



Planning Committee

Thursday 16 January 2025 at 5:30pm

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

[Livestream Link](#)

Membership:

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

Quorum:

Seven Members

Democratic Services, The Council House, Walsall, WS1 1TW
Contact name: Edward Cook Telephone: 01922 653204 Email: edward.cook@walsall.gov.uk
[Walsall Council Website](#)

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

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Specified pecuniary interests

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

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

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

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

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

Part 1 – Public Session

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

To approve and sign the minutes of the meeting held on 28 November 2024.

Copy enclosed (pp.5-12)

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

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

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

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

Copy enclosed (pp.13-76)

- 7. Response to City of Wolverhampton Local Plan Publication Version Consultation**

Copy enclosed (pp.77-82)

- 8. Date of next meeting**

The next meeting will be held on Thursday 6 February 2025.

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

Thursday 28 November 2024 at 5.30pm

Committee Members present:

Councillor M.A. Bird (Chair)
Councillor J. Murray
Councillor B. Bains
Councillor H. Bashir
Councillor P. Bott
Councillor S. Elson
Councillor P. Gill (arrived at 5:57pm)
Councillor A. Hussain
Councillor I. Hussain
Councillor K. Hussain
Councillor K. Margetts
Councillor R. Martin (arrived at 5:50pm)
Councillor A. Nawaz
Councillor W. Rasab
Councillor S. Samra
Councillor M. Statham
Councillor V. Waters

Officers Present:

N. Ball	Principal Planning Policy Officer
M. Barwick	Apprentice Planning Officer
M. Brereton	Head of Planning and Building Control
M. Crowton	Group Manager – Transportation & Strategy
K. Gannon	Development Control and Public Rights of Way Manager
S. Hollands	Team Leader Development Management
K. Knight	Senior Transport Planner
G. Meaton	Group Manager – Planning
R. Rowley	Senior Planning Officer
P. Samms	Senior Environmental Protection Officer
A. Sargent	Principal Solicitor
A. Scott	Senior Planning Officer
L. Wright	Senior Planning Officer
E. Cook	Democratic Services Officer
L. Cook	Democratic Services Officer

167 Apologies

Apologies were received from Councillors Nahal, Parkes and Follows.

168 **Declarations of Interest**

The following declarations of interest were received:

- Councillor Bird – Plans List Item 4 – non-pecuniary interest.
- Councillor Elson – Plans List Item 4 – non-pecuniary interest.
- Councillor Nawaz – Plans List Item 4 – non-pecuniary interest.

169 **Deputations and Petitions**

There were no deputation or petitions.

170 **Minutes**

A copy of the minutes of the meeting held on 31 October 2024 was submitted.

[annexed]

Resolved

That the minutes of the meeting held on 31 October 2024, a copy having previously been circulated to each member of the Committee, be approved and signed by the Chair as a correct record.

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

Exclusion of the Public

Resolved

There were no items for consideration in the private session.

At this junction the Chairman stated that as there were members of the public in attendance to speak on applications, he would amend the order of business to hear Agenda Item 8, the Application List for Permission to Develop, before taking Agenda Items 6 and 7.

172 **Application List for Permission to Develop**

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

[annexed]

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

173 Plans List Item 3 – 24/0361 – Land at Barr Lakes Lane

The Chair informed the Committee that a request had been received from the applicant for the application to be deferred to provide an opportunity to submit further information.

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

Resolved (unanimously)

That application 24/0361 be deferred to allow the applicant opportunity to provide further information.

174 Plans List Item 2 – 24/1087 - 36-40 Walsall Rd, Willenhall

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

[annexed]

There were two speakers in support of the application, Councillor Cheema and Mr Patterson. Councillor Cheema stated that the development would fulfil the specific needs of local residents and those attending the nearby Gurdwara. She asserted that there was sufficient parking as most customers would walk; there were good bus routes; and overflow parking was available locally. She added that there had been no history of flooding in the area. Mr Patterson stated that the proposed changes would not increase flooding risk, nor have effects on neighbours' amenities. He added that overflow parking could be secured via legal agreement and there was a local need.

Responding to questions, Councillor Cheema confirmed that she believed a sequential test would be met and the location outside Willenhall Town centre was appropriate, with a Gurdwara and significant South Asian community in the area who would use the store. Mr Patterson confirmed the shop would specialise in South Asian food including vegetables and that the applicant had not been requested to provide a flood risk assessment.

Responding to questions the Senior Planning Officer advised that there were several stores considered to be similar within close proximity and so there

was no identified need. The Development Control and Public Rights of Way Manager advised that the 'overflow parking' discussed by the speakers was for a property on the opposite side of the road which had been considered an under-provision when that property was granted planning permission. He added that there was no legal agreement to access this parking and it would not be practical to secure access via Section 106 given it was considered an under-provision for the property it already served. The Senior Planning Officer confirmed that a flood risk assessment had not been requested as it was not deemed reasonable to demand the applicant this expense when there were other recommended reasons for refusal the planning authority did not believe could be overcome.

Members debated the application and discussed whether there was a need for the development; the relevant planning history; potential alternative uses; and sufficiency of parking.

It was **moved** by Councillor Bains and **seconded** by Councillor Samra that application 24/1087 be deferred to allow the applicant opportunity to provide further information. Upon being put to the vote, this was **rejected (5 in favour, 8 against)** and the proposed resolution failed for this reason.

It was **moved** by Councillor Bird and **seconded** by Councillor Bott and upon being put to the vote it was;

Resolved (9 in favour, 0 against)

That Planning Committee refuse permission for application 24/1087 for the reasons set out in the officer's report and supplementary paper.

Councillors Gill and Martin entered the meeting whilst Plans List Item 2 was being considered. Having not been present for the full duration of the item, they did not vote.

175 **Plans List Item 1 – 23/1395 - Former Mercedes Benz, Dudley St**

Prior to considering the item, Councillor Bird confirmed that he had not 'called-in' application 23/1395. This was confirmed by the Head of Planning and Building Control who advised there had been an administrative error. He confirmed that the item was being considered by Committee due to the recommendation for approval subject to conditions when a petition of over 10 signatures objecting to the proposal had been received, as stated in the supplementary paper.

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

[annexed]

There were two speakers against the application, Councillor Russell and Mr Haroon, and two speakers in support of the application, Mr Siddique and Mr Baker.

Councillor Russell stated that the proposed development would exacerbate existing traffic issues. She added that there was a heavily used pedestrian crossing nearby; that takeaways providing unhealthy food could negatively affect public health; and the development could exacerbate anti-social behaviour (ASB). Mr Haroon stated concerns regarding public health and that there was already sufficient provision to meet local need. He added that there was retail space available in more appropriate town centre locations.

Mr Siddique stated that the landowner had been unable to lease the property as a single entity and it would remain vacant if not redeveloped. He added that the proposal could provide 70 new jobs in a sustainable location. Mr Baker stated that the application was a 6-minute walk from the town centre and would bring increased footfall to the town. He added that it would improve security in the area, with on-site security provision provided.

Responding to questions regarding evidence for concerns raised, Councillor Russell stated that she knew the area and local communities well and that people currently felt unsafe, with regular occurrences of ASB occurring in the immediate vicinity, including drug-use and prostitution. She added that traffic was her main concern. Responding to questions, Mr Siddique stated that there were no objections from statutory consultees and provided an overview of the route vehicles would need to take. He added that there would be sufficient on-site parking including provision of electric vehicle charging and that peak hours for a supermarket were not generally the same as those for the highways network.

There followed a period of questions to officers, during which the Development Control and Public Rights of Way Manager provided an overview of the highway authority's position regarding the application.

Debating the application, several Members stated the opinion that the application would improve the area by bringing a dilapidated site back into use.

It was **moved** by Councillor Samra and **seconded** by Councillor Elson and upon being put to the vote, it was;

Resolved (12 in favour, 3 against)

That Planning Committee resolve to delegate to the Head of Planning & Building Control to grant planning permission subject to conditions, and subject to the amendment and finalising of conditions.

In accordance with procedure rule 17.6, Councillors Bashir, K. Hussain and Nawaz requested that the minutes record that they voted against the resolution.

At this juncture:

- *Having declared an item in the next item, Councillors Bird, Elson and Nawaz left the meeting.*
- *Councillor Murray took the Chair.*
- *Councillors Bains, K. Hussain, Rasab and Samra left the meeting and did not return.*

176 **Plans List Item 4 – 24/0201 – 54 Holtshill Lane, Walsall**

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

[annexed]

There were two speakers in support of the application, Ms Brookes and Mr Priest. Ms Brookes stated that the future operators of the proposed children's home were established Ofsted-registered providers with a track record. She added that the property had been blighted by fly-tipping and the proposed change of use would in practice maintain it as a family home. Mr Priest stated that the 'red-line' boundary had been amended to remove a mistakenly included Public Right of Way and that the small extension already built had been done so under Permitted Development for a class use C3 building. He added that the property would be fully refurbished and building regulations followed.

Responding to questions Mr Priest stated that a previous issue regarding a Right of Way being included within the 'red line' was an accidental oversight and had been addressed. He confirmed that priority would be given to Walsall children. The Development Control and Public Rights of Way Manager confirmed that highways officers had no objections regarding Rights of Way.

It was **moved** by Councillor Martin and **seconded** by Councillor Bott and upon being put to the vote it was;

Resolved (unanimously)

That Planning Committee delegate to the Head of Planning & Building Control to grant planning permission for application 24/0201 subject to conditions and subject to the amendment and finalising of conditions.

At this juncture:

- *Councillors Bird, Elson and Nawaz returned to the meeting.*
- *Councillors P. Bott and I. Hussain left the meeting and did not return.*
- *Councillor Bird re-took the Chair.*

177 **Response to Lichfield Local Plan Issues and Options Consultation**

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

[annexed]

It was **moved** by Councillor Bird and **seconded** by Councillor Murray and upon being put to the vote it was;

Resolved (unanimously)

That Planning Committee:

- 1. Agree the response as set out in the appendix, and authorise the Executive Director for Economy, Environment & Communities, in consultation with the Portfolio Holder for Regeneration, to submit the response to Lichfield District Council.**
- 2. Authorise the Head of Planning and Building Control to amend the final responses as necessary.**

178 **Response to Dudley Local Plan Publication Version Consultation**

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

[annexed]

Members discussed the soundness of the plan and the potential impact on Walsall if Dudley did not fulfil its own needs. Several Members stressed the opinion that concerns with the plan should be voiced as strongly as possible.

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

Resolved (unanimously)

That Planning Committee:

- 1. Agree the response as set out in the appendix, and authorise the Executive Director for Economy, Environment & Communities, in consultation with the Portfolio Holder for Regeneration, to submit the response to Dudley Council.**
- 2. Authorise the Head of Planning and Building Control to amend the final response as necessary.**

179 **Date of next meeting**

The date of the next meeting was 16 January 2025.

