

Development Management - Planning Committee  
 Report of Head of Planning, Engineering and Transportation, Economy and  
 Environment Directorate on 22<sup>ND</sup> March 2018

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			<p>BLOXWICH, WALSALL, WS3 1SJ</p> <p>WARD: BLAKENALL</p>	<p>COMPRISING:</p> <ul style="list-style-type: none"> <li>• AN OUTLINE APPLICATION FOR THE CONSTRUCTION OF UP TO 263 DWELLINGS WITH ASSOCIATED GARDEN AREAS, MINOR ESTATE ROADS, PARKING AREAS AND DRIVEWAYS, ALONG WITH PUBLIC OPEN SPACE PROVISION AND ALL OTHER ASSOCIATED WORKS</li> <li>• A FULL PLANNING APPLICATION FOR THREE NEW POINTS OF ACCESS, MAIN ESTATE ROADS THROUGH THE SITE, AS IDENTIFIED ON THE SUBMITTED PLANS, AND FOR THE SITE INFRASTRUCTURE DRAINAGE STRATEGY.</li> </ul>	<p>ENGINEERING &amp; TRANSPORTATION TO GRANT PERMISSION SUBJECT TO CONDITIONS INCLUDING THE REVISION OR REMOVAL OF ANY CONDITIONS LISTED BELOW, NOT REQUIRED FOLLOWING RECEIPT OF DETAILS ACCEPTABLE TO OFFICERS, AND CONSULTEES; SUBJECT TO THE COMPLETION OF A SECTION 106 AGREEMENT TO PROVIDE FOR AFFORDABLE HOMES (OR TO DEMONSTRATE THAT CONTRIBUTIONS ARE NOT VIABLE), AND FOR THE MANAGEMENT OF PROPOSED OPEN SPACE; SUBJECT TO AN UPDATED TRANSPORT ASSESSMENT INCLUDING ANY CONDITIONS/OBLIGATIONS AS REQUIRED, TO ADDRESS THE CONCERNS OF THE HIGHWAY AUTHORITY AND ALLOW OFFICERS TO CONSIDER CANAL &amp; RIVERS TRUST COMMENTS</p>
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					APPLICATION.
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## Proposal

For two replacement wider bridges over the M6 Motorway and a package of highway improvements comprising, enhanced motorway slip roads, installation of traffic signals, widening of the Junction of A454 and Tempus Drive, Bloxwich Lane, modifications to the Black Country Route, landscape works and associated infrastructure and engineering works.

The two new bridges will increase capacity on the junction by increasing the lanes on the bridges from 2 lanes each to 4 lanes each. Furthermore, the geometry of the junction is being amended from two straight bridges to create a fully circular junction configuration. The new bridges are to be built to the north and south of the existing bridges. In addition, the works include the creation of an additional lane to westbound Black Country Route and reduces the existing lane widths to 3.5m.

The highway alignment changes include:

- Increasing the northbound off slip road from 4 to 5 lanes.
- West bound on Black Country Route increase the lanes from 2 to 3
- Wolverhampton Road West, eastbound approach to J10 increase from 2 to 3 lanes
- M6 Southbound off slip road increases from 4 to 5 lanes where it meets the roundabout
- Wolverhampton Road at east connection of junction 10 increase from 3 to 5 lanes
- At the Wolverhampton Road and Bloxwich Lane junction, increase to width of Bloxwich Lane to incorporate pedestrian crossing and island.

The junction is proposed to be fully signalised and include toucan crossing points for cyclists and pedestrians. The scheme also seeks to upgrade the pedestrian footpath provision.

Where appropriate, overhead up to 9 gantry signage structures will be utilised to direct road users to the correct lanes. The gantries will be approximately 8.5m in height. The scheme also includes new lighting columns.

The scheme also incorporates the creation of four retaining walls. The first is to be situated between Wolverhampton Road West and the north bound slip road and is to be 111m in length and between 1m and 2.5m in height. The second is to be located in the north east corner of the junction, between the southbound off slip road of the M6 and Wolverhampton Road, it is proposed to be 384m in length, extending to the Bloxwich Lane junction with Wolverhampton Road and have a varying height between 0.7m and 6m. The third wall is in the South East corner of the junction with Wolverhampton Road and the south bound on slip road of the M6, it will be 203m in length and between 0.7m and 2.1m in height. The fourth wall is in the south west corner of the junction between the M6 north bound off slip road and Black Country Route the wall is to be 206m in length and between 0.1m and 4.4m in height.

The scheme additionally comprises the creation of two noise barriers. The first is to be located on the southern side of the Black Country Route, where the west bound lane leaves the M6 junction 10. It will have a total length of 195m. It is to be approximately 87m in length and 2m in height on top of the retaining wall on the roundabout junction (making a total

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height of between 4m), it then continues along the Black Country Route for a further 108m with a height of 4m from the ground. The second is a self-standing barrier is to be in the north east corner of the junction and will be 165m in length and have a height of 4m.

To allow for working space during the construction of the new junction, and to accommodate the new retaining wall, it is proposed for some of the existing tree screening to be removed and there is a proposed landscaping scheme for replacement planting.

The existing drainage for the junction is collected and discharged into Sneyd Brook. This scheme maintains this discharge point, but vegetated attenuation ponds are to be created in the centre of the junction.

The application site includes two options for the provision of the construction compound area to be utilised for the construction phase of the works. The two-sites identified are Bloxwich Lane Industrial Estate, which is accessed off Bloxwich Lane and John Hill & Sons and Moorside, which is accessed off Bloxwich Lane and Wolverhampton Road. It is only anticipated that one of these sites will be necessary, but as there is no agreed land deal at this stage, and to fully assess the impacts of the development to comply with EIA regulations, both compounds have been identified within the scope of works.

The construction period of the project is programmed for 24 months. This program includes the creation and operational use of the two new bridges prior to the demolition of the existing bridges. There are some anticipated temporary closures to the M6 motorway during the construction phase.

During the course of the application further traffic analysis information has become available as part of Highways England Work. In addition, there have been design changes to address topographical issues. This has resulted in amending the red line area to allow for changes to the earthworks. An addendum to the Environmental Statement has been supplied which considers the impacts which have arisen due to these changes.

Additional information on air quality, noise and traffic forecasting in the form of a technical notes have been submitted to address issues raised during the consultation process of the application.

## **Background**

This application is a joint project between Highways England and Walsall Metropolitan Borough Council as Highways Authority. It is part of an Investment programme for road schemes within the West Midlands. There is a need to do works to the junction as the two current bridges are in a poor state of repair and due to their width suffer from issues of capacity, which creates connections and has been established as a limiting factor to economic growth in the area.

Due to the scale and type of the development, the scheme was screened under the Environmental Impact Assessment (EIA) Regulations. It was determined that an Environmental Statement was required. The applicants then scoped out the content of this

statement with the Council. This screening and scoping exercise was undertaken before 16<sup>th</sup> May 2017.

On 16<sup>th</sup> May 2017, new EIA Town and Country Planning (EIA) Regulations 2017 came into law. These new regulations include transitional arrangements for the implementation of these new regulations. These arrangements state that, where scoping opinions have been sought prior to the new regulation coming into force, the Environment Statement needs to continue to comply with the 2011 regulations as amended, rather than requiring further work to be undertaken to accord with the new regulations.

The technical issues covered by the accompanying ES are:

- Design Development and Alternatives
- Air Quality
- Noise and Vibration
- Visual Amenity
- Materials and Waste
- Nature Conservation
- Cumulative Effects

The application is also accompanied by the following reports and statements:

- Arboricultural report
- Climate Change Risk Assessment
- Construction Management Strategy
- Design and Access Statement
- Flood Risk Assessment
- Health Impact Assessment
- Heritage Statement
- Statement of Community Involvement
- Water Quality Report
- Mining Risk Assessment

## **Site and Surroundings**

The application site is centred on Junction 10 of the M6 motorway. The junction is also linked to the A454 Black Country Route, the A454 Wolverhampton Road, and the B4464 Wolverhampton Road West. This junction is the primary access between Walsall and Wolverhampton and is a key interchange within the West Midlands.

The M6 motorway is a strategic highway network, which has more than 100,000 vehicles each day. In 2011 this section of the motorway was improved to operate as a smart motorway, with all four lanes in each direction running.

The junction is surrounded by a mix of uses. To the north west is a hotel running parallel with the north bound on slip road and there are number of houses located along Wolverhampton Road West. There is an existing tree screen barrier located between the service road to the hotel and the junction.

There are houses located between Wolverhampton Road West to the north and the Black Country Route to the south, at the motorway junction there is a tree barrier on the corner.

There is a church and housing adjacent to the junction at the north east corner, and then industrial units beyond that. There is a tree screen around the corner and up to the junction with Bloxwich Lane.

To the south east of the junction are more hotels, fast food outlet, playing fields and vacant development sites. There is a wider tree screen adjacent to the on-slip road, which thins along the back of development along Wolverhampton Road.

To the south west of the site are large retail outlet units and housing, then industrial units along the Black Country Route and leisure facilities south running parallel to the motorway. There is a narrow band of tree planting around the bend of the northbound exit slip road and onto the Black Country Route. This tree band widens to as it moves south west around the junction.

There are two canal systems in close proximity to the application site, these are the Anson Branch of the Walsall Canal and the Bentley Canal. The Anson Branch is a disused canal, in the south area of the junction. The Bentley Canal is in the western area of the junction and is also disused, and now forms part of green spaces including allotments.

## Relevant Planning History

No relevant planning history

## 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*".

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

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

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

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 4 - Promoting sustainable transport**
- **NPPF 7 - Requiring good design**
- **NPPF 10 - Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 11 - Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

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

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

### **NPPF Consultation**

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

### **Local Policy**

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

### **Black Country Core Strategy**

- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN3: The Efficient Movement of Freight
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality
- WM1: Sustainable Waste and Resource Management
- WM5: Resource Management and New Development

## Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV11: Light Pollution
- ENV17: New Planting
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- T4 - The Highway Network
- T5 - Highway Improvements
- T8 – Walking
- T9 – Cycling

## Supplementary Planning Document

### Conserving Walsall's Natural Environment

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

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

### Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm

### 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

### Emerging Planning Policy

### Walsall Site Allocation Document (SAD) and Proposals Map

The SAD is currently undergoing examination by the Secretary of State and if found sound will supersede a number of the Unitary Development Plan policies and the proposal plan.

- Draft Policy LC5 – Greenways
- Draft Policy EN1 – Natural Environment Protection, Management and Enhancement
- Draft Policy EN3 – Flood Risk
- Draft Policy EN4 – Canals
- Draft Policy T2 – Bus Service
- Draft Policy T4 – The Highway Network
- Draft Policy T5 – Highways Improvements

## **The Town and Country Planning (Environmental Impact Assessment) Regulations 2017**

Where, before 16 May 2017 an applicant, appellant or qualifying body has submitted an Environmental Statement or requested a scoping opinion, or in respect of a local development order, a local planning authority has prepared an environmental statement or a scoping opinion, or requested a scoping direction, the Town and Country Planning (Environmental Impact Assessment) Regulation 2011 (as amended by the Town and Country Planning (Environmental Impact Assessment (Amendment)) Regulations 2015 will continue to apply (regulation 76(2) of the 2017 Regulation).

The aim of Environmental Impact assessment is to protect the environment by ensuring that a Local Planning Authority when deciding whether to grant planning permission for a project, which is likely to have significant effects on the environment, does so, in the full knowledge of the likely significant effects, and takes this into account in the decision-making process. The regulations set out a procedure for identifying those projects which should be subject to an Environmental Impacts Assessment, and for assessing, consulting and coming to a decision on these projects which are likely to have significant environmental effects.

### **Consultation Replies**

Comments received on the original application:

**Secretary of State:** No comments on the Environmental Statement

**Highways England:** No objection.

**Transportation:** No objection subject to conditions on details.

**Environment Agency:** No objection to the proposal subject to the measures within the Flood Risk Assessment being undertaken and secured by planning condition.

**Severn Trent Water:** No objections subject to drainage condition.

**Canal and River Trust:** No objections subject to conditions

**Lead Local Flood Authority:** agree the principles proposed for the highway and surface water drainage systems as part of the overall scheme. However, the detailed design may

vary according to further survey work of the existing systems on site. Recommends condition for detailed strategy.

**Natural England:** Has no comments to make on proposal.

**Birmingham and Black Country Wildlife Trust:** We emphasise the need to protect designated nature conservation sites from direct and indirect impacts (e.g. from spill lighting) and the need for compensation for habitat disturbance. Whilst impacts on individual habitat types have been deemed to be 'not significant'. We stress the cumulative impact that many small, negative impacts can have on nature conservation. We are suggesting some alterations to the proposed landscaping schedule to significantly increase its nature conservation impact. It is understood that a mitigation strategy is yet to be developed and would welcome additional ecological enhancement proposals in line with Policy ENV1 of the Black Country Core Strategy.

**Coal Authority:** Objection as there is a fundamental concern.

The application site falls within the defined Development High Risk Area; therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

Our records indicate that within, or within 20m of the site boundary there are approximately 35 mine entries. The site is also in an area of recorded and likely unrecorded coal mine workings at shallow depth.

The application has not been supported with documents relating to the mining legacy of the site and on this basis, we object to this planning application. The applicant is requested to provide additional information either within the ES or as a separate Coal Mining Risk Assessment.

**Health and Safety Executive:** Objects as our assessment indicates that the risk of harm to people at the proposed development site is such that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case.

**Cadent Gas:** Comments that due to the proximity of the scheme to a major pipeline, a site visit to agree working methods with Cadent Gas is necessary.

**Archaeology:** While there are heritage assets recorded here, it is likely that the majority of archaeological remains in this area have been truncated by modern development and the impact of the proposed scheme would therefore be minimal.

No archaeological mitigation is therefore necessary.

**West Midlands Police:** No objections to proposal

**Community Safety:** South of the site is an area which has been susceptible to criminal and Anti-Social behaviour. A tunnel previously used to access below M6 is open and accessible via open ground around it. Strongly suggest that this be accounted in the site security plan and that this area to include the south at the canal tow path be secured against incursion for



the lifetime of the works and that the tunnel be fully closed and made inaccessible by construction end.

The area of activity to the South West Boundary Mill, continues to be removed from inclusion for access to cycles and pedestrians. The plans offer no link from either the south east nor the north west which means no footfall and little cycle use as the means of access is convoluted and away from the junction. It also entails crossing the adjoining roads without specified access lanes of traffic light support. I would urge the inclusion of a safe method of accessibility which would bring Bentley Mill additional footfall and cycle access support.

**Network Rail:** No comments to make on proposal

**Pollution Land Contamination:** No objections subject to conditions

**Pollution Air Quality, Noise and Vibration:** Raised concerns about the range and extent of issues covered within the ES. Request additional information relating to: traffic modelling; extending the impact study area for air quality; provide appraisal of dust and its control during the construction phase. With regards to noise, agree a magnitude change effects and amend ES to reflect impacts, during the construction phase set out content and timescale for a Construction Noise Management Plan. With regards to vibrations, align the impact thresholds in accordance with our guidance, seek agreement on conditions for control of impacts. There needs to be formal assessment of the Noise Insulation.

**Planning Policy:** In accordance with the NPPF, the emerging SAD document can be given considerable weight due to it being in the examination process.

Comments received following further consultation on amended plans, additional information and ES Addendum:

**Highways England:** No new matters are raised by these amendments with regards Highways England's role as a statutory consultee to the planning application. As such our existing Formal Response (no objection) stands.

**Transportation:** No objections in principle subject to conditions on highways details.

**Environment Agency:** No change in position since comments made in October 2017.

**Canal and Rivers Trust:** The amendments to the scheme do not raise any further issues to the advice and comments contained with our initial October 2017 response.

**Natural England:** The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

**The Coal Authority:** The Coal Authority has reviewed the additional information and recommended the imposition of a planning condition, for intrusive site investigations, on any consent granted.

**Archaeology:** On the amendments I would continue to recommend that no archaeological mitigation is necessary.

**West Midlands Police:** No objections

**Health and Safety Executive:** Have removed objection subject to a condition with regards to securing details of working methods to protect the high pressure gas pipeline.

**Public Health:** The Health Impact Assessment covers a number of factors which could potentially affect the health of the local population. It is good to see that health is defined in its broadest sense and considers the impact of the junction improvements on the local economy, such as the potential for job creation directly linked to construction activity and improved access to potential new employment sites.

Changes in air quality have correctly been identified as an important theme in the assessment given the relatively poor health of the population in the vicinity of the scheme.

With regard to road safety, it is good to note that the junction improvements include the addition of controlled pedestrian crossings which are expected to reduce the probability of accidents involving pedestrians.

During the construction phase there needs to be regard given to access to healthcare facilities, to ensure minimal impact on transit times for emergency vehicles.

As there is clear evidence of the importance of economic factors on population health, it is key to consider the economic benefits of the scheme and balance these in the assessment.

With regards to mitigation of the impacts on health, we recommend that the measures within the report are implemented to mitigate the impacts arising.

**Pollution Air Quality, Noise and Vibration:** No objection to proposed development. Whilst, the development could have been designed differently to address the issues of noise and air quality, there are considered to be no grounds to object to this scheme.

## **Representations**

In accordance with national guidance the application has been subject to wide public consultation. This has been undertaken by displaying notices in the local press, a number of site notices 20 displayed in the vicinity of the site and in excess of 1000 direct notification letters sent to nearby residents and businesses.

The following comments were received in response to the consultation on the original scheme:

**Cllr Ian Robertson as Cabinet Member for Health and Well Being:** Pleased there has been a health impact assessment which puts the health risk in the low category. If the final result does improve traffic flow that potentially will reduce pollution as the increases are higher when there is nearly stationary traffic. While the construction is happening, this will slow traffic down and so increase levels of pollution. There is the issue of having to possibly reroute emergency services as this will affect the response times for such services. As always, I have a view that the effects of pollution are a factor in the mix of factors influencing the higher than national average for our infant mortality figures and higher asthma rates around the proximity of motorway and trust that thought is inputted how screening by tree planting etc can influence the channelling of such pollution away from residential properties.

There have been six letters of representation objecting and commenting to the proposal, the issues raised can be summarised as follows:

- There is a need for acoustic measures along the retaining wall and northbound on slip road.
- The design of the pedestrian and cycle facilities is inadequate and a separate footbridge for these uses should be accommodated.
- The pedestrian/cyclist route include 14 crossing points.
- There needs to be pedestrian lights included in this new junction design
- Concern that during the construction phases traffic will be directed down the A454 Wolverhampton road and cause extra noise and pollution disturbance.
- Will the red route along the A454 be properly enforced during these works to keep traffic moving and keep pollution to a minimum?
- The proposed design will not alleviate queuing issues and associated pollution, have the Council considered a cloverleaf interchange design to dissipate the traffic more evenly.

Following the receipt of additional information and an addendum to the Environmental statement a further round of public consultation was undertaken:

Comments received following consultation on additional information:

One letter of objection received which can be summarised as follows:

- The loss of existing trees which shield properties in Wolverhampton Road West
- Significant pollution impact due to loss of trees.
- Insufficient replacement planting for trees lost adjacent to Wolverhampton Road West, landscaping plan needs to be amended to include this area for replacement.
- There is a need for acoustic barrier of 3m in height to protect from traffic pollution until reinstated wooded area matures.

## **Determining Issues**

Principle of Development

Design

Environmental Impact Assessment:

- Consideration of Alternative Proposals
- Traffic Flows, Capacity and Impacts
- People and Community including Pedestrian and Cyclists Routes and Safety
- Nature Conservation, Landscaping and Visual Impacts
- Materials and Waste

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- Noise and Vibration
- Air Quality
- Cumulative Effects

Health Impacts

Drainage and Flood Risk

Ground Constraints

Cultural and Heritage Assets

Climate Change

Conclusions and summary of reasons to Grant

## **Assessment of the Proposal**

### **Principle of Development**

The application site includes junction 10 of the M6 motorway, which is a busy route within the West Midlands. In the 1990's the junction was amended with the creation of the Black Country Route. It is now a strategic interchange between the M6, the Black Country Route and Wolverhampton Road West. The junction suffers from capacity issues, vehicle congestion and delays along these routes.

In addition, there are issues relating to the existing structures on the Junction, which are in urgent need of repair or replacement, to ensure it remains fit for purpose.

This proposed scheme provides an opportunity to address structural and capacity issues with the junction, to future proof the junction and remove any immediate need for maintenance.

The NPPF covers the issue of sustainable transport and encourages solutions which support reductions in greenhouse gases and reduce congestion. It goes on to state that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.

Draft Policy T5 of SAD indicates the improvement of Junction 10 as one of a number of highway improvement schemes for Walsall. This is to create an up-to-date network and reduce delays to all road users. This leads on from the Black Country Core Strategy, which identifies this junction as a gateway to the Black Country. Policy TRANS1 of the BCCS identifies improvements to Junction 10 as a priority. Policy CSP5 of the BCCS states that the transport strategy seeks to improve air quality and help address negative impacts on climate change, improve accessibility to employment site and residential area and provide relabel access for freight to the national motorway network.

The benefits of improving the junction will impact on the wider economy, by providing better access to the surrounding employment sites, accords with national and local policy objectives.

## **Design**

The NPPF in section 7 relates to design and the great weight the government attaches to the design of the built environment. Good design is a key aspect of sustainable development, and planning is key is positively contributing to making developments places better. The guidance is clear that planning permission should be refused for poorly designed developments.

This guidance is carried through to the BCCS, which in policy ENV3 confirms that development proposals will deliver a successful urban renaissance through high quality design. This is to include implementation of principles of 'By design'. The UDP continues this theme with guidance on design and development principles and supporting the refusal of schemes which fail to properly take into account the context.

The scheme includes the creation of the least structural alteration, to achieve the maximum capacity increases, without resulting in any significant level of greater land uptake for the new junction.

The scale and massing of the features within the junction are of an appropriate scale and massing to appear in keeping with the character and context of the junction and surrounding area.

The design is an appropriate solution which works within the constraints of the site and surrounding land uses. It is noted that significant levels of existing landscaping is to be removed to facilitate the works, however there is to be a comprehensive scheme of replacement planting including trees and shrubs.

Officers consider that the design, scale and mass of the scheme is acceptable and accords with the design principles set out in NPPF, Policy ENV3 of the Black Country Core Strategy, Policies ENV32, ENV33 and ENV34 of the Walsall UDP and Designing Walsall SPD.

## **Environmental Impact Assessment:**

### **Consideration of Alternative Proposals**

A key element of Environmental Impact Assessment is to consider alternative schemes and indicate the main reasons for the choice made, taking into account the environmental effects. To this end the applicants have considered a range of alternative schemes, these include; do nothing, do minimum; strategic, local and design alternatives.

The do nothing alternative, would mean the carrying out of no works at the junction, excluding standard maintenance. This is considered to be unavailable, as the existing

bridges are approaching the end of their serviceable lives and therefore require demolition, to prevent a safety risk. This would also then result in the diversion of traffic to alternative routes causing wider congestion. This would have adverse environmental effects associated with noise, air quality, human health and effects on travellers.

The do minimum alternative, would be a replacement of the bridges on a like for like basis. This would again lead to a closure of the bridges and similar effects as the do-nothing scenario. It also does not assist in the objective to increase the capacity of the junction.

Strategic alternatives, included alternatives such as diversions of traffic along alternative routes, and construction of new infrastructure elsewhere to reduce demand in this location and therefore reduce congestion. The state of the existing bridges is seen as a key limiting factor to seeking to build alternative infrastructure elsewhere, as there will always be a demand for greater capacity at this junction. Also, to create capacity on alternative routes, these networks would need to be widened. Given the dense built up nature of the surrounding network, there is insufficient space to create new infrastructure to meet these demands.

These strategic alternatives were discounted due to the significant wider implications to the surrounding West Midlands road network, these would include disruption, cost implications, and larger environmental impacts due to the project being of an increased scale.

Local alternatives, included consideration of constructing an additional motorway junction, in the vicinity of J10. There is very limited potential to move the junction either further south or north, or to reposition the motorway. This level of works would be greater than the proposed option, would include the take up of residential properties and have cost and disruption to the surrounding network. Therefore, having greater environmental impacts.

Design alternatives; several design alternatives were considered, these included 6 options:

- Option 1: Two new straight two-lane bridges and flyover and demolish existing bridges;
- Option 2: Two new straight two-lane bridges and hamburger and demolish existing bridges;
- Option 3a: Two new straight four lane bridges and demolish existing bridges
- Option 3b: Two new curved four-lane bridges and demolish existing bridges
- Option 4: Four new straight two-lane bridges and demolish existing bridges; and
- Option 5: Two new straight two lanes bridges and retain existing features.

During the consideration of these options, both 1 and 2 designs failed to provide significant benefits in future scenarios. The remaining four options which mirror the existing layout of the junction but increase capacity, were carried forward for further consideration. Option 3b, was concluded as the preferred option.

In conclusion, the consideration of alternative schemes has been robustly addressed having consideration of the environmental impacts of the scheme as well as other constraints and has adequately addressed the requirements of the EIA regulations 2011(as amended).

## **Highways and Transportation**

National planning policy guidance in relation to transportation issues is clear that schemes need to take account of safe and suitable access for all users, and where practical give priority to pedestrian and cycle movements. Layouts should minimise conflicts between traffic and cyclists or pedestrians.

