



# Walsall Council

## Planning Committee

Thursday 6 October 2022 at 5.30 pm

Council Chamber, Walsall Council House

Public access to meeting via: <http://www.WalsallCouncilWebcasts.com>

### MEMBERSHIP:

Councillor M. Bird (Chair)  
Councillor G. Perry (Vice Chair)  
Councillor B. Allen  
Councillor B. Bains  
Councillor H. Bashir  
Councillor P. Bott  
Councillor S. Cheema  
Councillor S. Cooper  
Councillor N. Gandham  
Councillor A. Harris  
Councillor A. Hussain  
Councillor I. Hussain  
Councillor K. Hussain  
Councillor R. Larden  
Councillor J. Murray  
Councillor A. Nawaz  
Councillor S. Samra  
Councillor M. Statham  
Councillor A. Underhill  
Councillor V. Waters

### QUORUM:

Seven Members

# A G E N D A

## Part I – Public Session

1. Apologies.
2. Declarations of interest.
3. Deputations and petitions.
4. Minutes of the previous meetings – 8 September 2022 – **enclosed** (Pages 5-15)
5. **Local Government (Access to Information) Act 1985 (as amended):**  
  
To agree that, where applicable, the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
6. Application to remove 1 protected lime tree at 4, Carrick close, Pelsall, Walsall, WS3 5BE- enclosed (Pages 16 - 20)
7. Confirmation with modifications of tree preservation order no. 06 of 2022 at 25 & 25 little Aston road, Aldridge, Walsall, WS9 0NP (Pages 21 - 29)
8. 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** (Pages 30 - 86)

## The Relevant Authorities (Discloseable 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.

## **Planning Committee**

**Thursday 8 September 2022 at 5.30 pm**

**Council Chamber, Council House, Walsall**

### **Present:**

Councillor M. Bird (Chair)  
Councillor B. Bains  
Councillor H. Bashir  
Councillor P. Bott  
Councillor S. Cheema  
Councillor A. Cooper  
Councillor N. Gandham  
Councillor A. Harris  
Councillor I. Hussain  
Councillor K. Hussain  
Councillor R. Larden  
Councillor J. Murray  
Councillor A. Nawaz  
Councillor S. Samra  
Councillor M. Statham  
Councillor V. Waters

### **In attendance:**

M. Brereton	Group Manager – Planning
A. Cook	Regeneration Officer
K. Gannon	Developmental Control and Public Rights of Way Manager
N. Gough	Democratic Services Officer
J. Grant	Environmental Protection Manager
A. Ives	Head of Planning & Building Control
A. Mahmood	Senior Planning Enforcement Officer
T. Morris	Senior Planning Officer
J. Price-Jones	Planning Solicitor
A. Scott	Senior Planning Officer
S. Wagstaff	Principal Planning Officer

### **110/22 Apologies**

Apologies for absence were submitted on behalf of Councillors B. Allen, A. Hussain, G. Perry and A. Underhill.

### **111/22 Declarations of Interest**

There were no declarations of interest received.

112/22      **Deputations and Petitions**

There were no deputations introduced or petitions submitted.

113/22      **Minutes of previous meetings**

The Committee considered the minutes of the previous meeting.

**Resolved:**

That the minutes of the meeting held on 21 July 2022, a copy having been previously circulated to each member of the Committee, be approved and signed as a true record.

114/22      **Local Government (Access to Information) Act 1985 (as amended)**

**Exclusion of the Public**

**Resolved:**

That there were no items in the private session.

115/22      **Application to remove 1 protected sycamore tree at 9, Rowthorn close, Streetly, B74 2EN**

The report of the Head of Planning and Building Control was submitted (annexed). The Presenting Officer advised the Committee of the background to the report and highlighted the salient points contained therein.

The officer clarified that the current resident had moved in to the property after November 2020 indicating that the tree preservation order would have been detailed within the deeds and the property searches. In response to a member question it was confirmed by the officer that the tree preservation order was made in 2008 (following a review) due to significant public amenity value.

A member questioned if it was normal for an applicant to put forward a representation, it was confirmed that this was uncommon. A member asked what effect the tree would have on 32 Linforth Drive, officers stated that as this was some distance from this property there would be a minimal impact.

A discussion was held on the legality of pruning a tree which was subject to a tree protection order. It was suggested that it was a criminal offence to prune or fell a protected tree, and this applied to all parties (unless the tree was dead, dying or dangerous).

It was moved (Councillor M. Bird) and seconded (Councillor P. Bott) and upon being put to the vote was;

**Resolved:**

That consent be refused for the removal of one protected sycamore tree at 9 Rowthorn Close, Streetly, B74 2EN, for the reasons set out in the officer's report.

116/22

**Enforcement report relating to land on the west side of Back Lane/junction of Hobs Hole Lane, Aldridge, Walsall**

The report of the Head of Planning and Building Control was submitted (see annexed). The Presenting Officer advised the Committee of the background to the report and highlighted the salient points contained therein.

Members stated that the land should be returned to its original state to fit in with the surrounding area and it was clarified that this enforcement report referred to land within the Aldridge Central and South ward.

It was moved (Councillor B. Bains) and seconded (Councillor M. Bird) and upon being put to the vote was;

**Resolved:**

1. That authority is granted to the Head of Planning and Building Control, to issue an Enforcement Notice under the Town and Country Planning Act 1990 (as amended) to require remedial actions to be undertaken as shown in 3.2 of the report
2. To authorise the Head of Planning and Building Control to institute prosecution proceedings in the event of non-compliance with an Enforcement Notice.
3. To authorise the Head of Planning and Building Control, to amend, add to, or delete from the wording set out below stating the nature of the breaches, the reasons for taking enforcement action, the requirements of the Notice, or the boundaries of the site, in the interests of ensuring that accurate and up to date notices are served.

117/22

**Enforcement report relating to 26 Lodge Road, Darlaston, Wednesbury, WS10 7RZ**

The report of the Head of Planning and Building Control was submitted (annexed). The Presenting Officer advised the Committee of the background to the report and highlighted the salient points contained therein.

A member stressed that enforcement action should take place in an expedient manner. Officers described difficulties experienced when carrying out enforcement action, and the Committee was informed that additional enforcement staff had been recruited. It was requested that a briefing on open enforcement cases be taken to a future meeting, the

Head of Planning and Building Control stated that this could be included within the performance report at the next Committee meeting.

It was moved (Councillor P. Bott) and seconded (Councillor K. Hussain) and upon being put to the vote was;

**Resolved:**

1. That authority is granted to the Head of Planning and Building Control, to issue an Enforcement Notice under the Town and Country Planning Act 1990 (as amended) to require remedial actions to be undertaken as shown in 3.2 of the report
2. To authorise the Head of Planning and Building Control to institute prosecution proceedings in the event of non-compliance with an Enforcement Notice.
3. To authorise the Head of Planning and Building Control, to amend, add to, or delete from the wording set out below stating the nature of the breaches, the reasons for taking enforcement action, the requirements of the Notice, or the boundaries of the site, in the interests of ensuring that accurate and up to date notices are served.

**118/22      Application list for permission to develop**

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

The Committee agreed to deal with the items on the agenda where members of the public had previously indicated that they wished to address the Committee and 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.

**119/22      Plans List 1 – 22/0254 Land off the Green, Aldridge**

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee along with information contained within the supplementary paper. The Chair noted that part of the land was under Council ownership.

The Committee then welcomed a speaker on the application, Mr Ziyad Thomas, who spoke in support the application. He stated that the proposal was for 49 retirement living apartments in a highly sustainable location adjacent to Aldridge town centre. The location was ideally suited to this type of development, and Mr Thomas quoted national guidance. It was the applicant's view that this was a high quality application and positively addressed the setting of Aldridge conservation area and Aldridge Manor. Officers had considered the revised plans and



considered them acceptable, with the reasons for refusal now limited to a failure to provide contributions towards affordable housing, the NHS, open space and mitigation towards the Cannock Chase Special Area of Conservation (SAC). The need to appeal before October 2022 was described. It was stressed that the applicant remained committed to resolving any outstanding issues and a duplicate application had been submitted in the hope that a determination could be made and the appeal withdrawn.

Further detail was provided to the Committee on the Cannock Chase SAC and the impact upon new developments within the Borough. It was confirmed that it was recently decided by Cabinet decision to join the SAC, and this would be considered by full Council at a future meeting.

There then followed a period of questioning and debate by members.

In response to a question, the speaker described the benefits to Aldridge district centre including that it was the ideal location to provide retirement accommodation due to the amenities in the area. The benefits to the social care system were described along with the release of family housing stock within the area.

Members questioned if the applicant would be willing to make a S106 contribution if the development was approved. The speaker stated that a financial viability statement had been submitted and this detailed the contribution that would be made towards planning obligations.

A discussion ensued around the adequacy of planned car parking spaces. Clarification was provided that seventeen car parking spaces would be provided for the proposed development, and this was based on the demographic of the resident and the location of the apartments and one full time employee.

Members expressed concern that there was a saturation of retirement homes in Aldridge. The speaker clarified that Walsall had an ageing population and suggested that Aldridge was attracting retirement accommodation due to a level of need and the quality of amenities within the area.

Members asked how the issues around the SAC would be mitigated. The speaker stated that information was submitted which stated that as the proposed residents were elderly - it was considered unlikely that there would be a significant impact from this development.

The Chair interrupted proceedings to announce the death of Her Royal Highness, the Queen. A short discussion took place on whether to continue the meeting or to adjourn the meeting to another date. On balance it was agreed to continue with the meeting and conclude business due to the number of public speakers in attendance wishing to

speak on their planning applications. Members were provided with the opportunity to leave the meeting should they wish.

Members sought clarification on the reasons for officers recommendation for refusal, it was confirmed that the principal of development was supported but that the reasons for refusal were due to the lack of agreement in relation to financial contributions and the SAC.

Further information was sought on the status of the application, officers informed the Committee that applicants were obliged to appeal in order to retain the option to purchase the land. It was suggested that if the application were to be approved the appeal would be withdrawn.

It was moved (Councillor M. Bird) and seconded (Councillor B. Bains) and upon being put to the vote it was:

**Resolved:**

That if the Committee were to determine the application it would be refused for the reasons set out in the Officers report.

**120/22      Plans List 3 – 20/1515 Walsall Deaf Peoples Centre, 59A Lichfield Street**

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee along with information contained within the supplementary paper.

The Committee then welcomed two speakers on the application, Mr. Oliver Jessop and Mr. Paul Clifton, who both spoke in support of the application. Mr. Clifton described the property and its uses. He stated that a contemporary style had been originally suggested for the development, and this had not been welcomed by the conservation officer and consequently a revised plan was presented. Mr Clifton informed the Committee that some of the plans presented were not the most recent versions.

Mr. Jessop (an independent heritage consultant) stated that a heritage statement and impact assessment had been prepared which considered the wider setting of the conservation area as a whole. It was noted that the site was not listed but was considered to have local heritage significance. It was suggested that the scheme would replace elements of the building which had a negative impact on the heritage site, and the proposed extension would largely be hidden from the street scheme.

Councillor M. Bird left the room, and Councillor S. Samra took the Chair.

There then followed a period of questioning and debate by members.

In response to a member suggestion, the Chair provided clarification that the Cannock Chase SAC had been adopted by the Council.

Mr. Clifton confirmed that the façade and internal fixtures and fittings would be retained, and noted that the rear extension would be where the main changes would take place. It was stressed that it would not be seen from the arboretum. Mr. Jessop stated that the application had been overseen by a total of 4 Planning Officers.

The Chair clarified that the impact upon the heritage asset, as referred to in the application, was the arboretum (not the building).

Members questioned the lack of information provided by the applicant (quoted as a reason for refusal) and why this had not been provided. It was clarified that developers were informed of the Cannock Chase SAC very recently. Mr Clifton informed the Committee that a statement had been sent in relation to the Cannock Chase SAC. It was also clarified that the applicant was willing to make a S106 contribution. Officers confirmed that the statement had been received however the ecologist had disagreed with its contents.

Members sought clarification on the plans presented to the Committee and if the plans were the most recent plans submitted to the Planning Department. The Head of Planning confirmed that the correct, amended plans had been consulted on and apologised that the correct plans were not presented to the Committee.

In response to a question in relation to the impact on the heritage site, officers clarified that impact on the arboretum related to the overall context of the arboretum. There were concerns about the scale, mass and height of the development.

A member stated that the building needed to be developed and suggested that the arguments in relation to the heritage impact were weak, and some of the reasons for refusal were subjective. The turnover of Planning Officers dealing with the application was noted.

It was moved (Councillor A. Nawaz) and seconded (Councillor Bott) that

**Resolved:**

(Councillor V. Waters abstained and Councillor M. Bird did not take part in the debate or vote having left the room for the item)

1. The Planning Committee grant permission for application number 20/1515 subject to conditions (including electric charging point), contrary to the officer recommendation for the following reasons:
  - The Committee rejected refusal reasons 1, 2 & 5 within the officers report.
  - The overlooking reported in the officers report was not substantial in nature to warrant a refusal
  - The proposal re-purposes an iconic building by way of a sympathetic extension which preserves the original façade and was in keeping with the other period buildings in the vicinity.
  - The first and second reasons for refusal in the officer's report were subjective and the Committee disagrees with the level of detrimental impact to the character and appearance of the locality.
  - Lack of open space contributions was not seen as relevant as the proposal was opposite the Arboretum. Although in the meeting the applicant agreed that a contribution to be agreed with Planning Officers.
  - The applicant has agreed to make the contribution in regard to the Cannock Chase SAC – if this was agreed by Council.
2. To delegate to the Head of Planning & Building Control to negotiate with the developer to secure the Cannock Chase SAC mitigation and S106 obligations in liaison with Chair of planning.

Councillor Bird returned to the room and took the Chair. The Committee adjourned for a five minute period.

## **121/22      Plans List 5 – 21/1400 70 Lichfield Road, Walsall**

The report of the Head of Planning and Building Control was submitted (annexed) and was presented to the Committee along with information contained within the supplementary paper.

The Committee then welcomed a speaker on the application, Mr. Jason White, who spoke against the application. The speaker stated that a much smaller proposal had been rejected and requested consistency in dealing with planning applications, the impact on a large number of residents was highlighted in particular elderly residents. The reasons for the objection were described and included;

- Loss of amenity, and natural light at number 72.
- The local environmental impact due to the level of construction.
- The proposed outbuilding would almost be certainly be used as a residential dwelling.

- The increased pressure on the shared drains.
- The impact of freight accessing the site on the highway.
- The proposed bulk and scale of the proposed development would create an incongruous overbearing and disproportionate position in the location.

There were no questions to the speakers or the officers.

It was moved (Councillor A. Nawaz) and seconded and upon being put to the vote was:

**Resolved:**

That planning committee delegate to the Head of Planning & Building Control to grant planning permission subject to conditions and subject to and amendments.

**122/22      Plans List 6 – 22/0652 90 Sandringham Avenue, Willenhall**

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee along with information contained within the supplementary paper.

The Committee then welcomed a speaker on the application, Mr. Paul Robinson, who spoke in support of the application. Mr. Robinson confirmed that he would adhere to any proposals stated, and confirmed it was a single level extension to the side – of which there were several in the street. The extension was required to provide a bedroom and bathroom for his elderly Mother. The drainage problems on the property would be resolved by the extension.

There were no questions to the speakers or the officers.

It was moved (Councillor S. Samra) and seconded (Councillor A. Harris) and upon being put to the vote was:

**Resolved:**

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.