There being no further business, the meeting terminated at 7:22pm.

Signed: _____

Date: _____



Development Management Planning Committee

Report of Head of Planning and Building Control on 16/01/2025

CONTENTS

Item	Planning Application Number	Planning Application Site Address	Planning Application Proposal	Officer Recommendation	Page
1	24/1041	2 AND 4, HILARY DRIVE, ALDRIDGE, WALSALL, WS9 0DE Ward: Aldridge Central And South	FULL PLANNING APPLICATION FOR A PROPOSED CONVERSION OF TWO DWELLINGS INTO ONE WITH FRONT AND SIDE FENESTRATION; AND A PROPOSED CHANGE OF USE FROM DWELLINGS (PLANNING USE CLASS C3) TO A RESIDENTIAL INSTITUTION (PLANNING USE CLASS C2) FOR 4 CHILDREN.	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO: 1.THE AMENDMENT AND FINALISING OF CONDITIONS; 2.NO FURTHER COMMENTS FROM A STATUTORY CONSULTEE RAISING MATERIAL PLANNING CONSIDERATIONS NOT PREVIOUSLY ADDRESSED.	15-32
2	24/0972	120, FOLEY ROAD WEST, STREETLY, SUTTON COLDFIELD, B74 3NS	FULL PLANNING APPLICATION FOR PROPOSED NEW 4 BED DWELLING HOUSE.	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO	33-62

		Ward: Streetly		CONDITIONS AND SUBJECT TO: 1.THE AMENDMENT AND FINALISING OF CONDITIONS; 2.NO FURTHER COMMENTS FROM A STATUTORY CONSULTEE RAISING MATERIAL PLANNING CONSIDERATIONS NOT PREVIOUSLY ADDRESSED.	
3	24/1093	159, THE CRESCENT, WALSALL, WS1 2DD Ward: Paddock	FULL PLANNING APPLICATION FOR A PROPOSED TWO STOREY SIDE EXTENSION WITH BALCONY/TERRACE OVER THE PROPOSED SINGLE STOREY SIDE AND REAR EXTENSION; SINGLE STOREY FRONT EXTENSION WITH NEW FRONT BAY WINDOW AND CANOPY; A CHANGE OF ROOF DESIGN TO THE REAR TO ACCOMMODATE A NEW SIDE DORMER AND LOFT CONVERSION; FRONT, SIDE AND REAR FENESTRATION.	REFUSE	63-82



Walsall Council

Planning and Building Control

Planning Committee 16 January 2025

Report of Head of Planning and Building Control

Plans list item number

Item number: 1

Reason for reporting to the planning committee.

Called in by a Councillor Wilson on the grounds that there is inadequate parking that could lead to cars being parked on street detrimental to amenity/highway safety; the proposal would lead to increased traffic in the area over and above that which the existing road network could cope with detrimental to highway safety and the proposal would cause demonstrable harm to the amenities currently enjoyed by occupiers of neighbouring properties.

Application details.

Application reference: 24/1041

Site location: 2 AND 4, HILARY DRIVE, ALDRIDGE, WALSALL, WS9 0DE

Application proposal: Full planning application for a proposed conversion of two dwellings into one with front and side fenestration; and a proposed change of use from dwellings (planning use Class C3) to a residential institution (planning use Class C2) for 4 children.

Application type: Full Application: Change of Use

Link to application documents: <https://go.walsall.gov.uk/planningapps?id=24/1041>

Applicant: Palminder Singh 4 Hilary Drive, Aldridge, Walsall, WS9 0DE

Planning agent: Stephen Cox, Gould Singleton Architects Gould Singleton Architects, Gould Singleton Architects, Earls Way, Halesowen, West Midlands, B63 3HR

Ward: Aldridge Central And South

Red line location



Crown Copyright and database rights 2024 Ordnance Survey 100019529

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:

1. The amendment and finalising of conditions;
2. No further comments from a statutory consultee raising material planning considerations not previously addressed.

Site and surroundings

A site visit was carried out on 14/11/2024.

The site comprises a pair of two storey 3-bed semi-detached dwellings of simple design, each with an integral garage and one parking space on the front driveway, with a small front lawn next to the parking area. It is located at the entrance to a small cul-de-sac which has 6 other residential dwellings.

The site is located within walking distance of Aldridge District Centre, approximately 250m from the centre boundary and approximately 0.5m from the commercial area of the District Centre with its range of shops and services. It is also within walking distance of public transport.

The site is not within a Conservation Area, nor in the vicinity of any other heritage assets. It is at low risk of features of coal mining and at low risk of flooding. There are no protected trees in the vicinity of the site.

Relevant planning history

None

Relevant policies

National Planning Policy Framework (NPPF)

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

Human rights and reducing inequalities

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

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Walsall Council Development Plan

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

Our Development Plan includes:

- Black Country Core Strategy (BCCS)
- Walsall Site Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

Planning guidance is published within a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

Public consultation has been carried out in accordance with the Development Management Procedure Order and the council's Statement of Community Involvement.

Consultee comments (planning officer's summary)

Community Protection

No concerns/ no comments.

Ecology Officer

No response received.

Education Walsall

No response received.

Environmental Health

No response received.

Housing Standards

No response received.

Local Highways Authority

Support subject to conditions to secure implementation and drainage of the parking area and extension of the existing dropped kerb access and to limit the number of resident children to four.

Natural England

Appropriate assessment required to conclude that mitigation measures can be secured in respect of the Cannock Chase Special Area of Conservation.

Severn Trent Water

No response received.

Social Services

No response received.

West Midlands Fire Service

No objections. This proposal will need to meet all the functional requirements stated within B5: Access and facilities for the fire service of Approved Document B, 2019 edition incorporating 2020 and 2022 amendments – for use in England.

West Midlands Police

No objections following clarification on a number of initial questions raised. Support advisory notes put forward by the case officer.

Waste Management (Healthy Spaces)

No response received.

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

Objection(s)

1 comments received in support of proposal for the following reason(s):

- No reason provided

5 comments received objecting to proposal support for the following reasons:

- Insufficient parking for staff, even with the driveway proposed
- Insufficient parking on Station Road leads to vehicles parking on-street in the cul de-sac
- Additional on-street parking during construction and operation could leave residents blocked in the grove
- Vehicles parked on-street have led to failed-refuse collections
- Highway safety hazard – parked vehicles block views when exiting the cul-de sac onto Station Road
- Potential noise concerns related to the proposed use
- Unsuitable area for children due to cars travelling down the main road (Station Road) at dangerous speeds. No one has visited to inspect the cul-de-sac to view these concerns raised.
- The current occupants shout all day and night.
- Impacts of building noise
- Negative impact on the street and property values

Determining issues

1. Principle of development
2. Cannock chase SAC and HRA
3. Design, layout, and character
4. Amenity of neighbours and future occupiers
5. Highways
6. Ground conditions and environment

Assessment of the proposal

Principle of Development

The application site is located on a residential street within a wider residential area. Internal alterations are proposed to convert the pair of 3 bed semi-detached dwellings into one detached dwelling for use as a children's care home for 4 children aged between 8 and 16 years of age. There would be a maximum of 5 staff carers on site during the daytime hours and 2 staff during the night. Staff would be supervised by an OFSTED registered manager.

It is considered the proposal has elements of a residential and commercial nature. The Planning statement sets out that the properties will provide the children with a family home and the presence of adults and the children in care being reflective of the numbers of people that could reasonably be expected to reside and come and go throughout the day in a 5 bed family dwelling. The nature of the staff carers being on a rolling rota and the very use of the word 'staff' being reflective of a commercial operation.

There are no specific policies relating to children's care homes in Walsall's Development Plan but Walsall's Site Allocation Document policy HC3 states that the Council will encourage the provision of housing for people with special needs, including single people, the elderly, people with disabilities and any other groups who require specialist accommodation, in locations that would be acceptable for general housing. Such housing will be particularly encouraged in and close to centres, provided the sites are not required for centre uses. In this instance, the site

is approximately 250m from the boundary of Aldridge District Centre and 0.6km from the retail units and service provision of the District Centre on Anchor Road and High Street.

Saved UDP policy H6 relates to nursing homes and rest homes for the elderly, rather than children's homes, but contains advice about parking and the types of property that will be suitable. Paragraph (b) VIII states that large, detached properties are the most obviously suitable for these uses. Paragraph (b)X states that the Council will take account of the accessibility of a property to local amenities and public transport. The conversion of the 2no. existing 3 bed semi-detached properties into one 5 bed detached dwelling would accord with this requirement and it is considered the size of the dwelling is sufficient for the maximum of 4 children that would be cared for. It is within walking distance of Aldridge District Centre with a range of convenience shops and services and within walking distance of bus routes in the District Centre and the nearest bus stop being 170m from the site on Station Road.

Paragraph 63 of the NPPF 2024 requires that *the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies*, including looked after children and paragraph 135 states that:

Planning policies and decisions should ensure that developments:

a) 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;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The proposal accords with paragraph 135 in that it would not significantly alter the external appearance of the existing dwellinghouse and therefore in appearance would remain sympathetic to the local residential character and it would provide for inclusive and accessible housing for looked after children, addressing an overwhelming demand for the type of accommodation being proposed.

As such, subject to conditions detailed in this report, the change of use from one residential use to another residential use type, in this residential area is considered compatible.

It is however considered reasonable to include a condition to limit the planning use to class C2 as a children's care home only to give the Local Planning Authority to assess the impacts of any future proposed changes of use that could otherwise potentially be carried out within Planning Use Class C2 using permitted development rights.

Cannock Chase SAC and HRA

This proposed application is located within the 15km zone of influence of the Cannock Chase SAC. Natural England responded that suitable mitigation should be secured for the impact of the development on the Cannock Chase SAC. However, in this instance, there is no net increase of dwellings and there would be a reduction in the number of bedrooms across the two existing dwellings from 6 to 5 and it is considered that mitigation may not be required.

The Ecology Officer is currently considering Natural England's assessment. In the event that it is concluded that no mitigation is required, no further action would be required. In the event that it is concluded that mitigation would be required, payment of a mitigation fee of £344.01 per each net new dwelling (the number to be confirmed by the Ecology Officer), would need to be secured through completion of a S111 agreement and payment of the mitigation fee, prior to issuing a planning decision.

Design, Layout and Character

The change of use from a residential use to a different residential use reflects the existing residential character of the locality and is considered compatible.

The only proposed change to the external appearance of the building is the replacement of the 2no garage doors on the front elevation with a window and a front entrance door. Given that there are no significant proposed changes to the external appearance of the existing dwellinghouse, and the number of regular occupants is unlikely to intensify the use of the site above and beyond that of the existing residential character.

