No. 42c Jesson Road has a front facing habitable room window near the front boundary with the application house.

## **Relevant Planning History**

12/0041/FL – Automatic gates and railings to front wall – refused permission on 5/4/12 on the following grounds;

1. *The proposed gates and railings would have a dominant and overbearing impact, introducing an incongruous feature in the street, because of their excessive height and ornate design and would appear out of character with the area.*

12/0040/TR - Fell two birch trees at front of property - part approve/part refuse - 24/02/12

06/1072/FL/H1 - New front boundary wall/front railing and gates and conservatory to rear - withdrawn 20/06/06.

## **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; To always seek to secure high quality design and good standards of amenity for all existing and future occupants and take account of the different roles and character of different areas

**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

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.

11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

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.

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.

## **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State. Relevant RS policies are:

POLICY QE3: Creating a High Quality Built Environment for all states;

A. Development Plans and other strategies should promote the creation of high quality built environments as part of urban and rural renaissance and the regeneration strategies for the Region's cities, towns and villages.

B. Particular attention should be given to:

i) securing a high quality of townscape, urban form, building design and urban spaces, through the use of architecture, urban design and landscape design, which respects Regional and local character, culture and history;

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF.

## **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 relevant policies are:

CSP4: A high quality of design of the built and natural environment is required.

ENV 1, ENV 2 and ENV 3 set out the criteria for nature conservation, the historic environment and design quality.

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: 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.

ENV18: Existing Woodlands, Trees and Hedgerows.

The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows.

ENV29: Conservation Areas.

The Council will determine whether a development preserves or enhances the character of a conservation area in terms of:

I The degree of loss or alteration to property which makes a positive contribution to the character of the area.

II The impact of any new buildings on the special townscape and landscape features within the area.

III The scale, massing, siting, layout, design or choice of materials used in any new building or structure.

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. This policy will be applied to all development but will be particularly significant in the following locations:-

- Within a Conservation Area.

(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.
- Community safety and security.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The integration of existing natural and built features of value.

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. The relevant policy is;

DW3 - Character- All new development must be designed to respect and enhance local identity

### **Conserving Walsall's Natural Environment**

Provides guidance on development which may adversely affect trees, important species and habitats.

It is considered in this case that the relevant provisions of Designing Walsall ND Conserving Walsall's Natural Environment are consistent with the NPPF'

### **Consultation Replies**

**Transportation** - No objections

**Natural Environment Team, Trees** - No objections

**Conservation Officer** – No objections raised due to the varied character of the neighbourhood and as the site is outside the conservation area.

### **Public Participation Responses**

Three letters of objection have been received stating the following;

- out of keeping with surrounding properties in the Conservation Area
- will set a precedent
- history of planning issues with this property
- gates will impact on vehicular congestion at this very busy junction near a school
- may become more of a secured business yard to enable more lorries and vans to be parked
- additional noise when vans/lorries are being loaded (usually at night) plus the noise of the automated gates
- visual appearance from no. 85 Belvidere Road will be heavily impaired in addition to the vans/lorries
- impact on light and residential amenity

### **Determining Issues**

Whether the application has addressed the reasons for refusal of the previous application or raises any new issues in respect of the;

- Design of the Proposal and Impact on Character of Conservation Area
- Impact on Amenity of Nearby Residents
- Impact on Protected Trees

### **Observations**

#### **Design of the Proposal and Impact on Character of Conservation Area**

The height of the proposed wall and railings sections would reduce from 1.57 metres to 1.46 metres high. This reduction and the removal of an existing course of brickwork are considered would significantly improve the design and open appearance of the development.

The proposed gates would be reduced from 2.37 metres to 1.6 metres high. This change would make the appearance of the proposal acceptable in the street and provide a boundary of an appropriate domestic scale for this location.

The application house falls outside the boundary of Highgate Conservation Area. Belvidere and Jesson Road benefits from a mixed character of properties and boundary treatments and it is considered that the amended proposal would have a limited impact on the appearance of the existing house and surrounding area.