**123/22      22/0641 27 Lodge Road, Pelsall**

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee along with information contained within the supplementary paper.

The Committee welcomed two speakers on the application, Mr. David Berry who spoke against the application, and Mr. Carl Forrester who

spoke in support of the application. Mr. Berry stated that he had lived in his property for 50 years, and he was the neighbour most affected by the proposed extension. The reasons for objecting to the application were overlooking, loss of light, over shading and loss of privacy. He stressed that these reasons were material planning considerations and requested that they were given due consideration, adding that he would not object to a single story application. Concern was highlighted that a Planning Officer had not attended his property to consider the impact on the neighbouring property.

The Committee welcomed Mr Forrester to address the Committee, he informed members that he had lived at the property since 2016 and due to an expanding family he wished to extend the property to accommodate this. Plans had been amended as requested by the planning department. He stated that the family did not wish to relocate, but to extend their home and remain residents of Lodge Road.

There were no questions to the speakers.

In response to a question from a member, the Head of Planning confirmed that an officer had visited the application site and from there the relationship to the neighbouring property would be determined. Clarification was sought that the application did not breach the 45 degree code, officers confirmed that it did not.

It was moved (Councillor S. Samra) and seconded and upon being put to the vote was:

**Resolved:**

That the Committee delegate to the Head of Planning and Building control to grant planning permission subject to conditions and subject to the amendment and finalising of conditions.

**124/22      Plans List 2a – 22/0279 Aldridge Manor, Little Aston Road, Aldridge**

It was moved and seconded and upon being put to the vote was:

**Resolved:**

That if Planning Committee were to determine the application it would refuse planning permission for application 22/0279 for the reasons set out in the officer's report and the supplementary paper.

**125/22      Plans List 2b – 22/0282 Aldridge Manor, Little Aston Road**

It was moved (Councillor M. Statham) and seconded (Councillor A. Nawaz) and upon being put to the vote was:

**Resolved:**

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.
- No further comments from a statutory consultee raising material planning considerations not previously addressed.
- Securing amended floor plans and elevations illustrating the removal of bedroom 3 of flat 6, including the internal partitions and the new window.
- Securing amended landscape proposals plan, showing semi mature hedge planting to screen the proposed boundary between Aldridge manor and the masonic lodge and to the private garden fronting little Aston road.

**126/22      Plans List 4 – 22/0388 Green Lane Campus, Walsall College, Long Acre Street, Walsall**

It was moved (Councillor M. Statham) and seconded (Councillor A. Nawaz) and upon being put to the vote was:

**Resolved:**

That the Committee delegate to the Head of Planning and Building control to grant planning permission subject to conditions and subject to the amendment and finalising of conditions.

**Termination of meeting**

There being no further business, the meeting terminated at 8:15 pm.

Signed .....

Date .....



## **PLANNING COMMITTEE**

**6<sup>th</sup> October 2022**

### **REPORT OF THE HEAD OF PLANNING & BUILDING CONTROL**

#### **APPLICATION TO REMOVE 1 PROTECTED LIME TREE AT 4, CARRICK CLOSE, PELSALL, WALSALL, WS3 5BE.**

1. **PURPOSE OF REPORT**

Reason for bringing to committee: Significant community interest.

2. **RECOMMENDATIONS**

Part approve / part refuse.

3. **PROPOSAL**

T1 – Lime to fell.

4. **SITE AND SURROUNDING**

The application site is at the end of a cul-de-sac to the right of the turning head in the residential area of Pelsall. The houses are a mixture of semi-detached bungalows and semi-detached two-storey houses of similar design and age. The residential area has few mature established trees with the majority of vegetation comprising of Conifers, small ornamental trees and hedges. However, the public open space at Nest Common is approximately 50.0 metres north of the application site at 4, Carrick Close.

5. **RELEVANT PLANNING HISTORY**

Application 11/1269/TR to crown thin by 25% and to crown lift to crown lift to give 4.5 metres clearance above ground level given consent on 29/11/2011.

6. **RELEVANT POLICIES**

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

Saved UDP: Policy ENV18: Existing woodlands, trees and hedgerows, states:



- (a) 'The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows'.

## **7. CONSULTATION REPLIES**

Not applicable.

## **8. REPRESENTATIONS**

Four representations have been received from 2 and 6, Carrick Close, Pelsall, WS3 5BE and 5 and 7, Coven Close, Pelsall, WS3 5BD supporting the proposed removal of the Lime tree, citing the following reasons:

- Concerns that branches or the entire tree will fall during a severe weather event causing damage to nearby properties.
- Branches, leaves, pollen and sap falling into the gardens.
- Obstruction of light into the properties.

## **9. DETERMINING ISSUES**

Whether the proposed removal of the Lime tree will be detrimental to the amenity, aesthetic and landscape value of the locality, and whether there is sufficient justification for the removal of the tree for the reasons given in the application.

## **10 ASSESSMENT OF THE PROPOSAL**

Site Visit: 24/08/2022

Tree: 1 mature Lime tree.

The Lime tree that is the subject of this application is situated in the rear garden of 4, Carrick Close, WS3 5BE and is protected by Tree Preservation Order title no. 10/2017. The Lime tree is labelled T1 on the application form and during the officer site visit and inspection the following observations were made:

T1 – Lime – a mature tree with a height of approximately 18.0 metres and a crown spread of approximately 9.5 metres situated approximately 3.5 metres away from the single storey garage at 4, Carrick Close. The lower crown of the tree extends slightly outside of the property boundary and overhangs the rear garden of a neighbouring property at 5, Coven Close. In addition, the lower crown slightly overhangs the single storey brick garage of 4, Carrick Close. The crown of the tree has evidence of minor dead wood throughout, however, all trees of this age will generate a certain amount of dead wood as it is part of a trees natural biological process. From a ground inspection, the tree appears to be in good condition with no evidence of any significant faults, decay or indications of pest or disease.

In response to the representations:

- From a ground inspection the Lime tree appears to be in good condition with no significant defects, decay or indications of disease and there is no evidence to suggest it is more susceptible to partial or complete failure in severe weather events than any other healthy tree of the same age and species.

- The shedding of leaves, and dead wood is a natural biological function of the tree and whilst they can be an inconvenience their removal is considered to be part of routine property maintenance. Similarly, the generation of sap and pollen is also a natural biological function of the tree and is considered not to be a sufficient planning justification for the removal of a healthy protected tree which has demonstrable visible public amenity value which outweighs any potential personal inconvenience to immediate neighbours.
- The tree does cast shade on the nearby properties; however, it effects only part of the properties for part of the day, which is not considered excessive and insufficient a reason to justify the felling of the tree.

## 11 CONCLUSIONS AND REASONS FOR DECISION

The Lime is a healthy prominent tree with demonstrable visible public amenity value, the issues experienced by the tree owner and near neighbours are the drawbacks of living in close proximity to a mature tree, and they are not matters that would or could be used to justify the trees removal. It is considered that pruning works in the form of a crown lift to give 4.5 metres clearance above ground level and a crown thin of 30% would be acceptable which would more than address the points raised by the tree owner and those that have made representations.

## 12 RECOMMENDATION

Part approve / part refuse.

## 13 CONDITIONS AND REASONS

Walsall Metropolitan Borough Council, as Local Planning Authority, hereby **refuses consent** for the works as specified in the application:

- To fell Lime T1.

For the following reasons:

- From a ground inspection the Lime tree appears to be in good condition with no significant defects, decay or indications of disease and there is no evidence to suggest it is more susceptible to partial or complete failure in severe weather events than any other healthy tree of the same age and species.
- The shedding of leaves, and dead wood is a natural biological function of the tree and whilst they can be an inconvenience their removal is considered to be part of routine property maintenance. Similarly, the generation of sap and pollen is also a natural biological function of the tree and is considered not to be a sufficient planning justification for the removal of a healthy protected tree which has demonstrable visible public amenity value which outweighs any potential personal inconvenience to immediate neighbours.
- The tree does cast shade on the nearby properties; however, it effects only part of the properties for part of the day which is not considered excessive and insufficient a reason to justify the felling of the tree.

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

- Lime T1 – to crown lift to give 4.5 metres clearance above ground level and to crown thin by 30%

. Subject to the following conditions:

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

Reason: To ensure a satisfactory standard of work.

- All tree surgery work shall be in accordance with British Standard 3998: 2010 “Tree Work - Recommendations”.

Reason: To ensure a satisfactory standard of work.

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

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

### **Notes for applicant**

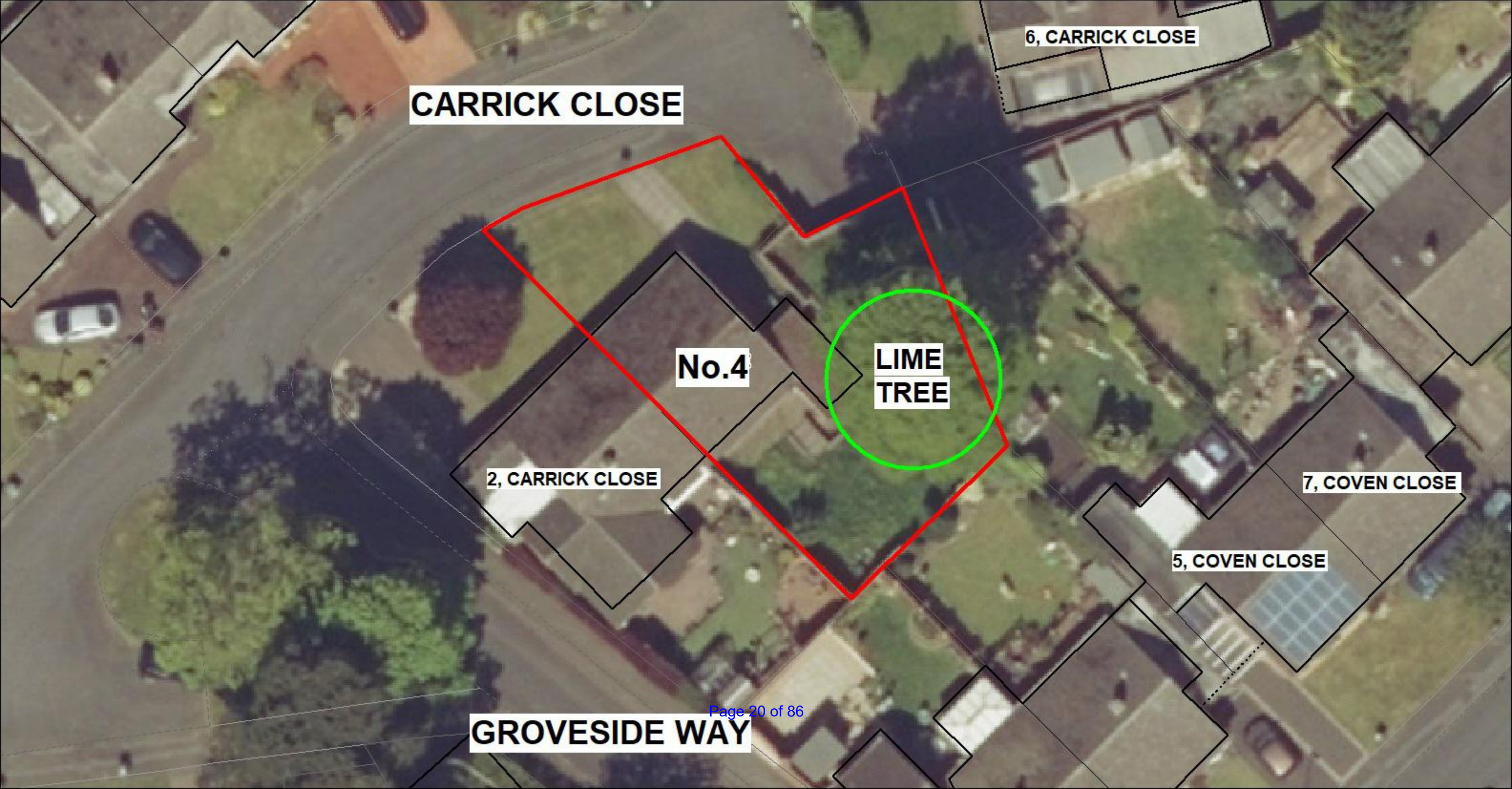
1. All 18 species of bat found in Britain are fully protected under the Wildlife and Countryside Act 1981 (as amended by National and European legislation). The applicant should inspect the trees for the presence of bat activity. If bats are discovered during inspection or subsequent work, all work must cease immediately and Natural England must be informed. They can be contacted on 0845 600 3078.
2. All wild birds, their nests and eggs are protected under the Wildlife and Countryside Act 1981. It is an offence to damage or destroy a nest of any wild bird. Birds are generally nesting between March and September, although exceptions to this do occur.
3. You may remove deadwood under Regulation 14(1)(b) of the Town and Country Planning (Tree Preservation)(England) Regulations 2012 as this operation is exempt from the need to obtain formal planning permission.

## **14 CONTACT OFFICER**

Andrew Cook – Regeneration Officer Trees. Extension: 4740

**Alison Ives,**  
HEAD OF PLANNING & BUILDING CONTROL  
[Page 19 of 86](#)





6, CARRICK CLOSE

CARRICK CLOSE

No.4

LIME  
TREE

2, CARRICK CLOSE

7, COVEN CLOSE

5, COVEN CLOSE

GROVESIDE WAY





## **PLANNING COMMITTEE**

**06 October 2022**

### **REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL**

#### **CONFIRMATION WITH MODIFICATIONS OF TREE PRESERVATION ORDER NO. 06 OF 2022 AT 25 & 25 LITTLE ASTON ROAD, ALDRIDGE, WALSALL, WS9 0NP.**

##### **1. PURPOSE OF REPORT**

To seek the confirmation of the Tree Preservation Order No. 06 of 2022 in modified form.

##### **2. RECOMMENDATIONS**

- i. Confirm the Walsall Tree Preservation Order No. 06 of 2022 in a modified form (see report detail for information on the modifications). A plan showing the original Tree Preservation Order is attached to this report along with a plan of the modified Tree Preservation Order and tree schedule.
- ii. Support the reason for making the Tree Preservation Order set out in the report detail, paragraph 10.
- iii. Note that three individual representations, and one petition from 35 nearby households, has been received in respect of this Tree Preservation Order.

##### **3 FINANCIAL IMPLICATIONS**

None.

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

Within National policy – The Town and Country Planning (Tree Preservation)(England) Regulations 2012.

##### **5 LEGAL IMPLICATIONS**

The owners and future owners of this site will be required to apply for Council permission if they wish to fell or prune any tree protected by the Tree Preservation Order. Failure to do this renders anyone carrying out unauthorised works to trees liable to criminal proceedings.

##### **6 EQUAL OPPORTUNITY IMPLICATIONS**

None.

## 7. **ENVIRONMENTAL IMPACT**

The management of Walsall's tree cover through the administration of the Tree Preservation Order system has positive implications in protecting trees for their visual and environmental benefits. Removal of protected trees is sometimes necessary because trees have a finite lifespan and may also cause nuisance or damage. In these instances, the Council has to decide whether the removal of protected trees is justified. In the event that felling a tree is permitted, the Council can secure replacement planting to maintain tree cover.

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

The Tree Preservation Order No. 06 of 2022 is located within Aldridge Central and South ward.

## 9. **CONSULTEES**

Owners and near neighbours were sent copies of the Tree Preservation Order and invited to make representations to the Council in either opposition or support of this Tree Preservation Order. Any response is described within the report.