The Covering letter states that fenestration detailing will be to the Local Planning Authority's approval for the infilling of existing garages and the placement of the new windows and front door. Facing materials would be required to match the existing dwellings to retain the character of the site and this can be dealt with by imposing a planning condition to secure facing materials that match the existing materials of the dwellings.

It is considered that the proposed change of use would have limited impact on the appearance or character of the site in accordance with the requirements of the Black Country Core Strategy policy ENV2, saved UDP policies GP2 and ENV32 of Walsall's Unitary Development Plan as well as the SPD Designing Walsall DW3.

A safeguarding condition preventing any external advertisements to the property will be attached to any permission that may be granted to retain the residential character.

Amenity of neighbours and future occupiers

The properties surrounding the application site are in residential use. The application site would continue to be in use as a residential building occupied on a regular basis by 4 children and up to 5 adults and it is considered that this level of occupancy is reflective of what would be expected for the existing 2no. 3 bed semi detached dwellings, the building itself providing the same level of visual amenity and similar relationship to neighbouring houses as existing.

A concern has been raised regarding the existing level of noise generated from occupants of the site. Existing noise is not a material planning consideration in the

assessment of the proposed use of the site. A concern has also been raised regarding the potential for noise created from the site by the proposed use for 4 children. The level of noise is anticipated to be no greater than for the existing use of the site, where the 2no. 3 bed dwellings could reasonably be expected accommodate 4no. children as is proposed for the converted 5-bed detached dwelling.

It is considered reasonable to impose a condition limiting the number of residents on site to a maximum of 4, to limit the volume of comings and goings as well as the potential for noise that could be generated by larger numbers of occupants.

West Midlands Police were consulted regarding the proposed use and following clarification of a number of considerations, mainly surrounding the qualifications of staff and ensuring the building has a suitable fire risk assessment (which is a matter to be addressed at the Building Regulations stage of development) they have confirmed no objections to the proposed use and support the inclusion of an advisory note offering guidance to ensure that the proposal meets safety and security requirements for the benefit of residents and surrounding occupiers.

It is considered that the proposed use would provide a suitable living environment for the child occupants of the house and not cause any significant additional harm to the amenity of neighbouring occupants above and beyond that which could normally be expected in a residential area for the existing 2no. 3-bed dwellings or the proposed 5-bed residential care dwelling for up to 4 children. Subject to conditions to limit the number of occupants, the proposal would accord with the amenity requirements of saved UDP policy GP2 and the security considerations of saved UDP policy ENV32.

Highways

The site is located on Hilary Drive which is an adopted, residential cul-de-sac. It has a traditional carriageway with footways on the eastern and southern sides. There is no segregated footway on the development side of the street.

The site has an existing dropped kerb crossing which is to be extended to accommodate the additional parking and the development proposes to increase the frontage parking from two to four spaces.

The majority of comments that have been received from members of the public relate to the fact that existing on-street parking in the cul-de-sac cause access

issues for residents and the Council's refuse collection service and also causes visibility problems when exiting the cul-de-sac onto Station Road. Their concern is that there is insufficient parking for the proposed use, which will lead to increase on-street parking in the cul-de-sac, which would exacerbate the existing problem. It falls outside of the jurisdiction of the Local Planning Authority to assess the current parking concerns and there are other authorities in place to consider this matter. From a planning perspective, Policy T13 of Walsall's Unitary Development Plan which sets out parking standards for developments, requires 1 parking space per 3 beds for residential homes. In this instance, the provision of 4 off-road parking spaces for a 5-bed residential home exceeds this requirement and, on this basis, it is considered that the development would provide sufficient parking within the curtilage of the site for the proposed use.

The Local Highway Authority have assessed the proposal and consider that the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2024 paragraph 115. Their support for the proposed change of use is subject to the inclusion of planning conditions to secure the implementation and drainage of the frontage parking area with 4 spaces, extension of the existing dropped kerb footway crossing to align with the new parking spaces and to limit the number of resident children to 4 at any time.

Ground conditions and environment

There are no significant industrial or commercial noise impacts, or any concerns regarding air quality or contaminated land that are material planning considerations for this application.

Conclusion and reasons for decision

On balance, this application is considered acceptable when assessed against the local and national planning policies and guidance as set out in this report. The site building and the proposed use is considered would have no greater impact on the amenity of neighbouring occupants above and beyond the existing building and use. Consideration has been given to the impact of the proposed use on parking, especially given the number of concerns raised regarding parking in the cul-de-sac. However, in this instance the proposal is compliant with local planning policy

Development Management, Civic Centre, Darwall Street, Walsall, WS1 1DG

Website: <https://go.walsall.gov.uk/planning>, Email: planningservices@walsall.gov.uk, Telephone: (01922) 652677, Textphone: 0845 111 2910

requirements for parking and the Local Highway Authority do not have concerns about the impacts of parking from the proposed use on highway safety.

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

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:

1. The amendment and finalising of conditions;
2. No further comments from a statutory consultee raising material planning considerations not previously addressed.

Conditions and reasons

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

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

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

- Site Location Plan, drawing no. 001, submitted 14/08/2024
- Proposed Block Plan, drawing no. 005B, submitted 20/09/2024
- Proposed Floor Plans, drawing no. 006D, submitted 20/09/2024
- Proposed Elevations, drawing no. 007A, submitted 14/08/2024
- Planning Statement, prepared by Gould Singleton Architects, dated September 2024

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

3. Notwithstanding the details as submitted, prior to occupation of, the development hereby permitted shall not be carried out otherwise than in accordance with providing a minimum of four off road parking spaces measuring 4.8m by 2.4m with the parking area being consolidated, hard surfaced and drained so that surface water run-off from the parking area does not discharge onto the highway or into any highway drain. This parking area shall thereafter be retained for the purposes of parking motor vehicles for the lifetime of the development hereby approved and shall thereafter be retained used for no other purpose.

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

4. Notwithstanding the details as submitted, the development hereby permitted shall not be carried out otherwise than in accordance with the existing vehicle footway crossing shall be extended by two additional 900mm flat kerbs and one 900mm transition kerb to align with the additional parking spaces and the extended vehicle footway crossing shall thereafter be retained for the lifetime of the development.

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

5: The walls and roof, of the development hereby permitted shall not be carried out otherwise than in accordance with facing materials that match, in size, colour and texture, those which are used in the existing building at the time of the planning decision and the external window frames and external doors shall not be carried out otherwise than in accordance with facing materials that match, in colour and texture, those which are used in the existing building at the time of the planning decision and the facing materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

6: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details of a residential care home in planning use class C2 for a maximum of four children between the ages of 8 and 16 and for no other purpose (including any other purpose in Schedule 1, Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To protect the amenity of neighbouring occupants and to control the level of parking demand and vehicle movements at the property in accordance with saved UDP policies GP2, T7 and T13 and in the interests of highway safety.

7: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and there shall no advertisement(s) displayed to the frontage of the property at any time.

Reason: In the interests of maintaining the character of the area in accordance with saved UDP policy GP2.

Case specific notes for applicant

Highways

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

2 . The applicant will be required to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information and application forms please visit the Council's webpage under:

Roads, parking and travel-Road licences and permits-Get a dropped kerb for your home.

Security

3. Consider CCTV to all entrances and non-private areas. Their use in this environment protects residents and potential complaints on carers. Any disagreements on incidents can be quickly reviewed, protecting all parties and reducing protracted complaints involving staff and police.

The applicant to refer to crime prevention and home security advice contained within SBD New Homes. Please see :

https://www.securedbydesign.com/images/HOMES_2024.pdf

External LED lights with daylight sensors to external walls, particularly by entrances and parking areas. This is to provide security for residents entering and leaving. (SBD Homes 2024).

Advice on alarms and CCTV <https://www.policesecuritysystems.com/>

Alarm and CCTV installers should be approved by NSI, SSAIB or both

See <https://www.nsi.org.uk/> and <https://ssaib.org/>

Dwelling entrance door-sets (SBD Homes 2024).

PAS 24: 2022 standard doors for houses and apartments.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

End of report



Walsall Council

Planning and Building Control

Planning Committee 16 January 2025

Report of Head of Planning and Building Control

Plans list item number

Item number: 2

Reason for reporting to the planning committee.

Called in by Councillor Cooper on the grounds that there is inadequate parking/access arrangements that could lead to cars being parked on street, detrimental to highways safety/amenity; the proposal would be detrimental to the character and visual amenity of the area due to poor design; it would constitute inappropriate development in the Green Belt, detrimental to the openness of the area; it would cause demonstrable harm to the amenities currently enjoyed by occupiers of neighbouring properties; it would be detrimental to the character/setting of a Listed Building/Conservation Area; and the design/layout/siting/appearance would be detrimental to the character of the surrounding area.

Application details.

Application reference: 24/0972

Site location: 120, FOLEY ROAD WEST, STREETLY, SUTTON COLDFIELD, B74 3NS

Application proposal: Full planning application for proposed new 4 bed dwelling house.

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

Link to application documents: <https://go.walsall.gov.uk/planningapps?id=24/0972>

Applicant: Mr & Mrs Findlay 120, FOLEY ROAD WEST, STREETLY, SUTTON COLDFIELD, B74 3NS

Planning agent: Rob Hathaway, Mr Rob Hathaway ADC Ltd, The Priory, London Road, Canwell, Sutton Coldfield, B755SH

Ward: Streetly

Red line location



Crown Copyright and database rights 2024 Ordnance Survey 100019529

Development Management, Civic Centre, Darwall Street, Walsall, WS1 1DG

Website: <https://go.walsall.gov.uk/planning>, Email: planningservices@walsall.gov.uk, Telephone: (01922) 652677, Textphone: 0845 111 2910

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:

- 1.The amendment and finalising of conditions;
2. No further comments from a statutory consultee raising material planning considerations not previously addressed.

Site and surroundings

A site visit was carried out on 15/08/2024.

The application site comprises 120 Foley Road West, a detached cottage dating back to the 1900's which was formerly known as Yew Tree Cottage. It occupies a corner position, facing Foley Road West which continues from the Strategic Road Network, Sutton Road, that runs through Streetly. Its side elevation faces The Glade, a cul de sac. The cottage is a non-designated heritage asset.

The cottage has a gambrel roof with accommodation within the roof space and flat roof dormer on the rear elevation. The front elevation accommodates a bay window with a green ogee topped roof. It has flat roof extensions both sides and a flat roof garage to the west. There is a rear conservatory. The existing dwelling has large open and mature gardens to the front and rear with a pair of trees in the rear garden which have a Tree Protection Order (TPOs).