The ornate design of the railings and gates is considered acceptable at the reduced scale of the proposal. A condition would be imposed to require the railings to be painted black.

The amended scheme is considered to represent a significant change to the earlier proposal which has addressed the previous refusal reasons.

### **Impact on Amenity of Nearby Residents**

The impact of the proposed railings adjacent to the front garden boundaries with 85 Belvidere Road and 42C Jesson Road is considered to be visually acceptable as open railings, would have limited impact on the existing light available to the occupiers of these houses.

The existing wall is long established and the introduction of open style railings on top, lower in height than previously proposed, would only increase the presence of the wall to a limited extent which would not harm residents' visual amenity.

No. 85 has an existing hedge of similar height to the proposal which would screen this development from the front habitable room windows in this adjacent house.

The height of the railings near to no's 85 and 42C would be 1.46 metres high which is less than the current permitted development allowance of 2 metres high and would not require the submission of a planning application to the Local Planning Authority.

Planning permission must be determined by the Local Planning Authority (LPA) on the merits of the application. This enables a LPA to distinguish a development from another to avoid a question of precedent.

The current owners have applied for planning permission for the proposed development as required and have co-operated with the Local Planning Authority when amendments have been sought to the proposed scheme.

Transportation officers have raised no objections to the proposal on highway grounds.

The use of electric gates and low noise levels from its operation will have a limited impact, if any, on neighbouring residents. The occupiers of the application house are likely to use a remote control access device and the use of the intercom for a residential property is unlikely to result in disturbance to neighbours. Neighbours' comment that the frontage has vehicles which appear to be for a business use. This was not apparent during two site visits, which were not pre-arranged, and no evidence has been provided in support of this. The application house had a residential character.

### **Impact on Protected Trees**

The drawing indicates two trees to the front of the site. A recent application (12/0040/TR) to fell both trees was partly refused, with the tree on the flank boundary between 84 Belvidere

Road and 42C Jesson Road being the only tree allowed to be felled. The tree on the Belvidere Road frontage (nearest the entrance gates) was refused permission to be felled as it is of good shape, form and condition, and of high amenity value. The Proposed Layout and Elevation drawing indicates this tree to be retained.

The services for the gates will be installed along the flank boundary with 85 Belvidere Road to avoid any conflict with the Silver Birch on the frontage. This is considered acceptable.

The applicant has submitted plans in accordance with the Tree Officers previous comments and there are no arboricultural objections.

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

Officers have met with the applicant's agent and in response to concerns raised; amended plans have been submitted to enable full support to be given to the scheme

The Government encourages applicants to seek pre-application advice prior to submitting applications to ensure that the proposal meets the aims and objectives of local and national policy. This can be written, by telephone or by looking at the Council's website. This application meets these requirements.

### **Summary of Reasons for Granting Planning Permission**

This change would make the appearance of the proposal acceptable in the street and provide a boundary of an appropriate domestic scale for this location.

The application house falls outside the boundary of Highgate Conservation Area. Belvidere and Jesson Road benefits from a mixed character of properties and boundary treatments and it is considered that the amended proposal would have a limited impact on the appearance of the existing house and surrounding area.

The ornate design of the railings and gates is considered acceptable at the reduced scale of the proposal. A condition would be imposed to require the railings to be painted black.

The amended scheme is considered to represent a significant change to the earlier proposal which has addressed the previous refusal reasons.

The impact of the proposed railings adjacent to the front garden boundaries with 85 Belvidere Road and 42C Jesson Road is considered to be visually acceptable as open railings, would have limited impact on the existing light available to the occupiers of these houses.

The existing wall is long established and the introduction of open style railings on top, lower in height than previously proposed, would only increase the presence of the wall to a limited extent which would not harm residents' visual amenity.

Planning permission must be determined by the Local Planning Authority (LPA) on the merits of the application. This enables a LPA to distinguish a development from another to avoid a question of precedent.