The ES and ES addendum has considered the issues of traffic and undertaken transportation analysis. The forecasting reports indicate growth in traffic usage of this junction, and this will exacerbate the existing congestion problems and reinforces the urgency of undertaking works to improve the junction.

The improvements to the junction will lead to a reduced journey time for commuting and improve vehicle flows and reduce queuing of traffic on approaches to the junction. This reduction in journey time can be equated to an economic benefit of £186 million, using the monetary Net Present Value.

There will be an impact on the local road network and M6 for the duration of the construction works. The works will not result in local road closures but will require effective traffic management. This intervention should be for no more than 6 months and is considered to be a minor adverse impact which can be mitigated through the use of traffic management and a Construction Environmental Management Plan. I consider to effectively manage the impacts of the development to comply with policies these aspects of the scheme should be controlled through conditions.

The benefits on the completion of the project will be a reduction in journey times and queuing and improvements to vehicle flows at the junction. This will deliver a wide range of transportation, economic and social benefits, and therefore accords the policy CSP5, of the BCCS, Policies TRAN 1 and 2 of the Walsall UDP and guidance in the NPPF.

## **People and Community including Pedestrian and Cyclists Routes and Safety**

The existing junction does attract a number of pedestrian and cyclist users. The current routes for these users do not include safe signalised crossing points along all elements of the route, which is a community safety concern, particularly in relation to crossing the north bound on slip road.

This proposal includes a scheme of works to upgrade footpaths. The route for safe signalised crossing cannot, for safety reasons, include signalisation of the north bound on slip road. Therefore, pedestrians are to be diverted to the centre of the junction from Wolverhampton Road West, and then back across the island to link to Wolverhampton Road. These crossing points correlate with road users traffic signals, so will not add to vehicle waiting times on the junction. These crossing points will have toucan signals so will also provide a safe cycle crossing route.

It is noted that neighbours have raised concerns about the position and amount of crossing points necessary for pedestrians and cyclists to negotiate this junction. It is clear that the scheme has considered alternative arrangements for the pedestrian and cycle routes, but these have been discounted on safety grounds. I therefore consider that it is more appropriate to have a safe if not direct route in which to navigate this junction, than a direct unsafe route. This accords with policy TRAN4 of the Black Country Core Strategy and policies T8 and T9 of the Walsall UDP.

### **Nature Conservation, Landscaping and Visual Impacts**

The conservation and enhancement of the natural environment is a key element of the NPPF. Schemes should be encouraged to incorporate biodiversity in and around developments. However, if there is significant harm and this can't be mitigated, planning permission should be refused. Decisions should aim to conserve and enhance diversity and refuse planning permission for development which results in the loss of veteran trees and ancient woodland where the benefits don't outweigh the loss.

The BCCS, in policy ENV1, states that adequate information needs to be submitted with planning applications to assess effects on designated sites or important habitat, species or geological species.

Policy ENV33 of the BCCS sets out the requirements for landscape design, and that it is to be integral in development.

The Walsall UDP in policy GP2 expects all development to positively contribute to the quality of the environment. It does not permit development which would have an adverse impact on the environment. Whilst policy ENV18 relates to trees and woodlands. Where developments are permitted which involve tree loss, developers will be required to mitigate these impacts with replacement planting, including native species to a commensurate value. Policy ENV19 promotes planting in various locations, including transportation corridors.

Policy ENV23 requires new development layouts to take account of existing features of value for wildlife or geology. Where loss or damage is unavoidable, adequate mitigation measures are required to compensate for the loss.

The application is supported by an Arboricultural report, which studied 17 individual trees, 22 tree groups and 1 hedge relating to the main junction site. A further study was undertaken of 12 individual trees, 24 tree groups and 1 hedge associated with the site compounds. There are two Category A high quality trees, both are retained as part of the development.

The survey covered and identified the following trees for removal to facilitate the development:

- Category B (moderate quality): 5 individual trees, 5 complete groups and 3-part groups for removal
- Category C (low quality): for removal 2 individual trees, 3 complete groups and 8 sections of groups.
- Category U (trees to be removed for arboricultural reasons) 1 individual tree and 1 group, to be removed 1 group.



The trees for removal are necessary to facilitate the construction of the new highway and junction improvements and implement the necessary retaining structures.

Whilst many of the trees are not of arboricultural importance, they do offer valuable screening and landscape value. None of these trees are protected with a preservation order or by virtue of being within a Conservation Area.

There are a number of protected trees adjacent to the application site; so, to protect these during the construction phase it is appropriate to condition details of root protection zones. This protective fencing will also secure the existing trees for retention to ensure an adequate level of screening is maintained.

The application is also supported by an ecological impact assessment, as part of the ES. It has assessed the habitats and looked at protected species. The nearest statutory designated sites to the development are; Rough Wood Chase 1.2km north and Rough Wood Local Nature Reserve located 1.9km north. The report confirms there are no impacts on these sites due to the distance between them and the intervening built up area.

There are 4 non-statutory sites close to or within the site area, these four areas are of high conservation value; Anson Branch Canal SLINC, Anson Road SLINC, Wolverhampton Road SLINC and moorside gardens SLINC. The environmental assessment has confirmed there is no direct loss of habitat associated with the scheme and the impacts were limited to indirect impacts. These are also temporary impacts associated with the construction phase of the development.

With regards to the visual impacts of the development, there are a number of visual receptors. These are residents in properties on Bentley Mill Lane, Wolverhampton Road West, Arnwood Close and Wolverhampton Road, visitors to the Church of the Latter-Day Saints, guests at the Holiday Inn Express, Village Hotels and The Parkbrook and pedestrians along the public right of way adjacent to the Black Country Route.

The impacts on visual amenity will be greater in the first year. Upon completion of the project, only residential properties on Wolverhampton Road and visitors to the Church of Latter Day Saints will be significantly impacted upon. This is due to the tree removal along the motorway embankment, which opens up views from these properties to the motorway slip road. This is to be mitigated through tree and shrub planting which will include a native mix of species. This planting will mature in 15 years, so that the changes in views from these properties will no longer be significant.

Overall, it is noted that there are short term impacts arising from the development due to the removal of existing tree screening, which adversely impacts on the visual amenities for nearby residents and visitors. This will however, be mitigated in the long term with a scheme for replacement landscaping and I therefore consider that notwithstanding the impacts during the construction phase overall the long-term operation of the development with replacement planting does comply with the local and national policies set out above.

## **Materials and Waste**

The BCCS in policy WM1 relates to sustainable waste and resource management. It requires developments to address waste as a resource and to take responsibility for the unavoidable waste they may generate through onsite management. Policy WM5 requires all new developments to maximise the use of materials with low environmental impacts.

The ES has assessed the potential impacts on material resources and effects associated with the use of materials and waste generated during the construction of the development. This report has identified that the majority of the potential impacts are likely to arise during the demolition and excavation phases of the proposal. Demolition of the existing bridges and other structures is likely to produce significant quantities of waste materials. This is to be compensated with consideration of opportunities to reduce, reuse and recycle materials as appropriate.

The scheme seeks to reuse where possible, existing infrastructure such as ducts and cabinets reducing the need for new construction. All surplus materials will be removed from site and sent as appropriate for use elsewhere off site, therefore overall reducing the waste material to be sent to landfill.

Officers consider that there is a neutral effect as a result of materials and waste given the strategies to reduce, reuse and recycle to minimise waste production to be diverted to landfill and the scheme is therefore consistent with local and national policies.

## **Noise and Vibration**

The NPPF states that planning decisions should aim to avoid noise giving rise to significant adverse impacts of health and quality of life, as a result of new development and use conditions to reduce and mitigate measures.

The UDP in policy ENV10 confirms that development will only be permitted where the cause of pollutants, i.e. noise would not cause an adverse effect.

The planning practice guidance, is clear that the acoustic environment needs to be considered in decision making. There are three considerations:

- Whether or not a significant adverse effect is occurring or likely to occur;
- Whether or not an adverse effect is occurring or likely to occur; and
- Whether or not a good standard of amenity can be achieved.

The environmental statement and addendum includes chapters on noise and vibration. This sets out the potential noise and vibration impact and the effects which are anticipated as a result of the implementation of this scheme. It also considers mitigation measures.

Due to the location of the site, in an urban environment, noise levels in the area are dominated by road traffic from the main carriage way of the M6 motorway, the A454 and

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interconnecting slip road, and Wolverhampton Road West. Within the study area there are two Noise Important Areas, the first is on the Black Country Route, near to Arnwood Close and Bentley Mill Lane and the second is adjacent to the southbound off slip road.

The consideration of impacts of noise and vibration have been separated into the impacts during the construction phase and those during the operational phase.

The ES and addendum states that as the nearest potentially affected residents are in such close proximity to the works, the predicted noise levels during the construction phase will exceed the Significant Observed Adverse Effect Level (SOAEL) and would be significant without noise mitigation.

The statement therefore recommends a noise management plan, to be controlled through condition to mitigate this impact. This plan could form part of the Construction and Environmental Management Plan.

The construction phase mitigation is to include the following:

- Control of noise at source: shielding of noise items of plant, appropriate siting of haul routes
- Control by specification
- Control my modification of plant
- Control of enclosures;
- Use and siting of equipment;
- Maintenance;
- Screening – to include early construction bunds, appropriate site layout, removal of direct line of sight,
- Strategic Placement of Materials; and
- Monitoring.

This information and detail is to form part of the Contractors Environmental Management Plan and recommended to be includes as a condition to adequately mitigate the construction noise impacts.

During the operational phase of the development, the ES and addendum indicates that the greatest impact on the scheme is 'minor adverse' in the absence of any noise mitigation impacts.

In the short term, 7 dwellings and 1 other noise sensitive receptors would be subject to a Minor Adverse Impact. Whilst, 84 dwellings and 8 other sensitive receptors would be subject to a minor beneficial impact. Two dwellings would have a moderate beneficial impact and three dwellings a major beneficial impact.

In the long-term assessment 2932 dwellings and 176 other sensitive receptors would be subject to a Negligible adverse impact, whilst 570 dwellings and 34 other sensitive receptors would be subject to a negligible beneficial impact.

In summary the predicted significant impacts are for 51 houses during the daytime and 227 residences at night with more than a 1 dBA change in resultant noise. The largest adverse

impacts are on properties in Wolverhampton Road West, this is not immediately adjacent to the scheme and results are not from works changing to be in closer proximity to these properties, but due to changes in traffic flows as a result of the scheme. Adverse changes also impact on Queen Elizabeth Avenue, Blay Avenue and the Black Country Route west of Bentley Road North.

There are also predicted significant beneficial effects at 86 residences during the daytime and 63 at night due to a decrease of 1dBA in either the short or long term. The areas of benefit are Bentley Mill Lane, Wolverhampton Road near the Church of Latter Day Saints, due to the noise mitigation scheme proposed. Other benefits are to be experienced on Wolverhampton Road east of Bloxwich Lane, Churchill Road, Kent Road and Poplar Avenue as a result of changes to traffic flows on these roads.

To offset the adverse impacts to noise in the short and long terms of the operation of the scheme, the mitigation is proposed to comprise of the following:

- Thin Surface course – this reduces the noise created by the interaction between tyre and road; and
- Acoustic Barriers. This includes extending existing barriers along the Black Country Route to the south side. Also, the creation of a new noise barrier along the eastern edge of the south bound off slip road.

This mitigation is necessary for the scheme to comply with planning policy and is to be controlled through the imposition of a suitable condition.

In summary, the implementation of the scheme and the mitigation methods will result in some beneficial improvements for a number of residents during the daytime and net adverse impacts at night.

Pollution Control have raised concerns that overall there are more adverse impacts of the proposed development than beneficial impacts in terms of noise and vibration. The inclusion of acoustic absorptive barriers is welcomed and this level of detailing is recommended to be conditioned.

In conclusion, I consider that proposed scheme has a minor adverse impact on terms of noise pollution, which the use of mitigation methods with regards to acoustic barriers and surface treatment, results in daytime improvements for residents. However, as the junction improvements will improve traffic flows at night-time this will reduce the background noise levels and therefore the impacts of the construction phase at night will be more perceptible to residents and have an adverse impact for some properties (receptors). This is proposed to be mitigated through the use of conditions to address issues of hours of construction, methods of construction, siting of plant and machinery, the types of machinery used.

During the operational phase it is predicted that there will be significant adverse effect on noise at 51 residences during the daytime and 227 at night. This impact is short term and will reduce overtime towards the design year 2035. The revised traffic data has concluded that overall there is a net beneficial impact for dwellings during the daytime as a result of this scheme, with more properties benefiting than being adversely effected.

At night time the revised assessment predicts a net overall adverse impact, as did the original assessment. The revised assessment however does predict that a greater number of dwellings would be above the SOAEL (Significant Observed Adverse Effect Level), without the scheme especially at night. This reduction between the do minimum and do something scenario is as a consequence of the acoustic barrier mitigation proposed.

## **Air Quality**

The national framework is clear that planning should contribute to the reduction of pollution. It goes on to state that new development should not contribute to unacceptable levels of pollution. Furthermore, it states that Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.

Within the BCCS policy ENV8 sets out the requirements for air quality. It states that air quality assessments are required where air quality does not meet objectives or is likely to have significant air quality impacts. The assessment is to consider potential cumulative impacts as a result of known proposals in the area, as well as emissions from the development. If the assessment indicates that pollutants will exceed national air quality objectives, adequate and satisfactory mitigation measures which are capable of being implemented must be secured through planning conditions.

Policy CSP3 requires development proposal to demonstrate that the strategic network of the environmental infrastructure is protected, enhanced and expanded at every opportunity.

Policy ENV10 of the Walsall UDP reaffirms that development which may cause pollution will only be permitted if it would not release pollutants into the air, whether on site or elsewhere, which would cause harm to health and safety or the natural environment.

The ES and addendum has assessed the air quality impacts in accordance with the Local Air Quality Management Technical Guidance produced by DEFRA. This assessment utilised an advanced emission dispersion model to assess the impacts on air quality during operation. This model uses traffic data, road traffic emissions, weather data and local air quality management measures.

The impacts of the scheme have been assessed during the construction and operation of the project and at a local and regional level. The following facilities are considered to be the most at risk from poor air quality: homes, medical centres, schools and community facilities.

Junction 10 site is already an area with high levels of air pollution, this is due to petrol and diesel vehicles causing high levels of nitrogen dioxide. In 2015 where the junction links with the Black Country Route, NO<sub>2</sub> levels of 57.4ug/m<sup>3</sup> are above the EU limit value. In 2020, the planned year for opening of the new junction, the NO<sub>2</sub> concentrations at this point will be reduced to 40.9ug/m<sup>3</sup> and this reduces further in 2021 to 38.1ug/m<sup>3</sup>, which is below the EU limit value of 40 ug/m<sup>3</sup>.

In accordance to guidance on assessing significant impacts, only receptors with concentrations above 40ug/m<sup>3</sup> in either the do-minimum or do-something scenarios and

those that have a change greater than or equal to 0.4ug/m<sup>3</sup> are to be included in the judgement.

The air quality modelling of the new scheme does not worsen air quality at any receptors already above the relevant air quality objectives, nor does it create a new exceedance of the relevant air quality objectives. There are two receptors where the development will result in a reduction in NO<sub>2</sub> concentrations, this reduction removes one of these receptors from an existing exceedance. All particulate matter concentrations are below the relevant objectives and there are imperceptible changes predicted in the opening year of the project 2020 between the do-minimal and do-something scenarios.

The air quality assessment concludes that the predicted effects of the operation on local air quality is not significant and therefore no mitigation measures are proposed.

On the basis that there is no contrary evidence to dispute the findings of the assessment, I consider that the proposed development will not have an adverse impact on air quality and is in accordance with local and national policy guidance.

### **Cumulative Effects**

The cumulative effects have been considered separately in each topic area, with the identification of significant major other developments within a 2km extent of the site. The assessment considered a number of other developments but these are all located a significant distance in excess of 2km from the application site and the overall effect of cumulative impact is a neutral impact, for both the construction and operational phases and no mitigation is therefore required. Officers concur with the methodology used and findings of the ES and agree that there is no requirement for mitigation on the grounds of cumulative impacts.

### **Health Impacts**

The NPPF is clear that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities.

The Health Impact Assessment has identified the following impacts associated with this project: Air quality, noise, road safety, driver experience (driver stress), employment, access to health care and physical activity.

There is a direct relationship between health, air quality and roads as documented by the World Health Organisation in 2013. DEFRA estimates that current air quality levels in England result in a reduction in life expectancy of on average 8 months. The UK Air Quality Objectives are based on health-related thresholds for pollutants such as Nitrogen Dioxide (NO<sub>2</sub>) and Particulate Matter (PM).

Sources of noise form part of the local environment and have a general influence on health and wellbeing. Excessive or disruptive noise has the potential to cause a variety of short term and long-term health impacts, including type 2 diabetes, tinnitus, sleep disturbance, annoyance stress, hypertension and cardiovascular disease.

In terms of road safety, death and injury from road traffic accidents has a direct impact on mortality and morbidity. According to the Department for Transportation in 2015 approximately 5 people each day die and 62 are seriously injured on roads in the UK. Whilst the impact on traffic accidents on death and serious injury has fallen in recent years, cyclists as a road group user rates have continued to rise.

Driver experience (stress) is correlated to the behaviour of other road users and personal and work-related stress, and therefore road schemes have little control over these. Issues which can add to this stress are congestion, poor signage, large numbers of HGV's.

There is substantial evidence that general employment improves health and wellbeing. Being employed gives people purpose, promotes independence facilitates social participation and helps prevent physical and mental health problems. Conversely, unemployment can cause a loss of self-esteem, loss of social contacts and cause mental health problems.

The ability to access healthcare is fundamental to health and wellbeing. Access through the emergency services is important as are timely response times.

Regular physical activity can reduce the risk of chronic illness later in life. In addition, being physically active and having access to leisure facilities and open space reduces stress, anxiety, depression, dementia and Alzheimer's disease.

In summary traffic accidents and air quality are likely to have the largest direct impacts on health and wellbeing.

The report summaries the effects on each of these topic areas as follows:

**Air Quality:** Neutral impact both at construction and operational phase, with impacts during the construction phase to be mitigated through a Contractors Environmental Management Plan (CEMP) condition. The recommendation for operation phase reductions is the use of low emissions vehicles.

Noise slight adverse impact during construction phase and operation phase, it considers the CEMP as appropriate mitigation during the construction phase.

Road Safety neutral impact during the construction phase and a slight benefit during the operation phase due to the new design of the junction and installation of crossing points.

Driver Experience will have a slight adverse effect during the construction phase and slight benefit during the operation phase.

Employment has slight benefit in both the construction and operation phases.

Access to Healthcare, there is a slight adverse impact during the construction phase relating to ambulance journey times between the Royal Wolverhampton Hospital and Walsall Manor Hospital and the need to work with all the services involved to develop travel management plans during this phase. There is a slight benefit during the operation phase.

Physical Activity there is a slight adverse impact during the construction phase, and a slight benefit during the operation phase with new safe pedestrian and cycle access and sign posting.

Overall, the scheme is expected to provide health benefits in and arounds Walsall. With Noise impacts the only overall minor adverse impact during the construction and operation phases of the development, and access to healthcare and physical activity impact upon during the construction phase only. The report therefore recommends a number of mitigation factors be considered. The Public Health team recommend that these mitigation factors be implemented, and I therefore recommend conditions on the following to address these; CEMP, noise mitigation methods, working with the NHS trusts to develop traffic management plan during construction phase, accords with the objectives of the NPPF.

### **Drainage and Flood Risk**

The NPPF deals with flood risk and drainage on a risk-based approach and seeks to locate new development in areas at least risk of flooding. The BCCS expands on this in policy ENV5 but seeking to minimise the probability and consequence of flood risk through a strong risk-based approach.

This application is accompanied by a Flood Risk assessment (FRA) that provides a site-specific assessment of the flood risks. As the junction is elevated, the majority of the site is at very low risk of surface water flooding. However, on the low parts of the site there are high risks of flooding, due to the lack of drainage systems being in place.

This impact is proposed to be addressed through the creation of attenuation storage in the form of either ponds or storage pipes in the landscaped areas at the centre of the junction. The precise details of this scheme of mitigation are considered appropriate to be controlled through the imposition of a condition. This position is supported in the comments of the Local Lead Flood Authority, Severn Trent Water, and the Environment Agency.

The new attenuation features will continue to discharge into Sneyd Brook and will include betterment to the existing situation by resulting in a 20% reduction in discharge flows.

The two potential site compounds are located in Flood Zone 2 and 3 for Sneyd Brook. An 8m clearance will be provided from the back of the watercourse, should either of these sites be utilised and no structures will be located within the Zone 3 area. These details can be controlled as part of the CEMP condition.

The site is near to the canal, however there are low flood risk potential due to the distances involved.

Overall, the issues of drainage and flood risk have been assessed on a risk-based approach as required by the national framework and local policies and there are no adverse impacts at either the construction or operational phase which cannot be mitigated through suitable conditions, in fact the scheme results in a betterment of existing drainage function and would be a positive outcome of the development.



## **Ground Constraints**

The NPPF states that planning decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability;
- after remediation, as a minimum, land should not be capable of being determined as contaminated land
- adequate site investigation information, prepared by a competent person, is presented.

The application site falls within the defined Development High Risk Area; therefore, within the application site and surrounding area there are coal mining features and hazards. The application has therefore been supported by a Coal Mining Risk assessment, which has been considered by the Coal Authority who have raised no objections to the proposal subject to a condition relating to intrusive mining investigations.

With regards to issues of land contamination, the Council land contamination team have considered the submitted reports and recommend that further investigations are undertaken and remedial works to be undertaken and necessary, this is again recommended to be controlled through a planning condition.

Officers consider that adequate level of information has been provided with the application to assess the strategic issues of land contamination and stability due to coal mining legacy, however to achieve compliance with guidance in the national framework it is necessary to impose a condition for more intrusive site investigations to inform as necessary any mitigation and remedial works to be undertaken.

## **Cultural and Heritage Assets**

The identified heritage assets in the vicinity of the site is the Anson Branch of the Walsall Canal and the Bentley Canal. Both of these assets are non-designated, so have no statutory protection.

The NPPF require consideration of the impact of proposals on non-designated heritage assets, considering direct and indirect impacts and assess the scale of any harm or loss and the significance of the asset. Local policy in the BCCS ENV2 relating to historic character and local distinctiveness considers the issues of protection and promotion of the historic character. Whilst the Walsall UDP contains policies ENV25 and 26 relating to archaeology and ENV32 relating to design and development and the need to take account for the context of a development.

It is noted that both canals would have been of importance in the local area as part of a wider canal network in the past, but now are both disused and disconnected due to the existing M6 and Junction 10 punctuating these connections. The heritage statement concludes that it is likely the historic fabric associated with these canals would be in a poor state of preservation and compromised by other works. On this basis the two assets are considered of low heritage significance. This view point is confirmed by comments from the

Archaeological officer who considers that there are unlikely to be any significant heritage assets remaining and that further works are not required.

The Canal and River Trust have also commented on the scheme and consider the heritage and character elements as part of their remit. They concur with the findings of low potential for archaeology findings, however, consider that the construction and environmental management plan needs to consider heritage impacts in case anything is uncovered during works.

Officers consider that the scope of works undertake is appropriate, having regard to the level of designation, the position of the assets within the site and the national and local planning policy context.

Having considered the contents of the heritage statement and comments from consultees, I concur that the proposed development will not have a significant impact on the non-designated heritage assets; given the limited protection afforded previously to these assets and the level of unsympathetic works taken in the past. It is therefore not considered necessary to condition any mitigating controls to the consent. However, I consider that it is appropriate for the Construction and Environment Management Plan to include a section which covers what to do if works should uncover a heritage asset.

The proposed work therefore accords with local and national planning policy and guidance in relation to cultural and heritage assets.

## **Climate Change**

The NPPF states that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change.

The application is supported by a climate change risk assessment which considers the construction phase and operational phase of the development. The construction phase is short scale from 2018 to 2020. Whilst the operation phase of the assessment is until 2080's given the long lifespan of the new bridges.

Climate change will have direct and indirect effects on the operation and maintenance of this road infrastructure project. The assessment has not highlighted any high residual risk effects. This is due to a range of mitigation measures being incorporated within the design of the scheme, ranging from resilience built into the design standards and inclusion of an allowance for the uplift in future rainfall within the drainage design.

## **Conclusions and Reasons for Decision**

Officers acknowledge that there is a pressing need to deal with the existing structural integrity of the existing bridges which form Junction 10 of the M6 motorway as a key interchange in the national network as well as important junction at a local and regional level.

Given the scale of the development, there is a need to consider the environmental impacts of the scheme and the application is accompanied by an Environmental Statement, an addendum to the ES, technical notes and other supporting documents as set out above.

The application has been subject of an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended by the Town and Country Planning (Environmental Impact Assessment (Amendment)) Regulations 2015. The impacts on air quality, noise and vibration, visual amenity, materials, nature conservation and cumulative impacts have been fully assessed by the Local Planning Authority.