## 10. **REPORT DETAIL**

Tree Preservation Order No. 06 of 2022 was made using the Head of Service's delegated powers on 12<sup>th</sup> April 2022 following requests from residents following the ongoing removal of several trees on site. Consequently, an area classification Tree Preservation Order was made protecting all the trees within the dotted line as indicated on the original Tree Preservation Order plan. The trees were protected for the following reasons:

- The trees are an integral part of the verdant character of the area.
- The trees have demonstrable visible public amenity value.
- The trees add to the amenity and visual diversity of the immediate area.
- The Council have received information that the trees are being felled, which will have a significant detrimental effect on the amenity, aesthetic and landscape value of the locality.

11. The six-week period allowed for objection to the Order expired on 31<sup>st</sup> May 2022. Two letters objecting to the Order have been received, one each from the property owners where the trees are located. One letter, and a petition with signatories from 35 individual households, in support have also been received from nearby residents.

The letters of objection comment as follows:

- The Council has failed to provide a system of assessing amenity value.
- The Council have recklessly protected small garden trees which do not add value to the public realm.

- The trees ... do not constitute an 'integral part of the verdant character of the area' nor do they offer 'demonstrable visible public amenity value' nor do they 'add to the amenity and visual diversity of the immediate area'.
- Some residents in Hallcroft Way previously supported the removal of the trees.
- I believe that following landscaping works, ... already started ..., the remaining trees ... in the rear garden are not visible to either the general public and ... to the surrounding houses.
- The fruit trees are not productive, and the other remaining trees are of no particular significance.
- It is unfair to cover the totality of two large gardens with a TPO, covering "all trees, of whatever species".
- I do not believe that those trees already removed have caused a "significant detrimental effect on the amenity, aesthetic and landscape value of the locality."
- The trees in my rear garden are not visible from the public highway or footpath.
- The trees in the front garden had for a long time been causing blockages with the drains and so I used the opportunity to remove these trees too.

12. The letter of support comments as follows:

- The trees act as a screen between the properties and provide a habitat for wildlife.
- The trees represent an important visual amenity to ourselves and the wider community.
- An Oak tree at the end of 15 Branton Hill Lane may have been planted for the ascension of Queen Victoria.
- If the trees are not protected, it is likely they will be felled.
- The original trees, prior to being felled, would have supported a whole ecosystem and it has been destroyed.
- It is common knowledge in the area that there is a long-term plan for a development. Replacing the trees with houses will detract from the attractiveness of our property and the other houses around us.
- We have witnessed Pipistrelle bats flitting back and forth over the gardens. These bats are on the decline due to loss of habitat.
- We also hear the hoot of our local owl and clearly the trees are an important part of looking after the local wildlife.

The petition states the following in support of the Order:

- The trees represent a valuable visual amenity.
- The area was a haven for wildlife but the previous clearance works has destroyed the ecosystem it supported.
- The trees have a significant life in front of them, being mostly around 60 years old.
- The existing trees will bring substantial benefits to our suburb and will be there to be enjoyed by our children and grandchildren for many years to come.

13. The officer's response to the representations is as follows:

- The area classification Tree Preservation Order is one way of protecting all trees growing within an area as defined on the Orders plan. The area classification is intended for short-term protection in an emergency and may not always be

appropriate to provide long term protection as it only protects the trees standing at the time it was made. Consequently, over time it may become difficult to be certain which trees are protected. In addition, the other drawback of an area classification is that trees that don't merit protection are included in the Order by virtue of being within the area as defined on the plan. Government guidance advises Councils to only use the area classification as a temporary measure until they can fully assess and reclassify the trees within the area.

- In accordance with this guidance and mindful of the representations received a site visit to inspect the trees was made on 20 September 2022. Following the inspection of the trees at nos. 25 and 27 Little Aston Road, WS9 0NP, an amenity assessment was undertaken in accordance with a nationally recognised procedure (TEMPO)<sup>1</sup> on each tree or group of trees deemed worthy of long-term protection in an amended Order. To summarise the methodology, a score of 10 or less indicates a tree would not be worthy of inclusion in a TPO, a score of more than 10 indicates a tree would be worthy of inclusion in a TPO. The scores for the trees in the amended Order range from 18-24 and indicate the trees 'definitely merit protection'. A summary of the scoring is shown below.

	Condition and suitability	Longevity	Public visibility	Other factors	Expediency	Total
T1	5	4	4	5	5	<b>23</b>
T2	5	4	5	5	5	<b>24</b>
T3	5	4	3	1	5	<b>18</b>
T4	5	4	4	2	5	<b>20</b>
T5	5	5	5	2	5	<b>22</b>
G1	5	4	3	1	5	<b>18</b>

Scoring	0	Do not apply TPO
	1-6	TPO indefensible
	7-10	Does not merit TPO
	11-14	TPO defensible
	15+	Definitely merits TPO

- It must be noted at this time that a tree, possibly a Copper Beech, that appears to be part of the linear feature of trees along the rear boundary of 27 Little Aston Road, has not been included in the amended TPO as it appears to be located in the rear garden of 15 Branton Hill Lane and there is no known threat to this tree at present.
- There is no definition of amenity in law but Local Authorities should consider if the removal of a tree would have a significant negative impact on the local environment and that protecting a tree would bring a reasonable degree of public benefit in the present or the future. Government guidance<sup>2</sup> states a tree, or at least part of it, should normally be visible from a public place such as a road or footpath. The trees included in the proposed amended Order are clearly visible from Little Aston Road (between properties), Branton Hill Lane (over the

<sup>1</sup> Tree Evaluation Method for Preservation Orders: Forbes-Laird Arboricultural Consultancy

<sup>2</sup> Tree Preservation Orders and trees in conservation areas: Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government



top of, and in between, houses) and Hallcroft Way (over the top of, and in between, houses). The trees are also clearly visible from within the properties on Little Aston Road, Branton Hill Lane and Hallcroft Way.

- The recommendation is to confirm Tree Preservation Order 06 of 2022 in a modified form. The amended Order would only protect 5 individual trees (1 Silver Birch, 2 Maple, 1 Crimson Norway Maple and 1 Deodar Cedar) and 1 group containing 2 Silver Birch. This modified Order omits all the trees that do not merit protection under the original area classification Order either due to their poor condition, poor form or the presence of faults or defects. In addition, the omission of these trees addresses partially or fully the comments made by the objectors. Screening is also maintained at the rear of the property in support of the Order as 5 of the trees recommended for the continued protection of the Order are situated adjacent the rear garden boundary between the site and properties in Hallcroft Way.

14. **MODIFICATIONS TO TREE PRESERVATION ORDER NO. 06 OF 2022.**

- The modified Tree Preservation Order No. 06 of 2022 will include 1 Silver Birch (T3), 2 Maple (T1 and T2), 1 Crimson Norway Maple (T4), 1 Deodar Cedar (T5), and 2 Silver Birch (G1).

15. Officers have taken account of the representations received and followed Government guidance with regards to reclassifying area Orders. The Planning Committee is therefore recommended to confirm Tree Preservation Order No. 06 of 2022 in a modified form.

16. **CONTACT OFFICER**

Cameron Gibson - 01922 654741

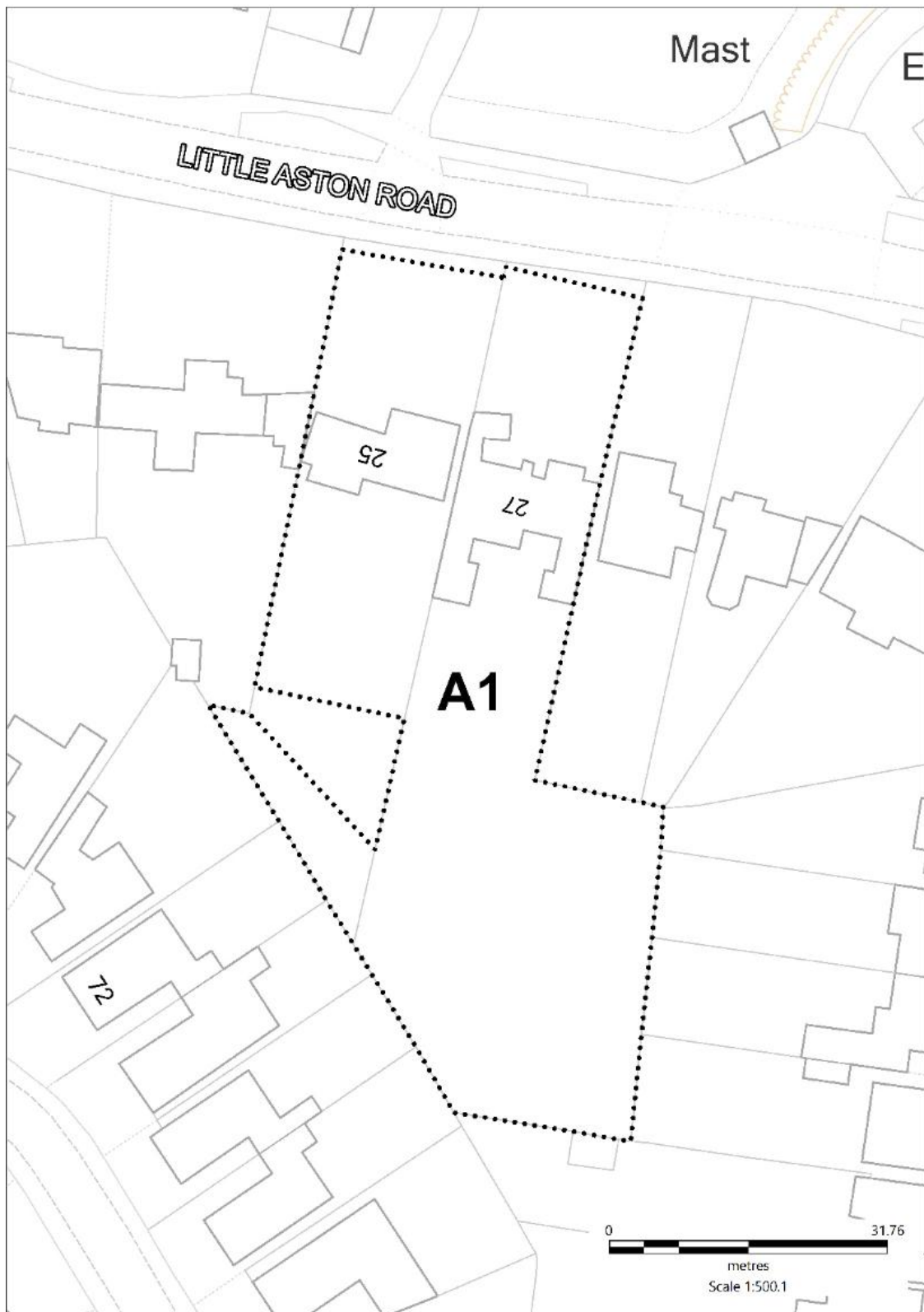
17. **BACKGROUND PAPERS**

File PD1/18/055 relating to Tree Preservation Order No. 06 of 2022.

**Alison Ives,**  
HEAD OF PLANNING AND BUILDING CONTROL.

**TPO 06 of 2022 (original plan)**

**25 & 27 LITTLE ASTON ROAD, ALDSRIDGE WS9 0NP.**



## **SCHEDULE (original)**

### **TPO 06 of 2022 SPECIFICATION OF TREES**

#### **Trees specified individually** (encircled in black on the map)

Reference on map                      Description                      Situation

None		
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#### **Trees specified by reference to an area** (within a dotted black line on the map)

Reference on map                      Description

A1	All trees of whatever species within A1 of the TPO Plan
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#### **Groups of trees** (within a broken black line on the map)

Reference on map                      Description                      Situation

None		
------	--	--

#### **Woodlands** (within a continuous black line on the map)

Reference on map                      Description                      Situation

None		
------	--	--

TPO 06 of 2022 (amended plan)

25 & 27 LITTLE ASTON ROAD, ALDRIDGE WS9 0NP.



## **SCHEDULE (amended)**

### **TPO 06 of 2022 SPECIFICATION OF TREES**

#### **Trees specified individually** (encircled in black on the map)

Reference on map	Description	Situation
T1	Maple	Towards the southeast corner of 27 Little Aston Road.
T2	Maple	On the north side of, and adjacent to, the boundary between the rear gardens of 27 Little Aston Road, 66 Hallcroft Way, and 15 Branton Hill Lane.
T3	Silver Birch	Adjacent to the rear boundary between 27 Little Aston Road and 68 Hallcroft Way.
T4	Crimson Norway Maple	Towards the rear boundary of 27 Little Aston Road, close to the boundary with 25 Little Aston Road, and 9m from the rear boundary with 70 Hallcroft Way.
T5	Deodar Cedar	To the front of 25 Little Aston Road, close to the flank boundary with 23 Little Aston Road, and 6m from the front boundary.

#### **Trees specified by reference to an area** (within a dotted black line on the map)

Reference on map	Description
None	

#### **Groups of trees** (within a broken black line on the map)

Reference on map	Description	Situation
G1	2 x Silver Birch	Adjacent to the rear boundary between 27 Little Aston Road and 68 Hallcroft Way.