The current owners have applied for planning permission for the proposed development as required and have co-operated with the Local Planning Authority when amendments have been sought to the proposed scheme.

Transportation officers have raised no objections to the proposal on highway grounds. No objections have been raised by the Council's Tree Officer to the amended scheme.

The use of electric gates and low noise levels from its operation is considered will have a limited impact, if any, on neighbouring residents. The occupiers are likely to use a remote control access device and the use of the intercom for a residential property is unlikely to result in disturbance to neighbours.

Neighbours' comment the frontage has vehicles which appear to be for a business use. This was not apparent during two officer site visits, which were not pre-arranged, and no evidence has been provided in support of this. The application house had a residential character at each visit.

The proposed development is considered to be consistent with the National Planning Policy Framework including paragraphs 56, 57, 58, 64 and 109; and meets the aims and objectives of the Black Country Core Strategy policies in particular ENV2, the Walsall Unitary Development Plan policies in particular GP2, ENV18, ENV29, ENV32, T7 and T13, and the Supplementary Planning Documents Designing Walsall and Conserving Walsall's Natural Environment.

### **POSITIVE AND PROACTIVE STATEMENT**

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

### **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 proposed side walls, railings and piers adjacent to no's 85 Belvidere Road and 42c Jesson Road shall correspond with the approved height and design of the proposed elevation fronting Belvidere Road as detailed on drawing no. AL(0)002, Revision C and deposited 06/08/12, and 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.

3: The metal railings and gates shall be painted black and 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.

4: This development shall not be carried out other than in conformity with the following approved plans: -

- Amended Location Plan, deposited 13/02/13
- Existing Layout and Elevation, drawing no. AL(0)001, deposited 06/08/12
- Proposed Layout and Elevation, drawing no. AL(0)002, Revision C and deposited 06/08/12

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).



# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/05/2013

**Plans list item no: 17.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 12/1410/FL  
**Application Type:** Full application

**Case Officer:** Stuart Crossen  
**Telephone Number:** 01922 652608  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Applicant:** Mr E Gutteridge