There are a number of positive impacts which can be attributed to the proposed scheme, these include improvements to the design of the junction which improve the capacity and traffic flows through the junction. The economic benefits associated with scheme either direct with employment during the construction phase and in direct with improvement to access to employment land in the vicinity. This coupled with other factors will result in health benefits in association with the scheme, such as, the improvements to pedestrian and cyclist safety. Other positive impacts relate to drainage and flood risk improvements through attenuation features, and reduction in noise impacts during the daytime. There is potential dependant on the details of the replacement landscaping for improvements to nature conservation through the use of biodiversity improving species.

There are a number of factors associated with the development which have a neutral impact on the environment as a result of the proposal, these are air quality, noise during the operational phase of the development, ground conditions, cultural and heritage assets and materials and waste.

The scheme does have some negative impacts, these are associated with impacts relating to the construction phases of the development. These are a negative impact on noise for receptors at night-time, and adverse visual impacts for adjacent home owners as existing tree planting which affords screening of the junction is removed to allow working space for construction of the new junction. The construction phase will also result in disturbance to traffic. During the operational phase of the development there is a net adverse impact in terms of noise at night time for a number of residences as a consequence of changes to traffic routes rather than as a direct consequence of the development being closer to residences. This needs to be balanced with the prediction, that a greater number of residences would have significant adverse night time noise impacts if the scheme was not implemented, as the noise barriers proposed as mitigation for the scheme would not be implemented. It should also be noted that the impact on the affected properties diminish with time towards design year 2035.

It is considered on balance, that the majority of the negative impacts associated with the scheme are time limited to the construction phase of the scheme and the impacts of these can be reduced through the imposition of a raft of conditions. Whilst there is a net negative impact in terms of night time noise, this needs to be balanced against the predicted worsening for a large number of properties without the scheme and associated acoustic barriers. There is insufficient harm created by the negative impacts to outweigh the numerous wide ranging positive benefits associated with the proposed development, including direct benefits associated with improvements at the junction reducing congestion on the local and strategic highway network. The indirect benefits of improved traffic flows in

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assisting to bring forward strategic land for employment uses and then the associated health and well-being improvements associated with employment.

Overall, the proposal represents an appropriate form of development, as the scheme complies with the overarching aims of the National Planning Policy Framework and adopted and emerging policies in the Local Development Plan and there is no material planning consideration which indicates that the planning permission should be refused.

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

#### **Approve**

Officers have spoken with the applicant's agent and in response to concerns raised regarding noise air quality and traffic forecasting, amended supporting documents have been submitted which enable full support to be given to the scheme.

### **Recommendation**

Delegate to the Head of Planning, Engineering and Transportation to grant planning permission subject to conditions to be amended as refined with consultees.

### **Conditions and Reasons**

1. The development must be begun no later than the expiration of 3 years beginning with the date of this permission.

**Reason:** Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the deposited plans and drawings as stated below, unless otherwise agreed in writing by the Local Planning Authority.

Amended Site Location Plan

Existing Site Plan

Layout Plan

Amended Detail Plan

Typical Cross Section Layout Plan

Typical Cross sections

Site Clearance Plan

Pedestrian and Cycle Route

Landscaping Planting Plan

Landscaping Photomontages

**Reason:** For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. Ground clearance, demolition or construction work shall not take place until details of protective fencing in accordance with BS:5837 (2012), including implementation timetable, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The protective fencing shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or lowering, of ground levels, shall be allowed within the protected area(s).

**Reason:** To prevent trees or hedgerows on site from being damaged during building works.

4. Development shall not take place (including site clearance and demolition) until full details of the preferred option for the site compound has been submitted to and approved in writing by the Local Planning Authority.

The details shall include:

- i. Appropriate measures to control the deposit of any mud, dirt or other debris onto the public highway or into any highway drain,
- ii. the areas allocated parking of contractors/staff vehicles together with turning areas for the largest type of vehicle expected to visit the compound, including Autotrack diagrams as appropriate,
- iii. The potential impact on existing businesses in terms of their operation and parking together with details of any mitigation measures,
- iv. Details of visibility splays appropriate for the compound use and size of vehicles manoeuvring into and out of the site.

The development will be implemented in accordance with the approved details.

**Reason:** For the safe use of the highway, and for the safe movement and free flow of traffic for all highway users.

5. Prior to occupation of any site compound:
  - i. a desk study and site reconnaissance shall be conducted to identify the onsite conditions at compound locations to be able to assess the current contamination potential, the impact of any site improvement works, management of any existing contamination and the standards for site clean up after decommissioning.
  - ii. Where the desk study required by part i) of this condition identifies the presence of contamination likely to be mobilised or otherwise impacted by use of the compound a 'Management Plan' setting out details of measures to be implemented to ensure that contamination is not exacerbated shall be submitted to and approved in writing by the Local Planning Authority.

- iii. Upon cessation of the use of a site compound a 'Site Risk Assessment Report' confirming that all contamination associated with or attributable to the use as a works compound has been removed or remediated shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure that land used in the course of the development does not present a hazard to the environment or future users of the land.

6. Development shall not take place (including any works of demolition and site clearance) until a Construction and Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

The CEMP shall include or provide for:

the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development;

- a) measures to control the emission of dust and dirt during construction;
- b) a scheme to minimise and mitigate the impacts of noise and vibration;
- c) measures to prevent surface water drainage to the canal;
- d) details of protective measures (both physical measures and sensitive working practises) to avoid impacts to the environment during construction, to include the following noise mitigation measures;
  - Control of noise at source: shielding of noise items of plant, appropriate siting of haul routes
  - Control by specification
  - Control my modification of plant
  - Control of enclosures;
  - Use and siting of equipment;
  - Maintenance;
  - Screening – to include early construction bunds, appropriate site layout, removal of direct line of sight,
  - Strategic Placement of Materials; and
- e) A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as when badgers, reptiles and amphibians are active and during bird nesting seasons);
- f) Hours of operation of construction works and others works on the site
- g) Measures for the monitoring and enforcement of the plans
- h) Persons responsible for:
  - i) Compliance with legal consents relating to nature conservation;

- ii) Compliance with planning conditions relating to nature conservation
- iii) Installation of physical protection measures during construction;
- iv) Regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction;
- v) Provision of training and information about the importance of Environment Protection measures to all construction personnel on site.

The agreed plan shall be complied with at all times during construction work.

**Reason:** To safeguard the environment, avoid congestion on the surrounding roads and to protect the amenities of nearby residential areas and in the interests of the structural integrity of the Anson Branch Canal in accordance with Policy ENV4 of the Black Country Core Strategy and Paragraphs 120 & 121 of the NPPF

7. Development shall not take place (including any works of demolition and site clearance) until a Traffic Management Strategy has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

The Strategy shall include details relating to: -

- i. Diversion routes around and through the construction site
- ii. The minimum number of lanes through the construction site that will be in operation during the during demolition/site clearance and construction works
- iii. The maximum temporary speed limits to be applied through the construction site during demolition/site clearance and construction period
- iv. Details of any carriageway closures and restrictions through the construction site during demolition/site clearance and construction period
- v. Details of any slip road closures and restrictions through the construction site during demolition/site clearance and construction period
- vi. Times of day that any restrictions would be in place (these this will include details of night time working) during demolition/site clearance and construction
- vii. The schedule for removing roadwork's during bank holidays or provides the rationale for not doing so during demolition/site clearance and construction
- viii. Details of and timings of significant events planned during demolition/site clearance and construction works
- ix. Details and timings of measures that can be put in place to mitigate impacts on travel during demolition/site clearance and construction works
- x. Details of incident management such as breakdowns and recovery arrangements during demolition/site clearance and construction works
- xi. Details on any measures to be put in place for driver compliance and enforcement of speed limits during demolition/site clearance and construction works
- xii. The proposed demolition/site clearance and construction phasing of the works.
- xiii. Proposed routes of construction traffic between the principle site compound(s) and the demolition/construction sites.

- xiv. Proposed routes to be used by demolition/construction traffic from the wider highway network to the compound(s) and demolition/construction sites.
- xv. Proposed measures to ensure the safe passage of pedestrians and cyclists, through and adjacent to the demolition/construction works.
- xvi. Details of any public transport diversions required in connection with the demolition/construction of the scheme.
- xvii. Details of emergency service routes and diversions in connection with the demolition/construction of the scheme.

**Reason:** For the safe use of the highway, and for the safe movement and free flow of traffic for all highway users.

8. Development shall not take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Method Statement shall include details relating to:
  - i. any proposed earthmoving, excavations, foundation construction or other building operations can be safely carried out without adversely affecting the stability of the Anson Branch Canal
  - ii. detailed calculations to demonstrate that the proposed development will not impart any additional load onto the existing culvert
  - iii. Inspection / maintenance provision and regimes for the existing culvert and trash screen
  - iv. Dilapidation survey of the existing culvert

Thereafter the development shall be carried out in full accordance with the approved details.

**Reason:** The detail is required prior to commencement to ensure that the proposed works do not have any adverse impact on the stability of the existing culvert and therefore protect the function and integrity of the Anson Branch Canal in accordance with Paragraphs 120 & 121 of the NPPF.

9. Development shall not take place until:
  - i) an intrusive site investigation, contamination survey and assessment of ground gas having regard to current best practice has been undertaken.
  - ii) a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be submitted to and approved in writing by the Local Planning Authority.
  - iii) a 'Remediation Statement' setting out details of remedial or other mitigation measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority.
  - iv) The remedial or other mitigation measures as set out in the 'Remediation Statement' required by Part iii shall be implemented in accordance with the agreed timetable.
  - v) If during the undertaking of remedial works or the construction of the approved development, unexpected ground contamination not identified by the site investigation required by part i of this condition is encountered, work on that element of the development shall cease until the 'Remediation Statement' required by Part iii has been amended to address any additional



remedial or mitigation works required and agreed in writing by the Local Planning Authority.

- vi) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and approved in writing by the Local Planning Authority prior to the development being fully operational.

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

- 10. Development shall not take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

**Reason:** To ensure satisfactory drainage of the site and to avoid flooding.

- 11. Development shall not take place until the details of the drainage scheme include following mitigation measures detailed within the FRA:
  - i. Limiting the surface water run-off generated by each of the drainage elements proposed to 80% of the existing discharge rates from the undeveloped site and not increase the risk of flooding off-site.
  - ii. Provision of an appropriate volume of attenuation flood storage for each element of the surface water systems on the site to a 100 year + 30% standard.
  - iii. Reduction of 20% of the existing estimated flow rates into watercourse shall be applied to the new drainage system.
  - iv. No changes to ground levels within Flood Zone 2 and 3.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

**Reason:** To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site. To ensure no increase in risk of flooding to the site and to third parties.

- 12. Development shall not take place until full details of soft landscape/tree planting proposals have been submitted to and approved in writing by the Local Planning Authority.

These details shall include:

- i. Planting plans
- ii. Written specifications including cultivation and other operations associated with plant and grass establishment
- iii. Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate. The planting scheme shall include a mix of native species of local provenance, berry-producing shrubs and/or nectar-rich flowers
- iv. Implementation timetables

All soft landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with the timetable agreed in writing with the Local Planning Authority. Any tree(s) or shrub(s) removed, dying, or becoming in the opinion of the Local Planning Authority seriously damaged, defective or diseased within five years after planting shall be replaced within the next planting season by tree(s) or shrub(s) of similar size and species to those originally required to be planted. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape.

**Reason:** To ensure the provision of amenity afforded by appropriate landscape design and to enhance biodiversity a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policy ENV4 of the adopted Black Country Core Strategy.

13. Development shall not take place until full details of the proposed noise mitigation has been submitted to and approved by the Local Planning Authority.

The scheme is to include:

- i. Full details of the acoustic barriers, i.e. position, height, and weight
- ii. Details of thin surface course for road surface
- iii. a timetable for implementation

The approved noise mitigation shall be installed in full accordance with the approved details and shall be retained as such thereafter for the lifetime of the development.

**Reason:** To safeguard the amenity of adjacent occupiers and ensure satisfactory levels of noise insulation.

14. Development shall not take place until a Method Statement setting out measures to ensure the protection of the High-Pressure Gas Main has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in full accordance with the approved details.

**Reason:** To enable the Local Planning Authority to consider such details and satisfy the requirements of Cadent Gas Ltd and the Health and Safety Executive.

15. Development shall not take place until full detailed designs have been submitted to an approved in writing by the Local Planning Authority:

The details to be submitted shall include the following:

- i. Roadway Construction
- ii. Embankments
- iii. Bridges
- iv. Retaining Walls
- v. Gantries

- vi. Highway Crossings
- vii. Traffic Signals, CCTV and Signage
- viii. Highway Lighting
- ix. Earthworks and levels

The development shall be carried out in accordance with the approved details.

**Reason:** To ensure that proper control is exercised over the detailed design of the development.

**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 2.**

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

**Location:** FORMER CERRO EMS LTD, GOSCOTE LANE, BLOXWICH, WALSALL, WS3 1SJ

**Proposal:** A HYBRID PLANNING APPLICATION COMPRISING:

- AN OUTLINE APPLICATION FOR THE CONSTRUCTION OF UP TO 263 DWELLINGS WITH ASSOCIATED GARDEN AREAS, MINOR ESTATE ROADS, PARKING AREAS AND DRIVEWAYS, ALONG WITH PUBLIC OPEN SPACE PROVISION AND ALL OTHER ASSOCIATED WORKS
- A FULL PLANNING APPLICATION FOR THREE NEW POINTS OF ACCESS, MAIN ESTATE ROADS THROUGH THE SITE, AS IDENTIFIED ON THE SUBMITTED PLANS, AND FOR THE SITE INFRASTRUCTURE DRAINAGE STRATEGY.

**Application Number:** 17/1656

**Applicant:** St Francis Group (Goscote) Ltd and Homes and Communities Agency

**Agent:**

**Application Type:** Full Application: Major Mixed Use Classes

**Case Officer:** Stuart Crossen

**Ward:** Blakenall

**Expired Date:** 16-Mar-2018

**Time Extension Expiry:**

**Recommendation Summary:** TO DELEGATE TO THE HEAD OF PLANNING, ENGINEERING & TRANSPORTATION TO GRANT PERMISSION SUBJECT TO CONDITIONS INCLUDING THE REVISION OR REMOVAL OF ANY CONDITIONS LISTED BELOW, NOT REQUIRED FOLLOWING RECEIPT OF DETAILS ACCEPTABLE TO OFFICERS, AND CONSULTEES; SUBJECT TO THE COMPLETION OF A SECTION 106 AGREEMENT TO PROVIDE FOR AFFORDABLE HOMES (OR TO DEMONSTRATE THAT CONTRIBUTIONS ARE NOT VIABLE), AND FOR THE MANAGEMENT OF PROPOSED OPEN SPACE; SUBJECT TO AN UPDATED TRANSPORT ASSESSMENT INCLUDING ANY CONDITIONS/OBLIGATIONS AS REQUIRED, TO ADDRESS THE CONCERNS OF THE HIGHWAY AUTHORITY AND ALLOW OFFICERS TO CONSIDER CANAL & RIVERS TRUST COMMENTS



## Proposal

The proposal is a hybrid application which proposes:

- An outline application for the construction of up to 263 dwellings with associated garden areas, minor estate roads, parking areas and driveways, along with public open space provision and all other associated works
- A full planning application for three new points of access, main estate roads through the site, as identified on the submitted plans, and for the site infrastructure drainage strategy.

The application proposes to retain the existing 3 access points to the site off Goscote Lane and create two looped roads with shared surface road permeating within the application site.

The houses to the North of the site would face the canal and have shared surface paths to the front.

The two proposed elements of urban open space would be located over the capped mine shafts to the North of this site. The open space is proposed to be managed and maintained in perpetuity by a management company.

An **Arboricultural Assessment** has been provided which explains that tree losses have been minimised. The principle of the proposed development is considered acceptable from the arboricultural perspective subject to safeguards for protecting retained trees during construction, and the production and implementation of a comprehensive scheme of soft landscaping.

A **Coal Mining Risk Assessment** has been provided.

The **Design and Access Statement** concludes that the density and scale is in character with the wider area, the landscaping and integration of the canal corridor would positively contribute to the scheme and that the access points for new vehicular and pedestrian routes, linking with the surrounding areas, designed to facilitate access through a clear hierarchy of streets and footways.

The submitted extended **Phase 1 Habitat** survey establishes that the site is dominated by habitats of low ecological value and the proposals have sought to retain those features of greatest relative value. It considers that the development is unlikely to result in significant harm to biodiversity and that it provides opportunities to provide a range of benefits for biodiversity which will be managed over the long-term.

An **energy and sustainability** statement has been provided which provides an energy assessment of the scheme and states that a residual energy reduction of 10% will be achieved through renewable technologies, with a preference for photo-voltaics.

**The submitted Flood Risk Assessment and Drainage Strategy concludes that** EA data for the area indicates that the entirety of the site is at low risk of flooding from fluvial and tidal sources and entirely within Flood Zone 1 and that the site has also been concluded as being at low or negligible risk from all other assessed sources of potential flooding.

A **noise and air quality assessment** has been submitted which concludes:  
The type of construction methods, coupled with the separation distances to sensitive receptors, are not expected to cause significant noise or vibration impacts for existing dwellings adjacent to the site.

Relative to the Air Quality Assessment Levels (AQAL) of the latest EPUK and IAQM guidance, the development's impact on local air quality is defined as negligible.

The submitted **planning statement** explains why the development accords with policy and that mineral resources are either not present, not of economic value or have already been extracted. The statement concludes that the proposal would have significant benefits for the local community, with regards to the social, environmental and economic dimensions that define sustainable development.

The **Transport Assessment** concludes that parking and highways construction shall accord with Council standards, peak trips would increase by 135 at peak times; the development would have minimal impact on the junction to Lichfield Road. The report recommends signalisation of Slacky Lane canal bridge, suggests the option of a zebra crossing on Goscote Lane and notes that the application proposes a new bus stop and is sustainable.

### **Site and Surroundings**

The site is situated on the eastern side of Goscote Lane and comprises previously developed land that has been unoccupied for over 8 years. The site has former mine workings beneath the surface and has been used as a brass works and latterly for metal treatment. The site has known contamination as a result of these former uses. All the former buildings on the site have been removed but large areas of hardstanding remain.

There is an existing telecommunications mast within the site.

The site has an area of 8.9 hectares.

The application site is within flood zone 1.

The site is bounded by the Wyrley and Essington Canal with open space within the Green Belt beyond, both designated as a Site of Local Importance for Nature Conservation (SLINC). On the opposite side of the canal to the north is a mobile home site with established residential properties. Residential properties in Henley Close bound the site to the north west and houses on the western side of Goscote Lane face the site. To the south are industrial units with residential beyond.

The site has a gradual fall of 2 to 4m across its 200m width, from west to east, falling towards the canal. At the south-east boundary there is a change in level of up to 3.75m between the site and the canal

### **Relevant Planning History**

BC64417P, 15m telecoms mast, equipment cabin and associated equipment, refused 25-09-01 Subsequent appeal allowed May 2002

Between 2012 and 2017 various Telecom Regulation 5 notifications for additional equipment to the existing mast.

17/0491, screening opinion for residential development of the site. EIA Screening not required 09-05-17.

17/0996 - Remediation works comprising: Soil stabilisation, excavation, storage and disposal or cleaning of soil contaminated with hydrocarbon, grouting and capping of mine-workings and mine shafts. GSC 03/11/17

### **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*".

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

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

- ***NPPF 6 - Delivering a wide choice of high quality homes***
- ***NPPF 7 - Requiring good design***
- ***NPPF 8 - Promoting healthy communities***
- ***NPPF 9 - Protecting Green Belt Land***
- ***NPPF 10 - meeting the challenge of climate change, flooding and coastal change***
- ***NPPF 11 - Conserving and enhancing the natural environment***
- ***NPPF 12 - Conserving and enhancing the historic environment***
- ***NPPF 13 - Facilitating the sustainable use of minerals***

On **planning conditions** the NPPF says:

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

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

### **NPPF Consultation**

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

### **Local Policy**

#### **The Black Country Core Strategy**

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility



- HOU3: Delivering Affordable Housing
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM1: Sustainable Waste and Resource Management
- MIN1: Managing and Safeguarding Mineral Resources

## **Unitary Development Plan**

The relevant policies are:

- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV25: Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H1: Renewal of Existing Residential Areas
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T1 - Helping People to Get Around
- T4 - The Highway Network
- T5 - Highway Improvements
- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces
- LC5: Greenways

## **Emerging Walsall Site Allocation Document (Not yet adopted)**

- HC1 Land Allocated for New Housing Development
- HC3 Affordable Housing and Housing for People with Special Needs
- HC4 Accommodation for Gypsies and Travellers and Travelling Showpeople
- LC5 Greenways

- EN1 Natural Environment Protection, Management and Enhancement
- EN3 Flood Risk
- EN4 Canals
- W2 Existing Waste Management Sites
- M1 Safeguarding of Mineral Resources [Sands and Gravels Superficial Map 9.4]
- T4 The Highway Network

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

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

#### **Designing Walsall SPD**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through key design principles and policies. The following are the relevant policies;

DW1: Sustainability

DW2: Safe & Welcoming

DW3: Character

DW4: Continuity.

DW5: Ease of Movement

DW6: Legibility

DW7: Diversity

DW8: Adaptability

DW9: High Quality Public Realm

DW10: Well Designed Sustainable Buildings

Appendix D identifies privacy and aspect distances between dwellings, garden/amenity dimensions and design considerations. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

#### **Supplementary Planning Document for Affordable Housing**

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

#### **Supplementary Planning Document Urban Open Space**

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

### **Consultation Replies**

**Public Rights of Way** – No objections, maintenance arrangements will be required at detailed design stages.

**Fire Officer** – No objections

**Pollution Control** – No objections subject to conditions for ground contamination, noise and air quality mitigation measures.

**Police** – Objection to the centre access

**Coal Authority** – No objections subject to past coal mining works mitigation.

**Natural England** – No objections

**Wildlife Trust** – No objections subject to the implementation of the recommendations set out in Chapter 6 of the submitted Ecological Report which can be conditioned.

**Canal & Rivers Trust** – Requested copies of the viability assessment and ecology report.

**Severn Trent** – No objections subject to drainage condition

**Environment Agency** – No objections

**Community Safety** – No objections, layout should include measure to mitigate anti-social behaviour caused through the use of motorbikes.

**Walsall Group of Ramblers** – No objections

**Friends of the Earth** – Raise concern about the central access point onto Goscote Road, recommend provision for cycle parking/storage, EV charging points and solar panels.

**Flood Risk Officer** – No objections subject to condition for a drainage strategy.

**Highways** – Holding objection, revisions are being sought

## **Representations**

2 objections received on the following grounds:

Foxes, cats and birds live on the site.

Not enough school places.

## **Determining Issues**

Principle of Development

Amenity

Coal Mining

Ecology

Canal

Trees

Flood Risk

Local Finance Considerations

Access, parking and junction to Goscote Lane

## **Assessment of the Proposal**

### **Principle of Residential Development**

#### **BCCS**

The Housing Key Diagram identifies the Goscote area as a housing renewal hub. Policy CSP2 states that the hubs will be the focus for housing renewal activity.

Policy HOU2 states that developments of 15 dwellings or more should provide a range of house types and sizes that will meet the accommodation needs of both existing and future residents. The proposed layout provides sufficient scope for an acceptable mix of tenure to be considered at reserved matters stage.

Policy HOU3 states that local planning authorities will seek to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable. The applicant has submitted a viability assessment which is being assessed by the District Valuer.

Policy ENV1 states that development within the Black Country will safeguard nature conservation by ensuring that development is not permitted where it would harm internationally, nationally or regionally designated nature conservation sites; and locally designated nature conservation sites (Sites of Local Importance for Nature Conservation), important habitats and geological features are protected from development proposals which

could negatively impact upon them. The submitted Ecological Appraisal takes account of the SLINC and suggests mitigation by way of minimum distance separation and use of sensitive materials between the site and the canal and for a suitable lighting scheme which does not impact on habitats which can be secured by condition.

Policy ENV5 states that all developments should incorporate Sustainable Drainage Systems (SUDS) unless it would be impracticable to do so. Details have been provided of how the applicant would mitigate for surface water drainage and subject to conditions raises no concerns from the Environment Agency or Flood Risk Officer.

Policy MIN1 states that proposals for non-mineral development within the Areas of Search (relating to sites or areas of 5ha and over in the urban areas outside the Green Belt) are encouraged to provide for the extraction of minerals before the commencement of development and will not be permitted unless it can be demonstrated that the development will not result in the needless sterilisation of the resources within these areas. Details have been provided of previous activity which are considered to confirm that minerals present at the site have already been extracted, as evidence of this there are two coal mining shafts present at the site. For these reasons the proposal is considered to accord with policy MIN1.

#### UDP

Policy LC1(d): a section 106 agreement will be required to enable the provision of new, or the improvement of existing, urban open spaces (Walsall Urban Open Space SPD).

Policy ENV23 states that the council will require habitat creation, enhancement and the implementation of other appropriate measures to encourage the conservation of wildlife. This part of the policy will be applied to all development proposals in proximity to a SSSI, LNR, SINC or SLINC, and other locations of nature conservation interest. The case officer has sought advice on whether mitigation is required for the development from the Birmingham and Black Country Wildlife Trust who have raised no objections subject to the implementation of the mitigation measures proposed in the ecology report. The ecological appraisal makes recommendations relating to exterior lighting, bats, birds, fencing to protect animals, planting and eradication of Japanese knotweed all of which can be conditioned.