#### **Woodlands** (within a continuous black line on the map)

Reference on map	Description	Situation
None		



## Development Management Planning Committee

Report of Head of Planning and Building Control on 06/10/22

### CONTENTS

Item	Page	Planning Application Number	Planning Application Site Address	Planning Application Proposal	Officer Recommendation
1	33-42	21/1639	LAND WEST OF MOAT FARM, SUTTON ROAD, WALSALL, WS9 0QL <b>Ward:</b> Pheasey Park Farm	CHANGE OF USE OF LAND TO DOG WALKING FIELDS ENCLOSURE	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING AND BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS
2	43-52	20/1401	BOUNDARY COURT, BOUNDARY ROAD, STREETLY, WALSALL, B74 2JR <b>Ward:</b> Streetly	EXTENSION TO SIDE OF 49 BOUNDARY ROAD TO CREATE LARGER GROUND FLOOR UNIT AND ERECTION OF 2 X 1 BED FLATS OVER AND EXTERNAL REAR STAIRCASE (AMENDED DESCRIPTION)	REFUSE
3	53-67	21/0956	20 CHARLEMONT ROAD, WALSALL, WS5 3NG <b>Ward:</b> Paddock	PROPOSED 6 BEDROOM REPLACEMENT DWELLING WITH ANCILLARY OUTBUILDING	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING AND BUILDING CONTROL TO

				TO BE USED AS A GYM/STORAGE	GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO: <ul style="list-style-type: none"> <li>• NO NEW MATERIAL CONSIDERATION S BEING RECEIVED WITHIN THE CONSULTATION PERIOD.</li> <li>• THE AMENDMENT AND FINALISING OF CONDITIONS</li> <li>• NO FURTHER COMMENTS FROM A STATUTORY CONSULTEE RAISING MATERIAL PLANNING CONSIDERATION S NOT PREVIOUSLY ADDRESSED.</li> </ul>
4	68-77	21/0804	74 MELLISH ROAD, WALSALL, WS4 2EB  <b>Ward:</b> St Matthews	RE- SUBMISSION APPLICATION OF 20/0453: REPLACEMENT 6 BEDROOM DWELLINGHOU SE. AMENDMENTS INCLUDE INCREASED ROOF HEIGHT AND ALTERATION TO ROOF DESIGN, ADDITION OF REAR BOX DORMER, RE- DESIGNED SINGLE STOREY REAR EXTENSION,	REFUSE

				REMOVAL OF SIDE FACING WINDOWS, ADDITIONAL TWO STOREY FRONT EXTENSION AND CHANGE TO WINDOW DESIGN ON FRONT ELEVATION	
5	78-86	22/0229	30 LAKE AVENUE, WALSALL, WS5 3PA  <b>Ward:</b> Paddock	PROPOSED SINGLE STOREY REAR EXTENSION AND ALTERATIONS TO ROOF OVER FRONT ENTRANCE FOR A NEW PORCH	REFUSE





## Economy, Environment and Communities, Development Management

### Planning Committee

Report of Head of Planning and Building Control on 06 October 2022

Plans List Item Number: 1

#### Reason for bringing to committee

Major Application

#### Application Details

**Location:** LAND WEST OF MOAT FARM, SUTTON ROAD, WALSALL, WS9 0QL

**Proposal:** CHANGE OF USE OF LAND TO DOG WALKING FIELDS ENCLOSURE.

**Application Number:** 21/1639

**Case Officer:** Sean Hewitt

**Applicant:** C. Round

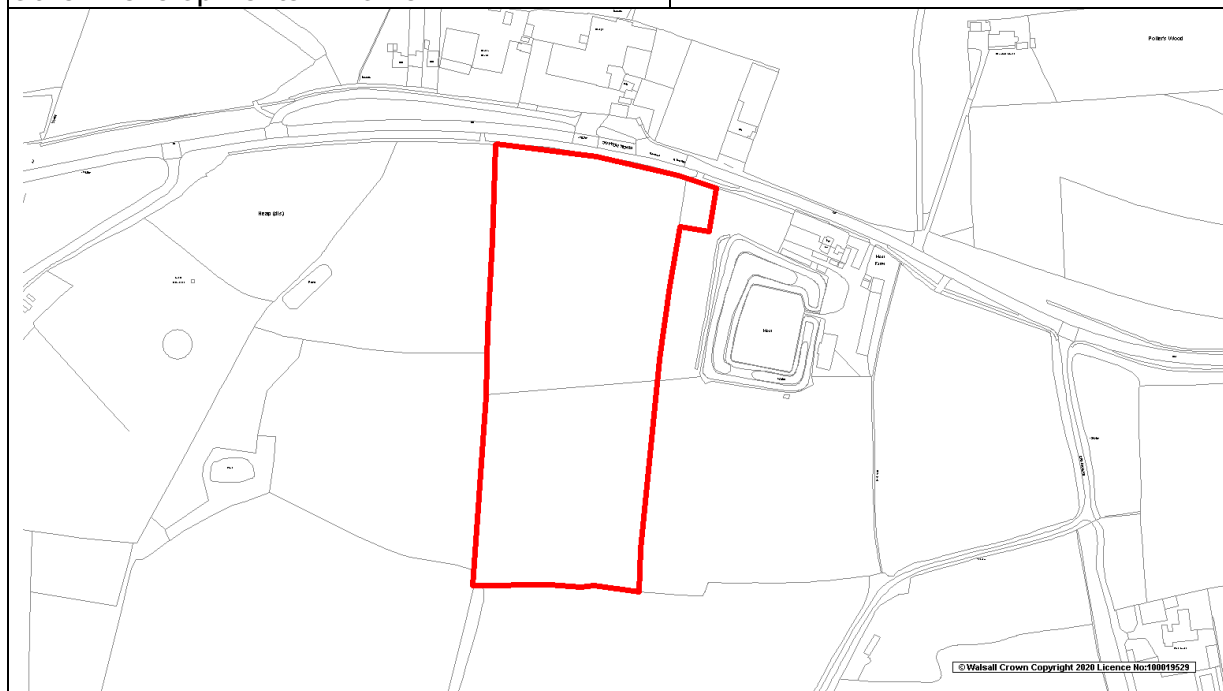
**Ward:** Pheasey Park Farm

**Agent:** Rob Duncan Planning Consultancy Ltd

**Expired Date:** 07-Feb-2022

**Application Type:** Full Application: Major Other Developments / Works

**Time Extension Expiry:** 31-Aug-2022



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#### Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to conditions

## Proposal

Change of use of the existing agriculture use to a dog walking facility. The proposal will be split into two fields with a small car park to the North East of the site.

The site will include a new parking area for 4 vehicles, 1.8m high deer fencing around the perimeter of the site and a new 1.8m access gate using the existing access on Sutton Road.

The site will operate from 8:00-18:00 from Monday – Sunday secured by planning condition.

## Site and Surroundings

The site falls within Green Belt and within the Great Barr Conservation area. The site is to the south of Sutton Road and is connected to Moat Farm and there are mature hedgerows surrounding the site.

The site benefits from an existing dropped kerb on Sutton Road with an existing gate separating the hedgerows which is currently overgrown.

There are existing uses along this stretch of Sutton Road such as a vehicle rental venue, lighting store and garden store opposite the site.

The nearest residential property aside from Moat Farm itself, is found opposite the site set back from Sutton road and screened by mature vegetation is no.651 and properties no.615-619 Northwest of the site adjacent to the existing garden centre located 58m away at its shallowest point.

## Relevant Planning History

none

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](https://www.gov.uk/guidance/national-planning-policy-framework)

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

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

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- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF16 – Conserving and enhancing the Historic Environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

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

### **Reducing Inequalities**

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

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

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

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

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

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- 3.2 to 3.5 The Countryside and Green Belt
- 3.6 to 3.8 Environmental Improvement
- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- ENV7: Countryside Character
- ENV9: Environmental Improvement Initiatives
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV25: Archaeology
- ENV32: Design and Development Proposals
- T7 - Car Parking NOTE for case officer: *(Also see AAP Policy AAPT5)*
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis
- BX3: Conservation Areas
- BX13: Car Parking
- WH10: Parking

### **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV6: Open Space, Sport and Recreation

### **Walsall Site Allocation Document 2019**

GB1: Green Belt Boundary and Control of Development in the Green Belt  
EN5: Development in Conservation Areas

### **Supplementary Planning Documents**

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## Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

## Designing Walsall

- DW3 Character

## Open space, sport and recreation

- OS1: Qualifying Development
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

## Consultation Replies

Environmental Protection – no comment

Natural England – no comment

Police – no objection but informative notes for safety provided

Public Health – no objection

Highways – support subject to conditions relating to parking

Conservation – concerns to:

- No elevations showing fence in situ (*agent has asked this to be secured by condition*)
- No details of parking materials (*This will be covered in highways condition*)
- No indications of the design of the two new gates proposed (*elevation now received*)

Archaeology – no objection if works to not extend beyond the top soil layer (*agent has confirmed no work will go beyond the topsoil*)

## Representations

None received

## Determining Issues

- Principle of the development and impact on the Greenbelt and the conservation area
- Neighbouring amenity
- Highways and access

## Assessment of the Proposal

### **Principle of the development and impact on the Greenbelt and the conservation area**

The proposal would represent outdoor recreation. The NPPF (2019) Section 13 para 145 now indicates that the provision of appropriate facilities in connection with a change of use for outdoor recreation is not considered inappropriate development as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

The proposal does not include any buildings. The extent of car parking at the site would be minimal given the small area of parking/manoeuvring space and there will be limited times to use the facilities.

Whilst the proposal will have 1.8m high fencing to secure the field, this would be rounded posts and an open mesh fence which allows full views through it, used in rural locations reducing any adverse impact on the visual amenity and openness of the Green Belt. This is considered acceptable given the fallback permitted development position whereby a fence can be erected of any material at 2m high where not adjacent to the highway without requiring planning permission.

The re- introduction of the access would utilise an existing access off Sutton Road. Additionally, the fencing has now been set within the site by 2.4m to reduce any possible impact on the exiting hedge row and the biodiversity that may use this.

The proposal falls on the northern tip of the Great Barr Conservation area, with the conservation officer concerned that there were no elevations indicating the proposed deer fencing in situ. The agent has since demonstrated the fences and asked if this can be included as a condition to avoid any further delay to the application.

As mentioned above, the proposed fencing will be set within the boundary of the site and thus will be less prominent when viewed from Sutton Road or South of the site.

The proposal will also be partially screened by the existing mature hedgerows which line the site. Although these details will be agreed as part of condition, officers consider that the proposal is unlikely to have a detrimental impact on the setting of the conservation area as the deer fencing would be made from wooden posts and mesh that is akin to what would be expected within the countryside. This is considered acceptable given the fallback permitted development position whereby a fence can be erected of any material at 2m high without requiring planning permission.

Overall, it is considered that the proposal would have minimal impact on the character, appearance or openness of the Green Belt and conservation area and as such the proposals would represent appropriate development within the Green Belt.

### **Impact on the amenities of Surrounding Occupiers**

It is considered that the use is unlikely to have any adverse impact on the amenities of the surrounding occupiers through noise and any increase in traffic is likely to be low level. The nearest residential property 651 Sutton Road is 40m away and 615-619 Sutton Road are 70m away. It is also considered that the use would have no adverse impact on the surrounding agricultural uses.

Conditions will be attached to ensure the site will operate during recommended hours with a lighting condition attached to avoid disturbances to residents and also local wildlife.

### **Access and Parking**

The proposals would bring back into use an existing access off Sutton Road. The existing access to the land, the Highway Authority consider that the proposed development would not have severe transportation implications and is acceptable subject to conditions.

The development would provide a small parking/manoeuvring area immediately within the site, which is considered would meet the needs of the development given the staggered times/use of the field.

A condition is recommended for booking times/use of the field to prevent any conflict of vehicles within the access drive.

## **Conclusions and Reasons for Decision**

### Grant permission subject to conditions

The proposals would represent appropriate development within the Green Belt under para 145 of the NPPF subject to impact on the openness of the Green Belt.

The use would require no buildings on site, minimal car parking, no lighting due to the daylight hours of use and access created at a natural break in the boundary hedging

would minimise the loss of natural habitat and environment. The fencing proposed would be post and open mesh regularly used in rural locations to maintain views and openness, the fencing would sit comfortably within the natural environment and not intrusively impact on the Green Belt, the conservation area, neighbouring amenity or highways safety. The proposal is considered to meet the policies noted in the report above.

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

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

### **Approve**

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

## **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:

- Location Plan 16-08-22
- Proposed Road Gate 21-01-22
- Proposed Car Park Plan 21-01-22
- Planning and Heritage Statement 09-11-21

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. No part of the development hereby permitted shall take place until the existing vehicle footway crossing access has been widened to 4.8 metres. *\*See Highway Authority Notes to Applicant 2 below.*

Reason: To ensure the satisfactory completion and operation of the access, in accordance with Saved UDP policies GP2, T4, T7 and T13 and the NPPF.

4. Notwithstanding the submitted details, prior to the development hereby permitted first coming into use, a 5 metre hard surfaced apron at the access point consisting of tarmacadam, block pavers or similar and drainage measures to prevent surface water



discharge onto the public highway, shall be fully implemented and thereafter retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development, the access and the parking area and in accordance with Saved UDP policies GP2, T4, T7 and T13 and the NPPF.

5a. Prior to the development hereby permitted first coming into use, elevations of the proposed deer fencing shall be submitted to and approved in writing by the Local Planning Authority. The elevations shall include each perimeter, boundary heights and the proposed finish of any boundary treatment.

5b. Prior to the development hereby permitted first coming into use the fencing shall be installed in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the conservation area in accordance with SAD Policy EN5 (Development in Conservation Areas).

6. The development hereby permitted shall not operate other than in accordance with the operational details set out in Paragraph 5.18 of the submitted Planning and Heritage Statement dated November 2021 which shall provide a 10 minute gap between each booking. Each of the permitted fields shall operate independent of one another. The start time for each booking on field A shall be on the hour and the start time for each booking on field B shall be on the half-hour.

Reason: To define and clarify the operation of the development to control the number of vehicle trips to the site and to ensure that there is adequate parking on site to meet its operation needs, and in accordance with Saved UDP policies GP2, T4, T7 and T13 and the NPPF.

7. Notwithstanding the details hereby submitted, the gates shall not open outwards across the public highway at any time.

Reason: In the interests of highway safety and in accordance with Saved UDP policy T13 and the NPPF.

8. a. No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

b. No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area, and to minimise impacts on the character of the Green Belt in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan and Policy GB1 of the SAD.

9. The development hereby permitted shall not be open otherwise than between the hours of 08.00am to 18.00pm Monday to Saturday, Sundays, Bank and Public

Holidays.

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

## Notes for Applicant

### Police

The below links to information may be of assistance to the applicant.

<https://west-midlands.police.uk/crime-prevention>

<https://west-midlands.police.uk/flysystem/public-sync/inline-files/West%20Midlands%20Police%20Crime%20Prevention%20Handbook.pdf>

I would recommend security using the principles of Secured By Design.

<https://www.securedbydesign.com/guidance/interactive-design-guide>

<https://www.securedbydesign.com/guidance/security-advice-for-businesses>

<https://www.securedbydesign.com/guidance/design-guides>

### Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be 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 **Transport and Streets - Parking Roads and Vehicles**.
3. The Highway Authority's permission is required under the Highways Act 1980 and New Roads and Street Works Act 1991 for all works on or in the highway.

**END OF OFFICERS REPORT**



## Planning Committee

**Plans List Item Number: 2**

## Significant Community Interest

**Location:** BOUNDARY COURT, BOUNDARY ROAD, STREETLY, SUTTON COLDFIELD, B74 2JR

**Proposal:** EXTENSION TO SIDE OF 49 BOUNDARY ROAD TO CREATE LARGER GROUND FLOOR UNIT AND ERECTION OF 2 X 1 BED FLATS OVER AND EXTERNAL REAR STAIRCASE. (AMENDED DESCRIPTION).

**Application Number:** 20/1401

**Case Officer:** Ann Scott

**Applicant:** Starcrest Properties Ltd

Ward: Streetly

**Agent:** Mr John Jowitt

<b>Expired Date:</b> 01-Mar-2021
----------------------------------

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

**Time Extension Expiry: 13-Oct-2022**



## Refuse

## Proposal

Extension to side of 49 Boundary Road to create larger ground floor unit and erection of 2 x 1 bed flats over and external rear staircase. (Amended description). Previously proposed glazed canopies and an access ramp have been deleted from the application.

## Site and Surroundings

The application site is situated to the side of an existing shopping/flat complex adjacent to 49 Boundary Road Streetly. To the front of the site is a car parking and pedestrian area. The building is circa 1960's or early 1970's flat roofed three storey building.

The flats are accessed via the rear of the site from a pedestrian access adjacent to the application site. In addition the rear of the property serves as vehicular access to the shops and flats and parking for the flats. The parking to the front of the site is available for public and users of the shops. Adjacent to the application site is a bus stop on Hundred Acre Road which is situated opposite existing post war housing circa 1960's.

The site is situated in flood zone 1 at the lowest risk of flooding as defined on the Environment Agency Flood Map for Planning.

## Relevant Planning History

17/1425 – change of use from A1 to Micropub at 49 Boundary Road – granted 2 June 2018.