The area is residential consisting of a mix of single and two storey detached dwellings and a mix of ages and designs generally red brick construction with tiled roofs. Foley Road West dwellings benefit from longer rear gardens, whilst The Glade dwellings, have smaller rear gardens. To the west of the application site, there are three 1980's detached infill houses, with long mature gardens, backing on to three 1970's style detached infill dwellings again benefitting from long mature gardens. To

the eastern side of the application site, is The Glade cul-de-sac and then two 1960's style infill style bungalows. To the north of the application site, is an extended bungalow fronting The Glade with a small mostly hard surfaced rear garden. Opposite the application site on Foley Road West is Foley Wood, 2.6 hectare of protected trees.

The application site is not within the Green Belt, not within a Conservation Area or within the vicinity of Listed Buildings or other heritage assets. It is an area of low risk of features of coal mining and low flood risk.

Relevant planning history

- 24/0829 - Full planning application for the demolition of existing side extensions, detached garage and rear conservatory; construction of a new single storey side extension and single storey rear extension – granted permission subject to conditions – 22/10/2024
- 23/0760 - Proposed demolition of existing garage and modern extension at 120 Foley Road West and the proposed subdivision of the plot and erection of two additional new dwellings – Withdrawn – 26/10/2023
- 05/1677/FL/H1 – Erection of one detached bungalow – land rear of 120 Foley Road West – Refused Permission – 13/10/2005 on the following grounds:
 1. The proposal fails to provide an adequate level of amenity space for future residents of the proposed dwelling, with a very short rear garden and most of the front garden occupied by the spread of the protected trees. The close proximity of the development is therefore likely to cause an unacceptable level of disturbance to the gardens of neighbouring properties, and lead to pressure in the future for the removal of the trees.
 2. The provision of the visibility splay required to serve the proposed access would lead to the loss of much of the existing hedge. In addition, the splay cannot be achieved on one side because of the garden wall to number 18, which lies outside the control of the applicant. The limited length of the proposed driveway in front of the garage would also lead to vehicles overhanging the road, to the detriment of the free flow of traffic.

3. The application fails to include sufficient information to demonstrate the potential impact on trees on the site, including an arboricultural impact assessment, construction details for the driveway, service details including sustainable drainage, levels and site access, storage, fuelling, mixing, welfare points and car parking area for on-site staff.

Relevant policies

National Planning Policy Framework (NPPF)

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

Human rights and reducing inequalities

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

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Walsall Council Development Plan

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

Our Development Plan includes:

- Black Country Core Strategy (BCCS)
- Walsall Site Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

Planning guidance is published within a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

Public consultation has been carried out in accordance with the Development Management Procedure Order and the council's Statement of Community Involvement.

Consultee comments (planning officer's summary)

Ecology Officer

No objections subject to the approval of a Biodiversity Net Gain scheme prior to commencement of development.

Environmental Protection

No objection subject to conditions to secure a Construction Environmental Management Plan and details of any solid fuel burning appliance that may be proposed.

Local Highway Authority

Support subject to conditions to secure retention of the parking area for no other purpose and maintenance of a pedestrian visibility splay.

Severn Trent Water

No objection subject to a condition to secure drainage plans for surface and foul water.

Strategic Planning Policy

Support.

Tree Preservation Officer

No objection subject to a condition to secure details of protective tree fencing

Waste Management

No response received.

West Midlands Fire Service

No adverse comments. This proposal will need to meet all the functional requirements stated within B5: Access and facilities for the fire service of Approved Document B, 2019 edition incorporating 2020 and 2022 amendments – for use in England.

West Midlands Police

No response received.

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

Support

0 comments received in support of proposal for the following reason(s):

Objections

3 comments received objecting to proposal support for the following reasons:

Impact on Character

- Small area to construct a new dwelling
- Close proximity to neighbouring dwellings
- Impact on character of existing cottage
- Out of keeping with the street scene
- Wish to retain open, spacious street scene view

Heritage

- The existing property, parts of which have Tudor origins dating back to the 1600s when it was originally the Gatehouse/Lodge to Little Aston Hall and therefore needs to be protected from a historical standpoint.
- The creation of this dwelling adjacent to this listed building will have an adverse effect on the setting of the listed building and spoil the overall look and character of this unique property.
- Proposed construction and completion could have an impact on the original property Reference to guidelines from the "Streetly Area of Special Townscape Character"

Impact on amenity

- Impact on privacy
- Noise and disturbance to neighbours
- Overshadowing/blocking light of neighbouring dwellings
- Overlooking from proposed windows

- Additional noise and traffic pollution.

Drainage

- The application states 'unknown' on whether proposing to connect to the existing drainage system.
- Increase foul waste into mains drainage

Environment

- Negative impact on the wildlife in the area
- Removal of existing healthy trees at no 120 Foley Road West

Concerns that are not material planning considerations for the purpose of this assessment:

- Several sites of historical and ecological significance in the locality have been damaged by development
- Impact of building work by noise disturbance will have a detrimental impact on emotional well-being and affect other elderly residents.
- The development will cause stress and anxiety for neighbouring occupants/ impact on mental and physical health.
- Devaluing of neighbouring property
- Potential damage to neighbouring property and foundations
- Refuse has been disposed of on the front garden

Determining issues

1. Principle of development
2. Green Belt
3. Heritage assessment
4. Design, layout, and character
5. Amenity of neighbours and future occupiers
6. Highways
7. Ecology and Biodiversity Net Gain
8. Flood Risk/ Drainage
9. Trees / Protected trees
10. Ground conditions and environment

Assessment of the proposal

Principle of development

This application has been submitted following an historic refusal and a withdrawal of previous submissions for new dwellings on the site. In those previous cases the concerns about the proposed development related to a proposed new dwelling at the rear of the existing site dwelling, accessible from The Glade. In this case, the proposed dwelling would lie adjacent to the western side of the existing site dwelling, accessed from Foley Road West.

The latest available figures show that the Council does not currently have a 5-year housing land supply, and in addition, the Council failed the Housing Delivery Test published in December 2023 based on low levels of delivery over the last 3 years. This means that the presumption in favour of sustainable development as described in the NPPF paragraph 11d) is in effect. The proposal will increase the amount of housing by one dwelling.

BCCS Policy HOU2 and ENV3 finds that new housing needs to achieve high quality design and minimise amenity impacts. The area is predominantly residential use with good access to public transport and services, such as shops. The site is considered to be in a sustainable location. The driveway will be shared with the existing property on the site.

With regard to the sustainability aspect of policy ENV3 and ENV5 of the BCCS, there have been limited design features to mitigate against the effects of climate change and urban heat islands, such as increased natural space, tree cover in yards, green roofs, solar panels etc.

However, when the application is considered on balance, the presumption is in favour of sustainable development, and this will increase the amount of 4 bed, family dwellings in the borough. The principle of development is supported

Green Belt

One of the grounds on which the application was called in for consideration by the Planning Committee is that it would constitute inappropriate development in the Green Belt, detrimental to the openness of the area. The application site does not fall within the Green Belt, the nearest boundary with Green Belt land being approximately 170m to the north-western side of the application site. Therefore, in this instance an assessment of the impact of the development on the openness of the Green Belt is not required.

Heritage assessment

One of the grounds on which the application was called in for consideration by the Planning Committee is that it would be detrimental to the character/setting of a Listed Building/Conservation Area and another concern raised by a member of the public also referred to development adjacent to the Listed Building.

The existing site dwelling at no. 120 Foley Road West is neither a Listed Building, nor a Locally Listed Building, nor does it fall within any Conservation Area. The dwelling is a non-designated heritage asset having architectural, historical, and archaeological interest. It is highlighted on historic mapping dating from the 1900's (if not earlier) and was formerly known as Yew Tree Cottage. The cottage once sat surrounded by woodland and open fields. It is positioned further forward of the other dwellings in the street scene, as such it is visually prominent. The existing site dwelling is considered to be of low to medium significance.

Paragraph 216 of the NPPF 2024 is relevant to assess the harm to the significance of this non designated heritage asset and it states: *“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*

There would be no loss of the non-designated heritage asset as a result of the proposed development and the proposed development would not alter the appearance of the historic cottage beyond that which has already been considered acceptable by application 24/0829. The level of harm to the significance of the non-

designated heritage asset, would be considered low. On balance it is therefore considered that the proposed alterations would be compliant with paragraph 216 of the NPPF and would in this instance be considered acceptable.

Reference was made by a member of the public to guidelines from the "Streetly Area of Special Townscape Character". The boundary of the Streetly Area of Special Townscape Character falls approximately 0.7km to the eastern side of the application site, and therefore the guidance provided by this document is not specifically applicable for the application site.

Design, layout, and character

Foley West Road is located within a predominately residential area of mixed character. Properties along Foley West Road and the wider area (including The Glades) comprises a mix of semi-detached single storey and two storey properties and bungalows. There are grassed spaces between and around properties with long garden areas to the front and the rear. The spaciousness of the area is further reinforced through wide, grassed verges, with properties set back from the pavements. The variation in property types and open spaces between and around the built development contributes to the character and appearance of the area.

The demolition of the existing western side extension and garage at no. 120 Foley Road West has been approved by application 24/0829 which would create the space for the proposed development plot.

The proposed 4 bed, two storey detached dwelling has been sited to respect the front building line of this street scene and consideration has been given to the roof height to create a smooth graduation in height rising from the corner bungalow at no. 120, across the proposed roofline of the application site to the opposite neighbouring dwelling at no. 120A Foley Road West.

There would be a separation distance of 2m to the dwelling at no 120A Foley Road West, to the western side of the proposed new dwelling which exceeds the 0.9m requirement as set out in the SPD Designing Walsall Appendix D, and a separation distance to the existing site dwelling at no. 120 of 0.8m, which falls just 0.1m short of this requirement. This is considered sufficient to retain a clear gap between the dwellings, limiting the potential for terracing effect. This separation distance reflects similar separation distances between the row of dwellings spanning this side of Foley

Road West heading in a westerly direction from no. 120A to no. 130, and therefore, whilst consideration has been given to concerns that the proposed development would be cramped and too close to neighbouring occupants, the proposed separation distance is reflective of the separation between the remainder of this row of dwellings. Furthermore, the width of the proposed dwelling is similar to the width of the 2-storey part of the dwelling at no. 120A Foley Road West which would limit the appearance of it being squashed in.

The proposed design has a pitched main roof with horizontal roof ridge with side gable elevations, a slightly subservient projecting front gable and small front gable dormer, plus a tiled front entrance canopy. The elements of the design that would be visible from the public vantage point are consistent with other dwellings in the row from no. 120 to 130 Foley Road West which have pitched main roofs with horizontal ridges and front gable features, plus a front dormer at neighbouring no. 120A.