#### SAD

Policy HC1 of the emerging Site Allocation Document proposes to allocate the site for housing (site reference HO29), with an estimated capacity of 395 dwellings. The policy lists assets and constraints that apply to or adjacent to the site. These comprise the canal, Site of Local Importance for Nature Conservation, Mineral Safeguarding Area, and a waste operation (Goscote Sewage Works). The implications of some of these are expanded on below.

Policy HC4 states that part of site HO29 may need to include accommodation for Travellers if site HO28 (Dolphin Close) does not come forward. There is a post examination modification which proposes the site to be allocated for just housing, the consultation for this has not yet started and carries little weight.

#### **Amenity**

The application needs to demonstrate that up to 263 houses can be achieved on this site. The Council has minimum standards for residential amenity the key standards relevant to this case are:

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- 13m separation between habitable windows and blank walls exceeding 3m in height

- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk))

- Garden dimensions: 12m in length or a minimum area of 68 sq m for houses and 20 sq m of useable space per dwelling where communal provision is provided

The submitted block plan illustrates some shortfalls in separation distances, however at this stage there are no design details so it is not possible to be sure which elevations have windows. The case officer has asked the agent to confirm if the layout is policy compliant in terms of separation distances and if not either sufficient justification should be provided as to the reason for this or an amended layout plan should be submitted so that officer can be assured that the 263 proposed dwellings can be achieved at this site. Furthermore some garden amenity spaces fall below the Designing Walsall SPD, further justification is required, notwithstanding the proposed public open space.

On the bottom right of the plan the layout illustrates a parking court to serve a number of units, the proximity of these parking spaces to windows of houses could cause noise and disturbance, and the comings and goings of these cars could cause noise and disturbance when passing houses which share the access.

The Police object to the centre access to the site which would also have poor visibility for cars exiting the site. This access should be omitted from the scheme. The sites permeability is supported, whilst the Police comments are noted, Council policy supports good pedestrian links and the proposed layout is considered should generally provide good surveillance.

The Police have highlighted issues which need to be considered at this stage and which will need to be implemented within the design when the full application is delivered.

Anti-social behaviour, particularly from motor cycle access is an on-going issue which is experienced across this and neighbouring wards. Although the Police have managed to mitigate to some degree, the impact through access reduction installation, the probability is high that any open space in the area will soon become a target of ASB. The proposed buffer and leap/lap, although advantageous to residents is considered by the Police to have potential to become the focus for undesirable activity. Careful consideration should be given to the accessibility of all open spaces and in particular play areas which can be subject to usurpation by teens etc. The Police have suggested either breaking up the green space and/or adding access restrictions such as low level fencing/motor-cycle restriction barriers be included in any additional application documents relevant. These details can be considered at reserve matters stage.

### **Coal mining**

The Coal Authority concurs with the conclusions and recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy poses a risk to the proposed development and that intrusive site investigation works should be undertaken in order to establish the exact situation regarding coal mining legacy issues on the site and to inform a comprehensive scheme of remedial measures to ensure the safety and stability of the proposed development.

The Coal Authority recommends that the LPA impose a Planning Condition, should planning permission be granted for the proposed development, which requires prior to the submission of the reserved matters:

The submission of a scheme of intrusive site investigations for the mine entries for approval;  
The undertaking of the approved schemes of intrusive site investigations

The condition should require as part of the reserved matters application:  
The submission of a report of findings arising from the intrusive site investigations;  
The submission of a layout plan which identifies appropriate zones of influence for the mine entries, and the definition of suitable 'no-build' zones;  
The submission of a scheme of treatment for the mine entries for approval; and  
The submission of a scheme of remedial works for the shallow coal workings for approval

The condition should also require prior to the commencement of development:  
The implementation of those treatment/remedial works.

The Coal Authority considers that the content and conclusions of the Coal Mining Risk Assessment Report are broadly sufficient for the purposes of the planning system and meet the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development.

## **Ecology**

The ecological survey is supported by consultees and no objections have been raised provided the following mitigation measures are conditioned.

Conditions are recommended for tree protection measures to be retained during construction.

To prevent pollution of watercourses, conditions can be attached to ensure satisfactory storage areas, suitable disposal of silty water and water from vehicle cleaning and for the safe refuelling of plant on an impermeable surface.

The timing of works can also be conditioned to minimise the impact on birds during the bird nesting season.

Conditions can be attached to prevent new night time lighting disturbance in the interests of protecting wildlife.

The ecology survey makes recommendations for landscaping and appropriate enhancements for the SLINC and a condition can be attached for landscaping details to be submitted.

Japanese Knotweed has been found on the application site and a condition can be attached to ensure that this is dealt with in accordance with the Environment Agency advice.

Provision for bat and bird boxes can be made in the trees to be retained and within the design of the development to be considered at reserve matters stage which can be conditioned.

The ecology report also suggests that garden fences have cut outs for hedgehogs and that the proposal include hedgehog dome in the interests of preserving hedgehogs which can be conditioned.

Foxes and cats are not protected species and there is no requirement or policies for the applicant to provide mitigation for their relocation.

## **Canal**

Final comments are currently being sought from the Canal & Rivers trust who have made a request to view the Ecology Report and Viability Assessment which contain sensitive information. The Council is unable to share the viability assessment but has sent the Ecology Report and Officers are awaiting further comments.

## **Trees**

No comments have been provided by the Tree Officer which is considered a no objection to the submitted details which are comprehensive. The submitted arboricultural survey recommends the undertaking of an Arboricultural Method Statement to expand on Appendix C in relation to the tree protection plan which at outline stage is subject to modification. This can be secured by Condition alongside a comprehensive scheme of soft landscaping as also suggested in the survey.

## **Flood Risk**

The application site is within flood zone 1 and would be prone to surface water flooding. The Flood Risk Officer has proposed a drainage scheme to mitigate for this risk which can be conditioned.

Severn Trent have requested a drainage condition, the case officer has responded to this and questioned whether it is required in light of the submitted drainage strategy. Once Severn Trent respond to the query the suggested drainage condition can be retained or omitted as required.

## **Access, parking and junction to Goscote Lane**

The Highway Authority places a holding objection on the grounds that additional highways and transport related information is required together with revisions to the indicative layout.

### Full and Outline Elements

#### Transport Assessment

Para 6.2 Operation of the Lichfield Road Priority Junction - the Transport Assessment (TA) fails to take account of the potential cumulative impact of the development traffic plus the predicted traffic for the extant residential developments at Shakespeare Crescent ( 412 dwellings under PA 14/0799/RM) and Goscote Lodge Crescent (426 dwelling under PA 16/1515) currently under construction further to the south along Goscote Lane, particularly the potential impact on the A4124 Lichfield Road/Livingstone Road priority junction and the Goscote Lane/Harden Road roundabout. To understand the potential cumulative impacts of the trips associated with the current application together with these other major developments on the junction together, the predicted northbound trips of the current development need to be added to those of those predicted to travel northbound from southern development and these factored into a revised PICADY assessment of the junction operation. This will allow a more realistic and informed judgement on the future operation of the junction up to 2024 and whether any mitigation measures may be required.

Para 2.3.2 - States that the average vehicle speed along Goscote Lane is 31 mph. The visibility splays on the indicative layout show splays at 2.4m x 25m and 2.4m x 35m respectively with no splays at all shown on the proposed central access. The splays shall be revised to a consistent 2.4m x 43m based upon the 30mph speed limit, in accordance with that stated in Para 4.4.3 of the TA.

Para 4.1.2 states that the rationale for the new central vehicle access point is that 'the use of three connections would avoid focussing all traffic on one junction and thereby reducing congestion and assist in distributing traffic'. However there are two proposed junctions north and south. The indicative layout implies that estate through traffic will be along a residential shared space. Highways officers are considering if this third access is really necessary and have suggested that the access be better as just a pedestrian/cycle link only. It may provide a convenient location for the relocated bus stop/ upgraded shelter on Goscote Lane.

Para 3.5.4 states that residents are likely to attend Rivers Academy in Mersey Road and demonstrates the likely pedestrian route. No consideration appears to have been given to providing a safe pedestrian crossing point, controlled or otherwise, across Goscote Lane.

The site will need be serviced by a 10.7m long refuse vehicle. No tracking drawings have been submitted to demonstrate that such a vehicle can safely and satisfactorily enter and exit the new access points onto Goscote Lane and along the internal estate roads particularly around the 90 degree bends to avoid overriding of kerbs.

The Transport Assessment fails to address the impact of the layout on the existing traffic calming features along Goscote Lane which will have to be located or replaced with alternative measures to be agreed with the Highway Authority. The existing measures are not shown on the indicative layout drawing.

No consideration appears to have been given to the installation of traffic calming measures or features on the internal estate roads to a design speed of 20mph.

#### Comments on Indicative Layout (to be determined under Reserved Matters)

The Highways Officer has requested the following details to be submitted at reserve matters stage.

Autotrack drawings shall be submitted demonstrating a 10.7m long refuse vehicle can safely and satisfactorily negotiate through and around the Shared Space areas that fall outside the Full application boundary.

Details of the areas to be offered for adoption as publicly maintainable highway under a S38 agreement with particular attention to requirements for street lighting provision.

Details of appropriately sized and located refuse/recycling collection points for dwellings not easily accessible by refuse collection vehicles.

Covered, secure cycle shelter provision for the flatted element (an integral provision within the building itself would be desirable in this locality) shall be provided.

Parking provision to be at least 200% per dwelling, 150% for flats.

#### **Section 106 Requirements**

Under the requirements of the Council's Supplementary Planning Documents Urban Open Space (ten units and above) would be required. This scheme attracts a contribution of £489,775.00

The sum of £489,775 is a calculation of:

715 bedrooms (taken from DAS) x by the standard commuted sum for Blakenall & Bloxwich of £685 per bedroom, as set out in Walsall's POS SPD.

The standard sum across Walsall is £806 per bedroom based on provision of 2.6ha per 1,000 population.

Paragraph 5.4 of the SPD states that Walsall is looking in most cases to improve existing facilities as there is the right quantity. In the same paragraph, the policy recognises it will be necessary for some larger developments and new residential areas, for example in previously industrial areas, to provide new facilities and anticipates that in most cases that there will be a mixture of on-site provision and off-site contribution.



Based on the stated occupancy rate of bedrooms at 83.4%, the application site would be expected to house 596 people. On a requirement of 2.6ha per 1,000 population, this is a requirement for 1.55ha of Public Open Space.

On this basis the applicant considers that the provision of 1.67ha of on-site Public Open Space results in no requirement for this site to be liable for any commuted sum.

The development is for more than 15 houses which also triggers a requirement for affordable housing provision. This should comprise 25% affordable required on site – mix of property types to include 4 beds. Tenure is social rent (75% of the affordable) and shared ownership (25% of the affordable). This should be secured by Planning Obligation (section 106 agreement). A viability assessment is currently being considered by the District Valuer.

### **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 426 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 792 new homes during 2010-2011 the award of £1,095,219 (which included a premium for affordable housing but also a deduction for an increase in vacancies) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards might be offset against reductions in the 'formula grant' the Council will receive from Government.

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

### **Other Issues Raised Through Consultation**

Education Admission and Planning Team have been consulted, they have raised no objections to the scheme or requested any education provisions are made.

## **Conclusions and Reasons for Decision**

The application site is a brownfield site in a sustainable location, the proposal includes SUDS measures and it is identified in the Black Country Core Strategy as an appropriate location for housing, policy CSP2. The site is also in the emerging Site Allocations Document (SAD) identifies this site as the largest potential housing site allocation in the document (site HO29 under policy HC1). Although policy H4 currently identifies this site as having potential to be a location for travellers if HO28 does not come forward, the application has been submitted with a viability assessment and is of high density, taking account of the remediation works required for this site in this instance it is not viable to make provision for travellers. Subject to a 106 contribution (or an acceptable viability assessment) and for the above reasons the proposal is acceptable in principle.

The proposed layout with central access should be amended to omit vehicular traffic which would improve the amenity for residents next to the access and provide an improved location for the bus stop.

The parking court (south east of site) can be addressed through amendments which the agent is currently undertaking. Without acceptable amendments to the layout the current scheme cannot be supported and would be contrary to policies GP2 and ENV32 in particular.

The case officer considers in this instance there is a case for a slight reduction in amenity standards in order to ensure the viability of the site and where amenity reductions do not impact on existing occupants the weight of this determining issue is less than the overall viability.

The anti-social behaviour issues raised by the Police are noted and have been passed to the agent. Mitigation measures can be sought as part of the reserve matters in accordance with policy ENV32.

The applicants Coal Mining Risk Assessment has been deemed acceptable by The Coal Authority who have suggested past Coal Mining mitigation measures which ensures the scheme is acceptable in this regard and complies with policies GP2 and ENV10.

The submitted Ecology Report raises no objections and conditions for tree protection, to prevent pollution of watercourses, to control the timing of works to minimise the impact on birds during the bird nesting season, to minimise light disturbance to wildlife, provide satisfactory landscaping and enhancements, for the provision of bat and bird boxes, the protection of hedgehogs and to eradicate Japanese knotweed; all represent a significant improvement to the sites previous use and current condition in accordance with UDP policy ENV23.

The scheme is considered to minimise any impact on the canal and is considered an improvement. To ensure that the development is acceptable in accordance with UDP policies ENV23 final comments and conditions are being sought from Canal & Rivers Trust.

The Arboricultural Survey has raised no objections and conditions to ensure the protection of trees to remain after the development can be attached to planning permission and is acceptable to comply with UDP policy ENV18.

The submitted flood risk assessment and drainage strategy is considered acceptable by the Flood Risk Officer and the Environment Agency subject to conditions which are acceptable to ensure the scheme complies with UDP policy ENV14. Clarification has been sought from Severn Trent regarding the need for further drainage conditions which can be retained or omitted depending on feedback.

The submitted transport assessment fails to demonstrate that the scheme will not have a detrimental impact on the safety and free flowing of traffic to and from the site and amendments are required of the current layout to ensure a satisfactory scheme which is acceptable in highway terms. The agent is actively working with the Highways Officers to ensure a satisfactory layout is achieved and complies with UDP policies T4, T7 and T13.

Provided an affordable housing contribution is made in accordance with the Affordable Housing SPD (or the scheme is confirmed as not being viable by the District Valuer in accordance with the submitted viability assessment) the scheme is acceptable and complies with policy.

The case officer considers that the proposal in relation to open space contributions accords with paragraph 5.4 of the Open Space SPD and that the convenient presence of open space next to the development helps offset any shortfall in garden amenity space standards.

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

Officers have spoken with the applicant's agent and in response to concerns raised regarding highway concerns and the section 106 requirements. To ensure the viability of the scheme the case officer has sought a recommendation to delegate the outstanding issues which are considered to be achievable.

### **Recommendation**

To delegate to the Head of Planning, Engineering & Transportation to grant permission subject to conditions including the revision or removal of any conditions listed below, not required following receipt of details acceptable to officers, and consultees; subject to the completion of a Section 106 Agreement to provide for affordable homes (or to demonstrate that contributions are not viable), and for the management of proposed open space; subject to an updated transport assessment including any conditions/obligations as required, to address the concerns of the Highway Authority and allow Officers to consider Canal & Rivers Trust comments.

### **Conditions and Reasons**

**Grant full permission** for three new points of access, main estate roads through the site, as identified on the submitted plans, and for the site infrastructure drainage strategy subject to the following conditions:

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

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

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

Amended Location Plan drawing 101a received 01/04/18

Amended Hybrid application split drawing 102a received 01/04/18

Amended Indicative Site Layout drawing 103a received 01/04/18

Noise & Air Quality Assessment received 11/12/17

Arboricultural Impact Assessment received 11/12/17

Ecological Appraisal received 11/12/17

Financial Viability Appraisal received 11/12/17

Planning Statement received 11/12/17

Design and Access Statement received 11/12/17

Coal Mining Risk Assessment received 11/12/17

Transport Assessment and Travel Plan received 11/12/17

Utility Statement received 11/12/17

Flood Risk assessment & Drainage Strategy received 11/12/17

Energy & Sustainability Statement received 11/12/17

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

3a) Notwithstanding the submitted documents and prior to the commencement of the development hereby permitted, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning Authority.

3b) The approved scheme shall be fully implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution and to comply with UDP policies GP2 and ENV10.

4a) Prior to the commencement of the development details of foul water drainage, surface water drainage and flood risk management scheme shall be submitted to and approved in writing by the Local Planning Authority. This should include details of:

- i) Limiting the surface water run-off generated by the site to around 25l/s for the critical storm so that it will not increase the risk of flooding off-site.
- ii) Provision of an appropriate volume of attenuation flood storage on the site to a 100yr + CC standard.
- iii) Provision of appropriate sustainable drainage elements to provide water quality improvements.
- iv) Confirm which responsible body will maintain the surface water system over the lifetime of the development according to an acceptable maintenance schedule and that is achievable.

4b) The scheme shall be fully implemented in accordance with the approved Flood Risk Assessment and drainage Strategy, dated November 2017, submitted by Hydrock and subsequently maintained, in accordance with the agreed details of condition 4a.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to ensure lifetime maintenance of the system to prevent flooding issues and to ensure the development is provided with satisfactory means of drainage to comply with UDP policy GP2 and UDP policy ENV10.

5a) Prior to the commencement of the development a scheme of intrusive site investigations for the mine entries shall be submitted to and approved by the Local Planning Authority.

5b) The approved scheme shall be fully undertaken and implemented

Reason: To protect human health and to comply with UDP policy ENV14.

6a) Prior to the commencement of built development the following details shall be submitted to and approved in writing by the Local Planning Authority:

- i) a written verification plan that confirms all remediation measures agreed under Planning Application 17/0996 (including no dig and clean cover layers) have been undertaken.
- ii) a copy of the findings of the additional ground gas assessment, together with an assessment of identified and/or potential hazards arising. (see Note for Applicant CL2)
- iii) a 'Remediation Statement' setting out details of remedial measures, methodologies, and materials to be used to deal with the identified and potential hazards of any ground gas present on the site. (see Note for Applicant CL2)

6b) The remedial measures as set out in the 'Remediation Statement' required by part iii) of this condition shall be fully implemented.

6c) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

6d) A Validation Report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site, protect human health and the environment and to comply with UDP policy GP2 and ENV10

7a) Prior to commencement of the development an Arboricultural Method Statement which includes the following details of tree protection measures shall be submitted to and approved by the local planning authority

- i) Heads of Terms to include: specification for tree protection barriers, including revisions to barrier locations; a schedule of tree works; phasing of work; and a scheme for auditing works within root protection areas and tree protection; procedures for reporting to Walsall Council should feature explicitly throughout.
- ii) Detailed Tree Protection Drawings should be prepared to 1:500 scale to support the Arboricultural Method Statement, with detail given of proposed levels and service routes.

7b) The approved details shall be fully implemented and retained thereafter.

Reason: In the interests of amenity and ecology and to comply with UDP policies ENV23 and ENV32

8a) Prior to commencement of the development the applicant shall submit and agree a 'Construction and Environmental Management Plan' in writing to the Local Planning Authority.

8b) The agreed Plan shall be fully implemented upon commencement of works and shall be retained until the site construction activities have been completed.

Reason: To protect existing local amenity and to comply with UDP policy GP2.

9) Temporary construction lighting shall be kept to a minimum in the vicinity of the off-site canal and directional lighting and deflectors shall be utilised where necessary in order to direct the light into the site and away from the canal, and maintain dark corridors for bats and other nocturnal / crepuscular wildlife,

Reason: In the interests of protected species and to comply with UDP policy ENV23.

10) Japanese knotweed shall be treated in accordance with recommended guidelines as prescribed by the Environment Agency.

Reason: To ensure the satisfactory implementation of the development.

**Grant outline planning permission** for the construction of up to 263 dwellings with associated garden areas, minor estate roads, parking areas and driveways, along with public open space provision and all other associated works subject to the following conditions:

1) Application for the approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

2) The development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matters application, or the last reserved matters approval.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

3) Development shall not be commenced until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- Appearance
- Landscaping
- Layout
- Scale

Reason: Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995

4) Prior to the commencement of built development the following details shall be submitted to and approved in writing by the Local Planning Authority:

- iv) a written verification plan that confirms all remediation measures agreed under Planning Application 17/0996 (including no dig and clean cover layers) have been undertaken.
- v) a copy of the findings of the additional ground gas assessment, together with an assessment of identified and/or potential hazards arising. (see Note for Applicant CL2)
- vi) a 'Remediation Statement' setting out details of remedial measures, methodologies, and materials to be used to deal with the identified and potential hazards of any ground gas present on the site. (see Note for Applicant CL2)

4b) The remedial measures as set out in the 'Remediation Statement' required by part iii) of this condition shall be fully implemented.

4c) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

4d) A Validation Report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial

arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site, protect human health and the environment and to comply with UDP policy GP2 and ENV10

5a) Prior to commencement of the development an Arboricultural Method Statement which includes the following details of tree protection measures shall be submitted to and approved by the local planning authority

- iii) Heads of Terms to include: specification for tree protection barriers, including revisions to barrier locations; a schedule of tree works; phasing of work; and a scheme for auditing works within root protection areas and tree protection; procedures for reporting to Walsall Council should feature explicitly throughout.
- iv) Detailed Tree Protection Drawings should be prepared to 1:500 scale to support the Arboricultural Method Statement, with detail given of proposed levels and service routes.

5b) The approved details shall be fully implemented and retained thereafter.

Reason: In the interests of amenity and ecology and to comply with UDP policies ENV23 and ENV32

6a) Prior to commencement of the development the applicant shall submit and agree a 'Construction and Environmental Management Plan' in writing to the Local Planning Authority.

6b) The agreed Plan shall be fully implemented upon commencement of works and shall be retained until the site construction activities have been completed.

Reason: To protect existing local amenity and to comply with UDP policy GP2.

7a) Prior to occupation details shall be provided of the specification of the glazing and ventilation that is to be installed to all properties and approved in writing by the Local Planning Authority

7b) Prior to occupancy the Applicant shall provide a written Validation Report that demonstrates the agreed acoustic mitigation measures have been fully installed

7c) The approved and installed windows shall be retained thereafter.

Reason: To ensure safe development of the site, to protect human health, and the environment and to comply with UDP policy GP2 and ENV10

8a) Prior to the first occupation of the dwelling details shall be provided of an electric charging point and approved in writing by the Local Planning Authority

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

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

9a) Prior to the commencement of the development the following details shall be submitted to the Local Planning Authority:

- i) the report of findings arising from the intrusive site investigations as required by condition 5a and 5b of planning permission 17/1656
- ii) a layout plan which identifies appropriate zones of influence for the mine entries, and the definition of suitable 'no-build' zones;

9b) Prior to the commencement of the development the following details shall be submitted to and approved by the Local Planning Authority:

- i) a scheme of treatment for the mine entries for approval
- ii) a scheme of remedial works for the shallow coal workings for approval

9c) Prior to occupation the treatment/remedial works required by condition 9b shall be fully implemented.

Reason: To protect human health and to comply with UDP policy ENV14

10a) Storage areas for chemicals, fuels, etc. will be sited well away from the adjacent canal, and stored on an impervious base within an oil-tight bund with no drainage outlet;

10b) Prior to commencement Details shall be provided to and approved in writing by the Local Planning Authority for a method for disposing of silty water which where possible shall be into the foul sewer.

10c) Water washing of vehicles, particularly those carrying fresh concrete and cement, mixing plant, etc. will be carried out in a contained area as far from the adjacent canal as practicable, to avoid contaminated water entering this habitat;

10d) Refuelling of plant will take place in a designated area, preferably on an impermeable surface.

Reason: To minimise pollution to water courses and to comply with UDP policy ENV10

11a) There shall be no clearance of suitable vegetation should be undertaken during the bird-nesting season (1st March to 31st August inclusive).

11b) Where this is not practicable, any potential nesting habitat to be removed should first be checked no more than three days in advance of vegetation clearance by a qualified ecologist in order to determine the location of any active nests.

11c) Any active nests identified would then need to be cordoned off (minimum 5m buffer) and protected until the end of the nesting season or until the birds have fledged.

Reason: In the interests of protected birds and to comply with UDP policy ENV23.

12) Temporary construction lighting shall be kept to a minimum in the vicinity of the off-site canal and directional lighting and deflectors shall be utilised where necessary in order to direct the light into the site and away from the canal, and maintain dark corridors for bats and other nocturnal / crepuscular wildlife,

Reason: In the interests of protected species and to comply with UDP policy ENV23.



13a) Prior to occupation a lighting scheme to serve the development shall be submitted to an approved by the Local Planning Authority.

13b) Proposed new lighting shall be kept to a minimum in the vicinity of the off-site canal and directional lighting and deflectors be utilised where necessary in order to direct the light into the site and away from the canal, and maintain dark corridors for bats and other nocturnal / crepuscular wildlife

13c) The approved details shall be fully implemented and retained thereafter.

Reason: In the interests of protected species and to comply with UDP policy ENV23.