**Agent:** Mr K Bradley

**Proposal:** Proposed garage for domestic use by No. 11 Little Cross Street.

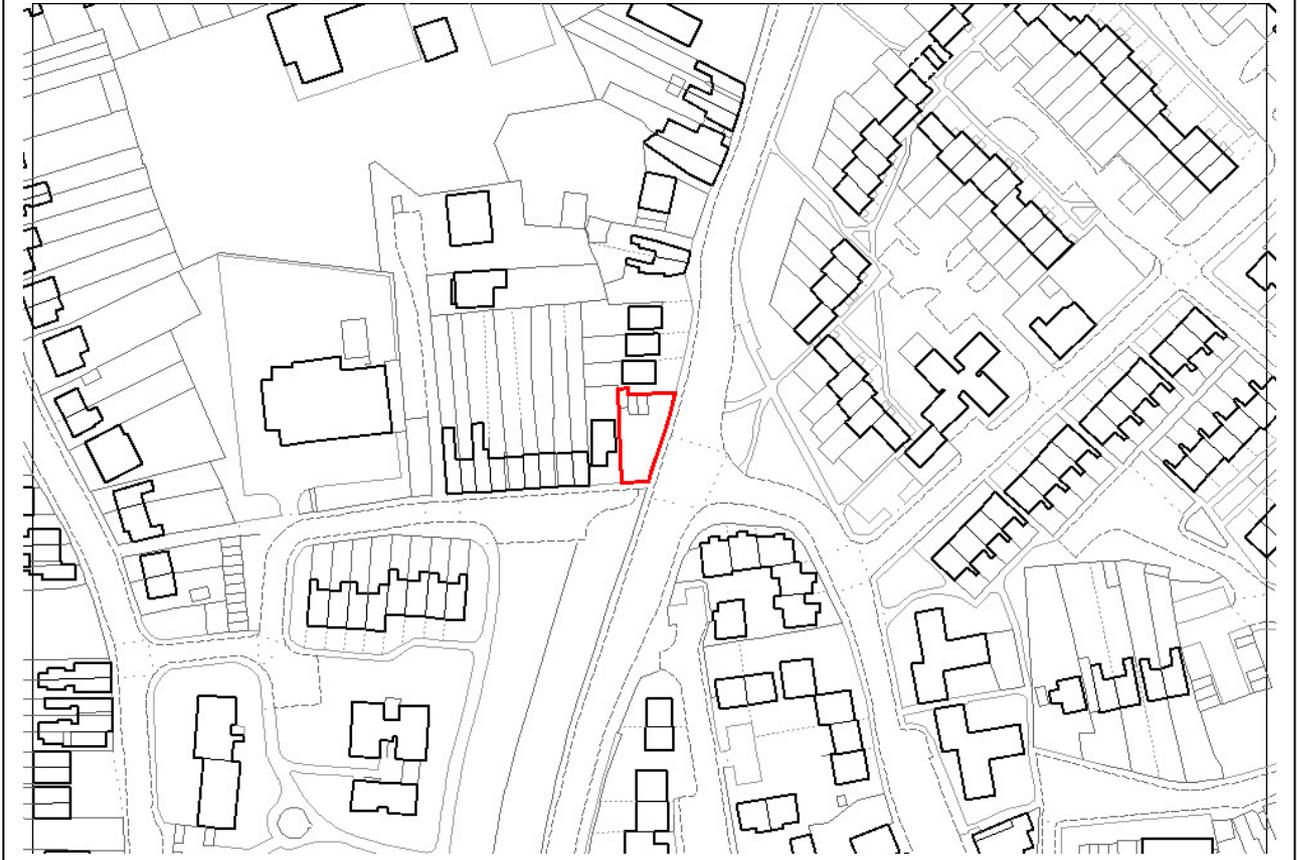
**Location:** LAND ADJACENT 11 LITTLE CROSS STREET, WEDNESBURY

**Ward:** Darlaston South

**Expired Date:** 07/05/2013

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

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### **Application and Site Details**

The application proposes a detached side gable garage next to an existing row of three attached garages. The application site is a corner plot with access onto and facing Little Cross Street. To the side is the rear garden of number 11 Little Cross Street, a modern detached house. On the other side is Blockall which the side elevation of the proposed garage would face. Directly in front of the garages is a tarmac area of hardstanding. The rear elevations of this row of garages and the proposed garage would face the side elevation of number 14 Blockall.

Amended plans have been received which have changed the design from an attached garage to a detached one. Also new ownership forms have been completed serving notice on the other owners of the hardstanding area to the front of the proposal.

The garage would:

- have an up and over door,
- high level side elevation window
- measure the same eaves height as the existing garages
- be in line with the front elevation,
- have a 200mm lower roof ridge than the neighbouring garages
- be 5.45 metres wide,
- be 10.3 metres deep and built 500mm further forward than the adjacent attached garages.

The garage would prevent foot access to the existing plot of garages from the footpath of Blockall. This access has been removed during the application process.

The nearest house to the proposal is 14 Blockall 3.2 metres away to the rear and which has a 1.8 metre high boundary fence between. The side elevation of the garage would be 600mm forward of the front elevation of number 14. There is a single first floor side elevation window to a bathroom and ground floor access door, neither are main windows to habitable rooms.

### **Relevant Planning History**

BC15625P – Erection of 3 No. Garages & Re-alignment of Car Park at Little Cross Street. Granted Subject to Conditions 05/12/85. Condition 3 required the accessways to be hardsurfaced and retained thereafter to ensure the satisfactory appearance of the development.

### **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:

- 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
- Reuse land that has been previously 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

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.

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

### **Decision-taking**

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.