Proposed materials are facing brickwork, white render and hanging tiles on the first floor of the two-storey projecting front gable. The mix of brickwork and render would provide a transition between the brick front elevation of the neighbouring dwelling at no. 120A Foley Road West and the rendered front elevation of the existing dwelling at no. 120, whilst the hanging tiles on the first floor of the front gable elevation, which would project down the front elevation almost as far as the garage roof tiles at no. 120A Foley Road West and the main roof of the existing site bungalow, would offer an element of graduation in the transition in materials from the proposed two storey dwelling to the bungalow. Specific details of the proposed facing materials have not yet been submitted and can be secured by a pre-commencement planning condition.

Concerns raised regarding the impact of the proposed development on the street scene due to poor design and the impact of the proposal on the existing site bungalow have been weighed in the balance of this assessment. However, on the basis of the above observations, it is considered that the proposed design has been well considered to integrate with the character of the existing street scene in accordance with the requirements of the NPPF, BCCS policies CSP4 and ENV2, saved UDP policies GP2 and ENV32, and the SPD Designing Walsall DW3 and Appendix D.

Amenity of neighbours and amenity of future occupiers

The proposal is compliant with the Council's adopted 45-degree code as outlined in the SPD Designing Walsall Appendix D in respect of all neighbouring habitable room windows, which is imposed to protect outlook and impact on light amenity for neighbouring occupants.

Concerns have been raised regarding overshadowing and overlooking the side elevation of no. 120A which will face onto the proposed new development. The first-floor window in the side elevation of no. 120A Foley Road West is obscurely glazed and therefore is not offered the same protection in terms of visual amenity as a standard glazed window, as outlook is already limited. The ground floor opening in the side elevation of no. 120A Foley Road West is a glazed external door, serving a room which has a primary outlook onto the rear garden of the neighbouring site. Two smaller windows towards the front of the ground floor serve non-habitable rooms. In terms of visual amenity, it is considered that the proposed development would not cause such significant harm that would warrant a reason for refusal on this ground. Furthermore, the 3no. first floor windows proposed in the side elevation, facing towards no. 120A Foley Road West would all serve non-habitable rooms, specifically, en-suite bathrooms and a family bathroom. A condition would be included to secure that these windows are obscurely glazed and top-opening at least 1.7m above floor level, which is considered sufficient to protect neighbouring occupants from overlooking on to the side elevation of their home or their rear garden.

Given the northerly orientation of the rear gardens of this row of dwellings, the sun moves across the front of the houses throughout the majority of the day. There would be a period of time during the late morning when sunlight that passes between the two existing dwellings would be interrupted by the proposed new dwelling, however, once the sun has passed this point, the remaining natural light availability would be the same as the existing situation throughout the early morning, all afternoon and into the evening.

Another concern has been raised regarding additional noise and traffic created by the development. It is considered that 1no. 4 bed dwelling in an existing residential area has limited potential to cause significant additional disturbance by way of noise or vehicles coming and going above and beyond the existing situation.

The proposed floor plans show that the dwelling would be compliant with the Nationally Described Space Standard, and the proposed rear amenity space is approximately 242m² which far exceeds the 68m² requirement set out in the SPD Designing Walsall.

It is considered that the proposed development would provide a suitable level of internal and private amenity for future occupants, whilst sufficiently protecting the amenity of neighbouring occupants, in accordance with the requirements of the NPPF and saved UDP policy GP2.

Taking into account the future protection of both the amenity of neighbouring occupants and the appearance and character of the proposed dwelling it is considered necessary to remove permitted development rights for extensions to the dwelling without consideration by a planning application, which can be secured by a planning condition.

Highways

The proposed four-bedroom dwelling would be accessed via the existing access arrangement on Foley Road West, as per the existing arrangement for the retained residential dwelling.

In accordance with saved policy T13 of Walsall's Unitary Development Plan, the four-bedroom dwelling would require 3no. car parking spaces which have been provided. There are also sufficient car parking provisions for 3no. car parking spaces at the retained residential dwelling.

The Local Councillor's concerns that there are inadequate parking/access arrangements that could lead to cars being parked on street, detrimental to highways safety/amenity has been weighed in the overall assessment of the application, as well as taking into account the Highway Authority's comments.

The Local Highway Authority considers that the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF December 2024 paragraph 115, subject to conditions being imposed to secure retention of the parking spaces for parking purposes only and maintenance of a pedestrian visibility splay, and on this basis the development is supported.

Ecology and biodiversity net gain

As the proposal does not involve demolition of buildings nor removal of trees a bat survey is not required in this instance. No lighting has been proposed for the site, but an advisory note will be included to ensure that any lighting for the site that may be added without the requirement for planning permission meets the requirements of Guidance Note 08/18 Bats and artificial lighting in the UK, bats and the Built Environment series, BCT, 2018, in order to protect bats.

The proposed development does not meet the requirements of any exemption listed in Paragraph 13 of Schedule 7A of the Town and County Planning Act 1990, and is therefore required to achieve at least 10% biodiversity net gain.

In this respect, the applicant has provided the following documentation to meet national and local requirements:

- Small Site Metric Spreadsheet dated October 2024
- Biodiversity Net Gain Information dated October 2024

The Ecology Officer has advised that the proposals do achieve 10% uplift in biodiversity net gain by the creation of a rain garden within the garden space of the new development. However, a recent update to the metric user guide states that “The post-development private garden has no public access, and biodiversity net gains cannot be legally secured.” Therefore, while overall the proposals suggest nature positive actions, the management, condition and the retention of the rain garden cannot be secured. As such the good condition and the proposed habitat cannot be guaranteed and cannot be stipulated within the small sites metric.

While there are issues within the current document as stipulated above, the application design itself is viable and as such the Ecology Officer does not have any objections to the plan. It should be noted however, that to meet the requirement of the statutory planning condition listed in decision notice, the applicant will need to:

- Follow best practice metric guidance;
- Complete a final Biodiversity Gain Plan;
- Complete the Statutory Small Sites Metric form with all error messages addressed.

- Meet the Biodiversity Gain target of 10% under habitat units. While this has not been achieved, should the biodiversity gain hierarchy be followed this can be achieved under the current proposals.

This will be secured by a condition.

Due to the issues with securing management within the application site, the use of a habitat bank and / or the Government Biodiversity Credit Scheme would be supported to meet the biodiversity net gain requirement.

Concerns have been raised regarding the impact of the development on wildlife in the area. The Ecologist's assessment has considered the potential for any harm to wildlife and has not raised any concerns.

Flood Risk / Drainage

The site is not located in an area at high risk of flooding. Severn Trent requests approval of drainage plans for surface and foul water prior to commencement of the development. Subject to this provision which will be secured by a planning condition, the proposed development would comply with the requirements of the NPPF, Walsall's Site Allocation Document policy EN3 and saved UDP policy ENV40. This requirement addresses concerns raised by neighbouring occupants regarding drainage.

Trees / Protected trees

There are trees on and adjacent to the site 2 of which (a Copper Beech and a Cypress) are protected by TPO title no. 05/2002. The Tree Officer has advised that whilst the submitted BS 5837: 2012 tree report is not specific to this application's proposal there is sufficient information to assess the implications for the trees on site. The proposed development is outside of the root protection areas of the trees and consequently as long as tree protection fencing is erected in accordance with BS 5837: 2012 prior to the commencement of development and retained until completion then there are no arboricultural objections to the application. As the Tree Protection Plan submitted with the application is not specific to this site an amended one should be submitted. This can be secured by planning condition.

Concerns have been raised regarding the removal of healthy trees that has been carried out at the application site. With the exception of the trees that are protected

by a Tree Preservation Order, the site owner is at liberty to prune or remove any other trees without permission from the Local Planning Authority.

Ground conditions and environment

The construction activities have the potential to cause local disturbance and environmental impacts, such as noise, dust, and debris. Environmental Protection require the applicant to agree and implement a Construction Environmental Management Plan (CEMP) prior to commencement of the development. This will be secured by a planning condition. Environmental Protection also request details of any proposed solid fuel heating appliance to protect air quality and public health. The applicant has confirmed in writing that there is no intention to install any such appliance. Subject to the condition to secure a CEMP, the proposal would be compliant with the requirements of saved UDP policies GP2 and ENV10.

Other key determining issues

Following concerns raised regarding inaccurate numbering of neighbouring properties on the site plan, an amended plan has been submitted with the correct numbering, specifically of the neighbouring dwelling at no. 120A.

Conclusion and reasons for decision

On balance, this application is considered acceptable when assessed against the local and national planning policies and guidance as set out in this report. A balanced judgement has been made between the material planning concerns raised by the local Councillor and members of the public, consultee responses and the level of adherence of the proposal to the requirements of local and national planning policies. An amendment was requested to an inaccurately numbered site plan which was quickly forthcoming.

On balance, it is considered that the proposed new dwelling, which is acceptable in principle in an existing residential area and will contribute to decreasing the housing supply shortfall in the borough, has been well designed to integrate with the character and appearance of this street scene, whilst providing a suitable living environment for future occupants and sufficiently protecting the amenity of

neighbouring occupants. The development provides sufficient off-street parking for itself, whilst retaining sufficient parking for the existing site dwelling and will not cause harm to highway safety. Conditions that meet the requirements of the six tests would be applied to protect the character of the locality, the amenity of neighbouring occupants, highway safety, protected species, protected trees and biodiversity.

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

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:

1. The amendment and finalising of conditions;
2. No further comments from a statutory consultee raising material planning considerations not previously addressed;

Conditions and reasons

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

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Application form, submitted 30/07/2024
- Site Plan and Street Scene, drawing no. 1373/02 Rev I, submitted 17/12/2024

- Proposed Plans and Elevations, drawing no. 1373/03 Rev B, submitted 30/07/2024
- Design and Access Statement, prepared by Architectural Design Consultancy, submitted 30/07/2024
- Tree Report, conducted by Rob Keyzor Tree Surgeons and Arboricultural Consultants Ltd, dated June 2023

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

3a. Prior to the commencement of the development hereby permitted a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

- Construction working hours
- Parking and turning facilities for vehicles of site operatives and visitors
- Loading and unloading of materials
- Storage of plant and materials used in constructing the development
- A scheme for recycling/disposing of waste resulting from construction works
- Temporary portacabins and welfare facilities for site operatives
- Site security arrangements including hoardings
- Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- Measures to prevent flying debris
- Dust mitigation measures
- Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)

- Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
- re-covering of holes, escape from holes, tree/hedgerow protection, newts, bats etc

3b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

4a. Prior to the commencement of building operations above the damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted to and approved in writing by the Local Planning Authority.

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

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 Walsall's Unitary Development Plan.

5a. Prior to commencement of the development hereby permitted details of drainage plans for the disposal of foul and surface water flows shall be submitted in writing to and approved in writing by the Local Planning Authority.

5b. Prior to occupation of the development hereby permitted shall not be carried out otherwise than in accordance with implementation of the approved drainage plans and the drainage plans shall be thereafter retained for the lifetime of the development.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution and to accord with saved UDP policies GP2 and ENV10 and Walsall's Site Allocation Document EN3.