14a) Prior to occupation a landscape scheme shall be submitted to and approved in writing by the local planning authority. The landscaping shall include the following measures:

- i. Details of topsoil depths and specifications. Use of imported topsoil to agreed British Standard, or detailed soil analysis is provided to prove suitability of existing site soils.
- ii. Topsoil depths - shrub/hedgerow planting areas should be at least 450mm : grass seeded / turfed areas should be at least 150mm.
- iii. Further details of tree support and tree pit details, root barriers and mulching. Full details of grass seed mixes and sowing rates.
- iv. Details of the future management of the landscape scheme
- v. Details of Wildflower Grassland
- vi. Details of water surface features

14b) The development shall be implemented fully in accordance with the approved scheme prior to the end of the first planting season.

14c) All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period, any trees shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same size and same species as that originally required to be planted,

Reason: In order to safeguard the visual amenity of the area and maintain the integrity of the wildlife corridor.

15) Prior to commencement above dampcourse details shall be provided to the local planning authority and approved in writing of bat boxes to be incorporated into the house designs and trees to be retained.

Reason: In the interests of protected bats and to comply with UDP policy ENV23.

16a) Prior to commencement above dampcourse details shall be provided to the local planning authority and approved in writing for bird boxes to be installed within the proposed development.

16b) Details shall include the number and location of boxes with accompanying evidence that the number and locations have been determined by a qualified ecologist.

16c) The agreed details shall be fully implemented prior to occupation of the development.

Reason: In the interests of protected birds and to comply with UDP policy ENV23.

17a) Prior to commencement above dampcourse details shall be provided to the local planning authority and approved in writing of hedgehog domes to be installed within the proposed development, where possible within sheltered areas, such as adjacent to the site boundary.

17b) The precise number and locations of Hedgehog Domes shall be determined by a competent ecologist.

17c) The agreed details shall be fully implemented prior to occupation of the development.

Reason: In the interests of protected birds and to comply with UDP policy ENV23.

18) Japanese knotweed shall be treated in accordance with recommended guidelines as prescribed by the Environment Agency.

Reason: To ensure the satisfactory implementation of the development.

### **Notes for Applicant**

Water supplies for firefighting should be in accordance with “National Guidance Document on the Provision for Fire Fighting” published by Local Government Association and WaterUK:

<https://dl.dropboxusercontent.com/u/299993612/Publications/Guidance/Firefighting/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on [Water.Officer@wmfs.net](mailto:Water.Officer@wmfs.net)

Vehicle access route to meet the requirements of ADB Volume 2, Table 20, noting that WMFS appliances require a carrying capacity of 15 tonnes

CL1 – Ground investigation surveys should have regard to current ‘Best Practice’ and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A2:2017 ‘Investigation of potentially contaminated sites – Code of Practice’; British Standard BS5930: 1999 ‘Code of practice for site investigations’; Construction Industry Research and Information Association ‘Assessing risks posed by hazardous ground gasses to buildings (Revised)’ (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2 – When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 ‘Model Procedures for the Management of Land Contamination’, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 ‘Updated technical background to the CLEA model’ and Science Report – SC050021/SR2 ‘Human health toxicological assessment of contaminants in soil’ or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the

potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3 – Validation reports will need to contain details of the ‘as installed’ remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported ‘clean cover’ materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

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

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

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

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

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

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

#### General Coal Information for the Applicant

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

## Bats

Consideration should be given to health and safety during the siting of boxes their siting should ensure that new roosting locations are situated away from lighting in order to maximise any potential for use, with dark corridors maintained between roosting opportunities and retained foraging/commuting habitats and links with offsite areas.

The Highways Officer has requested the following details to be submitted at reserve matters stage.

Autotrack drawings shall be submitted demonstrating a 10.7m long refuse vehicle can safely and satisfactorily negotiate through and around the Shared Space areas that fall outside the Full application boundary.

Details of the areas to be offered for adoption as publicly maintainable highway under a S38 agreement with particular attention to requirements for street lighting provision.

Details of appropriately sized and located refuse/recycling collection points for dwellings not easily accessible by refuse collection vehicles.

Covered, secure cycle shelter provision for the flatted element (an integral provision within the building itself would be desirable in this locality) shall be provided.

Parking provision to be at least 200% per dwelling, 150% for flats.





## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 3.**

### Reason for bringing to committee: Major Application

**Location:** LAND OFF LONGACRES, WILLENHALL, WV13 2JS

**Proposal:** RETENTION OF TWO LINKED B8 UNITS (FOR STORAGE AND DISTRIBUTION) WITH COVERED AREA IN BETWEEN WITH SLIDING PANELS AND ROLLER SHUTTERS TO OPENING

**Application Number:** 17/1699

**Applicant:** Mr Leonard Middleton

**Agent:** Mr Ben Palmer

**Application Type:** Full Application: Major Use  
Class B8 (Storage or Distribution)

**Case Officer:** Devinder Matharu

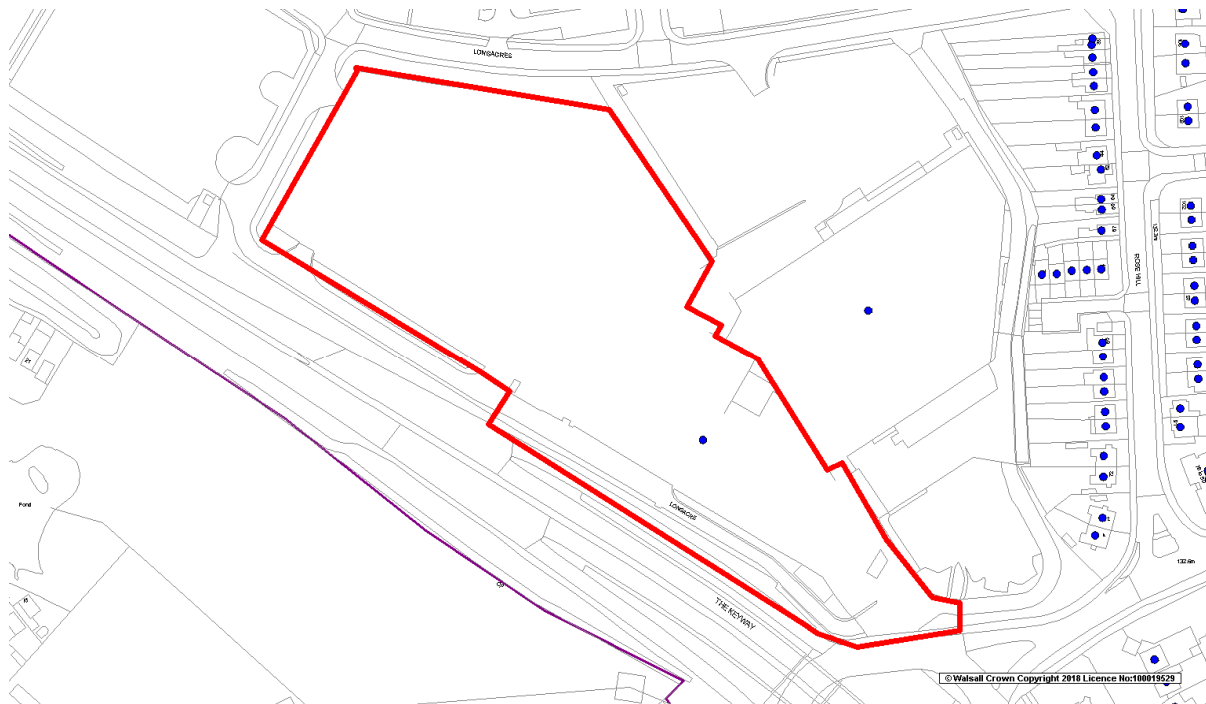
**Ward:** Willenhall South

**Expired Date:** 23-Apr-2018

**Time Extension Expiry:**

**Recommendation Summary:** DELEGATE TO THE HEAD OF PLANNING ENGINEERING AND TRANSPORTATION TO GRANT PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO RESOLVING COAL AUTHORITY, POLLUTION CONTROL AND FLOOD RISK OFFICERS OBJECTIONS AND SUBJECT TO NO FURTHER REPRESENTATIONS RAISING NEW MATERIAL ISSUES

IF THESE ISSUES CANNOT BE RESOLVED WITHIN THE 13 WEEK TARGET DATE OF 23 APRIL OR AN ALTERNATIVE DATE TO BE AGREED IN ADVANCE THROUGH AN EXTENSION OF TIME AGREEMENT, THEN DELEGATED POWERS ARE SOUGHT FOR THE HEAD OF PLANNING ENGINEERING AND TRANSPORTATION TO REFUSE THE PLANNING APPLICATION.



## Proposal

The application proposes the retention of two linked B8 Units (unit 1 and unit 2 for storage and distribution) with covered area in between with sliding panels and roller shutters to the opening on the western part of the application site.

Unit 1 is square shaped and measure 66.6m by 74m and 14.3m high. There is a small section on the eastern end of unit 1 accommodating welfare and stairs measuring 44m by 7.6m and 9m high.

Unit 2 is 'L' shaped and is 52m in width at the shortest end and 69m wide at the longest end, 54m at the longest length and 36m at the shortest length and 14.3m high. The covered area is 18m wide, 69m in length and 14.3m high. The external finish of the building is wedgewood blue and grey panels with a grey roof.

The access is off Longacres. The northern, western and southern boundary is proposed to have areas of soft landscaping and proposed tree planting with some retained trees to the southern boundary.

The scheme approved under planning reference 15/1541 measured 108m by 78m by 14.2m and was a single unit. The amended proposal is to accommodate a sewer easement which crosses the site.

The applicant is Middleton Group who operates several businesses in the locality. The proposal is to relocate part of the business from premises in Willenhall Road to this application site.

The following documents in support of the proposal have been submitted:

- Geo environmental investigation report which concludes investigation of potential for shallow mine workings to be present and inspection of soil contamination.
- Traffic assessment report for the approved application 15/1541 which concludes the proposed development would not have a severe impact on the capacity of the local highway network and as such should not be prevented or refused on transport grounds.
- Design and Access Statement which concludes the proposal to demolish existing structures and build a new structure which will benefit the general environment and businesses.

## Site and Surroundings

The application site is within an established industrial area and core employment site off Longacres, Willenhall. The estate is accessed off Rose Hill. The estate lies between the A454 Keyway to the south and railway line to the north. The nearest housing is in Rose Hill to the east with further housing beyond the Keyway to the south and beyond the railway to the north. The adjacent unit is occupied by The Range retail store, there are industrial units opposite on Longacres and Spar distribution centre opposite the access.

The existing boundary treatment includes palisade fencing and brick wall with railings. There is a wide highway verge along Longacres which slopes down towards the site and along the



west boundary. The highway wraps around the site running parallel to the Keyway in the south.

## Relevant Planning History

15/1541- Erection of a new warehouse building (Class B8 use). Granted subject to conditions December 2016.

BC57574P – Erection of overhead conveyor close to gate 3 adjacent to A454 (PSM International) – Granted Subject to Conditions 28/06/01

BC58582P - New security lodge and automatic barriers (PSM International) – Granted Subject to Conditions 20/03/02.

## 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*".

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

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

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

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 4 - Promoting sustainable transport**
- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

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

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

### **NPPF Consultation**

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

### **Local Policy**

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

### **Black Country Core Strategy**

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- EMP5: Improving Access to the Labour Market
- 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 and Urban Heat Island

### **Unitary Development Plan**

- GP2: Environmental Protection
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV36: Poster Hoardings
- ENV40: Conservation, Protection and Use of Water Resources
- JP5: Core Employment Areas
- JP8: Bad Neighbour Industrial Uses
- T1 - Helping People to Get Around
- T4 - The Highway Network
- T5 - Highway Improvements
- T7 - Car Parking

- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

## Supplementary Planning Documents

### Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- 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

**Coal Authority** – Objection on the grounds that the applicant has failed to provide information to the LPA to demonstrate that issues relating to coal mining legacy have been addressed on site.

The Coal Authority previously commented on development on this site noting there were no objections subject to conditions requiring intrusive site investigations being carried out. The development for retention of the B8 units should therefore have been supported by the findings of the investigations previously recommended.

The applicant has now provided some additional information which includes the Geo-Environmental Investigation Report, dated October 2015 and prepared by OPUS. Section 9 of this report, Recommendations, states that investigations to investigate shallow coal mine workings need to be undertaken.

**Clean and Green** - No objection there are council owned allotments in the vicinity of Longacres.

**Community Safety** – No objection but makes the following comments:

The perimeter of the site should be adequately fenced to a height of 2.4m and that the areas to the west and south west of the site be monitored for exchange from within the site to

restrict insider theft. Unfortunately there have been a number of instances where transport vehicles parking up in the areas around a large distribution/fabrication site have been found to be waiting for goods to be transferred from inside the site which can add a serious burden of theft costs to the business. PIR lighting to external areas which are not regularly accessed by staff is recommended to indicate movement around the site which can then be more easily monitored.

**Fire Officer** – No objections, but comments water supplies for firefighting should be in accordance with National Guidance Document on the Provision for Fire Fighting.

**Flood Risk Officer**- Objection as no Flood Risk Assessment or Drainage Strategy has been provided.

The proposed development may present risks of flooding on-site and/or off-site if surface water run-off or other external flood risk is not effectively managed.

In the absence of any analysis, the flood risks resulting from the proposed development are unknown. The absence of any analysis is therefore sufficient reason in itself for a refusal of planning permission. This reflects the precautionary approach to development in flood risk areas set out in NPPF.

There is an area of predicted flooding by surface water that affects the site. There is no detail of this potential risk or how it might be mitigated. The proposal has been amended to accommodate a Severn Trent Water sewer but No details of surface water drainage for the site have been included.

**Historic England** – No comments

**Highways England** – No objection

**Inland Waterways** – No comments, the site is too distant from any canal to have an impact.

**Natural England** – No comments but makes the following comments:

The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England would encourage the incorporation of GI into this development.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes.

**Network Rail** – No objection, the proposal will not impact on the railway infrastructure.

**Police** – No objection but refers the developer to secure by design.

**Pollution Control** –No objection subject to the applicant submitting a validation report to confirm they have installed the gas membrane as agreed.

**Sport England** – No objection but makes comments on loss of sports facility, new sports facility and additional housing providing opportunities for people to lead a healthy lifestyle.

**Severn Trent Water** – No objections and do not require a drainage condition to be applied.

**Transportation** – No objection subject to planning conditions relating to parking, cycle shelter, engineering works and travel plan.

**Archaeology** – No objection.

**Wolverhampton City Council, Planning** – No comments

## **Representations**

One letter has been received objecting to the proposal on the following grounds:

- Increase in traffic to an already busy road, Rosehill
- Rosehill and surrounding roads busy with HGV's throughout the day seven days a week.

## **Determining Issues**

- Principle of development
- Layout and Design
- Relationship to surrounding properties
- Drainage, contaminated land and land stability issue
- Access and parking
- Planning conditions

## **Assessment of the Proposal**

### **Principle of development**

Planning permission has been granted for the erection of a new warehouse building (Class B8 use) under planning reference 15/1541 in December 2016. Works on the warehouse building have commenced but the building has not been implemented in accordance with this previous planning approval. The current planning application is therefore a retrospective one for the retention of two linked B8 Units (for storage and distribution) with covered area in between with sliding panels and roller shutters to opening.

The principle of development has already been established through the granting of planning permission for this industrial building under 15/1451.

The premises are located in a core employment area where there are established industrial uses adjacent. In accordance with policies EMP1 and EMP2 of the BCCS and JP5 of the UDP these types of sites are safeguarded for employment uses including classes B1, B2 and B8. As the proposal is for Class B8 warehousing it accords with the adopted policies.

The site was previously vacant as the former buildings were demolished, the redevelopment of the site offers the opportunity of bringing back new industry in the economic interests of the Borough and in accordance with saved UDP policy ENV14.

The principle of industrial development on the site is considered acceptable.

### **Layout and Design**

The two units are positioned on the western half of the site and maximise the space available as the units are large. This allows for a margin around the perimeter of the site for access and circulation purpose. The buildings although of a significant size and height are viewed amongst other large industrial units on an established industrial site so are not out of keeping. The ground levels are generally lower than that of the adjacent highway in Longacre and the Keyway so reducing the overall impact of the scale of the buildings. Retention of the verges will also give a visual break.

The Police have no objections to the proposal but refers the developer to Secure By Design. The Community Safety Officer has recommended lighting to external areas and that the site perimeter fencing should be 2.4m high, details of this can be sought by condition as the visual impact of any external lighting or high fencing would need to be considered.

The design of the buildings is typical of industrial buildings on the estate and is acceptable.

Whilst Natural England have no objections to the scheme, have suggested that the site is within an area that could benefit from green infrastructure where multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. There is little scope for incorporation of landscaping on site although the grass highway verge will remain around the perimeter to at least set some context to enhance visual amenity. No landscape condition is recommended given the limited scope for incorporation of landscaping and the site plan shows planting of silver birch trees of a girth of 10 to 12mm to the northern, western and southern boundaries.

The Arboricultural Officer comments will be reported to the planning committee via supplementary paper.

The Fire Officer makes comments regarding water for firefighting purposes, this can be addressed through building regulations at that stage.

The layout and design of the proposal are acceptable.

### **Relationship to surrounding properties**

The retained two linked B8 Units (for storage and distribution) with covered area in between with sliding panels and roller shutters to the opening are 60m away from the nearest residential properties on Rose Hill and will be partially masked by the adjacent premises of The Range. Given this distance and the fact that the site has previously been occupied for industrial purposes it is considered that the relationship in terms of visual amenity is not significantly harmed. The relationship to The Range and Blakemore's is one between commercial operators and not expected to cause significant harm in terms of visual amenity.

The nearest residential property to the south west of the site is number 23 Ragley Drive, this property is located on the opposite side of The Keyway, a dual carriageway, and the any

obscure views from this property towards the retained buildings would be against the backdrop of other commercial and industrial buildings. It is considered that the proposed development would not unduly harm the visual amenities of these residential occupiers to the south west of the site beyond The Keyway.

A resident of Rose Hill considers the proposals will result in an increase in heavy good vehicles attending the site at all hours seven days a week. Whilst this may be the case the access is designed to accommodate this and the Highway Officer has no objection to the proposal. The Pollution Officer has also not raised objection on this point.

On this basis it is considered that there is no significant adverse impact on surrounding occupiers as a consequence of the proposals.

### **Drainage, contaminated land and land stability issue**

Severn Trent Water have no objection to the proposal and do not require a planning condition relating to drainage.

The flood risk officer has objected to the proposal in the absence of a flood risk assessment (FRA)/Drainage Strategy as the proposed development may present risks of flooding on-site and/or off-site if surface water run-off or other external flood risk is not effectively managed. The absence of any analysis is sufficient reason for a refusal of planning permission. This reflects the precautionary approach to development in flood risk areas set out in NPPF. There is an area of predicted flooding by surface water that affects the site. There is no detail of this potential risk or how it might be mitigated. The proposal has been amended to accommodate a Severn Trent Water sewer. It is considered that a flood risk assessment is sought and further re-consultation with the flood risk officer is undertaken to try to resolve these issues with the applicant, as opposed to outright refusal. This matter will be updated in the supplementary paper .

Pollution Control have sought a validation report to confirm that ground gas measures have been implemented. The applicant has submitted these and an update in the supplementary paper will be provided.

The Coal Authority object to the proposals until the applicant has provided information to demonstrate that issues relating to coal mining legacy have been addressed on the site. It is considered the information requested by the coal authority is sought from the applicant to try to address their objections as opposed to outright refusal. A further update in the supplementary paper would be provided.

### **Access and parking**

Means of access to Longacre is from Rose Hill with roads within the estate comprising a wide industrial carriageway (over 7m) with 2m wide footways on each side. The site is accessed off Longacre and the proposal is to maintain the existing access into the site which includes a staff vehicle entrance on the western boundary and deliveries via the access alongside the Keyway on the southern boundary.

The ground floor area of the development is about 7730m<sup>2</sup> ground floor area compared to about 7500m<sup>2</sup> under the previously approved scheme.

In terms of UDP T13 parking policy, the increased ground floor area requires 1 additional parking space over and above the previous approval. The proposal retains the previously approved 25 spaces which is considered acceptable. Furthermore, the applicant is moving their business from an existing site so the level of parking is based on current demand at the alternative site. There is also scope to provide additional spaces throughout the site if necessary.

It is not anticipated that the infilling of the space between the two previously units will have any significant impact in terms of additional vehicle trips over and above those already consented for under the previous scheme.

On balance the Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with NPPF para 32.

### **Planning Conditions**

The planning conditions on the earlier permission have not been discharged. As a result there are issues with drainage, coal and pollution control which have not been fully addressed as referred to above.

Planning condition 1 was the standard time limit with planning condition 2 the plans list.

Planning conditions 3a related to pollution control and the applicant has submitted information regarding contaminated land which is in the process of being reviewed.

Planning condition 4a required drainage details to be submitted, whilst Severn Trent Water have responded that a drainage condition is not required but the flood risk officer maintains an objection to the scheme. Further details regarding drainage are required from the applicant and addressed above.

Planning condition 5a required a construction methodology statement to be submitted. This document was never submitted and approved, the highway officer has verbally advised that as the works have commenced and almost completed, this methodology statement is no longer required. This condition can be removed.

Planning conditions 6 to 9 are all highway conditions which are relevant and are recommended to be attached to any new permission.

Planning condition 10a required external facing materials to be submitted and approved. The application forms state the external materials would be cladding in King span or similar and the external finish to be Wedgewood blue and grey panels with a grey roof. The building has been partly erected with only the roof remaining to be completed. The external panels and external finish of the building is considered acceptable and as such this condition can be discharged and a new condition approving these materials attached.

Planning condition 11 ensures the proposed building is solely used for storage under use class B8 this condition will remain.



## Conclusions and Reasons for Decision

On balance the proposal to retain the two units is considered acceptable in a core employment area, the design and layout are considered acceptable and the retained development would not have a significant adverse impact on surrounding occupiers as a consequence of the proposals. The retained development will not have severe transportation implications. The issues regarding contaminated land, drainage and coal issues are to be resolved. The proposed development would meet the aims and objectives of the National Planning Policy Framework, Draft National Planning Policy Framework, policies CSP2, CSP3, EMP1, EMP2, EMP5, TRAN1, TRAN2, TRAN4, TRAN5, ENV1, ENV2, ENV3 and ENV5 of the Black Country Core Strategy, Saved Policies GP2, ENV10, ENV14, ENV32, ENV33, ENV35, ENV36, ENV40, JP5, JP8, T1, T4, T5, T7, T8, T9, T10, T11, T12 and T13 of the Walsall Unitary Development Plan and policies DW1, DW2, DW3, DW9 and DW10 of Designing Walsall SPD.

## Positive and Proactive Working with the Applicant

### Approve

Officers have contacted the agent advising that there are formal objections to the scheme from pollution control, coal authority and flood risk officer. The agent has also been advised that there are no valid discharge of conditions applications and in respect of this the officer has sought advice from the Council's legal department to understand how best to address this in the current report for the retention of the warehouse.

## Recommendation

Delegate to the Head of Planning Engineering and Transportation to grant permission subject to conditions and subject to resolving coal authority, pollution control and flood risk officers objections and subject to no further representations raising new material issues.

If these issues cannot be resolved within the 13 week target date of 23 April or an alternative date to be agreed in advance through an Extension of Time Agreement, then delegated powers are sought for the Head of Planning Engineering and Transportation to refuse the planning application.

## Conditions and Reasons

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

Reason; Pursuant to the requirements of Section 92 of the Town and Country Planning Act, 1990.

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

- Proposed overall Site Plan (HGD15-72-1.2Rev F) received 05-01-18
- Proposed overall Floor Plan (HGD15-72-2.3 Rev H) received 05-01-18
- Proposed Elevations & Location Plan (HGD15-72-2.2 Rev H) received 05-01-18

- Design & Access Statement prepared by HG Design receive 22-12-17
- Geo-Environmental Investigation Report prepared by Opus (CC/J-B0933.00R01) received 11/12/15
- Transport Assessment prepared by Phil Jones Associates (02086) received 22-12-18

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

3a. Prior to any further works commencing on site full details of any external lighting to be erected within the site perimeter or any external lighting to be installed on the building shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:

- Level of lighting
- Type of lamps to be installed
- Details of any lighting columns including height, design and external finish
- Level of illumination of all lighting
- Plan showing the exact position of the lighting to be installed within the site perimeter and on the building.
- Manufacturers details
- A lighting plan illustrating light spillage and a lighting report.

3b. The development shall be completed in accordance with the approved details and retained and maintained at all times.

Reason: To ensure the security of the site and to ensure the proposed lighting does not result in sky or light pollution in the amenities of the area.

4a. Prior to the development first coming into use, all vehicle hard standing, manoeuvring and parking areas shall be fully consolidated, hard surfaced, drained so that surface water run-off from these areas does not discharge onto the adoptable or existing highway or any highway drain and brought into use, full details of which shall be submitted to and approved in writing with the Local Planning Authority. Additionally all parking bays shall be clearly demarcated on the ground. At least one parking space shall be allocated for disabled users and marked out accordingly.

4b. These areas shall be thereafter retained, kept free of any externally stored goods, materials or equipment and used for no other purpose.

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

5a. Prior to the development first coming into use, full details a cycle shelter for the use of staff and visitors and which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented in accordance with the approved details.