## Relevant Policies

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

[www.gov.uk/guidance/national-planning-policy-framework](https://www.gov.uk/guidance/national-planning-policy-framework)

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

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**

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- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 10 – Supporting high quality communications**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**
- 

On **planning conditions** the NPPF (para 56) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

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

### **National Planning Policy Guidance**

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

### **Reducing Inequalities**

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

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

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

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

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

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Saved Policies of Walsall Unitary Development Plan**

### **Saved Policies of Walsall Unitary Development Plan**

GP2 Environmental Protection

ENV10 Pollution

ENV14: Development of Derelict and Previously-Developed Sites

ENV29 Conservation Areas

ENV32, Design and Development Proposals

ENV35 Appearance of Commercial Buildings

S6: Meeting Local Needs

T4 - The Highway Network

T7 - Car Parking

T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- CSP4: Place Making
- CEN6: Meeting Local Needs for Shopping and Services

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- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- TRAN4: Creating Coherent Networks for Cycling and for Walking

## Supplementary Planning Documents

### Designing Walsall

- DW1 Sustainability
- DW3 Character
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

### Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 – Viability

## Consultation Replies

**West Midlands Fire Service** – no objections

**Highways** – concerns raised objection additional pressure on parking, traffic movements and congestion.

**Environmental Protection** – suggest conditions to secure noise mitigation in relation to the commercial and residential premises above.

**Planning Policy** – support

**Traffic Management and Coordination** – concerns raised. With regard to parking around the area of the shops pushing the need for parking further into the nearby housing estate.

**West Midlands Police** – no objections

**Severn Trent Water** – no objections

## Representations

21 letters of objection, two letters of support and one neutral comment on the grounds of the following;

- increase in parking and congestion/highway safety
- antisocial behaviour



- noise pollution
- Residential amenity/disturbance to a quiet residential area.
- application site space currently wasted and would benefit from being used.

## **Determining Issues**

- Principle of Development
- Housing need
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highway Safety
- Flood Risk / Drainage
- Ground Conditions and Environment
- Local Finance Considerations

## **Assessment of the Proposal**

### **Principle of Development**

The application site is on a parcel of land to the side of 49 Boundary Road adjacent to a bus stop and close to the junction with Hundred Acre Road. 49 Boundary Road forms part of a local shopping parade and the premises are presently used as an independent shop/brewing house.

The revised NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed. The application is mostly on commercial land in a sustainable location. The NPPF also says that housing applications should be considered in the context of the presumption in favour of sustainable development.

The proposal is in a sustainable location being within the built-up area of Streetly. However, the development is not a sustainable form of development if it fails to consider the environmental role - protecting and enhancing our natural, and built environment. The report considers this further.

### **Housing Need**

Chapter 5 of the NPPF relates to delivering a sufficient supply of homes. Paragraph 60 seeks to ensure the governments' objective of significantly boosting the supply of homes. Paragraph 61 relates to strategic housing supply policies and should be informed by local housing need. The council has an emerging housing supply shortfall and has recently failed the Housing Delivery Test as a result of low housing delivery over the last three years. Paragraph 73b of the NPPF seeks to ensure that the supply of new homes should be well located and designed, and supported by the necessary infrastructure and facilities including a choice of transport modes. Walsall is connected by bus and rail services to the wider area and provides a sustainable location for the proposed development. The application site is closely located to the Walsall Town Centre.



Paragraph 74 relates to maintaining supply and delivery of housing sites over the development plan period. Local Planning Authorities should update annually a supply of deliverable sites against their housing requirement set out in adopted strategic policies.

The Black Country Core Strategy Policy HOU1 Delivering Sustainable Housing Growth seeks to create a network of cohesive, healthy and prosperous communities and for the provision of sufficient land to provide for sustainable housing growth.

The present Housing Delivery Test indicates that Walsall only achieved around 70% of its housing delivery over the period 2018-2021. Where applications involving the provision of housing, situations where the Local Planning Authority cannot demonstrate a 5 year supply of deliverable housing sites, with the buffer set out in paragraph 74, or where the Housing Delivery Test was below 75% of the housing requirement over the previous three years the presumption is in favour of granting permission as indicated in Paragraph 11d. On the basis of these policies the proposals would have a limited effect in addressing housing need in the borough.

### **Design, Layout and Character**

The proposed development is considered to be in keeping with the existing building and proposes a full height extension with two flats above the shop unit extension similar in arrangement to the existing layout of the building. The materials would be brick and upvc windows as per the existing. The building has a flat roof and this feature is continued in the design of the development.

The development is considered to accord with GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW3 Character, of the Designing Walsall urban design document. Together with the design advice in Chapter 12 of the NPPF Achieving well-designed places and Chapter 16 Conserving and enhancing the historic environment, together with the SPD Policies in Designing Walsall DW1 Sustainability and DW3 Character and DW10 Well Designed Sustainable Buildings.

### **Amenity of Neighbours and Amenity of Future Occupiers**

There are no objections in principle to the development in relation to the impact on the existing and future amenities of occupiers of Boundary Court. The development proposes a similar arrangement to existing flats at first and second floor and a shop unit extension on the ground floor. Many concerns from local residents relate to the potential for antisocial behaviour. The natural surveillance provided by the design of the development is not considered to erode the potential for an increase in antisocial behaviour or the potential for overlooking/loss of privacy for existing residential properties in the locality.

The Environmental Protection officer has raised concerns but has recommended conditions to secure some noise mitigation to protect future occupiers from noise in the event that permission were granted. These relate to noise insulation between the commercial and residential premises and a noise survey prior to the occupation of the apartments. However these issues would need to be resolved prior to permission being granted as it would not be reasonable to impose a condition for a noise survey prior to occupation as this would not meet the tests for the conditions circular if the recommended levels of noise if 70db between the units could not be achieved. The Environmental Protection comments mainly relate to the previously proposed front glazed canopies previously proposed to the front of the site. These have now been deleted from the application along with the disabled access ramp. The Environmental Protection Officer advises that they have no recorded noise complaints at the premises.

The development is considered to accord with the Saved Unitary Development Plan Policy GP2 (Environmental Protection), and Policies DW1 (Sustainability), DW2 (Safe and Welcoming places) and DW6 (Legibility). Of the Designing Walsall SPD.

### **Highway Safety**

Concerns have been raised by third parties in the locality with regard to the likely adverse impact of more dwellings in this location in relation to congestion, parking and access and highway safety.

The development is accessed from the front and rear of the site. There is no room for any additional parking on the frontage of the site which is limited to the existing parking area and there is insufficient room for any extension to the parking area with it being so close to the junction with Hundred Acre Road. The Highways officer and Traffic Management Team raise objections with regard to concerns in relation to additional pressure on parking, traffic movements and congestion. The existing capacity for parking and turning is limited and it is considered that additional residential development and the extension to the shop units would exacerbate the situation. The development proposed would therefore be detrimental to highway safety.

Para 110 of the National Planning Policy Framework 2021 seeks to ensure that specific plans for development should provide 'safe and suitable access to the site that can be achieved for all users' and that, under para 112, applications for development should 'give priority first to pedestrian and cycle movements, address the needs of people with disabilities and reduced mobility, create places that are safe and secure and attractive which minimise the scope for conflicts between pedestrians, cyclists and vehicle movements, allow for the efficient delivery of goods and access by service and emergency vehicles'.

The application fails to accord with the BCCS Policy TRAN2 Managing transport impacts of new development, and "saved" policies T7 Car Parking, T13 Parking

provision for cars of the Walsall UDP and paragraph 110 (d) and 111 of the National Planning Policy Framework 2021.

### **Flood Risk and Drainage**

The application site is situated in Flood Zone 1 an area at the lowest risk of flooding as defined on the Environment Agency Flood Map for Planning. There are no objections to the proposal from Severn Trent Water Authority. In accordance with the Black Country Core Strategy Policy ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island.

Drainage could be dealt with by a planning condition to secure details for the disposal of foul and surface water if the application were recommended for approval.

### **Ground Conditions and Environment**

The application site is situated in a low risk area for coal mining and there are no further investigations considered necessary.

### **Crime and Antisocial Behaviour**

The proposal is not considered to have the potential to result in harm to the amenities of the locality from crime and antisocial behaviour. The design of the development gives opportunities for pedestrian access through the site due to the use of the ground floor as a shop/brew house. There will be natural surveillance throughout most of the day from users of the ground floor and the accommodation above from the habitable windows and balconies. The situation is no different to the existing shop units/flats

This application is considered to accord with Saved Unitary Development Plan Policy GP2 (Environmental Protection), Site Allocation Document Policy HC2 (Development of Other Land for Housing), the aims of Appendix D (Numerical Guidelines for Residential Development) of the Designing Walsall SPD and the National Planning Policy Framework 2021.

### **Local Finance Considerations**

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

This application proposes 2 new homes.

The Government has indicated that, for 2020-2021 it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

## **Conclusions and Reasons for Decision**

### **Refuse**

Given that there are no material planning considerations to overcome the policy concerns in relation to highway safety in support of the proposals it is concluded that this application should be recommended for refusal.

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

Officers have spoken with the applicant's agent and there has been additional information put forward however in this instance the information has not overcome the policy concerns with regard to highway safety and officers are unable to support the proposal.

## **Recommendation - REFUSE**

1. The development will have an unacceptable impact on road safety and have a negative impact on the operation of the strategic road network. There is insufficient information put forward in the submission to demonstrate that the proposal would result in a public benefit, and insufficient evidence put forward in the submission to demonstrate that the proposal is required that would overcome the policy concerns in relation to the likely impact on highway safety and limited parking provision for the existing apartments and shop units. The proposed use of the site for residential and retail development in its present form would put an additional pressure on parking, traffic movements and congestion. The additional residential development and extension to the shop units would exacerbate this situation. The development proposed would therefore be detrimental to highway safety. contrary to the aims and objectives of the National Planning Policy Framework in relation to sustainable development and the Black Country Core Strategy Policy, TRAN2 Managing transport impacts of new development, and "saved" policies T7 Car Parking, T13 Parking provision for cars of the Walsall UDP and paragraph 110 (d) and 111 of the National Planning Policy Framework 2021.

## **END OF OFFICERS REPORT**

## Economy, Environment and Communities, Development Management

### Planning Committee

Report of Head of Planning and Building Control on 06 October 2022

Plans List Item Number: 3

#### Reason for bringing to committee

The application is brought to Planning Committee as there is significant community interest in the proposal, in the form of six letters of objection.

#### Application Details

**Location:** 20, CHARLEMONT ROAD, WALSALL, WS5 3NG

**Proposal:** PROPOSED 6 BEDROOM REPLACEMENT DWELLING WITH ANCILLARY OUTBUILDING TO BE USED A GYM/STORAGE.

**Application Number:** 21/0956

**Case Officer:** Thomas Morris

**Applicant:** Mr Jaswant Gaur

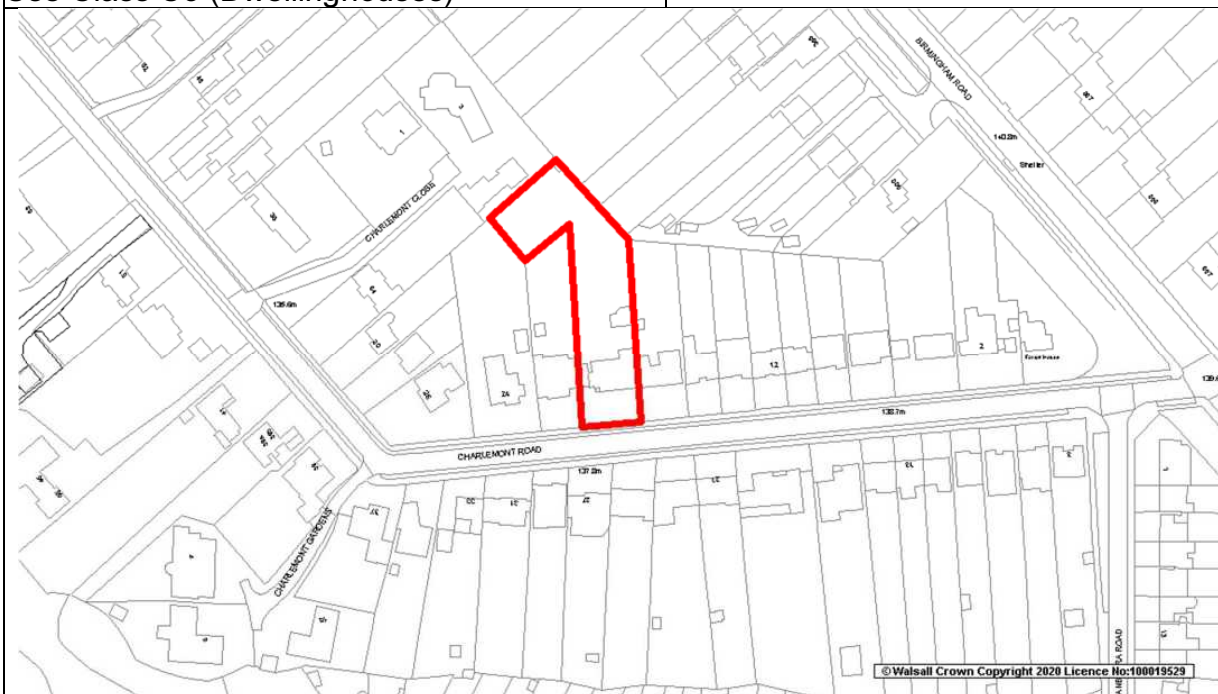
**Ward:** Paddock

**Agent:**

**Expired Date:** 13-Sep-2021

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

**Time Extension Expiry:**



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### **Recommendation:**

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:
  - No new material considerations being received within the consultation period.
  - The amendment and finalising of conditions.
  - No further comments from a statutory consultee raising material planning considerations not previously addressed.

## Proposal

This application seeks full planning permission for the erection of a replacement six bedroom dwellinghouse (Use Class C3) with an ancillary outbuilding in the rear garden to be used as a playroom/storage space.

The site comprises an existing five-bedroom dwellinghouse which will be partially demolished to allow for the erection of the larger dwelling. The extent of the demolition works, as well as vastly different appearance of the proposed dwelling is such that the proposal requires full planning permission rather than householder extension planning permission.

The proposed dwellinghouse measures 18.8m (maximum width) x 16.3m (maximum depth front to rear elevation) x 8.3m (height to roof ridge). The proposed dwelling is designed with a hipped roof featuring rooflights, central front gable section and single-storey side and rear extension featuring a flat roof. The proposed materials include brickwork/render walls, concrete roof tiles and UPVC windows and doors.

The proposed outbuilding measures 20m (length) x 8.9m (width) x 3m (height). The proposed outbuilding is designed with a flat roof, UPVC windows and doors and rendered elevations. The outbuilding will be used as a playroom and for storage space.

No alterations are proposed to the site's existing access from Charlemont Road. Four off-street car parking spaces are proposed, which is the same as the existing situation.

## Site and Surroundings

The application site comprises an existing residential dwellinghouse at 20 Charlemont Road. The dwelling is detached and designed with a gable roof with forward gable projections and dormer windows, ground floor bay windows, single storey side and rear extension and rendered elevations. The existing dwellinghouse measures 18.8m (maximum width) x 12.7m (maximum front to rear elevation) x 7.6m (height to roof ridge) and 8.7m (height to the top of chimney breast). The front boundary treatment comprises a low brick wall with hedge above and two vehicular access points. Boundaries to the rear are primarily formed of wooden panel fencing, as well as trees and shrubs.

There are trees to the rear of the site within the boundary of 3 Charlemont Close which are subject of a Tree Preservation Order. There are no listed buildings in the vicinity of the site and this area is located within the low risk coal development area. The site is located outside of the Cannock Chase SAC zone of influence.