6a. Notwithstanding the details submitted, prior to commencement of the development hereby permitted details of tree protection fencing for the retained trees on site in accordance with 'BS 5837: 2012 Trees in relation to design, demolition and construction – Recommendations' shall be submitted in writing to and approved in writing by the Local Planning Authority.

6b. Prior to the commencement of any works on site, the approved tree protection fencing shall be implemented and shall thereafter be retained throughout the construction phase until the completion of development.

Reason: To safeguard the retained trees on site including those protected by a Tree Preservation Order in accordance with saved UDP Policy ENV18.

7. Notwithstanding the details as submitted, prior to occupation of the development hereby permitted shall not be carried out otherwise than in accordance with providing a minimum of three off road parking spaces, as shown on Site Plan and Street Scene, drawing no. 1373/02 Rev I, measuring 4.8m by 2.4m with the parking area being consolidated, hard surfaced and drained so that surface water run-off from the parking area does not discharge onto the highway or into any highway drain. This parking area shall thereafter be retained for the purposes of parking motor vehicles for the lifetime of the development hereby approved and shall thereafter be retained used for no other purpose.

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

8: Notwithstanding the details as submitted the development hereby permitted shall not be carried out otherwise than in accordance with a 2.4m x 3.4m pedestrian visibility splay at the Foley Road West vehicular access point, within which no structure or planting exceeding 600mm in height above the footway surface shall be installed for the lifetime of the development.

Reason: To ensure adequate pedestrian/vehicle inter-visibility is maintained at the access point in accordance with saved Walsall Unitary Development Plan Policy GP2 and in the interests of highway safety.

9. Notwithstanding the details as submitted, the development hereby permitted shall not be carried out otherwise than in accordance with the 3no first floor side facing bathroom and en-suite bathroom windows with an outlook towards no. 120A Foley Road West shall be non-opening below 1.7m and obscurely glazed to meet Pilkington level 4 or equivalent and shall thereafter be retained for the lifetime of the development.

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

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

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

11: Notwithstanding the details submitted the development hereby permitted shall not be carried out otherwise than in accordance with 1 bat box and 1 bird box being integrated into the new dwelling. The bat box and the bird box shall be located at a point not lower than 3 metres from the natural ground level and shall not be positioned directly above any doors or windows, with the entrance to the bat and bird box kept clear from obstructions and not being affected by artificial light at all times and thereafter retained for the lifetime of the development.

Reason: To conserve local bat and bird populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

12: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no extensions or additions as

defined by Schedule 2, Part 1 development within the curtilage of a dwelling house:

- Class A (enlargement, improvement or other alterations)
- Class B (additions to the roof)
- Class C (other alterations to the roof)
- Class D (porches)

shall be installed in any part of this development, unless with the prior consent of the Local Planning Authority.

Reason: To safeguard the character of the locality and the amenities of the occupiers of adjoining premises and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

Case specific notes for applicant

Construction Environmental Management Plan

No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08:00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

West Midlands Fire Service

Adherence is required to Approved Document B Volume 1 2019, Dwelling Houses, Access and facilities for the fire service B5, Section 13: Vehicle access.

Bats

Lighting proposed for the development should be minimised in accordance with the guidance available within Guidance Note 08/18 Bats and artificial lighting in the UK, bats and the Built Environment series, BCT, 2018.

Highways

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

Severn Trent

Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse available as an alternative, other sustainable methods should also be explored. If these are found unsuitable satisfactory evidence will need to be submitted before a discharge to the public sewerage system is considered. No surface water to enter the foul or combined water systems by any means.

IMPORTANT NOTE: With regard to network capacity, this response only relates to the public waste water network and does not include representation from other areas of Severn Trent Water, such as the provision of water supply or the protection of drinking water quality.

Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website

(www.stwater.co.uk) or by contacting our Developer Services Team (Tel: 0800 707 6600).

Suggested Informative – affected sewers and water mains

Before undertaking any work on site, all applicants must determine if Severn Trent has any assets in the vicinity of the proposed works. This can be done by accessing our records at www.digdat.co.uk

Severn Trent Water advise that even if our statutory records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer of Sewer Regulations 2011.

Our records indicate that there are no assets that may be affected by this proposal, however it is the duty of the site owner to confirm this is the case before any work takes place.

Public sewers and Water mains have statutory protection and may not be built close to, or diverted without consent, consequently you must contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the proposed building.

Should you require any further information please contact us on planning.apwest@severntrent.co.uk

Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Walsall Metropolitan Borough Council.

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun.

Biodiversity Gain Plan

The biodiversity gain plan must include/accompanied by:

- (a) information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
- (b) the pre-development biodiversity value of the onsite habitat;
- (c) the post-development biodiversity value of the onsite habitat;
- (d) any registered offsite biodiversity gain allocated to the development and the biodiversity and the biodiversity value of that gain in relation to the development;
- (e) any biodiversity credits purchased for the development;
- (f) any information relating to irreplaceable habitat making up onsite habitat
- (g) information about steps taken or to be taken to minimise any adverse effect of the development on, and arrangements for compensation for any impact the development has on the biodiversity of, any irreplaceable habitat present within the onsite baseline.
- (h) any additional information requirements stipulated by the secretary of state.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below. Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.

2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

(i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or

(ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being: 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

i) the application for planning permission was made before 2 April 2024;

ii) planning permission is granted which has effect before 2 April 2024; or

iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

i) consists of no more than 9 dwellings;

ii) is carried out on a site which has an area no larger than 0.5 hectares; and

iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat,

information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted.

End of report



Walsall Council

Planning and Building Control

Planning Committee 16 January 2025

Report of Head of Planning and Building Control

Plans list item number:

Item number: 3

Current Status

At the Planning Committee meeting of 31/10/2024, the Planning Committee resolved to defer the application to enable further negotiations between the applicant, officers and objectors to overcome the outstanding recommended reasons for refusal and to delegate to the Head of Planning and Building Control to grant permission if satisfactory amendments are made which are considered by officers to fulfil this requirement, subject to consultation with the neighbours.

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

Supplementary Paper

An amended plan was received on 28/10/2024 with changes relating to:

- Decreased width of dormer
- Obscure glazed skylights in the loft

Any Other Updates

1. Following planning committee on 31st October 2024 amended plans were requested by the planning officer to reduce the single-storey rear extension by 0.8 meters in depth to comply with the 45-degree code as set out in Designing Walsall SPD. It was also requested the removal of the balcony, with the potential for replacement with a Juliet balcony, in order to protect neighbouring amenity in relation to loss of privacy due to overlooking. In addition, it was requested to remove or modify the dormer so that the flat roof element would not be visible within the street scene to ensure that it respects the characteristic nature of the locality.
2. Amended floor and elevation plans have been received, addressing the 45-degree code. An amended block plan has not been submitted to support amended floor and elevation plans.
3. Further amendments were requested for a second time, specifically concerning the dormer and balcony. The planning agent confirmed that the applicant was unwilling to make modifications to the dormer and balcony and instead requested that the application is taken back to planning committee.

Neighbour Comments:

Objection(s):

2 comments received objecting to proposed amendments to the scheme, for the following reasons:

- 1) Overlooking.
- 2) Does not adhere to 45-degree code guidance.
- 3) Loss of light.
- 4) Overbearing.
- 5) Shading.
- 6) Loss of privacy – dominant vision point.
- 7) Noise pollution.
- 8) Disproportionate.
- 9) Out of character of the area/ Poor design.
- 10) Loss of trees have affected bat activity.
- 11) Incorrect validation of application.
- 12) Community safety and security.
- 13) Existing condition relating to side windows and doors.
- 14) Excessive and intrusive.
- 15) Prominent roof extension.

There are no new material consideration raised within the objections submitted in relation to the amendments to scheme.

Conclusion

It's not considered that the new proposal has satisfactory overcome the previous reasons for refusal. Whilst the agent has submitted amended floor and elevation plans to address the breach of the 45-degree code, an amended block plan has not been submitted, therefore there are discrepancies within the plans.

In addition, the applicant has failed to demonstrate that the design of the proposed extensions are in keeping with the character of the street scene and would not lead to substantial harm to the amenity of neighbours due to the size and design.

On balance, this application is considered does not accord with local and national planning policies and guidance as set out in this report and therefore the refusal reasons as set out in the original report remain unchanged.

Reason for reporting to the planning committee.

Called in by a Councillor – Councillor Gazanfer Ali – Councillor is in support of the proposal.

Application requires delicate judgement.

The application description has been amended to include specific reference to the balcony/ terrace. Residents/ interested parties have been consulted on this change and the consultation period ends on 28th October.

Application details.

Application reference: 24/1093

Site location: 159, THE CRESCENT, WALSALL, WS1 2DD

Application proposal: Full planning application for a proposed two storey side extension with balcony/terrace over the proposed single storey side and rear extension; single storey front extension with new front bay window and canopy; a change of roof design to the rear to accommodate a new side dormer and loft conversion; front, side and rear fenestration.

Application type: Full Application: Householder

Link to application documents: <https://go.walsall.gov.uk/planningapps?id=24/1093>

Applicant: Shahzia Matloob 159, THE CRESCENT, WALSALL, WS1 2DD

Planning agent: Faraaz Arshid, Hayat Architects Hayat Architects, 43 Borneo Street, Walsall, WS4 2HZ

Ward: Paddock

Red line location



Crown Copyright and database rights 2024 Ordnance Survey 100019529

Site and surroundings

The prevailing character of the area is mainly pitched roofed extensions, and gable ends facing within the street scene. It is noted there are one or two properties which have small flat roofed dormers which face into the street scene. The site is directly abutting greenbelt land to the rear. There are no TPOs on or near the site. The site is not within or adjacent to a conservation area. There are no listed buildings or locally listed buildings within the vicinity of the site.

Relevant planning history

BC5917 - 159, THE CRESCENT, WALSALL, WS1 2DD – Extension to dwelling – Grant Subject to Conditions – 12/01/1977

BC17248 - 159, THE CRESCENT, WALSALL, WS1 2DD – Erection of Timber Shed for office storage purposes – Permission Refused – 05/02/1981

Reasons for refusal:

1: Introduce an isolated commercial use within a residential area, detrimental to neighbouring amenity.

2: Parking and deliveries to the site could affect traffic flow.

BC07274P - 159, THE CRESCENT, WALSALL, WS1 2DD – Erection of first floor bedroom and bathroom – Grant Subject to Conditions – 26/07/1983

Condition 2: removed permitted development rights for side facing windows and doors.

Reason: to safeguard the amenity of the occupants of adjoining premises.