5b. The cycle shelter facility shall thereafter be retained and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T9,T13 and Black Country Core Strategy TRAN4.

6a. Prior to the development first coming into use, full engineering details of the following highway infrastructure improvements shall be submitted to and approved in writing by the Local Planning Authority:-

i) the upgrading of the two retained bellmouth access points on Longacres to include tactile pedestrian crossings facilities,

ii) the kerbed radius at terminus of the highway footway at the site boundary to be upgraded to include a pedestrian dropped kerb with Corduroy hazard paving.

6b. Prior to the development first coming into use, the highway infrastructure works detailed above shall be fully implemented in accordance with the approved details and to the satisfaction of the Highway Authority.

Reason: To improve accessibility to the site in accordance with DfT Inclusive Mobility guidance, in accordance with UDP Policy GP2 and T1, T8, T11 and in the interests of highway safety.

7. Prior to the development first coming into operation, the measures contained within the submitted Workplace Travel Plan Statement shall be fully implemented and thereafter regularly monitored and reviewed in accordance with the approved details for the lifetime of the development.

Reason: To encourage sustainable modes of travel and to reduce the reliance on the motor car, in accordance with UDP Policy T10 and BCCS Policy TRAN2.

8. The development hereby approved shall be completed in accordance with the following external facing materials Wedgewood blue and grey cladded panels with grey roof panels and retained and maintained at all times.

Reason: To ensure the materials throughout the development harmonise with those in the surrounding vicinity.

9. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) the proposed units shall be occupied for Class B8 (storage and distribution/warehousing) purposes only.

Reason: To define the use of the site on the basis that the potential traffic impact of the development has been assessed on the proposed B8 use only, in the interests of the free flow of traffic on the public highway and to highway safety.

#### Notes for the Applicant:

##### Highways

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

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

#### Fire

Water supplies for firefighting should be in accordance with “National Guidance Document on the Provision for Fire Fighting” published by Local Government Association and WaterUK:

<https://dl.dropboxusercontent.com/u/299993612/Publications/Guidance/Firefighting/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on [Water.Officer@wmfs.net](mailto:Water.Officer@wmfs.net)

Vehicle access route to meet the requirements of ADB Volume 2, Table 20, noting that WMFS appliances require a carrying capacity of 15 tonnes

The approval of Building Control will be required with regard to Part B of the Building Regulations 2010.





## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 4.**

### Reason for bringing to committee: Major Application

**Location:** LAND WEST WALSALL RETAIL PARK, REEDSWOOD WAY, BLOXWICH

**Proposal:** OUTLINE APPLICATION FOR COMMERCIAL DEVELOPMENT OF THE SITE FOR B1, B2 & B8 USES (APPROX. 18,500 SQ.M FLOOR SPACE), WITH ACCESS ONLY FOR DETERMINATION (ADJACENT TO PUBLIC RIGHT OF WAY WAL44).

**Application Number:** 17/0992

**Applicant:** Brackley Property Developments

**Agent:** BHP Design

**Application Type:** Outline Permission: Major Application

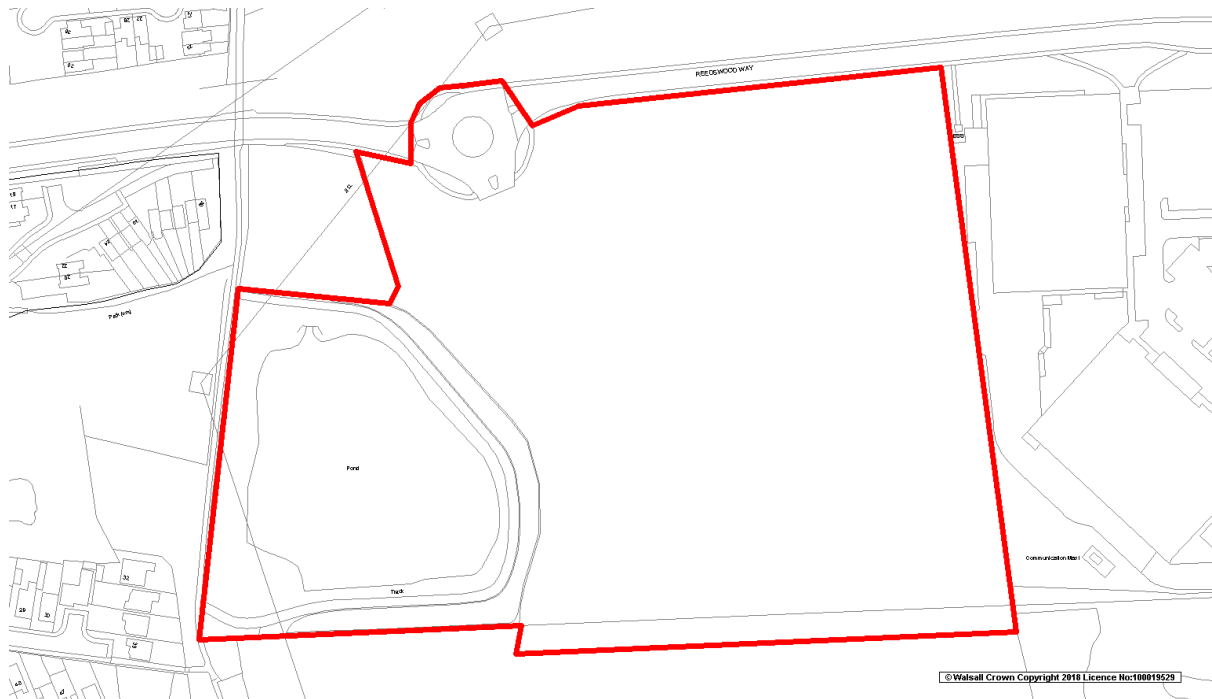
**Case Officer:** Barbara Toy

**Ward:** Birchills Leamore

**Expired Date:** 19-Nov-2017

**Time Extension Expiry:**

**Recommendation Summary:** DELEGATE TO THE HEAD OF PLANNING, ENGINEERING AND TRANSPORTATION TO GRANT PERMISSION SUBJECT TO CONDITIONS SUBJECT TO RESOLVING COAL AUTHORITY OBJECTIONS AND ANY RELEVANT AMENDED CONDITIONS.



## Proposal

The proposal seeks outline permission for commercial development of the site for Classes B1, B2 & B8 uses (approx. 18,500 m2 floor space), with access only for determination. The site is adjacent to Public Right of Way Wal44. These uses are specified as Class B1 (business use), Class B2 (general industrial use) and Class B8 (storage or distribution use).

The proposal is for a new access leading off the roundabout to accommodate new employment premises with a floorspace in the region of 18,500m2. Amendments have been provided to address Highways concerns and the proposals now involve amendments to the alignment of the roundabout and submission of a revised safety audit.

The new arm off the roundabout is designed to include pedestrian facilities. The access extends into the site where it serves parking and servicing areas for three proposed units illustrated on the indicative Master Plan with associated landscaping on each side of the access and along Reedswood Way and the boundaries of the site. Each unit has an indicative ancillary office space. Parking and servicing areas are segregated for each of the indicative units. The plans also show areas where possible expansion could take place and a new electric substation.

The site covers 5.65 hectares.

The submission includes the following documents:

- Planning Statement
- Remediation Report
- Flood Risk Assessment & Drainage Strategy
- Landscape & Visual Impact Assessment
- Transport Statement
- Framework Travel Plan
- Tree Survey
- Air Quality Assessment
- Noise Impact Assessment
- Ecological Assessment & Protected Species Survey

## Site and Surroundings

This large vacant site lies to the south of Reedswood Way west of Reedswood Retail Park. There is a large balancing pond (Reedswood Pool) in the south-western part of the site beyond which lies the public right of way Wal44. The balancing pond and surrounding land including that adjacent to the roundabout to the north, south and west is allocated open space. Beyond these areas are residential areas. The right of way is part of a Greenway that connects the residential areas and open space to the west of the site.

The adjacent commercial area was developed approximately 15 years ago and there is an existing roundabout on Reedswood Way constructed to include a spur to facilitate future development.

## Relevant Planning History

BC25178P – Outline: Leisure Park (Waterpark, Health Centre, Cineplex, Hotel, P.H. Restaurants, Multi-Purpose Hall, Petrol Filling Station, Retail Park & Housing) Associated Car Parking, Access, Landscaping & Nature Park GSC 31/03/89.

BC35792P - Vary Condition No.1 of BC25178P (Large Scale Redevelopment) to Extend Period for the Submission of Details by 1 Year to Expire 31/3/93 – Granted 24/06/92.

09/0092/OL - Outline application for residential development (all matters reserved) – Withdrawn July 2009.

10/0610/OL Outline application (all matters reserved) for residential development – Resubmission of 09/0092/OL also affecting public footpath Wal44 – Refused for 2 reasons broadly relating to (1) loss of Best Quality Employment land and (2) failure to undertake adequate marketing to demonstrate why the site cannot be brought forward for employment uses. 03/12/10. Appeal dismissed 28/10/11.

17/0245 - Mounted free-standing marketing sign 4.048m (H) x 2.438m (W) within site – Approved advert for 5 years 08/08/17.

## 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*".

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

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

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

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

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- **NPPF 10 - meeting the challenge of climate change, flooding and coastal change**
- **NPPF 11 - Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

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

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

### **NPPF Consultation**

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

### **Local Policy**

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

### **Black Country Core Strategy**

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- EMP3: Local Quality Employment Areas
- EMP4: Maintaining a Supply of Readily Available Employment Land
- EMP5: Improving Access to the Labour Market
- 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 and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy

- ENV8: Air Quality
- WM5: Resource Management and New Development

## **Unitary Development Plan**

- GP2: Environmental Protection
- ENV10: Pollution
- ENV11: Light Pollution
- ENV12: Hazardous Installations
- ENV13: Development Near Power Lines, Substations and Transformers
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- JP1: New Employment Sites
- JP5: Core Employment Areas
- JP6: Best Quality Sites
- JP8: Bad Neighbour Industrial Uses
- T1 - Helping People to Get Around
- T2 - Bus Services
- T3 - The Rail and Metro Network
- T4 - The Highway Network
- T5 - Highway Improvements
- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces
- LC5: Greenways

## **Emerging Site Allocations Document**

IND2: Potential High Quality Industry

OS1: Open Space, Sport and Recreation

LC5: Greenways

EN1: Natural Environment Protection, Management and Enhancement

EN3: Flood Risk

## **Supplementary Planning Document**

## Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

## Designing Walsall

- 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

Coal Authority – Objects. The site is in a defined Development High Risk Area. A Coal Mining Risk Assessment is required.

Environment Agency – No objections. The site is in Flood Zone 1. A condition to secure appropriate remediation of ground contamination is recommended. Advice to the applicant regarding groundwater protection, contamination and waste are also recommended.

Flood Risk Officer – Recommends a condition to secure drainage and flood risk mitigation as referred to in the submitted Flood Risk Assessment & Drainage Strategy.

Friends of the Earth – Comments that the balancing pool is used and managed for fishing. The path around the pool has sight-lines/ tracks that people have made for access to Reedswood Park and there is tree hedging that provides a wildlife habitat and should be protected.

Local Access Forum – No objections. The site boundaries include the balancing pond and hence will run adjacent to a stretch of WAL 44 (Cavendish Road to Bentley Lane. The supporting statement seeks to provide improvements to pedestrian and cycle routes and is welcomed.

Police – No objections. The applicant is recommended to develop the proposal to the enhanced security standards produced by Police Crime Reduction initiative 'Secured by Design' Commercial Developments.

Pollution Control – No objections. Conditions are recommended to secure a Working Plan to control local environmental impacts, to install ground gas protection measures, observe diligence in treating unknown contaminated land, agree measures to comply with Air Quality SPD and determine noise limits for external machinery and plant.

Public Rights of Way – No objections but an adopted link path for level inclusive pedestrian and cycle access must be provided from Reedswood Way, across the application site, and connecting into public Footpath 44 Walsall. Although full details are not currently available, it will be possible to accommodate the required pedestrian and cycle links within the proposed footways, estate roads and landscaped areas. The full engineering details of this pedestrian and cycle link will need to be provided and agreed prior to commencement. Delivery of the pedestrian and cycle link must be secured through incorporation within the S38 and section 278 agreement for the site. Lighting requirements for the new pedestrian and cycle link must also be secured through the inclusion of the proposed link path in the site lighting survey. Conditions are recommended.

Severn Trent Water – No objections.

Transportation – No objections. The Highway Authority is satisfied that the modified site access arm on the roundabout meets current highway design standards and has been subjected to the necessary Road Safety Audit's. Conditions are recommended.

## Representations

There are 10 representations including one from the Chairman of Reedswood Residents' Association. These are summarised below;

### *Objections*

- What uses are proposed exactly and where?
- Are houses being proposed? How many? Private or Social?
- Object to planning proposals for warehousing
- The site was originally proposed for retail and a tram link to Birmingham
- Prefer the site developed for housing to meet housing demand
- Possible eco-friendly housing preferred
- Proposed uses are detrimental to existing uses and may devalue housing
- More appropriate alternative sites could accommodate these uses
- Increased HGV's detract from retail premises
- Impacts on Local Nature conservation site
- Adverse impact on the environmental value and landscape
- Potential pollution of natural environment
- Inadequate drainage provision
- Flood Risk and sewerage run off impact on pond
- Noise and air pollution
- Air quality impact from increased number of vehicles
- Noise and disturbance to residential properties
- Congestion at the traffic island
- Traffic island is inadequate to accommodate HGV turning
- Traffic noise during unsociable hours (at night)
- No details of any restrictions on operating hours and noise levels
- Increased traffic and noise
- Measures required to prevent boy racers on the site
- Already a cut though for traffic and this would increase congestion
- Highway safety concerns
- Is there potential for traffic calming
- Increased litter and need for litter patrols
- Type of large buildings will be obtrusive in the area
- Loss of trees has a significant visual impact

### *Support*

- Glad to see the site developed after 15 years

## Determining Issues

- Principle of Development
- Means of Access
- Public Rights of Way
- Impact on surrounding occupiers
- Impact on natural environment
- Drainage/Flood Risk
- Air Quality/Noise
- Contamination/Coal

### Principle of Development

The proposed development for Classes B1(b), B1(c), B2 and B8 purposes accords with both adopted and emerging policies as the site is allocated employment land to be used for high quality employment uses. Policies EMP1 and EMP2 of the BCCS, JP5 and JP6 of the UDP and IND2 of the emerging SAD allocate the site as employment land. The proposed development will also assist in the regeneration of this vacant site to support the local economy and provide jobs.

Whilst residents nearby are concerned that employment uses are not compatible with the area and the site should be developed for housing purposes to meet housing demand this would be contrary to the development plan allocation. There is no allocation for retail on this site but it is acknowledged that retail development did form part of an earlier outline permission granted in 1989 for a wider site. There has been previous schemes for developing the site for residential purposes but these were refused and dismissed at appeal as referred to in the planning history section as they were contrary to the development plan allocation.

Whilst there are other allocated employment sites this is one of the most significant in terms of size so can accommodate the proposed uses satisfactorily.

One neighbour supports the proposals for development of the site that has lain vacant for 15 years.

In summary the site is considered appropriate for employment purposes for which it is allocated.

### Means of Access

The proposed means of access utilises the existing roundabout creating a new access to serve the proposed development. The proposals include adjustments to the alignment of the existing roundabout following submission of a road safety audit to address highways concerns. This will now safely accommodate HGV's to the site.

The potential for increased HGV's and increased traffic congestion in the area, particularly given it is already used as a cut through, and at the traffic island causing highway safety concerns to residents who have requested traffic calming have been addressed in the revised Transport Assessment. Potential for boy racers to utilise the site can be addressed by appropriate security measures by the eventual occupiers of the site and can be secured by condition.

The Transport Assessment (TA) has considered the traffic and transport implications of the proposed development and identifies that car and cycle parking can be accommodated in accordance with local standards. A review of personal injury collision data identifies that the majority of collisions are as a result of driver error rather than the form of the road/junction layout. It also identifies traffic generation will generate modest levels of traffic flows and

nearby junctions will operate within capacity. Overall the impact of the development will not have significant impacts on the operation of the local road network.

In terms of the objection that HGV's may detract from business at the retail premises as the TA has demonstrated there is adequate capacity to accommodate these vehicles without having significant impact on the local road network.

Highways are satisfied that the development will not cause severe harm to the transport network and the modified site access arm on the roundabout meets current highway design standards and has been subjected to the necessary Road Safety Audit's. A TA has been submitted which demonstrates that the vehicle trips from the future development will not have a significant impact on the local highway network. A Travel Plan will also be secured for the site to encourage alternative means of travel.

The Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with the NPPF in this respect.

On the basis of the above the proposals will accord with policies TRAN2 and TRAN5 of the BCCS and policies GP2, T4, T10 and T13 of the UDP.

### **Public Rights of Way**

There is a public right of way Wal44 adjacent to the site that leads from Cavendish Road to Bentley Lane.

The supporting statement identifies that improvements to pedestrian and cycle routes will be secured as part of the development. This is supported by the Local Access Forum and Public Rights of Way officer who has recommended conditions and measures to secure such provisions.

### **Impact on surrounding occupiers**

The proposed site is adjacent to Reedswood Retail Park where commercial occupiers are considered to be less sensitive to the proposed employment uses. The indicative layout shows proposed units and parking nearest the boundary with the rear of the retail units so will not be obtrusive.

The site is segregated from the nearest housing by the open space and Reedswood Pool. The nearest housing in Norfolk New Road is over 100m away from the nearest part of the site (the new access from the roundabout). Given the intervening landscaping and distance separation it is considered that the proposals will not significantly harm the outlook from these properties. Retention of landscaping along Reedswood Way and boundaries to the open space and Reedswood Pool will help screen the site and reduce any potential visual impact.

It is likely that future occupiers of the premises will require flexibility in operational activities. Neighbours are concerned about increased traffic at unsociable hours of the night and operating hours and noise levels. Pollution control officers have recommended conditions to secure a working plan to control local environmental impacts, and noise limits for external machinery and plant. This will help protect nearby residential occupiers.

The potential for increased litter is not necessarily a material planning consideration, but future occupiers will need to accommodate appropriate bin stores. The potential for passing vehicles to litter is no greater than at present and would be a matter for Clean & Green to address if this problem occurs.

Devaluation of property is not a material planning consideration.

### **Impact on natural environment**

The indicative plan shows new landscaping along Reedswood Way and along the boundary with the adjoining open space and pool which is welcomed. This will enhance the greenway and continue to provide habitat for wildlife and connectivity for wildlife with these other areas as well as enhancing the landscape value of the site.

The Ecological Assessment and Protected Species Survey concludes that the site has been colonised over the last 15 years by scattered scrub and young trees. The remaining grassland habitat includes a range of common species that support a small colony of dingy skipper butterfly, which is of regional significance. Habitats also support a range of birds and poplar trees may support nesting birds or roosting bats. The Reedswood pool is unsuitable for breeding habitat for Great Crested Newts. Whilst the individual habitats are low ecological value the site acts as a corridor for wildlife connectivity between other sites of ecological interest. Mitigation works are recommended to minimise impacts and create opportunity for habitat improvements.

On the basis that replacement habitats will be created to support the natural environment the proposals are considered to comply with policies CSP3 of the BCCS, ENV23 & ENV24 of the UDP and EN1 of the emerging SAD plus SPD Conserving Walsall's Natural Environment.

### **Drainage/Flood Risk**

The application is in outline format only but detailed drainage is recommended to be secured by conditions. This will ensure adequate drainage is provided to cater for the proposed development in order to protect the surrounding environment from flooding and pollution. This will include appropriate mitigation highlighted in the Flood Risk Assessment and Drainage Strategy to satisfy the Flood Risk officer and Environment Agency comments. This will also prevent run off impact on Reedswood pond. The proposals will therefore comply with policy ENV5 of the BCCS, policies ENV32 and ENV40 of the UDP and EN3 of the emerging SAD.

### **Air Quality/Noise**

Air Quality and Noise Impact Assessments have been provided.

The Air Quality Assessment concludes that concentrations from operational impacts of increased traffic emissions will remain below objectives at sensitive receptors including nearby housing and are negligible. Concentrations of particulate matter and nitrogen dioxide also remain below objectives whether the site is developed or not taking account of worst-case sensitivity. On this basis further mitigation measures are not proposed. Despite the neighbour concerns the report demonstrates that air quality and air pollution are addressed.



The Noise Impact Assessment concludes that background noise levels are solely attributable to traffic noise but that night time noise limit for open windows would be achieved from the nearest properties on Norfolk New Road and Victory Lane. The noise impact of the proposed development is unlikely to give rise to noise disturbance. Noise limit criteria is recommended for plant installations associated with the new development. This should address neighbour concerns regarding traffic noise at night, noise levels and noise pollution.

Pollution Control officers recommend conditions to agree measures to comply with the Air Quality SPD and determine noise limits for external machinery and plant to further protect amenities. Subject to these measures the proposals will comply with policy ENV8 of the BCCS, policies GP2, ENV10, ENV32 and JP8 of the UDP and the Air Quality SPD.

### **Contamination/Coal**

In terms of contamination, a remediation report has been received. This considers made ground and proposals for buried concrete design, ground chemistry and ground gas. It recommends buried concrete design is suitable, ground chemistry falls below soils assessment criteria for industrial uses so no mitigation is required, no protective measures regarding naturally occurring Radon are necessary in the structural design of the proposed buildings and ground gas monitoring has recorded low concentrations of Methane and Carbon Dioxide. Appropriate mitigation measures are to be installed in the form of a geocomposite dispersal layer or strips under the slab.

Pollution Control officers recommend conditions to secure installation of ground gas protection measures and observe diligence in treating unknown contaminated land. On this basis contamination will be appropriately dealt with and the proposals comply with policies GP2 and ENV10 of the UDP.

The applicants have now provided a Coal Mining Risk Assessment in order to address the Coal Authority objection. Updated comments will be reported at the meeting but if not the recommendation remains to delegate to officers grant permission subject to resolving this matter.

## **Conclusions and Reasons for Decision**

The principle of development for Classes B1, B2 and B8 development is in accordance with policies EMP1 and EMP2 of the BCCS, JP5 and JP6 of the UDP and IND2 of the emerging SAD which allocate the site as employment land.

The means of access is acceptable to the Highway Authority and Safety Audits have demonstrated how it can accommodate the proposed development in accordance with policies TRAN2 and TRAN5 of the BCCS and policies GP2, T4, T10 and T13 of the UDP.

The Public Right of Way is protected and enhanced as part of the development and improvements will be secured as part of the development in accordance with policy LC5.

The proposals have no significant impact on surrounding commercial and residential occupiers given measures to protect amenities and distance separation between uses in accordance with policies GP2, ENV32 and JP8 of the UDP.

On the basis that replacement habitats will be created to support the natural environment impacts will be negligible and the proposals are considered to comply with policies CSP3 of the BCCS, ENV23 & ENV24 of the UDP and EN1 of the emerging SAD plus SPD Conserving Walsall's Natural Environment.

Conditions are recommended to ensure adequate drainage is provided to cater for the proposed development in order to protect the surrounding environment from flooding and pollution. This will include appropriate mitigation highlighted in the Flood Risk Assessment and Drainage Strategy. This accords with policy ENV5 of the BCCS, policies ENV32 and ENV40 of the UDP and EN3 of the emerging SAD .

Noise and Air Quality have been fully assessed and impacts will not be significant subject to conditions to protect local and residential amenities. Subject to these measures the proposals will comply with policy ENV8 of the BCCS, policies GP2, ENV10, ENV32 and JP8 of the UDP and the Air Quality SPD.

Measures to deal with identified contamination are recommended and subject to resolving the Coal Authority concerns the coal mining legacy can be adequately dealt with in accordance with policies GP2 and ENV10 of the UDP.

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

#### **Approve**

Officers have spoken with the applicant's agent and in response to concerns raised regarding the means of access and highway safety and addressing the coal mining legacy on the site, amended plans and supporting documents have been submitted which enable full support to be given to the scheme.

### **Recommendation**

Delegate to the Head of Planning, Engineering & Transportation to grant permission subject to conditions subject to resolving Coal Authority objections and any relevant amended conditions.

#### **Conditions and Reasons**

1. Application for the approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

2. The development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matters application, or the last reserved matters approval.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

3. Development shall not be commenced until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- Appearance
- Landscaping
- Layout
- Scale

Reason: Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995.