### **Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered there are no relevant RS policies in this case.

### **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 relevant policies are:

Policy ENV2 states that all development should aim to protect and promote the special qualities, historic character and local distinctiveness of the Black Country.

### **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: 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.

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. This policy will be applied to all development.
- (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.
  - The integration and co-ordination of buildings and external space.
  - Community safety and security.
  - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
  - The effect on the local character of the area.
  - The proposed vehicular and pedestrian circulation patterns.
  - The integration of existing natural and built features of value.
  - The maintenance requirements of the development.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13.

#### T13: Parking Provision

1, 2 and 3 bedroom houses 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

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 E (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.

- 13m separation between habitable windows and blank walls exceeding 3m in height.
- 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)).

It is considered in this case that the relevant provisions of Designing Walsall are consistent with the NPPF.

#### **Consultations**

Transportation – No objections subject to a condition to re-instate an accessway to the garages from Blockall.

Public Rights of Way Officer – No objections

#### **Public Participation Responses**

The occupiers of number 14, 15 and 16 Blockall have objected on the following grounds:

- The application forms state that the floor area is 12.5m<sup>2</sup>, on the plan it is 12.857m<sup>2</sup>
- The drawings on the original plan state that the flank wall of the garage should not extend forward of the front wall of number 14, but it measures 187mm forward.
- The land is not solely owned by the applicant.
- Loss of light to number 14.
- Would prevent an extension at number 14 and would block light from a potential side extension which the occupier could apply for.
- If a car is parked outside of the adjacent garage you would have to cross the grass to access the proposed garage.
- No soakaway or drainage details.
- Access to maintain a boundary fence would be lost.
- A new garage would look out of place, is unsightly and out of character.

- Loss of value to their house.
- The applicant hasn't used this parking area in the last 12 years until a few months prior to this application.
- A condition should be attached to prevent the proposal being within the line of sight of 14.
- There is not enough land to the front of the proposal to access the garage when a car is parked outside of the adjacent garage, could have safety implications if the only egress route would be across the grassed area used by school children from St Josephs and Old Church.
- The external end wall would protrude more than suggested
- The proposal would block pedestrian access.
- The original plans if implemented would require all roof tiles to be replaced due to oxidisation and colour fading.
- Work has started, the pedestrian right of way has been removed which provides pushchair and wheelchair access to the bus stop.
- A change of use is required to remove the pedestrian access which has been there since 1988.
- The appalling antagonistic way the proposer has reacted to neighbours over the original objection.
- Would not allow the garage to be attached to their garage which is adjacent the proposal.
- Loss of light to side window of a garage.
- The garage breaches the building line to number 14.
- Would be built onto a small drain
- No proposal for altering footpath and drive
- Not enough space for another garage
- The applicant has bought the land and stopped parking rights for numbers 14 to 16 Blockall.

### **Determining Issues**

- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Parking and Pedestrian Access
- Positive and Proactive Working with the Applicant

### **Observations**

#### **Design of Extension and Impact on Character of Area**

Notwithstanding the discrepancies between the original plan and application forms on the floor area or the annotations on the original plan, the application is considered on the amended submitted plans.

The design would be similar to the other existing garages having a side gable design, although slightly lower than these neighbouring garages and not as deep, the character of this hardstanding garage area would be unchanged as a result of the proposal.

#### **Impact on Amenity of Nearby Residents**

The garage would not be directly adjacent any main habitable room windows at number 14, the side of the garage projecting 600mm beyond the front elevation of number 14 would not result in any significant overbearing impact or result in significant loss of light to justify refusing or further altering the proposal.

The garage would impact on light to the neighbouring garage, however this is not a habitable room and as a result is considered would not result in any undue impact on neighbouring amenity.