The surrounding area is primarily residential in nature. Charlemont Road is an attractive residential street which comprises a mix of detached and semi-detached dwellings, with some variation in architectural styles, albeit most houses are traditional in character and appearance. Existing houses are generally setback from the street behind front



gardens, driveways and low front boundary walls and low hedges and feature larger gardens to the rear.

## Relevant Planning History

BC49545P - Proposed extension to existing kitchen at rear – Permission granted subject to conditions - 01/07/1997.

## Relevant Policies

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

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/national-planning-policy-framework)

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

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

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

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

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



## **Reducing Inequalities**

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

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

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

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

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

## **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV14: Development of Derelict and Previously-Developed Sites

- ENV16: Black Country Urban Forest
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H1: Renewal of Existing Residential Areas
- T7 - Car Parking
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems & Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality

### **Walsall Site Allocation Document 2019**

- HC2: Development of Other Land for Housing
- EN1: Natural Environment Protection, Management and Enhancement
- EN3: Flood Risk

### **Supplementary Planning Documents:**

#### **Conserving Walsall's Natural Environment**

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

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

## Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

## Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

## Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 – Viability

## Consultation Replies

Ecology – No objections and no condition recommended.

Local Highway Authority – No objections, subject to the following conditions:

- Submission of a Construction Methodology Statement.
- Parking and manoeuvring areas to be completed prior to first occupation.
- No walls and gates to be installed on the site's frontage without the submission of full details in advance.

Tree Preservation Officer – No objections, subject to the following conditions:

- Submission of a Tree Protection Plan.
- Submission of raft foundation design details for the proposed outbuilding.

Waste Management – No response received.

West Midlands Fire Service – No objections, subject to the following recommendations:

- For the proposal is implemented in accordance with the safety guidelines contained within Approved Document B, Volume 1, Dwellinghouses 2019.

West Midlands Police – No response received.

## Representations

Six letters of objections were received, based on the following grounds:

- Loss of daylight, outlook, and privacy at neighbouring properties.
- The proposal is out of character with the area.
- The proposal is too large.
- The proposed outbuilding is too large.
- The proposal will have a negative impact on trees.
- The proposal will cause disturbance to residents.
- The proposal will have harm protected species.
- The proposal will increase surface water run off to neighbouring properties.
- Work is being carried out at the site without planning permission.
- There will be no access from the front to the rear garden.
- Incorrect neighbour numbers / consultation.
- The proposal will have a negative impact on property values.

## Determining Issues

- Principle of Development.
- Design.
- Amenity of Future Occupiers.
- Amenity of Neighbours.
- Highways and Parking.
- Ecology and Trees.
- Flood Risk / Drainage.
- Ground Conditions and Contamination.

## Assessment of the Proposal

### Principle of Development:

This application seeks full planning permission for the replacement of a four-bedroom dwellinghouse at 20 Charlemont Road, with a new six-bedroom dwellinghouse. The existing dwelling will be partly demolished and extended, with the existing walls retained where possible. However, the extent of the works and the substantially different

appearance of the proposed dwelling requires submission of a full planning application rather than a householder extension application. Given that the proposal will merely replicate the existing residential use of the site, albeit through the creation of a larger house, the principle of the proposal is acceptable, subject to the application complying with other material planning considerations.

### **Design:**

Considering the visual impact of the loss of the existing dwelling at the site, whilst it appears to be in relatively good condition and is a design of some merit, it is not a listed building, nor is it considered to be of a significant enough quality to warrant its retention for its contribution to the visual amenity of the street scene. The loss of the existing house is therefore considered to be acceptable from a visual perspective.

The proposed dwelling is designed to be in keeping with the existing front building line on the street, with the increase in size primarily concentrated at the rear. The overall width and height of the new dwelling will be similar to the existing dwelling when viewed from the street, with the visible gaps at the first floor to neighbouring properties retained and the roof ridge height matching the ridge height of neighbouring properties. The design of the dwelling has been simplified compared to the existing house, with the main feature comprising a centralised gable section at the front elevation. Due to the absence of details regarding the proposed bricks, render, roof tiles, windows, doors, rainwater products and soffits within the submitted drawings, further information regarding the design and details of the house would be required by condition. Considering the quality and character of the street, these conditions are required to ensure that the proposal is implemented to a high standard and does not harm the character of the area.

Considering the visual impact of the proposed outbuilding, this is accepted as large, however, the outbuilding is sited at the end of a long garden and will therefore have no impact on the appearance of the street scene. The adjoining gardens are also long, therefore mitigating the view of the outbuilding from neighbouring houses. There are examples of similar outbuildings of significant scale within adjacent gardens. It is worth noting that an outbuilding of this size could be built via permitted development as set out in Schedule 2, Part 1, Class E (Buildings etc incidental to the enjoyment of a dwellinghouse) of the General Permitted Development Order 2015 (as amended). The applicant would therefore be able to construct the outbuilding without applying for express planning permission and this fallback position has to be considered as a material planning consideration. On this basis there are insufficient grounds to refuse the application due to the scale and impact of the proposed outbuilding.

In summary, the application is considered to be acceptable with regards to its visual impact on the character and appearance of the area, subject to the conditions attached.

### **Amenity of Future Occupiers:**

The proposed dwellinghouse will comprise six bedrooms, with bedrooms 1 to 5 located at the first floor and bedroom 6 located at the ground floor. All bedrooms are in excess of the 11.5sqm minimum floorspace standard for double bedrooms, as stated within the Technical Housing Standards – Nationally Described Space Standards. The proposed dwelling will comprise an overall floorspace of approximately 430sqm, well in excess of the minimum standard of 138sqm for a six-bedroom, eight-person dwelling set across three floors, as stated within the National Space Standards. The rear garden size is approximately 770sqm, which is well in excess of the minimum standard of 68sqm for houses as stated within the Designing Walsall SPD. The proposed internal and external layout of the site is therefore acceptable and will provide a high standard of amenity for future occupiers.

### **Amenity of Neighbours:**

It is acknowledged that several objections have been received regarding the scale of the proposal (both the house and the outbuilding) and the impact of this on neighbour amenity, including the loss of daylight and privacy. Amendments to the scheme have therefore been sought to address some of these concerns.

With regards to the scale of the house, the depth of the first floor rear extension has been reduced from 6m to 4.8m, in order to comply with the 45 Degree Code to the first floor bedroom windows at 18 and 22 Charlemont Road (See Drawing No. L(2-)03 Rev L). With regards to the impact of the ground floor rear extension on the ground floor windows at 18 and 22 Charlemont Road, the nearest ground floor windows at the neighbouring properties do not serve habitable rooms, therefore any 45 Degree Code breach is acceptable to these windows. Based on the amendments, the proposal now complies with the Council's 45 Degree Code and will not therefore result in any loss of amenity at neighbour's habitable rooms.

The proposal will also not result in the loss of any neighbour privacy, given that all windows in the proposed dwelling are contained in the front and rear elevations and will therefore face the street or face the rear garden of the application site, rather than any neighbouring gardens.

Objections were also raised regarding the impact of the proposed outbuilding on neighbour amenity. However, as is previously noted, the outbuilding complies with permitted development rights and can therefore be implemented without the applicant applying to the Local Planning Authority for express planning permission. Given the length of the nearest gardens (approximately 35m-40m), the outbuilding is also sited some distance away from the nearest habitable windows. A condition has also been included requiring that the outbuilding be only used for purposes which are incidental to the enjoyment of the dwellinghouse and cannot be used as separate accommodation. The plans show that the outbuilding will be used as a gym /playroom, as well as storage. Concerns were raised regarding the use of the outbuilding to play cricket; however, this would be accepted as a use for personal enjoyment of the

occupants of the dwelling and would be considered a common use of a private garden. Furthermore, if the noise from this activity were to become a statutory nuisance and a complaint was submitted, the Council would be required to investigate the noise and the persons responsible for the noise would be required to stop or restrict it.

In summary, as a result of the amendments to the scheme, the application is now acceptable with regards to the impact on neighbour amenity, subject to the conditions attached.

### **Highways and Parking:**

The Local Highway Authority have raised no objections to the proposed development. No alterations are proposed to the site's access from Charlemont Road, and four car parking spaces will be retained to the front of the dwelling, which is considered to be an acceptable level of parking space in this location. The proposal is therefore acceptable with regards to highways and parking matters, subject to the conditions attached.

### **Ecology and Trees:**

The application is supported by a Preliminary Roost Assessment which found that the existing dwelling had moderate potential for bat roosts. Further bat activity surveys were submitted, and these found that it is highly unlikely that there is a bat roost present at the site. Due to these reasons, there are no objections to the proposal on ecological grounds.

There are several trees located within the boundary of 3 Charlemont Close to the north-west of the site, which are subject of a Tree Preservation Order. The proposed outbuilding will be located at the end of the garden and therefore near to these trees (the trees are in the neighbour's garden not the application site). The outbuilding will be positioned approximately 7m from the boundary and therefore likely at the extremities of the root protection areas of the trees. However, in order to ensure the proposal does not harm the protected trees, conditions have been attached requiring that the outbuilding uses a raft foundation which is a shallower foundation which will have a lesser impact on tree roots, as well as the submission of a tree protection plan.

In summary, the application is acceptable with regards to the impact on ecology and trees, subject to the conditions attached.

### **Ground Conditions and Contamination:**

The existing use of the site is residential and there is no planning history to indicate any alternative uses of the site which may have resulted in land contamination. The proposal is located outside of the coal development high risk area and there is no evidence to suggest the site is at risk of stability issues. The application is therefore acceptable with regards to ground conditions and contamination matters.



## **Other Matters:**

Objections have been raised in relation to an increase in surface water runoff to neighbouring properties. With regards to flood-risk and drainage matters, the site is located outside of flood zones 2 and 3 and is an established residential site at low risk of flooding. The proposal will continue the existing residential use of the site and is not likely to result in any increase in flood-risk or additional pressures on drainage in the area.

Objections have been raised in relation to works taking place in advance of planning permission being granted. An internal and external site visit took place in September 2022. No works have commenced inside the building. The rear garden area has been partly cleared in preparation, however, the construction of the outbuilding itself had not yet started. Some trees within the site have also been cut along the site's boundary (within the application site) but none of these were protected by a Tree Preservation Order and there are no reasons to prevent the applicant from removing these trees.

Objections have also been received in relation to the impact of the proposal on property values. However, this is not a material planning consideration and is therefore not relevant to the decision.

## **Conclusions and Reasons for Decision**

The proposal will result in the creation of a new and larger dwelling at the application site, thereby retaining the use of the site for residential purposes. The scale of the proposed dwelling has been reduced through amendments to the first floor rear extension in order to reduce the impact on neighbour amenity. When viewed from the street the overall proportions of the dwelling will be similar to the existing dwelling, with the bulk of the extension located at the rear of the property. The proposal will therefore not result in any harm to the overall character and appearance of the street scene. Furthermore, trees which are subject of a Tree Preservation Order within the neighbouring garden will be protected through planning conditions. Taking into account the above factors it is considered that the application should be recommended for approval, subject to conditions.

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

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested, other than the further details which are requested via condition, as follows.

## **Recommendation**

Grant permission, subject to conditions.

## Conditions and Reasons

### 1. Time Limit

- a. 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. Approved Plans

- a. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:
  - Proposed Floorplans L(2-)03 Rev K
  - Proposed Elevations L(2-)04 Rev M
  - Proposed Outbuilding Plans & Elevations L(2-)05 Rev G
  - Proposed Site Plan L(2-)06 Rev C
  - Proposed Roof Plan L(2-)10 Rev B
  - Proposed Garden Wall Elevation L(2-)22 Rev B
  - Tree Protection Fence Detail L(2-)23

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. Sample Materials

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

#### 4. Tree Protection Measures

- a. Prior to the commencement of development:
  1. Details of raft foundation design for the proposed outbuilding shall be submitted in writing to and approved in writing by the Local Planning Authority
  2. Details of protective fencing and ground protection to be installed around all retained trees shall be submitted in writing to and approved in writing by the Local Planning Authority
  3. The approved protective fencing and ground protection shall be installed
  4. One month's written notice of the intention to commence development shall be given to the Local Planning Authority to allow the Council's Arboricultural Officer to fully inspect the installation of the protective fencing and ground protection
- b. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved details before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.
- c. Nothing shall be stored or placed nor any fires started, any tipping, refuelling, disposal of solvents or cement mixing carried out inside the protective fencing or on the ground protection referred to in part a to this condition. Ground levels within protective fencing and on ground protection areas shall not be altered nor shall any excavation or vehicular access or drainage routes be made.
- d. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of Walsall's Unitary Development Plan, Conserving Walsall's Natural Environment SPD and the National Planning Policy Framework

#### 5. Construction Methodology Statement

- a. Prior to the commencement of the development, a Construction Methodology Statement shall be submitted to and approved by the Local Planning Authority detailing where the parking and turning facilities for site operatives and construction deliveries will be located and including full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.
- b. This provision shall be retained during construction in accordance with the approved details.

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

highway safety in accordance with Saved Policies GP2 and ENV40 of Walsall's Unitary Development Plan and the National Planning Policy Framework

#### 6. Parking and Vehicle Manoeuvring Areas

- a. Prior to the first occupation of the new dwelling, the parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.
- b. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with Saved Policies GP2, T7 and T13 of Walsall's Unitary Development Plan and the National Planning Policy Framework

#### 7. Personal Use of Outbuilding

- a. The proposed outbuilding as part of the development hereby permitted shall not be used otherwise than for purposes incidental to the dwelling house at 20 Charlemont Road and shall not be occupied separately from that dwelling house.

Reason: To define the planning permission, safeguard the amenities of adjoining dwellings and to comply with Saved Policy GP2 of Walsall's Unitary Development Plan, Designing Walsall SPD appendix D and the National Planning Policy Framework

#### **Notes for Applicant**

None.

**END OF OFFICERS REPORT**

## Economy, Environment and Communities, Development Management

### Planning Committee

Report of Head of Planning and Building Control on 06 October 2022

Plans List Item Number: 4

#### Reason for bringing to committee

Called in by Councillor Amo Hussain on the grounds of further discussion needed in relation to the deviation of the planning approval 20/0453.

#### Application Details

**Location:** 74, Mellish Road, Walsall, WS4 2EB

**Proposal:** RE-SUBMISSION APPLICATION OF 20/0453: REPLACEMENT 6 BEDROOM DWELLINGHOUSE. AMENDMENTS INCLUDE INCREASED ROOF HEIGHT AND ALTERATION TO ROOF DESIGN, ADDITION OF REAR BOX DORMER, RE-DESIGNED SINGLE STOREY REAR EXTENSION, REMOVAL OF SIDE FACING WINDOWS, ADDITIONAL TWO STOREY FRONT EXTENSION AND CHANGE TO WINDOW DESIGN ON FRONT ELEVATION.