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

- Location Plan (14-050-P02 Rev A) received 21/08/17 (*revision to be updated*)
- Existing & Proposed Access Arrangement (14-050-P03 Rev B) received 08/02/18
- Indicative Development Master Plan (14-050-P01 Rev G) received 08/02/18
- Planning Statement prepared by Woods Hardwick Planning Limited (RM/KJB/3089) (July 2017)
- Remediation Report prepared by Nolan Associates (GW/ES/2015-149)(July 2017) received 20/07/17
- Flood Risk Assessment & Drainage Strategy prepared by Nolan Associates (2015-149-RP-100- Rev 2)(November 2017)
- Landscape & Visual Impact Assessment prepared by Aspect Landscape Planning (July 2017)
- Transport Statement prepared by David Tucker Associates (SJ/NES/17250-01a)(February 2018) received 08/02/18
- Framework Travel Plan prepared by David Tucker Associates (SJT/NES/17250-02)(June 2017) received 08/02/18
- Tree Survey prepared by Rob Keyzor (September 2016) received 20/07/17
- Air Quality Assessment prepared by Air Quality Consultants (July 2017)
- Noise Impact Assessment prepared by Hoare Lea ((July 2017)
- Ecological Assessment & Protected Species Survey prepared by Arbor Vitae Environment Limited (September 2016)

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

5a. The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority

5b. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

6. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Flood Risk Assessment (FRA)/Drainage Strategy 2015-149-RP-100 Rev 2 dated November 2017 and the following mitigation measures detailed within the FRA:

- i. Ensuring the surface water run-off generated by the site will not increase the risk of flooding off-site or on the site itself.
- ii. Provision of an appropriate calculated volume of flood storage in the downstream pond (and within the site) to a 100year + climate change standard.
- iii. Confirm which responsible body will maintain the surface water system over the lifetime of the development according to an acceptable maintenance schedule and that is achievable.
- iv. Ensure suitable sustainable drainage elements are included to protect water quality in the downstream fishing pond.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

7. The development hereby permitted shall not be carried out otherwise than in accordance with the Remediation Report prepared by Nolan Associates reference GW/EJS/2015-149 dated July 2017 and the following mitigation measures detailed within the Remediation Report:

- i. Prior to built development commencing a 'Remediation Statement' setting out the precise details of remedial measures, methodologies, and materials to be used to deal with the ground gas present on the site shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- ii. The remedial measures as set out in the 'Remediation Statement' required by part i) of this condition shall be implemented.
- iii. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation is encountered, development shall cease until the 'Remediation Statement' required by part i) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- iv. A Validation Report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site, to protect human health, and the environment and to ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels water pollution from previously unidentified contamination sources at the development site in line with paragraph 109 of the National Planning Policy Framework.

8a. Prior to the commencement of the development of engineering and construction activities a Working Plan to control noise, vibration, dust, debris, and odours shall be submitted to and agreed in writing with the Local Planning Authority.

8b. The Working Plan shall be implemented upon commencement of works and shall be maintained until the site is completed.

8c. Four weeks before the works commence the developer shall inform the Local Planning Authority in writing and provide Contact Details of site management.

8d. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00; and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To protect existing local amenity.

9a. As part of the reserved matters submission the Applicant shall provide written details to the Local Planning Authority on how they will implement the requirements of the Black Country Air Quality Supplementary Planning Document for the proposed development.

9b. The agreed measures shall be implemented prior to occupancy and a written validation statement shall be submitted to the Local Planning Authority.

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

10a. Machinery and equipment, either individually or cumulatively, shall be operated or designed not to give rise to noise levels that will result in:

- Plant, equipment, machinery associated with the development shall not give rise to a Noise Rating exceeding NR45 as determined 1 metre from the facade of any occupied residential premises.
- The applicant shall demonstrate compliance with the above acoustic conditions at the written request of the Local Planning Authority. For the purpose of clarity, this shall be determined by measurement and/or calculation.

Reason: To protect the amenity of nearby residential premises.

11a. Prior to the commencement of works on the new site access road, full engineering details of modified roundabout and access spur including the layout and alignment, widths and levels of the proposed road works together with all necessary drainage arrangements and run off calculations, shall be submitted to the Local Planning Authority for technical approval in writing in consultation with the Highway Authority.

Note: Any alteration to existing street lighting or new street lighting shall be with the agreement of the Council's Public Lighting Manager in consultation with Amey, the Council's street lighting partner.

11b. Prior to the first occupation of any unit on the development, the highway infrastructure works detailed under part (a) of this condition shall be fully implemented in accordance with the approved details and to the satisfaction of the Local Planning Authority in conjunction with the Local Highway Authority.

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

12. Upon first occupation of any unit on the development, the commitments, measures and targets to encourage sustainable travel modes to reduce car based trips to the site contained with the David Tucker Associates Framework Travel Plan dated 23<sup>rd</sup> June 2017 shall be developed into a full Travel Plan and shall be implemented, monitored and reviewed for the lifetime of the development, in accordance with the approved Plan.

Reason: To encourage sustainable travel modes, in accordance with BCCS policy TRAN2 and UDP Policy T10.

13a. Prior to the commencement of any 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.

13b. This provision shall be retained during construction in accordance with the approved details.

Reason: In order to minimise potential disruption to the free flow of traffic on the A452 Chester Road and in the interests of highway safety.

14. As part of any Reserved Matters submission the total external gross floor area of the entire development shall not exceed 18,500 sq.m and shall be used for Class B1(c) Business, B2 General Industry and B8 Storage and Distribution use classes only.

Reason: To ensure the vehicular trips to the development are in accordance with those predicted within the submitted David Tucker Associates Transport Assessment date 6<sup>th</sup> February 2018, in the interests of the free flow of traffic on the public highway and highway safety, UDP Policy GP2, T1, T4, T7, T13, BCCS TRAN2 and the NPPF.

15. As part of any Reserved Matters submission full details shall demonstrate the proposed level of parking provision which shall be in accordance with UDP Policy T7 and T13 and the David Tucker Associates Transport Assessment date 6<sup>th</sup> February 2018.

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

16. As part of any Reserved Matters submission full details of secure cycle shelter provision to serve each unit on the development, which shall be covered and illuminated.

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

17a. As part of any Reserved Matters submission full engineering details of the estate access road together with footway and footpath links, including the layout and alignment, widths and levels of the proposed road works together with all necessary drainage arrangements and run off calculations, shall be submitted to the Local Planning Authority for technical approval in writing in consultation with the Local Highway Authority prior to the commencement of any works on site.

Note: Street lighting shall be with the agreement of the Public Lighting Manager in consultation with Amey, the Council's street lighting partner.

17b. Prior to the first occupation of any new Unit on the development, the adoptable highway works infrastructure works detailed under part (a) above shall be fully implemented in accordance with the approved details and to the satisfaction of the Local Planning Authority in consultation with the Local Highway Authority.

Reason: To ensure the satisfactory completion and operation of the development and in accordance with the Councils procedures for adopting new roads.

18a. As part of any Reserved Matters submission and prior to the commencement of built development full engineering details for the cycle and pedestrian link path to connect Reedswood way, through the development site and connecting onto Public Footpath 44 Walsall are to be submitted and agreed with the local planning authority prior to commencement of the development. Engineering details are to include, but are not limited to, provision of a 3m wide tarmac path with edging, signs and motorcycle barriers as necessary. Details must ensure level inclusive access with the use of the appropriate dropped kerbs with tactile and gradients of not exceeding 1:12.

18b. The proposed pedestrian and cycle link path required as part (a) of this condition shall be included within the Section 38 Agreement. Any changes required to the Public Footpath 44 Walsall at the junction with the proposed link path, or additional dropped kerbs with tactile at the proposed access road junction with Reedswood Way shall be included within the Section 278 Agreement.

18c. The proposed pedestrian and cycle link path required as part (a) of this condition shall be included within the Amey's Street Lighting Survey along with the adopted access road.

18d. All of the above agreed details in parts a-c of this conditions shall be provided prior to the paths being brought into use and occupation of the development.

18e. Details of any safety fencing, signs and other measures to be provided around the balance pond, adjacent to areas of public access and public open space are to be submitted and agreed prior to commencement.

18f. Safety fencing, signs and other measures agreed under part (e) above are to be delivered prior to the paths being brought into use and occupation of the development.

18g. Measures agreed under part (e) of this condition are to be included within the site management plan to ensure ongoing maintenance for perpetuity.

18h. Details of proposed landscaping and boundary treatments alongside the new proposed link path are to be submitted and agreed with the LPA, to ensure good inter-visibility between, pedestrian, cycle and vehicular traffic and natural surveillance.

18i. Landscaping and boundary treatments agreed in accordance with part (h) of this condition are to be installed in accordance with the agreement prior to the paths being brought into use and maintained in accordance with the agreement thereafter.

Reason: In the interests of the safety and security of highways users and to ensure opportunities for sustainable travel to the proposed development.

19. As part of any Reserved Matters submission full details of all external facing materials and surfacing shall be submitted to and approved in writing by the local planning authority.

Reason: To protect the visual amenities of the area.

20. As part of any Reserved Matters submission full details of security measures throughout the site shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenity of the area.

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

**CL1:** Ground investigation surveys should have regard to current Best Practice and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A1:2013 Investigation of potentially contaminated sites – Code of Practice; British Standard BS5930: 1999 Code of practice for site investigations; Construction Industry Research and Information Association Assessing risks posed by hazardous ground gasses to buildings (Revised) (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

**CL2:** When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 Human health toxicological assessment of contaminants in soil or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

**CL3:** Validation Reports need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. **Copies of laboratory analysis reports for imported clean cover materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted.** Where records and results of any post remediation ground gas testing are available then these should be included in



validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

### **Advisory note**

The Contaminated Land Investigation has identified that there is localised ground contamination within the area of this proposed development, which may present Health and Safety implications for persons undertaking ground works. This information should be brought to the attention of the builder or contractor undertaking any ground works in order that they may implement any Health and Safety at Work precautions they feel appropriate.

### **Notes for Applicant Air Quality SPD**

The mitigation measures within the SPD range from:-

- Type 1 – installing electric vehicle charging points and low NOx boilers;
- Type 2 – also consideration of travel plans, encouraging modal shift, designating parking for low emission vehicles, Fleet Operations strategy for considering and reducing emissions, etc.; and
- Type 3 – for major developments also evaluation of contribution to increased ambient concentrations due to emissions and translating such additional emissions into damage costs.

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

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

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

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

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

### **Notes for the Applicant: Highways**

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
2. The applicant will be expected to enter into an agreement under a S38/S278 of the Highways Act 1980 for all adoptable highway works and works within the existing public highway.

### **Notes for Applicant: Public Rights of Way**

A permit to work and/or temporary prohibition of pedestrians order may be required prior to commencement of work within Footpath 44 Walsall, alongside the sites western boundary. No excavations, hoarding, signage, movement and storage of materials, or other obstructions associated with the proposed development are to be present within the footpath without prior agreement of the highways authority. Prior to commencement the applicant must provide details to highways and apply for any necessary permits and licences required on the public footpath as a consequence of the works. Upon completion, the applicant must reinstate the footpath to its present condition. Please contact Public Rights of Way on 01922 654673 to discuss the requirements, at least 28 days prior to commencement.

Subject to submission of the detailed design areas of highway may require Stopping Up. Details for this are to be discussed and agreed with Highways prior to commencement of any development.

### **Notes for Applicant: Environment Agency**

The applicant / developer should refer to our document 'The Environment Agency's approach to groundwater protection', available from gov.uk. This sets out our position on a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heating and cooling
- Drainage
- Storage of pollutants and hazardous substances
- Management of groundwater resources

All precaution must be taken to avoid discharges and spills to ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to guidance available on our website ([www.gov.uk/environment-agency](http://www.gov.uk/environment-agency)).

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

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Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to:

- the Position Statement on the Definition of Waste: Development Industry Code of Practice and;
- The [Environmental regulations](#) page on GOV.UK.

#### Waste to be taken off site

Contaminated soil that is, or must be, disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to the [Hazardous Waste](#) pages on GOV.UK for more information.

#### **Notes for Applicant: Police**

The applicant is recommended to develop the proposal to the enhanced security standards produced by Police Crime Reduction initiative 'Secured by Design' Commercial Developments.

[http://www.securedbydesign.com/professionals/pdfs/SBD\\_Commercial\\_2015\\_V2.pdf](http://www.securedbydesign.com/professionals/pdfs/SBD_Commercial_2015_V2.pdf)

#### **Notes for Applicant: Severn Trent Water**

There is a public sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Please note if you wish to respond to this email please send it to  
Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days.  
Alternately you can call the office on 01902 793851.

If your query is regarding drainage proposals, please email to the aforementioned email  
address and mark for the attention of Rhiannon Thomas (Planning Liaison Technician).



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 5.**

### Reason for bringing to committee: Significant Major Development

**Location:** SITE OF FORMER ARGYLE WORKS, WILLIAM HOUSE AND GREATREX HOUSE, CORNER OF NAVIGATION STREET AND MARSH STREET, WALSALL, WS2 9LT

**Proposal:** DEMOLITION OF EXISTING BUILDINGS AND RESIDENTIAL DEVELOPMENT OF 236 ONE AND TWO BEDROOM APARTMENTS

**Application Number:** 17/1573

**Applicant:** Total Homes and Developments

**Agent:**

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

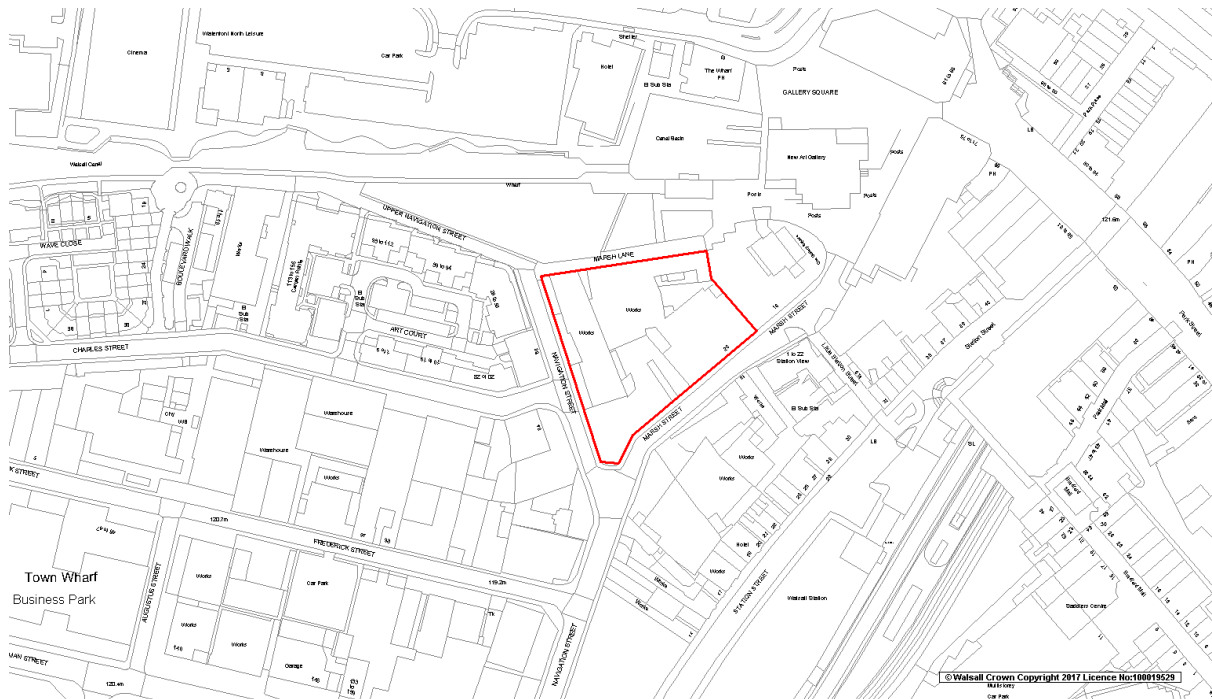
**Case Officer:** Mike Brereton

**Ward:** St Matthews

**Expired Date:** 05-Mar-2018

**Time Extension Expiry:** 29-Mar-2018

### Recommendation Summary: REFUSE



This application proposes to demolish all existing buildings within the application site and the construction of 236 x 1 and 2 bedroom residential apartments (C3 use). The site area is 0.45ha with a proposed density of 524 dwellings per hectare. The development would wrap around the entire site and positioned close to back of footpath (with small landscaped areas between). The development would be mostly 8 storeys high dropping to four and seven storeys adjacent the existing Gallery Square building.

The development would measure:

- 28m high from existing ground level at its highest point (corner with Marsh Street and Navigation Street);
- 14.3m high from existing ground level at its lowest point (adjoining Gallery Square);
- Between 10m and 18m wide including a central corridor with access to apartments; and
- Footprint (Gross Internal Area) of around 24,200m<sup>2</sup>.

Apartments would be accessed off a central corridor with those in the front elevations having front facing windows whilst others at the back of the site face the internal courtyard area.

The total proposed amenity space including balconies and roof garden area is around 1,800m<sup>2</sup> equating to 8m<sup>2</sup> per apartment.

The proposed overall design is of modern appearance with repeated vertical projecting and reveal sections at upper floors to accommodate balcony areas and a main flat roof. A curved glazed corner feature is proposed to the main pedestrian access point on the corner of Marsh Lane and Navigation Street.

The proposed vehicle access would be off Marsh Street and beneath the proposed third floor leading to a central courtyard void area with 30 (14%) vehicle spaces at ground floor. Main pedestrian access points would be on the corner between Navigation Street and Marsh Lane. No pedestrian access points are proposed along Marsh Street. 3 x bin stores to accommodate a total of 60 bins along with a covered cycle store for up to 29 bicycles are also proposed within the central courtyard area. A further integral cycle store is proposed off the main atrium area for up to 24 bicycles.

### ***Supporting Documents***

**Design and Access Statement** – Sets out the context of the proposal with policies and the locality.

**Air Quality Statement** – Concludes an air quality assessment is not necessary and that 6 x electric vehicle charging points are provided within the application site.

**Noise Assessment** – Concludes internal noise levels can be mitigated through recommended glazing and ventilation measures and that external noise levels to the outdoor amenity area are acceptable.

**Bat Emergence Survey** – Identified an ‘transient and occasional’ bat roost within existing buildings and recommends hand-stripping of roof and restriction of works to avoid the active Bat Season.

**Flood Risk Assessment** – Sets out how surface and foul water would be discharged to existing public sewers along with the use of SUDS and attenuation storage tanks.

**Heritage Assessment Statement** – Concludes existing buildings are of low and no heritage value.

**Overview of Ecology Reports** – Recommends submission of a black redstart and habitat suitability survey.

**Travel Plan Framework** – Sets out how more sustainable modes of travel would be encouraged.

**Transport Statement** – Concludes the application site is in a sustainable location and that the development would not impact on the local highway network.

**Structural Condition Report** – Concludes existing buildings are in a dilapidated state and recommends consideration of demolition.

**Summary of Available Parking Spaces & Traffic Report** – Identifies numbers of available parking spaces in the locality pre 08:00am and post 19:00 hours.

**Visual Impact Assessment** – Shows the proposed development from key vantage points.

## Site and Surroundings

Ground levels within the application site:

- Slope upwards from west (nearest Art Court) to east (nearest Gallery Square) along Marsh Lane;
- Slope upwards from south-west (nearest the junction with Navigation Street) to north-east (nearest Gallery Square) along Marsh Street; and
- Slope upwards from south-east (nearest the junction with Marsh Street) to north-west (nearest Art Court) along Navigation Street.

Existing buildings within the application site comprise:

- **Greatrex House** - A locally listed three storey Victorian industrial building (former leatherworks) facing Marsh Street (derelict and dilapidated);
- **William House** - An early 20th Century four storey warehouse facing Marsh Lane (derelict and fire damaged); and
- **Navigation Street Offices** - Two storey office buildings from around the 1960s fronting Navigation Street (derelict).

The nearby area is a mix of modern residential development, commercial and industrial uses and leisure uses (at Waterfront North). Crown Works, a further locally listed building exists to



the north-east; a late 19<sup>th</sup> Century building of four storey height which has been incorporated into the adjoining modern Gallery Square residential development.

The application site lies 21m south of the Walsall Canal and Basin and the Walsall Locks Conservation Area.

Nearest sites and buildings are:

- **New Art Gallery** – Between 23m and 34m high from existing ground level;
- **Crown Lofts & Gallery Square** – 5/6 storeys between 16m and 19m high with a density of around 320 dwellings per hectare;
- **Art Court** – 5/8 storeys between 17.5m and 27m high with a density of around 197 dwellings per hectare; and
- **FE Towe** – Three storeys at around 10m high.

## Relevant Planning History

### William House:

06/1986/FL/W7 - Demolition of existing warehouse and erection of residential block of 44 flats with basement/ground floor for commercial premises (2 no. A3 uses). Refused 18/12/2006

07/2730/FL/W7 - Demolition of Existing Warehouse and Erection of Residential Block of 60 Flats and 2 A3/A4 Units on Basement Ground and Mezzanine Floor. (Resubmission of 06/1986/FL/W7). GSC 13/03/2008 (at a density of around 153 dwellings per hectare)

## 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*".

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

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

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

- **NPPF 2 - Ensuring the vitality of town centres**
- **NPPF 4 - Promoting sustainable transport**
- **NPPF 6 - Delivering a wide choice of high quality homes**
- **NPPF 7 - Requiring good design**
- **NPPF 10 - meeting the challenge of climate change, flooding and coastal change**
- **NPPF 11 - Conserving and enhancing the natural environment**
- **NPPF 12 - Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

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

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

### **NPPF Consultation**

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

### **Local Policy**

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

### **Black Country Core Strategy**

- CSP1: The Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN4: Regeneration of Town Centres
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness

- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

## **Unitary Development Plan**

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV26: Industrial Archaeology
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- S8: Housing in Town Centres
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces
- LC5: Greenways
- WA3: Other Town Centre Uses
- WA7: Development / Investment Opportunities
- WA12: Town Wharf ("Walsall Waterfront")

## **Emerging Walsall Town Centre Area Action Plan**

- AAPINV4 – Walsall Waterfront:
  - c) Appropriate uses for secondary sites (Holiday Hypermarket (TC09), William House and Stafford Works (TC14)) include hotel and conference facilities, cultural uses and further leisure uses that complement the planned investment. Residential will also be appropriate where an acceptable residential environment can be provided without constraining any leisure uses.*
  - f) All proposals will be expected to:
 
    - i) be of high design quality complementing the New Art Gallery, the canal (Policy AAPLE4) and the Conservation Area.*
    - ii) relate positively, in visual and functional terms, to surrounding areas and particularly to the rest of the centre. Strong and secure pedestrian linkages**

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*will be required both to and within the development to encourage the maximum public access. In particular public access must be provided along the canal and at least one footbridge provided across the canal arm.*

*g) Development opportunities adjacent to the canal will be expected to contribute towards the improvement and maintenance of the canal infrastructure and towpaths. All development within the area will be expected to protect, conserve and where possible, enhance heritage assets including the Canal Locks Conservation Area. Schemes will also be expected to complement the natural environment of the canal and where possible provide green infrastructure (AAPLV8).*

- TC14 (William House and Stafford Works) - Opportunities for mixed town centre uses.

## **Supplementary Planning Document**

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

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

### **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

## Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value

## Waterfront

- WA12: Walsall Waterfront:  
*6.3 - Building form and massing should maximise the restricted nature of Marsh Lane.*

*7.4 - The initial stages of regeneration in this area are exemplified by the recent conversion of the original Crown Works into high quality residential apartments, and its subsequent extension with similar quality proposals in Marsh Street and the surrounding areas are expected to be seeking and obtain similar planning consents.*

*10.6 - Development should be sensitive to adjacent uses; including the existing canal side apartments, the New Art Gallery.*

## Affordable Housing

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH3: Abnormal Development Costs
- AH4: Provision Location
- AH5: Off Site Provision

## Air Quality SPD

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

## Consultation Replies (*Officer comments in italics*)

**Birmingham and Black Country Wildlife Trust** – Recommends additional bat survey between May and August (inclusive) along with mitigation measures to be agreed prior to determination and an external lighting strategy.

**Limestone & Structures** - Recommends further site investigation in all areas currently covered by the existing onsite buildings following demolition, to compliment the current site investigation and provide comprehensive site coverage.

**Canal and River Trust** – Loss of William House is regrettable and recommends provision of nearby heritage public art interpretation, lack of visuals from canal basin, roof garden should provide views over canal, wind assessment required, contribution required towards improvement and maintenance of canal corridor, shading from development would impact on existing and proposed planting and the overall biodiversity of the waterway, lack of external lighting details and recommends a Construction and Environmental Management Plan.

**Cycling and Pedestrian Officer** – No comments to make.

**Pollution Control** – recommends an Asbestos Survey, Construction Management Plan, restricted working hours, vibration condition, further ground contamination works post demolition along with conditions including ground gas protection measures, use of acoustic glazing and ventilation, inclusion of 6 x electric vehicle charging points.

**Fire Officer** - Access is required to within 18m of each fire main inlet connection on the front of the buildings and provision of water supplies for firefighting (*this can be added as note to applicant*).

**Police** – Recommends Secure by Design measures including natural surveillance, lighting, CCTV, boundary treatment, landscaping, intruder alarms.

**Lead Local Flood Authority** – No objection subject to a condition to require compliance with the submitted Flood Risk Assessment and submitted calculations.

**Housing Strategy** – Requires a 25% off-site affordable housing contribution in the form of a commuted sum. This will equate to 301 units x 25% x £31,562.50 = £2,375,078.10.

**Community Safety Team** – Recommends site security plan, lighting, site management plans and a gated car park area.

**Environment Agency** – No objection subject to a condition to require an addendum to the Method Statement in the event any other contamination is identified during development works.

**Severn Trent Water** – No objection subject to a condition to require site drainage details (*could be added as a condition*).