Relevant policies

National Planning Policy Framework (NPPF)

The [NPPF](#) sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a “presumption in favour of sustainable development”. The NPPF is a material consideration in the determination of a planning application.

Human rights and reducing inequalities

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

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Walsall Council Development Plan

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

Our Development Plan includes:

- Black Country Core Strategy (BCCS)
- Walsall Site Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

Planning guidance is published within a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

Public consultation has been carried out in accordance with the Development Management Procedure Order and the council's Statement of Community Involvement.

Consultee comments (planning officer's summary)

Ecology Officer

No objection subject to conditions being added in relation to bats and nesting birds.

Recommended conditions:

- 1: evidence of bat or bat found during operations.
- 2: Lighting.
- 3: expiration of current bat survey.
- 4: installation of bat box and bird box in extension.

Local Highways Authority

Support subject to conditions being added in relation to the parking area.

Recommended conditions:

- 1: Parking area being fully consolidated and drained.
- 2: Visibility splay being incorporated and maintained at site.

Tree Preservation Officer

No objection to the proposal and no recommendations.

Neighbour and interested parties’ comments (planning officer’s summary)

Support

One comment received in support of proposal for the following reason(s):

Councillor Gaz Ali called the application into planning committee on support for the application, for the following reasons:

This application needs delicate judgement. (Officer Comments in Italics)

Objection(s)

Two comments received objecting to proposal support for the following reasons:

1. Overlooking
2. Does not adhere to 45-degree code guidance
3. Loss of light
4. Overbearing
5. Shading
6. Loss of privacy

7. Noise pollution
8. Disproportionate
9. Out of character of the area/ Poor design
10. Loss of trees have affected bat activity
11. Incorrect validation of application
12. Community safety and security
13. Existing condition relating to side windows and doors.

Determining issues

1. Green belt assessment
2. Design, layout, and character
3. Amenity of neighbours and future occupiers
4. Highways
5. Ecology
6. Trees / Protected trees

Assessment of the proposal

Green belt assessment

The rear of the site is within greenbelt, however, none of the application site falls within greenbelt. The extensions would be viewed against the backdrop of the existing house and is considered to not be harmful to the character and openness of the greenbelt in accordance with Walsall's Site Allocation Document Policy GB1: Green Belt Boundary and Control of Development in the Green Belt, and National Planning Policy Framework Paragraph 152 - 156.

Design, layout, and character

Balcony:

The property currently has French doors within the existing first floor rear elevation, above the ground floor flat roof, however there is no balustrade around the ground floor to create a formal balcony. The proposal would utilise the existing rear elevation to create a balcony/terrace over the proposed ground floor extension with a screen and railings. The design of the balcony over the proposed single storey rear extension is seen as out of character within the locality as there are no other properties in the row of houses with balconies or of that design. No. 161 The Crescent has 2 balconies; however, they are Juliet balconies which does not allow for occupants to stand beyond the windows. It is considered the balcony is contrary to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f)

Single storey rear extension:

The design of the single storey rear extension is considered acceptable. This conforms to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f)

Front extension:

The design of the porch/canopy is similar to the existing porch and will not have a detrimental impact blend in with the character of the street scene. This conforms to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f)

Rear gable end:

The glazing in the proposed rear gable is not typical of the surrounding character, however, as this is at the rear of the property it will have limited impact upon the character of the street scene. . This conforms to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f)

Loft conversion and roof dormer extension:

The proposed dormer would sit on top of the existing historic flat roof extension. The design of the roof dormer extension is large, overbearing and out of character within the street scene and wider area. The design is out of character and incongruous and will be clearly visible within the street scene particularly 'The Crescent' and from greenbelt land to the rear of the Arboretum. The dormer will have a detrimental impact on the character and homogeneity of existing development in the street scene. This is contrary to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f)

Amenity of neighbours and amenity of future occupiers

Dormer:

It is acknowledged that the presence of dormer with windows to the front and rear elevation could lead to perceived overlooking when compared to the existing situation,

however it is considered the proposed windows would not result in undue additional loss of privacy to local residents than any first floor front and rear windows. It is considered on balance; the dormer does not warrant refusal due to loss of privacy and overlooking. On balance it is considered, the dormer would meet the amenity requirements of Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary GP2: Environmental Protection, Planning Document (SPD) Designing Walsall, Appendix D and the NPPF paragraph 135 (a-f) of NPPF 2023.

The rooflights are proposed in the roof slope which faces 161 The Crescent, the opportunity for overlooking any habitable room windows is limited as there are none within the side elevation of no. 161 The Crescent, thus it is considered these rooflights would not result in the loss of privacy In accordance with Saved Unitary Development Plan, ENV32: Design and Development Proposals, GP2: Environmental Protection, and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f).

Balcony:

The proposed balcony will have a detrimental impact to the neighbouring amenity, the measures being taken to stop overlooking and loss of privacy are not being sufficient to safeguard the amenity of the neighbours within the vicinity as the railings still allow users of the terrace to overlook habitable rooms and private amenity spaces thus causing overlooking and loss of privacy for the surrounding neighbours. It is considered, the balcony will be contrary to local planning policies Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary GP2: Environmental Protection, paragraph 135 (f) of the National Planning Policy Framework 2023 which requires development to have a high standard of amenity for existing and future users.

Single storey rear extension:

The proposed single storey rear extension breaches the 45-degree code guidance from the rear ground floor habitable room of no. 157 The Crescent. The breach of the 45-degree guidance from the nearest habitable room window of 157 is 0.8 metres, this means the proposed rear extension, due to the orientation would cause shading to 157.

In addition, the extension would extend beyond the rear elevation of 157 by 6.5 metres which is considered would lead to a loss of outlook from the nearest habitable room window with this property.

On balance, it is considered the proposed single storey rear extension reduces the quality of the living conditions of the occupiers of No 157 The Crescent in respect of outlook and light. This is contrary to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f).

There are side facing windows in 161 The Crescent, however, the potential for overlooking from the proposed side facing windows is limited due to these windows being obscurely glazed and there is a boundary treatment between the two properties. Thus, in accordance with Saved Unitary Development Plan, ENV32: Design and Development Proposals, GP2: Environmental Protection, and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f).

A local resident has submitted objections which include concerns the proposed ground floor extension is on the boundary between the two properties. The applicant has submitted certificate A with the application; therefore, the Local Planning Authority consider all development will be within the curtilage of the application site. Nevertheless, should the extensions abut the boundary, the applicant would need to engage with a party wall surveyor, which is a civil matter between the two parties and does not preclude the determination of a planning application.

Comments have been received by an interested party on behalf of a local resident, relating to the validity of the application. The Local Planning Authority noted that the description of development did not include the balcony/ terrace specifically therefore for clarity on the proposal, the description has been amended and a 14 day re consultation period is currently underway until 28th October.

Highways

Parking area:

The proposal includes a change in the parking at site, the site currently has a small driveway and lawn. The proposed development requires 3 car parking spaces to accord with Walsall's Unitary Development Plan Policies T13: Parking Provision for Cars, Cycles and Taxis. In order to achieve this, the proposed driveway needs to be extended which can be secured by a condition to ensure this is constructed prior to occupation of the development.

A condition is also recommended for the maintenance of a visibility splay in respect of the potential for the developers to potentially include a new wall at the front of the property in the future constructed under permitted development.

On balance, the proposal accords with to; Walsall's Unitary Development Plan Policies T13: Parking Provision for Cars, Cycles and Taxis and T7: Car Parking, and the National Planning Policy Framework Paragraph 115.

Ecology

The proposal is exempt from mandatory biodiversity net gain as the development relates to extensions to a property, under a householder application.

A bat survey has been provided by the applicant, which was conducted by Dr. Stefan Bodnar dated 24th August 2024 which states the building is conclusively not being used as a bat roosting site. The Ecology officer concluded the risk to any protected

species on site is minimal and therefore conditions are recommended to ensure that if bats are found on site, works should cease until the appropriate measures as set out are implemented.

To add, a condition is recommended to minimise lighting on site in accordance with the guidance available within Guidance Note 08/18 Bats and artificial lighting in the UK, bats and the Built Environment series, BCT, 2018.

Should the application gain approval, a condition is recommended that should the development not have commenced by August 2026 a new Bat survey shall be undertaken and submitted to the Local Planning Authority in line with the expiry of the current survey.

On balance, it is considered the proposal; meets the requirements of Unitary Development Plan ENV23: Nature Conservation and New Development, and Black Country Core Strategy ENV1 Nature Conversation, and Walsall's Natural Environment SPG policies NE1(a) and NE4.

Trees / Protected trees

The majority of the trees at site appear to have been removed with the exception of one established ash tree. Whilst this might have resulted in a loss of habitat on site the trees are not protected by a TPO and the site is not within a conservation area., therefore consent to remove any trees is not required Thus, on balance, the proposal complies with , Walsall's Unitary Development Plan ENV18: Trees and Woodlands, and SPD Conserving Walsall's Natural Environment, and Black Country Core Strategy Policies ENV1: Nature Conversation, ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality.

Conclusion and reasons for decision

1. This application has failed to demonstrate that the design of the proposed extensions are in keeping with the character of the street scene and would not lead to substantial harm to the amenity of neighbours due to the size and design of the rear extensions.

2. On balance, this application is considered does not accord with local and national planning policies and guidance as set out in this report. Had the application not been called into planning committee the recommendation would have been to refuse under delegated powers due to the harm caused to the character of the area and immediate neighbours by the single storey rear extension, balcony and dormer. The material planning considerations weigh against the proposal such that it is recommended for refusal.

Recommendation

Refuse

Reasons for refusal

1: The design of the dormer extension is large and overbearing and out of character within the area, particularly from The Crescent. This is contrary to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, DW3 Character and Appendix D and the NPPF paragraph 135 (a-f).

2: The proposed single storey rear extension breaches the 45-degree code with the neighbours at no. 157 The Crescent nearest ground floor habitable room windows, resulting in shading to this property throughout the day which would have an unacceptable impact upon their amenity. This is contrary to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, DW3 Character and Appendix D and the NPPF paragraph 135 (a-f)

3: The design of the balcony/terrace extension is overbearing and out of character within the area. Moreover, the proposal would result in loss of privacy to no. 161 and 157 The Crescent due to overlooking, thus having an unacceptable impact on the amenity of 157 and 161 The Crescent. This is contrary to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, DW3 Character and Appendix D and the NPPF paragraph 135 (a-f).

Case specific notes for applicant

N/A

End of report

Development Management, Civic Centre, Darwall Street, Walsall, WS1 1DG

Website: <https://go.walsall.gov.uk/planning>, Email: planningservices@walsall.gov.uk, Telephone: (01922) 652677, Textphone: 0845 111 2910



PLANNING COMMITTEE

16 January 2025

REPORT OF HEAD OF PLANNING & BUILDING CONTROL

Response to City of Wolverhampton Local Plan Publication Version Consultation

1. PURPOSE OF REPORT

- 1.1 To consider and agree the council's response to the City of Wolverhampton Local Plan Regulation 19 publication version consultation.