### **Parking and pedestrian access**

There are no recorded definitive public rights of way, or adopted paths across the site. There can sometimes be unrecorded public rights of way present and members of the public can make an application in accordance with section 53 of the Wildlife and Countryside Act, for these to be added onto the Definitive Map and Statement. No applications have been received so there is no evidence available to confirm that any unrecorded rights are present. The objections made to this planning application suggest that the slabbed footpath which has already been removed connected highway near to the bus stop/ dropped kerb, with private land with shared access for adjoining properties. The public rights of way officer considers it unlikely that if an unrecorded public right of way was claimed here that it would meet the statutory requirements, as the footpath referred to provided access to private landowners or occupiers of those properties, rather than access for the wider public.

The Transportation Officer has recommended a condition which requires the accessway to the garages be reinstated from Blockall to provide good pedestrian links to the development in accordance with policy T8 and which would ensure the satisfactory appearance of the grass verge.

The application if implemented would not preclude any legal action between interested parties over access rights but this issue is not a material consideration of a planning application.

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

Following the original consultation the case officer asked the agent further questions about ownership rights which resulted in amended plans, a new certificate and further consultation. No further changes have been considered necessary to fully support the proposal.

### **Other non-determining issues raised through consultation**

Changes to landscaping including slabs do not require planning permission and this work itself is not a determining issue of this planning application.

The correct notice has now been served on owners of the shared land.

Extensions to neighbouring houses would be considered on their own merits regardless of whether the proposal is approved and implemented or not.

Private land access and parking rights are private matters between interested parties and not a determining issue of this planning application.

Loss of value to neighbouring houses as a result of development is not a determining issue of a planning application.

Whether the applicant has used this space in the last 12 years is not a determining issue of this planning application.

The personal reactions between the applicant and neighbours in response to consultation of this planning application, is not a determining issue.

## **Summary of Reasons for Granting Planning Permission**

Notwithstanding the discrepancies between the original plan and application forms on the floor area or the annotations on the original plan, the application is considered on the amended submitted plans.

The design would be similar to the other existing garages having a side gable design and the character of this hardstanding garage area would be unchanged as a result of the proposal.

The garage would not be directly adjacent any main habitable room windows and would not result in any significant overbearing impact or result in significant loss of light to justify refusing the proposal.

The garage would impact on light to the neighbouring garage, however this is not a habitable room and is considered would not result in any undue impact on neighbouring amenity.

Both the hardstanding and pedestrian access is on private land, the proposed layout is considered acceptable having no impact on highway safety or raising any public rights of way issues.

Changes to landscaping including slabs do not require planning permission and this work itself is not a determining issue of this planning application.

The correct notice has now been served on owners of the shared land.

Extensions to neighbouring houses would be considered on their own merits regardless of whether the proposal is approved and implemented or not.

Private land access and parking rights are private matters between interested parties and not a determining issue of this planning application.

Loss of value to neighbouring houses as a result of development is not a determining issue of a planning application.

Whether the applicant has used this space in the last 12 years is not a determining issue of this planning application.

The personal reactions between the applicant and neighbours in response to consultation of this planning application, is not a determining issue.

The proposed development is considered to be consistent with the National Planning Policy Framework in particular paragraphs 56, 57, 58, 64, 186 and 187 and meets the aims and objectives of the Black Country Core Strategy policies ENV2, the Walsall Unitary Development Plan policies in particular GP2, ENV32, T7 and T13, and the Supplementary Planning Documents "Designing Walsall".

**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 walls and roof of the extension shall be completed with facing materials that match those used in the existing adjacent garages as they exist at the time of this application, and shall be retained thereafter.

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

3. a) Prior to the commencement of the development, details of a new link footpath shall be provided between the existing footpath of Blockall and the garage court for the use of the garage owners/tenants shall be submitted and agreed in writing with the Local Planning Authority,

b) The agreed details shall be fully implemented and retained for this purpose only.

Reason: To protect and improve pedestrian links and to ensure the satisfactory appearance of the development in accordance with UDP Policies ENV32 and T8.

4: This development shall not be carried out other than in conformity with the following approved plans: -

Amended plans (12/140) Deposited 12 March 2013.

Reason: For the avoidance of doubt and in the interests of proper planning.