**Application Number:** 21/0804

**Case Officer:** Ann Scott

**Applicant:** Manjid Zeb

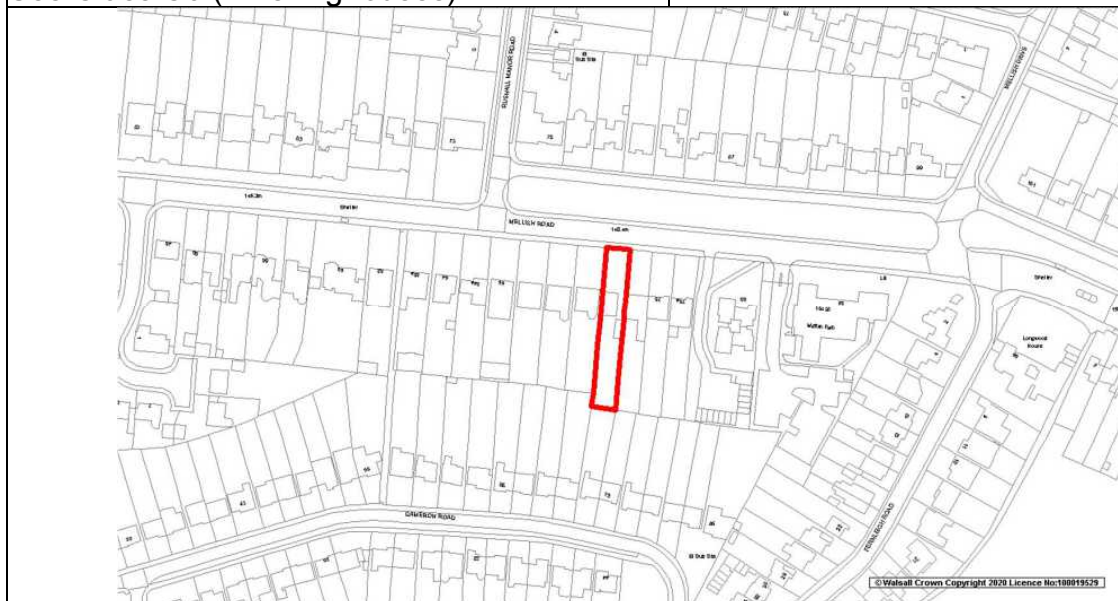
**Ward:** St Matthews

**Agent:** PAUL CLIFTON ASSOCIATES

**Expired Date:** 14-Oct-2021

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

**Time Extension Expiry:**



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#### Recommendation

Refuse

## Proposal

Re-submission application of 20/0453: for the retention of a Replacement 6 bedroom dwelling house. Amendments include increased roof height and alteration to roof design, addition of rear box dormer, re-designed single storey rear extension, removal of side facing windows, additional two storey front extension and change to window design on front elevation.

## Site and Surroundings

The application site is a detached dwelling on the south side of Mellish Road and is situated in a row of existing detached and semi-detached dwellings fronting the highway. The site is situated in flood zone 1 at the lowest risk of flooding as defined on the Environment Agency Flood Map for Planning.

## Planning History

19/0762 - Replacement four-bedroom detached house – GSC on 02/04/2020

20/0453 – Replacement 6-bedroom house over 2 and a half storeys to include the loft. – Granted 13-07-2020.

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](https://www.gov.uk/guidance/national-planning-policy-framework)

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

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

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

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

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to

all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

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

### **Reducing Inequalities**

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

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

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

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

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



## **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- H1: Renewal of Existing Residential Areas
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- ENV3: Design Quality

### **Supplementary Planning Documents**

#### **Designing Walsall**

- DW1 Sustainability
- DW3 Character
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

#### **Air Quality SPD**

- ***Section 5 – Mitigation and Compensation:***
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 – Viability

#### **Conserving Walsall's Natural Environment**

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures

- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

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

### **Consultee Comments**

Highway Authority – no objections suggest condition in relation to parking being retained.

West Midlands Fire Officer – comment on fire safety matters.

Severn Trent Water – no objections.

### **Neighbour and interested Parties Comments**

2 no. objections from third parties with regard to the following;

- Overlooking
- Dominance
- Size of dwelling
- Antisocial behaviour
- Noise and disturbance
- Loss of amenity

### **Determining Issues**

- Cannock Chase SAC and HRA
- Principle of development
- Residential amenities of existing and future occupiers
- Highway safety
- Flood risk and drainage
- Ecology/Trees
- Any other issues
- Local finance considerations

### **Assessment of the Proposal**

#### **Cannock Chase SAC and HRA**

Pursuant to the Habitats Directive (92/43/EEC), where a plan or project is not connected with the nature conservation management of a European designated site, the competent authority must determine whether the plan or project is likely to have a significant effect on the site, either alone or in combination with other plans or projects. This is reflected in national law in the Conservation of Habitats and Species Regulations 2017 (“Habitats Regulations”), which place a duty upon competent authorities to consider the potential for effects upon sites of European importance

prior to granting consent. This is referred to as a screening assessment. If likely significant effects are identified by the screening assessment, the competent authority must then undertake an Appropriate Assessment of the implications.

Approximately 20% of Cannock Chase falls within the Cannock Chase Special Area of Conservation ("SAC"), allocated primarily for its dry heathland. Council areas in the vicinity of the SAC have formed a Partnership and commissioned reports to assess impacts upon the SAC and how they arise. The evidence indicates that development which would increase visitors within 15km of the SAC may have a significant impact.

Walsall Council is not yet part of the SAC Partnership although Cabinet on 7th September 2022 agreed to join. However, due to the reference to a 15km zone of influence, Walsall Council is currently considering its position in relation to impacts on the Cannock Chase SAC and mitigation. It must ensure that planning decisions do not have any negative impact on the SAC and, if they do, it must either refuse permission or secure appropriate mitigation measures.

On 1st July 2022 the Head of Planning and Building Control wrote to all applicants and agents whose applications fall within 15km of the Cannock Chase SAC to indicate that whilst Walsall Council was considering its position, they may consider it appropriate to submit a Habitats Regulation Assessment for their proposed development in Walsall Borough as part of their proposed mitigation.

The applicant/agent did not submit any additional information. The Project has been screened to identify whether potential effect pathways between the Project and the SAC are present which are likely to result in significant effects upon the SAC. The screening exercise carried out on April 1st 2022 by the SAC Partnership authorities found likely significant effects on the SAC arising as a result of increased recreational activity from new residential development and related population growth that is likely to disturb the ground. A 21/12/12 Cannock Chase SAC Visitors Survey investigating visitor access patterns found that the majority (75%) of visitors originated from within a 15km distance of the SAC (also supported by 2018 visitor survey data) and The Cannock Chase SAC Planning Evidence Base Report Stage 2 (12/07/21) determined that within this 15km 'zone of influence', measures to reduce recreational pressure would be most effective.

Having regard to the location of the development site, its nature, proximity to the SAC and all other relevant information

**IF THERE IS A LIKELY SIGNIFICANT EFFECT:** As a likely significant effect on the SAC was identified, officers carried out an Appropriate Assessment to assess the likely significant effects on the integrity of the SAC and its conservation objectives and to identify ways to avoid or minimise those adverse effects. Officers consulted with a financial contribution towards mitigation of impacts upon the SAC,

Applying a precautionary approach, the Appropriate Assessment concluded that [the proposal fails the integrity test and an adverse effect on site integrity cannot be ruled out. As such, the proposal in its current form must be rejected and planning permission cannot be granted.

Mitigation measures are needed to avoid adverse effects on the SAC and these can be adequately secured by condition. As such the proposal passes the integrity test on the basis that there is no reasonable scientific doubt that the proposal will not have an adverse effect on the integrity of the SAC.

**IF THE PROPOSAL FAILS THE INTEGRITY TEST:** As the proposal failed the integrity test, officers have considered whether derogations apply which would enable the proposal to be allowed. To qualify for derogation, all three of the following legal tests must be met:

- (i) there are no feasible alternative solutions that would be less damaging or avoid damage to the SAC;
  - (ii) the proposal needs to be carried out for imperative reasons of overriding public interest; and
  - (iii) the necessary compensatory measures can be secured (to fully offset the damage which will or could be caused).
- Officers concluded that the derogations did not apply to this proposal and planning permission cannot be granted.

### **Principle of development**

The application is revised following grant of permission for a replacement dwelling approved under reference 20/0453. This application seeks to retain a dwelling which has not been built in accord with the previous approved plans.

The alterations provide for the increase in the height of the roof to enable the rear box dormer and alterations to its design, adding a large rear dormer, and large single storey rear extension, removal of side facing fenestration and a two storey front extension, and alterations to fenestration details on the front elevation.

Whilst in principle the development there has already been a permission granted. The site does involve a new replacement dwelling as the existing is not yet occupied. The site is caught within the 15 km zone of the Cannock Chase SAC. No information has been put forward in the submission in relation to mitigation measures or an appropriate assessment for the SAC.

### **Housing Need**

Chapter 5 of the NPPF relates to delivering a sufficient supply of homes. Paragraph 60 seeks to ensure the governments' objective of significantly boosting the supply of homes. Paragraph 61 relates to strategic housing supply policies and should be informed by local housing need. The council has an emerging housing supply shortfall and has recently failed the Housing Delivery Test as a result of low housing delivery over the last three years. Paragraph 73b of the NPPF seeks to ensure that the supply of new homes should be well located and designed, and supported by the necessary infrastructure and facilities including a choice of transport modes. Walsall is connected by bus and rail services to the wider area and provides a sustainable location for the proposed development. The application site is closely located to the Walsall Town Centre.

Paragraph 74 relates to maintaining supply and delivery of housing sites over the development plan period. Local Planning Authorities should update annually a supply of deliverable sites against their housing requirement set out in adopted strategic policies.

The Black Country Core Strategy Policy HOU1 Delivering Sustainable Housing Growth seeks to create a network of cohesive, healthy and prosperous communities and for the provision of sufficient land to provide for sustainable housing growth.

The present Housing Delivery Test indicates that Walsall only achieved around 70% of its housing delivery over the period 2018-2021. Where applications involving the provision of housing, situations where the Local Planning Authority cannot demonstrate a 5 year supply of deliverable housing sites, with the buffer set out in paragraph 74, or where the Housing Delivery Test was below 75% of the housing requirement over the previous three years the presumption is in favour of granting permission as indicated in Paragraph 11d.

### **Residential amenities of existing and future occupiers**

The proposed development is considered to adversely impact on the amenities of adjoining properties by reason of the height, which is approximately 8.7 metres high to the ridge and in terms of its cumulative bulk size and siting of the proximity to the boundaries with 72 and 76 Mellish Road. The proposed rear extension in particular runs along the boundary with number 76 Mellish Road whilst single storey the rearward projection of the development infringes the 45 degree rule by approximately 3.2 metres to the rear ground floor window of 72 Mellish Road. The dwelling to be retained is less than 0.9 metres from the boundary with adjoining properties. Contrary to the Saved Unitary Development Plan Policy GP2 (Environmental Protection), and Policies DW1 (Sustainability), DW2 (Safe and Welcoming places) and DW6 (Legibility). Of the Designing Walsall SPD.

### **Highway safety**

The Local Highways Authority supports the application subject to conditions in relation to parking being retained.

There are no other highway safety concerns and the proposal accords with The application is considered to accord with “saved policies” T7 - Car Parking T13: Parking Provision for Cars, Cycles and Taxis, and the Black Country Core Strategy Policy TRAN2: Managing Transport Impacts of New Development.

### **Flood Risk and Drainage**

The application site lies in Flood Zone 1 at the lowest risk of flooding as defined on the Environment Agency Flood Map for Planning and at low risk of surface water flooding. The development is considered subject to suitable conditions to secure

means of sustainable drainage not be likely to increase flood risk or surface water flood risk to adjacent sites.

Paragraph 154 of the National Planning Policy Framework requires that new development should be planned for in ways that avoid increased vulnerability from flood risk to the range of impacts arising from climate change, and care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure. Whilst the majority of the built development is not proposed within the flood risk areas, flood risk is an issue that should be considered carefully as the development would result in a “more vulnerable” use of the site. Details of surface water, flood risk and drainage can be secured by appropriate conditions.

The proposal subject to conditions in respect of the above is considered to accord with Black Country Core Strategy ENV5: Flood Risk, Sustainable Drainage Systems, Urban Heat Island and NPPF Paragraph 14.

### **Ecology/Trees**

The application forms advise that one seeded birch tree has been removed to facilitate the development. The tree was not protected by a preservation order.

Previous comments with regard to the potential for bats was raised in the earlier approval. However as the existing dwelling was demolished to make way for the current dwelling which has resulted in this revised application. This matter is not considered to be an issue for the current proposal.

### **Local Finance Considerations**

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

This application proposes 1 new homes.

The Government has indicated that, for 2020-21, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling

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

## Conclusions and Reasons for Decision

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

## Positive and Proactive Working with the Applicant

Negotiations have taken place but the scheme is not acceptable. Officers have spoken with the applicant's agent and in this instance are unable to support the proposal.

## Recommendation

Refuse

## Conditions OR Reasons for Refusal

1. This application falls within the 15km zone of influence relating to the Cannock Chase Special Area of Conservation (SAC) and has failed to provide any information in relation to likely impacts on the SAC arising from the proposed addition of 2 dwellings and has failed to provide any potential necessary mitigation measures. This proposal is therefore contrary to the Conservation of Habitats and Species Regulations 2017, Black Country Core Strategy Policies CSP3 (Environmental Infrastructure), CSP4 (Place-Making) & ENV1 (Nature Conservation), UDP Saved Policy ENV23 (Nature Conservation), SAD Policy EN1 (Natural Environment Protection, Management and Enhancement) and the NPPF.
2. The proposed development is considered to adversely impact on the amenities of adjoining properties, by reasons of its cumulative bulk size and siting in proximity to the boundaries with 72 and 76 Mellish Road, and is detrimental to the existing amenities by reason of an overbearing impact and undue sense of dominance and enclosure. The proposed rear extension in particular runs along the boundary with number 76 Mellish Road whilst single storey, the rearward projection of the development infringes the 45-degree rule by approximately 3.2 metres to the rear ground floor window of 72 Mellish Road. The dwelling to be retained is less than 0.9 metres from the boundary with adjoining properties. Contrary to the Saved Unitary Development Plan Policy GP2 (Environmental Protection), and Policies DW1 (Sustainability), DW2 (Safe and Welcoming places) and DW6 (Legibility). Of the Designing Walsall SPD.

**END OF OFFICERS REPORT**



## Economy, Environment and Communities, Development Management

### Planning Committee

Report of Head of Planning and Building Control on 06 October 2022

**Plans List Item Number: 5**

#### Reason for bringing to committee

Called in by Councillor Sohal on the grounds that it is 'sensitive planning' although the Councillor has not specified what sensitive grounds there are.