2. RECOMMENDATION

- 2.1 Agree the response as set out in the appendix, and authorise the Executive Director for Economy, Environment & Communities, in consultation with the Portfolio Holder for Regeneration, to submit the response to Wolverhampton Council.
- 2.2 Authorise the Head of Planning and Building Control to amend the final response as necessary.

3. FINANCIAL IMPLICATIONS

- 3.1 None arising directly from this report.

4. POLICY IMPLICATIONS

- 4.1 The nature of the Black Country is that the supply of land for housing, employment and other land use requirements overlap between the authorities. The four Black Country authorities are also constrained, with much undeveloped land particularly in Walsall being Green Belt. Any under or over-supply in individual authority local plans will affect the amount of land that the other authorities will have to provide in their respective local plans. It will also affect the extent to which we will be reliant on authorities outside the Black Country to contribute to meeting some of our needs through the allocation of land in their respective local plans, that is additional to that required to meet their local needs.
- 4.2 The proposals in the Wolverhampton Local Plan therefore have implications for the ability of the Black Country to 'export' unmet need to other authorities, and the amount of land, including land in the Green Belt, that Walsall might have to identify and allocate in the Walsall Borough Local Plan. There is a reasonable expectation, stemming from national policy, from neighbouring authorities to which an authority is seeking to export to, that the exporting authority can demonstrate that it has

sought to make as much use of suitable land within their own areas, using brownfield land first and then Green Belt.

- 4.3 National policy has changed since Walsall responded to consultation on the draft version of Wolverhampton's plan on 7 March 2024. The publication version of the plan has been prepared in accordance with the revised National Planning Policy Framework (NPPF) that was issued in December 2023. The new government consulted in July 2024 on further revisions to the NPPF and the final version was published in December 2024. However, the transition arrangements in the December 2024 NPPF state that plans submitted by 12 March 2025 will continue to be assessed against the December 2023 version. Wolverhampton are seeking to submit their plan to meet this proposed deadline.
- 4.4 The current consultation from the City of Wolverhampton Council (CWC) is in respect of the regulation 19 version of their local plan. This is the final version of the plan before it is submitted for examination. At regulation 19 stage, it is only possible to comment on whether the local plan is legally compliant and meets the tests of 'soundness' as set out in legislation and the NPPF. The recommended council response to their local plan, which is set out in the appendix, endorses an officer response which has already been sent out to meet their consultation deadline of 9 January 2025.

5. LEGAL IMPLICATIONS

- 5.1 Local planning authorities are currently subject to a Duty to Cooperate with neighbouring planning authorities with regards to strategic cross boundary planning matters. The extent of engagement with neighbouring authorities will be tested as part of the examination of the respective authority local plans.
- 5.2 Local plans are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. The December 2023 NPPF sets out four tests of soundness in paragraph 35. These tests are reaffirmed in para. 36 of the December 2024 NPPF, and state that local plans are 'sound' if they are.
- a) **Positively prepared** – *providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;*
 - b) **Justified** – *an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;*
 - c) **Effective** – *deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and*
 - d) **Consistent with national policy** – *enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.*

6. EQUAL OPPORTUNITY IMPLICATIONS

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

7. ENVIRONMENTAL IMPACT

- 7.1 The Regulation 19 Publication Version of Wolverhampton's Local Plan is accompanied by a Sustainability Appraisal and Habitat Regulation Assessment which will be updated as the plan is progressed.

8. WARD(S) AFFECTED

No direct effect on any specific wards in Walsall.

9. CONSULTEES

Officers in Planning and Building Control have been consulted in the preparation of this report.

10. CONTACT OFFICER

David Holloway – Planning Policy Manager

david.holloway@walsall.gov.uk

11. BACKGROUND PAPERS

All published.

Documents for the Wolverhampton Local Plan can be viewed at:

<https://www.wolverhampton.gov.uk/planning/planning-policies/wolverhampton-local-plan>

Appendix

City of Wolverhampton Local Plan – Proposed Walsall Response to Regulation 19 Publication Plan consultation

Previous Consultation

Walsall's planning committee commented on 7 March 2024 on the issues and options report (regulation 18). The key points we raised at that stage were as follows:

Scope of the Plan

We agreed that it is appropriate for the Wolverhampton Local Plan (WLP) to 'carry forward' the proposals that were to be contained in the Black Country Plan (BCP), where relevant to the area of the city. However, the BCP was to be an integrated document covering the whole of the Black Country. Development needs that could not be met in one part of the Black Country were to be met elsewhere. Notably in respect of housing and employment land, Walsall was to contribute to meeting the needs of Wolverhampton as well as Sandwell.

As a stand-alone plan however, the WLP should be positively prepared in accordance with NPPF (December 2023) paragraph 35 that "as a minimum, seeks to meet the area's objectively assessed needs¹⁹; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development".

While the draft plan was supported by a Duty to Co-operate statement that refers to agreements with authorities outside the Black Country, no agreement had yet been made with the other authorities within the Black Country.

The sustainability appraisal referred to housing option H3 as the preferred option. This option assumes that the majority of housing need will be met outside the city. Walsall contend that this cannot be considered a reasonable alternative as the plan will not cover areas outside the city. It also assumes that sites outside the city will be in areas with a "strong relationship with Wolverhampton." We contend that there is no evidence of where these areas might be. Indeed, based on plans for neighbouring areas published to date, there is likely to remain a considerable shortfall in housing supply. For example, South Staffordshire are proposing to reduce their 'offer' to Birmingham and the Black Country from 4,000 to just 640 homes.

Evidence and Background Documents

Walsall consider that the sustainability appraisal should examine the impact of failing to meet over half the authority's housing need. Statements of Common Ground should also be agreed with the other local planning authorities within the Black Country.

Vision and Strategic Priorities

While there is reference to providing a range and choice of homes, we contend that there is no reference to attempting to provide an adequate number of homes.

Preferred Housing Growth Option (H3)

Walsall contend that this option is not considered deliverable as it relies on housing provision in areas outside the area to be covered by the plan. No evidence has been formally tabled to date that neighbouring authorities are willing to make contributions of the size required.

Proposed Gypsy and Traveller Pitch Option (G2)

As is the case with general housing need, no evidence has been formally tabled of any agreement with neighbouring local authorities about the possible export of the 19 pitch shortfall. The revised South Staffordshire local plan does not propose to allocate sufficient sites to meet its own needs, so does not include any provision to meet need that might be exported from neighbours.

Given the relatively small land requirement for this number however, we consider that it ought to be possible to accommodate this shortfall within the WLP plan area.

Preferred Employment Land Growth Option (E3)

This is similar to the proposals in the draft Black Country Plan. As with housing however, it is dependent on offers from neighbouring authorities being maintained.

Preferred Approach to Policies

The proposed policies reflect those previously considered for the Black Country Plan with amendments to address issues that have arisen since the BCP was prepared, and consultation responses made to the BCP.

However, it is noted that parts of policies in the draft BCP relating to climate change that would exceed the requirements of the building regulations are proposed to not be carried forward (paragraphs 23 and 24 under section i of the draft CWC plan on page 53). Regard should be had to the recent High Court judgement in West Oxfordshire. See <https://www.bailii.org/ew/cases/EWHC/Admin/2024/359.html>

Proposed Site Allocations

We agree, apart from the omission of Green Belt housing allocations which will have consequential effects on the housing need to be exported to neighbouring local authorities

Current Consultation

The current consultation under regulation 19 can only consider whether the plan is 'sound' under the tests of soundness set out in paragraph 35 of the December 2023 NPPF. Under the transitional arrangements in the current (December 2024) NPPF, plans that are submitted for examination by 12 March 2025 will continue to be examined under the December 2023 NPPF. Paragraph 236 of the current NPPF states however that in such circumstances if the housing requirement in the plan to be adopted meets less than 80% of local housing need, the local planning authority will be expected to begin work on a new plan, under the revised plan-making system provided for under the Levelling Up and Regeneration Act 2023 (as soon as the relevant provisions are brought into force in 2025), in order to address the shortfall in housing need.

WLP policies CSP1 and HOU1 propose 9,330 net new homes over the period 2024-2042. This equates to less than 48% of the local housing need of 19,548 (1,086 per annum) under the December 2024 NPPF.

Walsall therefore contend that the draft plan is likely to have a limited lifespan. This by itself would not make it 'unsound'. However, the concerns we raised at the regulation 18 stage remain that the plan may not be seen to have been positively prepared. The plan has chosen to omit the allocation of sites in the Green Belt, although it had been demonstrated in the draft BCP that there was capacity on such land for 1,014 homes. No formal agreement has been reached either with neighbouring authorities to export need, with the exception of Shropshire. The examination of Shropshire's local plan is currently suspended.

The statement *"Those development needs that cannot be accommodated within the*

Wolverhampton administrative area will be exported to sustainable locations in neighbouring local authority areas through the Duty to Cooperate” it is contended would not appear to be effective. While the delivery of the authority’s needs may require provision outside the area, a policy cannot make proposals for development outside the area of the authority.

No other strategic policies in the regulation 19 WLP raise soundness issues of concern to Walsall. Most of these policies are site-specific or are about development management. The plan ‘carries forward’ mostly existing site-specific proposals. Again, these are not of direct concern to Walsall.

However, we do have some concerns about the wording of a couple of the policies in the Centres chapter of the WLP, as we are conscious of the need to make relevant elements of these policies as tight and unambiguous as possible, in particular to prevent further out of centre retail and leisure development in inappropriate out of centre locations negatively impacting on the existing network of centres, including those in Walsall.

Policy CEN1 – Centres and Centre Uses

Elements of this policy appear to be unclear. In particular, paragraph 5 would not appear to be effective. It states “Where planning permission is granted effective planning conditions will be used as set out in para 8.12.” Firstly, it is not stated what types of application the policy relates to. It is assumed that it is to be used in relation to planning permissions for main town centre uses but this is not explicit. Secondly, it refers to text in a supporting paragraph rather than text in the policy itself. Paragraph 8.12 then describes a proposed condition as an example instead of stating full details of all the types of restriction that will be used.

Policy CEN2 – Wolverhampton’s Centres

Similar concerns apply as with policy CEN2. Under Wolverhampton City Centre, paragraph 2 A iii d) refers to paragraph 8.7. This describes housing as highly compatible with town centre uses. However, while housing can complement town centre uses, the proposed policy would appear to give housing equal weight to such uses. If so, this could result in the loss of town centre uses or their displacement to out of centre locations. In addition, some town centre uses are not compatible with housing, notably those that form part of the nighttime economy.