#### Application Details

**Location:** 30, LAKE AVENUE, WALSALL, WS5 3PA

**Proposal:** PROPOSED SINGLE STOREY REAR EXTENSION AND ALTERATIONS TO ROOF OVER FRONT ENTRANCE FOR A NEW PORCH

**Application Number:** 22/0229

**Case Officer:** Sean Hewitt

**Applicant:** Mr Perdeep S. Thiara

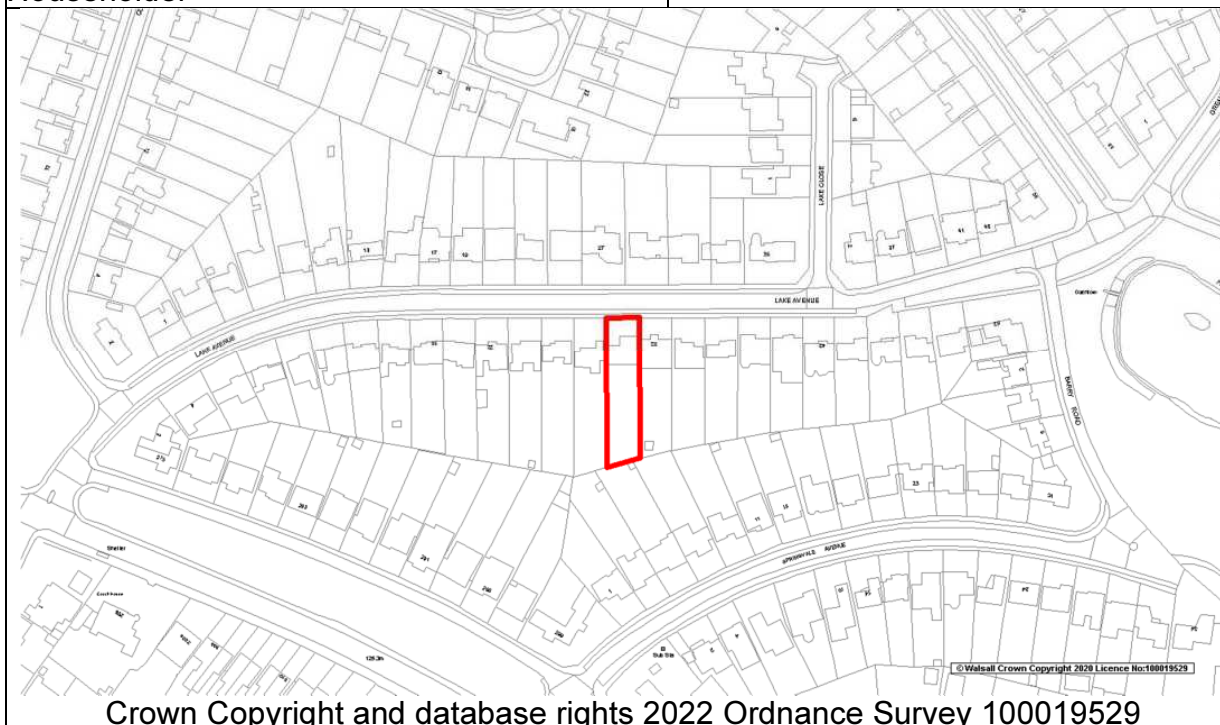
**Ward:** Paddock

**Agent:** Z.S. Partnership Ltd.

**Expired Date:** 06-May-2022

**Application Type:** Full Application:  
Householder

**Time Extension Expiry:** 30-Jun-2022



#### Recommendation

Refuse

## Proposal

Single storey Porch:

1.5m deep

3.08m wide

2.55m to eaves

3m max height

Skylights on each roof slope

Single storey rear extension:

4m deep

11.94m wide

3.2m high parapets at each side of the 3m high flat roof

3.8m high roof lantern

Bi-fold window and other window facing rear garden

## Site and Surroundings

The proposal is for extensions to a large detached dwelling which has been previously extended two storeys at the rear. The existing houses in this section of Lake Avenue are detached with side facing habitable windows a key characteristic of some of the original dwellings in this area. The property is set in a large plot with generous rear garden.

No 28 Lake Avenue has a side facing habitable room window in the original gable wall that faces the boundary fence and gable wall of no 30 at a distance of approximately 3.6m

## Relevant Planning History

21/0703 – Prior Approval for a larger home extension 8m deep, 4m max height and 2.7m to eaves – Refused 23/06/21:

*‘2. The proposed 4.0m high extension would detrimentally harm the outlook of No.28’s Lake Avenue’s side facing window and would reduce the light availability of this room throughout the morning. This is considered to result in an unacceptable harm to their visual amenities. Therefore, the proposal is considered contrary to saved policy GP2 of Walsall’s Unitary Development Plan and the National Planning Policy Framework.’*

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/national-planning-policy-framework)

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

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

#### **NPPF 4 – Decision Making**

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

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

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

#### **National Planning Policy Guidance**

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

#### **Reducing Inequalities**

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

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

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

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

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

### **Local Policy**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Black Country Core Strategy**

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

### **Saved Unitary Development Plan**

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

### **Supplementary Planning Document**

#### **Designing Walsall**

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall’s saved UDP policies and Designing Walsall and Conserving Walsall’s Natural Environment SPD’s are consistent with the NPPF.

## Consultation Replies

none

## Representations

Planning officer comments are shown in italics.

1 objection from no.28 Lake Avenue:

- The application is similar to that which was previously refused. Concerns to loss of outlook and light to the side facing habitable window. *(Loss of outlook is not a material planning consideration)*
- Loss of light and views from utility and cloakroom *(Loss of view and loss of light from a non-habitable room are not material planning consideration in the determination of the planning application)*
- Concerns to possible damage to fence *(This is not a material planning consideration as it is a private matter between the land owners)*
- The rear extension is out of proportion to the original footprint which reduces the open aspect of the neighbourhood

## Determining Issues

- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways

## Assessment of the Proposal

### Design, layout and character

The proposed single storey porch extension is considered to reflect the character of the original dwelling, with the proposed facing materials consistent with those used for the existing building. Due to its limited size and as it is set back from the highway, the porch it is considered to have a negligible impact on the evolving character of the area.

A neighbour's concern is that the proposed rear extension is out of proportion to the original footprint of the dwelling and will reduce the open aspect of the neighbourhood. As the proposed single storey rear extension is not visible from public vantage points, it is considered to limit any impact on the character of the original dwelling, likewise it will not be out of proportion with the footprint of the house or affect the open aspect of the neighbourhood.

Overall, the proposal would not cause significant harm to the character of the application dwelling or the locality in accordance with the requirements of BCCS

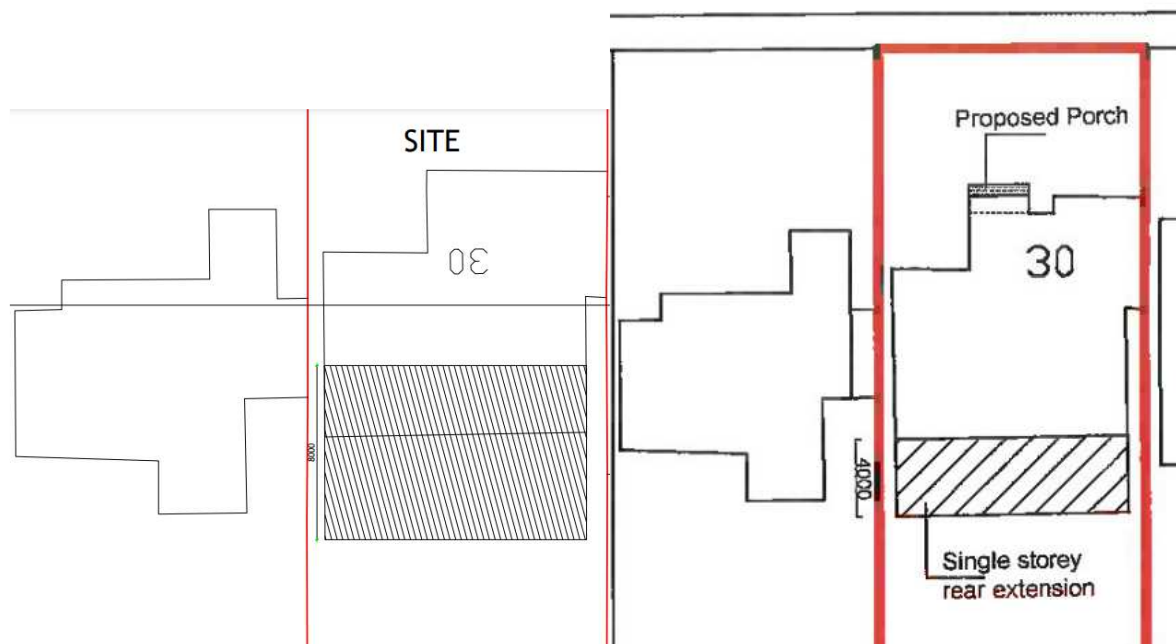
policies CSP4 and ENV2, saved UDP policies GP2 and ENV32 and the SPD Designing Walsall policy DW3 and Appendix D.

### **Amenity of neighbours and amenity of future occupiers**

Taking note of the planning history, this current application must overcome any of the previous reasons for refusal which would be relevant in the consideration of this householder application. The second reason for refusal of 21/0703 which addresses neighbouring amenity is therefore a material consideration which must be fully overcome before any support can be given to the application. The reason for refusal states:

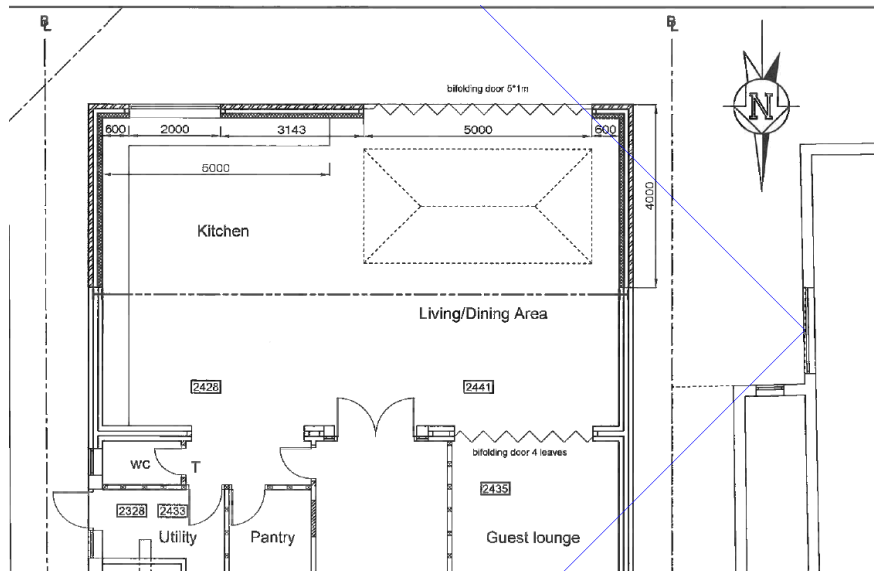
*'The proposed 4.0m high extension would detrimentally harm the outlook of No.28's Lake Avenue's side facing window and would reduce the light availability of this room throughout the morning. This is considered to result in an unacceptable harm to their visual amenities. Therefore, the proposal is considered contrary to saved policy GP2 of Walsall's Unitary Development Plan and the National Planning Policy Framework.'*

Side facing habitable room windows are a feature of parts of the wider park hall estate and this road. Whilst the applicant has made some minor reductions in the depth of the extension, it is insufficient to address the reasons for refusal. The LPA seeks a 6 metre separation gap from the neighbour's side facing habitable room window to the proposed rear extension, as has been achieved with similar extensions along this road. This would overcome the previous reason for refusal.



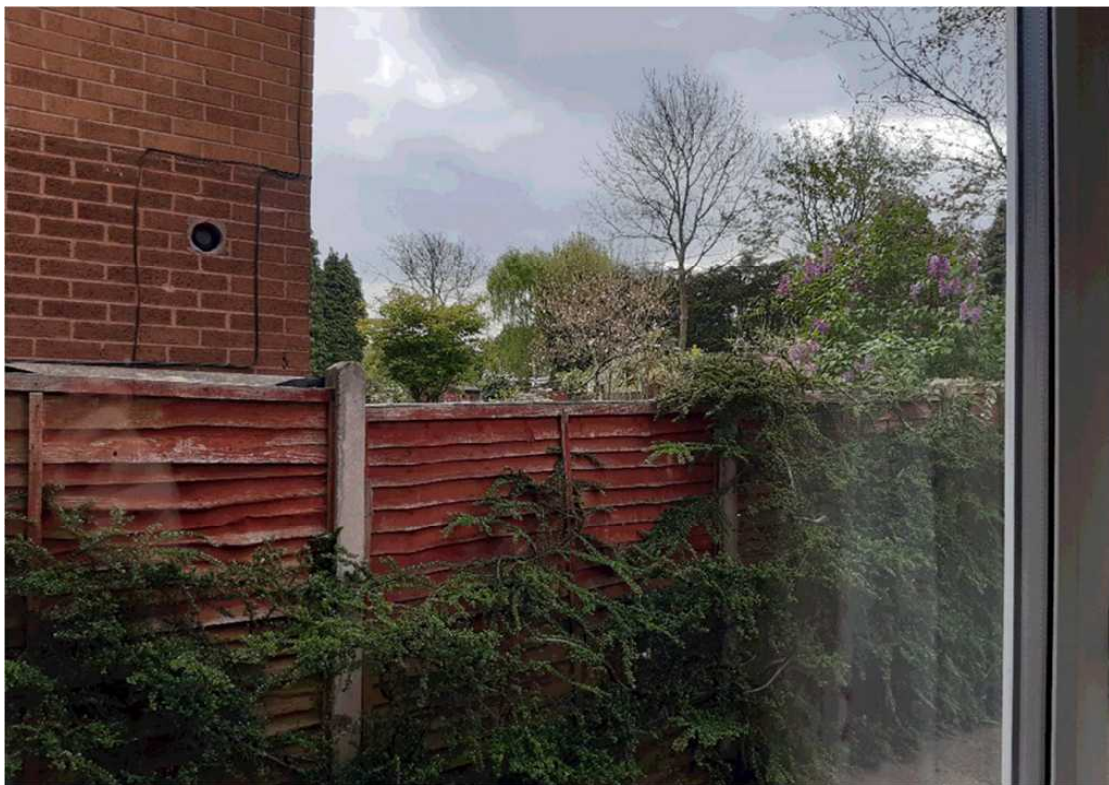
Whilst the LPA has previously accepted the two-storey addition to be built in front of this window, this was before the latest planning policies and guidance which includes separation distances from windows to blank walls. Any current planning decision must be with the current planning policies and guidance rather than what has gone before. Should the current application be approved it would exacerbate the existing level of harm to no.28 detrimentally. Shown below is the 45-degree code taken from number

28's habitable room window which with the additional 4m depth of the extension and further height of the parapet wall design of the extension, detrimentally impacts on the outlook of the side facing window. Taking into account the south facing orientation of the gardens, this proposed creates additional shading and will reduce natural light to this primary habitable room window during the day by way of the extensions depth and height.



A site visit was undertaken to the neighbour's property to assess the possible impact the extension would have on the habitable room window. The photograph illustrates this window serves a dining room and is the primary and only natural light source and outlook for this habitable room. It is considered, the reduced outlook and light during the day, should the extension be approved, would be significantly detrimental to the neighbours amenity above and beyond the existing situation that currently exists with the current proposal failing to address the previous reasons for refusal. In addition, the personal benefit the applicant may gain from the approval of the rear extension is not a reason to outweigh the significant level of harm the neighbour would suffer as a result.





## Conclusions and Reasons for Decision

Overall, the proposal has failed to address the previous reasons for refusal as outlined under 21/0703. The proposal, by way of its additional depth and height, is considered to have a detrimental impact on the outlook and light availability during the day to no.28's habitable side facing window. The personal benefit the applicant may gain from the approval of the rear extension is not a reason to outweigh the significant

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level of harm the neighbour would suffer as a result. The proposal is therefore contrary to saved UDP policy GP2 (Environmental Protection).

Given there are no material planning considerations in support of the proposals, no material planning considerations that could justify setting aside the significant harm to the neighbours amenity either, it is concluded, this application should be recommended for refusal.

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

#### **Refuse**

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal with no amendments forthcoming.

### **Recommendation**

Refuse Planning Permission

Reasons for Refusal

1. The proposed single storey rear extension would fail to overcome the previous reason for refusal under 21/0703 and is considered to be detrimental, over and above the existing situation, to the outlook of no.28's primary and habitable side facing window and would reduce the light availability of this room throughout the day. Therefore, the proposal is considered contrary to saved policy GP2 of Walsall's Unitary Development Plan and the National Planning Policy Framework.

**END OF OFFICERS REPORT**