**Coal Authority** – No objection and Standing Advice should be included (*this can be added as note to applicant*).

**Historic England** – No comments to make.

**Local Highway Authority** – Objects due to lack of on-site parking and increased pressure on existing on-street parking and seeks adoption and upgrading of Marsh Lane. Recommends a Waste Management Plan.

**South Staffs Water** – No comments have been received

**Tree Preservation Officer** – No comments have been received

**Planning Policy** – No comments have been received

**Regeneration & Development** – No comments have been received

**Public Health** – No comments have been received

**Education Walsall** – No comments have been received

**Ecology Officer** – Recommends additional work around additional bat and Black Redstart surveys.

**Clean and Green** – No comments have been received

**Area Partnership** – No comments have been received

**Western Power** – No comments have been received

**Walsall NHS** – No comments have been received

**Transport for West Midlands** – No comments have been received

**Inland Waterways Association** – No objection.

**Friends of the Earth** - No comments have been received

**Transportation Planning** - No comments have been received

**Walsall Civic Society** – Objects to loss of non-designated heritage asset and leather works heritage, the monolithic scale and mass would result in adverse impacts on the Conservation Area, competes inappropriately with the Art Gallery, long expanses of ‘dead frontages’.

**Walsall Disability Forum** - No comments have been received

### **Representations (*Officer comments in italics*)**

2 x objections have been received from adjoining neighbours in Crown Lofts on the following grounds:

- Proposed height and width would cover the whole sun on my terrace;
- The Crown Lofts / Gallery Square development should not be hidden behind the proposed big building; and
- Marsh Street and Gallery Square residents’ car park should remain accessible during demolition and construction works which should be limited to between 10am to 6pm.

A further representation was received from adjoining landowners (Station Street):

- Townscape should be visually enhanced by the replacement of run-down buildings (*noted*);
- Proposed development, in particular the roof top garden, has the potential to result in loss of privacy and overlooking of future occupiers of our re-developed site (08/0523/FL - permission now lapsed);
- Proposed vehicle access should take account of necessary future access into our site opposite; and
- Support this application subject to the development not constraining further development in this area (*noted*).

## Determining Issues

- Principle of Development
- Design & Character
- Heritage
- Amenity
- Ecology
- Flooding
- Environment & Land Stability
- Highways
- Local Finance Considerations
- Planning Obligations

## Assessment of the Proposal

### Principle of Development

The application site is identified as an allocated site in the emerging Town Centre Area Action Plan with proposed uses for hotel and conference, cultural or leisure use and residential, providing it would not constrain any nearby leisure uses.

The principle of residential development is therefore considered acceptable subject to all other considerations set out in this report.

### Design & Character

The proposed layout would reflect the historic built form wrapped around the perimeter of the site and providing an internal courtyard area with parking at ground floor and is considered acceptable.

The overall appearance is a simple, modern design along with a simple palette of external materials. This is considered would reflect the emerging character of the nearby area which has benefitted from regeneration in recent years. Specific external materials and colours could be secured by condition to ensure a satisfactory appearance of development.

Conditions could be included on any permission regarding site security and safety including lighting, site management, CCTV, boundary treatment, landscaping, intruder alarms, gated access as recommended by the Police and Community Safety Team. External lighting relating to the canal side as recommended by the CRT could also be secured by condition.

The applicants have made improvements to the scheme following discussions with officers which has resulted in the loss of two floors and has reduced the number of apartments from



301 to 236. This would result in a density of around 524 dwellings per hectare and whilst high density development is encouraged in urban town centre locations, and notwithstanding the improvements made by the applicant, this is still considered excessive when compared with nearby densities of around 320 dwellings per hectare at Crown Lofts and Gallery Square and 197 per hectare at the Art Court Waterfront development.

The reduced height is considered helps to minimise impacts on the character of the area and would be similar in height as the nearest highest point of the Art Court waterfront development.

However, both adjoining Crown Lofts / Gallery Square and Art Court developments provide stepped roof heights which is considered to be a key emerging design feature in this locality and the proposal is considered fails to reflect this. This is compounded by the overall monolithic mass of the proposal which is considered would result in harm to the character and appearance of the area.

Limited stepped roof heights also result in a juxtaposition with the adjoining Crown Lofts building and would result in harm to the character and appearance of Crown Lofts / Gallery Square and the wider area. A resident objected on the grounds that Crown Lofts would be 'hidden' behind the large proposed building and this has been considered above.

Such impacts would be lessened when viewed from key public vantage points on the opposite side of the canal basin and from Crown Wharf retail park due to the perceived depth and distance when viewed in context with nearby large development schemes such as the hotel and cinema complexes. However, the overall height, scale and mass when experienced at a human level i.e. in a car, on a bicycle or as a pedestrian along Marsh Street is still considered excessive and would result in an overbearing appearance to the detriment of the area.

Walsall Civic Society objected on the grounds that the proposal would compete inappropriately with the Art Gallery and would provide long expanses of 'dead frontages'. The proposal has since been reduced and it is considered the development would not now compete with the Art Gallery building. Pedestrian accesses are off Marsh Lane / Navigation Street and whilst there appears to be none off Marsh Street, the vehicle access is considered would provide some natural surveillance and helps to break up the frontage and would not sustain a reason for refusal.

## **Heritage**

The proposed loss of the locally listed building 'Greatrex House' is regrettable and its role as part of Walsall's leather works heritage is noted. The submitted structural report explains the building is in a dilapidated state. Whilst NPPF Paragraph 130 states that neglect to a heritage asset will not carry weight in the decision making process, it should be noted that the current applicants are not the owners of the site.

Nearby locally listed Crown Works, a former saddlers, has been incorporated into a modern residential development scheme (Gallery Square) and also forms part of Walsall's leather works heritage. When read in conjunction with Crown Works, the Greatrex House building is considered to play an important role in the historic character of this location.

Greatrex House and Crown Works are non-designated heritage assets and as such, an assessment must be made on the loss and impacts of these assets and weighed against any wider benefits of the proposed re-development scheme. Officers initially requested that the façade of Greatrex House be incorporated within the proposal to retain and enhance the most important features of the heritage asset and the applicants have explained this would not be possible due to scheme viability and associated logistics in shoring up the façade.

Officers also requested that the applicants make a financial contribution through a Section 106 Agreement towards Public Art in the form of a heritage interpretation or heritage education programme to compensate for the loss of Greatrex House. Viability has been considered as set out in a further section of this report which concludes this scheme to be unviable with and without Section 106 requirements.

It is recognised that the regeneration of a derelict site along with providing additional homes in the borough would provide positive benefits to the area. On balance, whilst the loss of Greatrex House is regrettable, when considering the current dilapidated state of the building and the wider site, the re-development and regeneration of this site and the public benefits it would bring is considered to outweigh the loss of this non-designated heritage asset in this instance. A condition would be attached to any approval to require the recording of Greatrex House prior to its demolition.

The CRT has concerns about the loss of William House due to its role as a former industrial building in the canal setting. However, William House is severely fire damaged and currently has a detrimental impact on the appearance and setting of the nearby Walsall Locks Conservation Area.

On balance, the principle of a modern re-development scheme that does not try to replicate the historic environment or provide a pastiche appearance is considered acceptable subject to detailed consideration set out elsewhere in this report.

Walsall Civic Society has objected to the loss of the non-designated heritage asset and leather works heritage and due to adverse impacts on the Conservation Area and these matters have been fully considered above.

### **Amenity**

The proposed reduction in height is considered is likely to minimise the amount of shading arising from the proposal, particularly to leisure uses across the canal at the Waterfront North site. However, the applicant has failed to submit amended shading diagrams and an assessment cannot be made as to any additional impacts of shading to an adjoining roof terrace at Crown Lofts, east facing apartments and balcony areas at Art Court, the existing low level Wharfingers Cottage to the north of the application site (currently occupied by Piri Fino and operating as a restaurant), or to the outdoor grassed amenity area directly to the north.

The proposal includes balconies and a roof garden area for use by the intended occupiers equating to around 8m<sup>2</sup> of amenity space per apartment. On balance, even though this falls below the recommended minimum of 20m<sup>2</sup> per apartment in the Designing Walsall SPD,

this is considered acceptable due to the sustainable town centre location and close proximity to outdoor amenity space to north, the canal and nearby parks.

Following requests from officers, a 13.5m gap has been provided between the proposed development and an existing side facing roof terrace and associated doors serving an apartment at Crown Lofts. Whilst this is considered an improvement, the amended plans now show the addition of a directly facing roof terrace and doors to serve proposed apartments on floors 5 and 6 of the development. This is considered would introduce significant additional loss of privacy and overlooking to occupiers of the Crown Lofts flat. It is understood that the apartment at Crown Lofts may have a number of windows serving the same habitable space but no evidence has been submitted to support this argument.

Similarly, balconies and habitable windows / doors in the west elevation of the proposal would directly face existing balconies and habitable serving apartments at Art Court at a distance of 10m and has the potential to introduce significant additional loss of privacy and overlooking to occupiers of Art Court. Whilst some flexibility can be applied to separation distances across roads, the applicant has not submitted any evidence to demonstrate that nearby developments have a similar relationship to support this approach.

A resident objected due to potential loss of sunlight to a roof terrace and this has been considered above.

An adjoining land owner has also raised concerns regarding potential overlooking to a development at Station Street. As this relates to a lapsed planning permission limited weight can be applied to this.

The overall layout has been designed to avoid directly facing habitable windows within the internal courtyard area and nearest windows would be between 14m and 22m between north and south apartments at right angles and this is considered acceptable to minimise loss of privacy, overlooking / perceived overlooking.

The application sites urban town centre location and close proximity to nearby leisure uses means that a higher level of noise and disturbance is to be expected over and above any experienced in other predominantly residential parts of the borough. These impacts could be minimised through the introduction of acoustic glazing and ventilation and secured by condition on any permission in line with the recommendations of Pollution Control.

The Canal and Rivers Trust (CRT) objected to a lack of a wind assessment due to the height of proposed development and potential impacts on users of the canal basin and tow path. No existing evidence has been provided to demonstrate current patterns of wind movement along the canal and tow path at this location. When combined with the reduction in height of the proposal (made since the CRT comments were made), and retention of an 18m gap to Art Court, on balance it is considered the proposal is unlikely to result in significant additional impacts to the micro-climate in this location.

## **Ecology**

### ***Black Redstarts***

The submitted black redstart report identifies the need for a breeding survey for this species yet only an assessment of the suitability of the on-site habitat has been submitted. It is understood that this is due to the applicant's ecologist being commissioned late in the survey season (September). This means that the presence or likely absence of breeding by this species within the site has not yet been established.

The applicant's ecologist has verbally explained the site is not a traditional breeding site (which are well recorded) and there are no historic records of this species from the site although the site has some potential for use as a breeding site (with very limited foraging habitat). The species is difficult to detect (the Council's consultant ecologist and colleagues concur), and exhibits intermittent breeding habits (there one year and not the next). Therefore, there is a moderate risk that the surveys would not detect this species, even if it did use the site.

The applicant's ecologist has suggested matters be dealt with by condition to require works to take place outside of the breeding season, installation of nest boxes, additional survey work between the breeding season and to install green / brown roofs as replacement and enhanced habitat subject to survey findings.

No supporting information has been submitted by the applicant to demonstrate whether an additional green / brown roof area could be accommodated within the development, particularly in terms of feasibility, ground loading and additional financial cost.

As such, limited weight can be given to this argument and insufficient evidence has been submitted at this time to inform the necessary impact assessment, and to design appropriate mitigation / compensation measures. Black Redstarts are a rare species and are identified as a priority species in the Biodiversity Action Plan for Birmingham and the Black Country and also protected by the Wildlife and Countryside Act 1981 (as amended).

### ***Bats***

The applicant's ecologist has verbally explained that the internal bat survey was comprehensive, albeit for a pigeon-filled loft, and no evidence of bats was recorded during the internal inspection. They also confirmed that the buildings were assessed as having low potential to support a high conservation roosts, due to a paucity of suitable roost features and the general conditions being suboptimal (urban, poor surrounding habitat, disturbed, lit, draughty). The surveys were undertaken towards the end of the recommended survey season, and with low surveyor effort, however a common pipistrelle bat roost (maximum count 2) was detected.

The risk with undertaking bat surveys late in the season is that maternity roosts (high conservation status roosts) would be missed. However, a maternity roost would usually be indicated by multiple droppings due to larger numbers of bats being present. No droppings were found during the internal inspection. On balance, it is unlikely that a high conservation status roost is present.

However, as a bat roost was detected (albeit a low conservation status roost), a licence will be required to make legal the demolition of the buildings. Natural England will require update surveys to inform the licence, and so it is considered appropriate to include a condition that a licence will be obtained to ensure that all bats using the building in 2018 are taken account of and impacts correctly mitigated for. The Council's consultant ecologist recommends these matters can be dealt with by condition, including a condition to incorporate bat boxes into the development to compensate for the loss of the common pipistrelle roost that was recorded in 2017. The applicant's ecologist has also submitted conditions used by another Local Planning Authority to require survey work prior to demolition works.

Notwithstanding the recommendation by the consultant ecologist and the evidence submitted, it is unclear as to what mitigation measures are to be provided.

As bats are a European Protected species, the Local Planning Authority (LPA) has a legal duty under the Conservation (Natural Habitats) Regulations 1994 to determine impacts on them prior to issuing permission for development, as clarified by case law relating to Woolley vs Cheshire East Borough Council 2009. As such, this application cannot be supported at this time. The Wildlife Trust also recommends additional bat surveys during May and August.

Whilst the presence of pigeons might dissuade other nesting birds, this is not likely to have much effect on bat roosting, as bats will utilise parts of the building inaccessible to birds.

### ***Other Ecology Matters***

CRT recommended submission of a Construction and Environmental Management Plan and this could be secured by condition.

CRT also raised concerns over additional shading of existing habitat along the waterway and the applicant has failed to address this point.

If mitigating habitat is proposed, it would need to be secured and maintained in an appropriate manner through a S106 agreement to ensure a management company can maintain the habitat.

### **Flooding**

The application site is within Flood Zone 1 and conditions could be applied to ensure finished floor levels are set 150mm above ground level, limiting surface water run-off so not to exceed 5l/s and attenuation flood storage as recommended by the Lead Local Flood Risk Team.

To ensure the attenuation is retained in perpetuity and constantly delivers its intended function, a s106 legal agreement would be required to ensure the facility is maintained on an appropriate schedule for the life time of the development. At this point in time however, no draft agreement has been provided to address this requirement.

### **Environment & Land Stability**

Conditions as recommended by Pollution Control could be included on any permission regarding an Asbestos Survey, Construction Management Plan, restricted working hours,

vibration, further ground contamination works post-demolition along with conditions including ground gas protection measures and 6 x electric vehicle charging points.

The submitted site investigation report and the Council's Structures Team recommend further site investigation in all areas currently covered by the existing on-site buildings following demolition, to compliment the current site investigation and provide comprehensive site coverage. The rotary holes undertaken to date were not located within the former limestone consideration zone.

The Structures Team explain it would be difficult to see the acceptance of any increase in loading applied to the northern part of the site and recommend that after additional rotary holes are sunk along the northern boundary of the site, a mining engineer's report assessing the effect of the underground limestone workings on the proposed development need to be submitted.

In order to fully assess the suitability of the land to support a significant development of this size, when combined with former limestone workings in the area, it is considered that evidence should be submitted prior to determination as this may need to inform changes to the design of the scheme which cannot be controlled by condition.

### **Highways**

This proposal would provide a level of on-site parking at 14%. Even taking into account the site's sustainability credentials and submitted Travel Plan commitments, it is questionable whether it can be assumed that 86% of tenants will not own or have access to a car.

The roads surrounding the site serve a mixture of residential developments but predominantly serve the Premier Business Park and there is already considerable pressure on on-street parking in the locality. Shoppers are also likely to park there on occasion due to close proximity to the Primary Shopping Area, Crown Wharf Retail Park and Waterfront leisure uses. Furthermore, nearby residential developments along the Waterfront have been accepted on the basis of an on-site parking provision of around 64% and the current proposal falls significantly below this.

Whilst the submitted Parking Report does identify some parking availability on street in the evenings, development should provide sufficient parking to meet its operational needs and should not rely on parking elsewhere or potentially exacerbate existing parking problems to the detriment of existing businesses, residents and shoppers (particularly on Saturday's when intended occupants of the apartments may not be at work).

Notwithstanding the information submitted and the slight increase in on-site provision from 10% to 14%, this application fails to demonstrate that it has sufficient parking to meet its operational needs, would restrict the free flow of traffic along the public highway and has the potential to result in highway safety issues. This application is contrary to UDP Policy GP2, T7, T13.

The applicants have not proposed seeking the use of additional off street parking at another location. If this were proposed, it may be possible to give some consideration to this to offset the harm identified but such parking would need to be of a sufficient standard, in an

appropriate location and secured through a s106 legal agreement to ensure that it was available in perpetuity.

The Local Highway Authority have also queried whether Marsh Lane would be upgraded and adopted as a public highway. The applicant's agent has explained that the owner/s of the land in question are unknown and falls outside of the application site boundary. The vehicle access would be off Marsh Street and pedestrian is also shown off Navigation Street. For these reasons, it is considered it is not necessary, or reasonable, or possible to seek the adoption of Marsh Lane as part of this current application.

A resident has requested that the Marsh Street and Gallery Square residents' car park should remain accessible during demolition and construction works and this could be secured by condition. An adjoining landowner also raised concerns over whether the proposed vehicle access off Marsh Street would hinder future vehicle access into a future development scheme at Station Street. In the absence of any firm re-development proposals it is not possible to take this into consideration at this time.

### **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 the erection of up to 236 dwellings.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 792 new homes during 2010-2011 the award of £1,095,219 (which included a premium for affordable housing but also a deduction for an increase in vacancies) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards might be offset against reductions in the 'formula grant' the Council will receive from Government.

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

### **Planning Obligations**

Due to the size of the proposed development, off-site contributions were sought towards open space (£347,696) and affordable housing (£2,375,078.10) along with public art (regarding heritage as explained above in report) and further contributions towards the maintenance and improvement of the canal tow path.

The applicant submitted an open book financial appraisal which has been independently reviewed by the Valuation Office Agency (VOA). The VOA concludes that the proposal is significantly unviable with and without the policy required open space and affordable housing financial contributions. Despite requests from officers, no supporting information has been submitted by the applicant to demonstrate how they intend on delivering a significantly unviable scheme. Furthermore, no revised evidence has been submitted to assess the potential impacts on viability arising from the reduction of 65 apartments.

The applicant's agent did not consider the public art element to be appropriate and no agreement was reached as to the form of potential public art meaning no financial sum has been attributed to it. Also, the CRT has not quantified their request for a contribution and these matters were not therefore included in the overall viability assessment. Notwithstanding this, the VOA conclusions render the scheme unviable without any financial contributions and these could not be sought in any case.

If the viability position is accepted in relation to the provision of affordable housing and open space provision, it is recommended that a Section 106 Agreement is still required to secure the following:

- the on-going maintenance and management of on-site attenuation flood storage
- on-going maintenance of any proposed green / brown roof areas to ensure its on-going role in supporting ecology and
- secure off-site parking provision.

For these reasons, this application cannot be supported as the applicant has failed to enter a Section 106 Agreement to enable the development to be supported.

## **Conclusions and Reasons for Decision**

The improvements to the proposal are noted and progress has been made since the original submission. Also, the principle of re-development is acceptable and the benefits of regeneration are understood.

Consultee, residents and an interested party's comments have been taken into consideration, along with an assessment against local and national policy and guidance. On balance, the benefits arising do not outweigh the resulting harm of the proposal and the application cannot be supported for the following reasons:

### **Design & Character**

The proposed density is excessive and a lack of stepped roof heights does not reflect the locality resulting in harm to the character and appearance of the area. Also, the overall height, scale and mass particularly along Marsh Street is still considered excessive and would result in an overbearing appearance to the detriment of the area. This proposal is contrary to NPPF7, BCCS Policies CSP4, ENV2, ENV3 & HOU2, UDP Policies GP2 & ENV32, DW3 & DW4 of the Designing Walsall SPD and WA12 of the Waterfront SPD.

### **Amenity**

The proposal has failed to demonstrate whether it would result in any significant additional impacts of shading to adjoining and nearby neighbours, open space and Wharfingers Cottage. The introduction of side facing roof terraces and associated doors at floors 5 and 6 have the potential to result in significant additional loss of privacy and overlooking to occupiers at Crown Lofts. Similarly, balconies and habitable windows / doors in the west elevation of the proposal have the potential to also result in significant additional loss of privacy and overlooking to occupiers at Art Court. This proposal is contrary to UDP Policy GP2 and Appendix D, Designing Walsall SPD.



## **Ecology**

At this time insufficient supporting information and evidence has been submitted to assess the likelihood of presence of bats and black redstarts within the site and this application fails to provide detailed mitigation and compensatory measures.

This application also fails to address concerns over additional shading of existing habitat along the waterway. This proposal is contrary to NPPF11, BCCS Policy ENV1, UDP Policy ENV23 and NE1 to NE6 of the Natural Environment SPD.

## **Environment & Land Stability**

This application fails to demonstrate that the stability of the land is suitable to support the proposed development. This proposal is contrary to NPPF Paragraph 120 and UDP Policies GP2 and ENV14,

## **Highways**

Notwithstanding the submitted information and supporting evidence, this application fails to provide a satisfactory level of on-site parking or appropriately secure sufficient off site parking to support the development and has the potential to exacerbate existing parking issues in the locality, would restrict the free flow of traffic along the public highway and has the potential to result in highway safety issues. This proposal is contrary to UDP Policies GP2, T7 & T13.

## **Planning Obligations**

The applicant has failed to enter into a Section 106 Agreement to enable the necessary on-going maintenance of the on-site attenuation flood storage along with any proposed green / brown roof areas for ecology or potential off-site parking provision. This proposal is contrary to BCCS Policy DEL1 and UDP Policy GP3.

On balance, whilst the regeneration of the site is strongly supported and the reduced height of the building is welcomed, it is considered that the outstanding concerns in relation to insufficient parking provision, impact on neighbours amenity and privacy to which objection has been raised, lack of detail on the harm that might arise to protected species to inform appropriate mitigation and how it might be secured in perpetuity, no secured maintenance for the drainage attenuation and uncertainty about land stability weigh heavily against the proposal and on that basis, it is considered that the scheme cannot be supported at this time.

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

### **Refuse**

Officers have engaged in pre-application advice on this scheme and has maintained regular contact with the applicant's agent including on and off-site meetings. Despite improvements being made, these are not sufficient to warrant an approval in this instance for the reasons set out in this report.

## **Recommendation**

Refuse Permission

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## Reasons for Refusal

1. The proposal has failed to demonstrate whether it would result in any significant additional impacts of shading to adjoining and nearby neighbours, open space and Wharfingers Cottage. The introduction of side facing roof terraces and associated doors at floors 5 and 6 have the potential to result in significant additional loss of privacy and overlooking to occupiers at Crown Lofts. Similarly, balconies and habitable windows / doors in the west elevation of the proposal have the potential to also result in significant additional loss of privacy and overlooking to occupiers at Art Court. This proposal is contrary to UDP Policy GP2 and Appendix D, Designing Walsall SPD.
2. Insufficient supporting information and evidence has been submitted to assess the likelihood of presence of bats and black redstarts within the site and this application fails to provide detailed mitigation and compensatory measures. This application also fails to address concerns over additional shading of existing habitat along the waterway. This proposal is contrary to NPPF11, BCCS Policy ENV1, UDP Policy ENV23 and NE1 to NE6 of the Natural Environment SPD.
3. The proposed density is excessive and a lack of stepped roof heights does not reflect the locality resulting in harm to the character and appearance of the area. Also, the overall height, scale and mass particularly along Marsh Street is still considered excessive and would result in an overbearing appearance to the detriment of the area. This proposal is contrary to NPPF7, BCCS Policies CSP4, ENV2, ENV3 & HOU2, UDP Policies GP2 & ENV32, DW3 & DW4 of the Designing Walsall SPD and WA12 of the Waterfront SPD.
4. This application fails to demonstrate that the stability of the land is suitable to support the proposed development. This proposal is contrary to NPPF Paragraph 120 and UDP Policies GP2 and ENV14.
5. Notwithstanding the submitted information and supporting evidence, this application fails to provide a satisfactory level of parking either on-site or on-street to support the development and has the potential to exacerbate existing parking issues in the locality, would restrict the free flow of traffic along the public highway and has the potential to result in highway safety issues. This proposal is contrary to UDP Policies GP2, T7 & T13.
6. The applicant has failed to enter into a Section 106 Agreement to enable the necessary on-going maintenance of the on-site attenuation flood storage along with any proposed green / brown roof areas for ecology or potential off-site parking provision. This proposal is contrary to BCCS Policy DEL1 and UDP Policy GP3.





## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 6.**

### Reason for bringing to committee: Major Application

**Location:** LAND CORNER OF, KING CHARLES AVENUE, BENTLEY

**Proposal:** OUTLINE APPLICATION TO SEEK APPROVAL OF MAIN VEHICLE ACCESS OFF KING CHARLES AVENUE ONLY, ALL OTHER MATTERS RESERVED.

**Application Number:** 16/0290

**Applicant:** Mr Sidu

**Agent:** JAB Design

**Application Type:** Outline Permission: Major Application

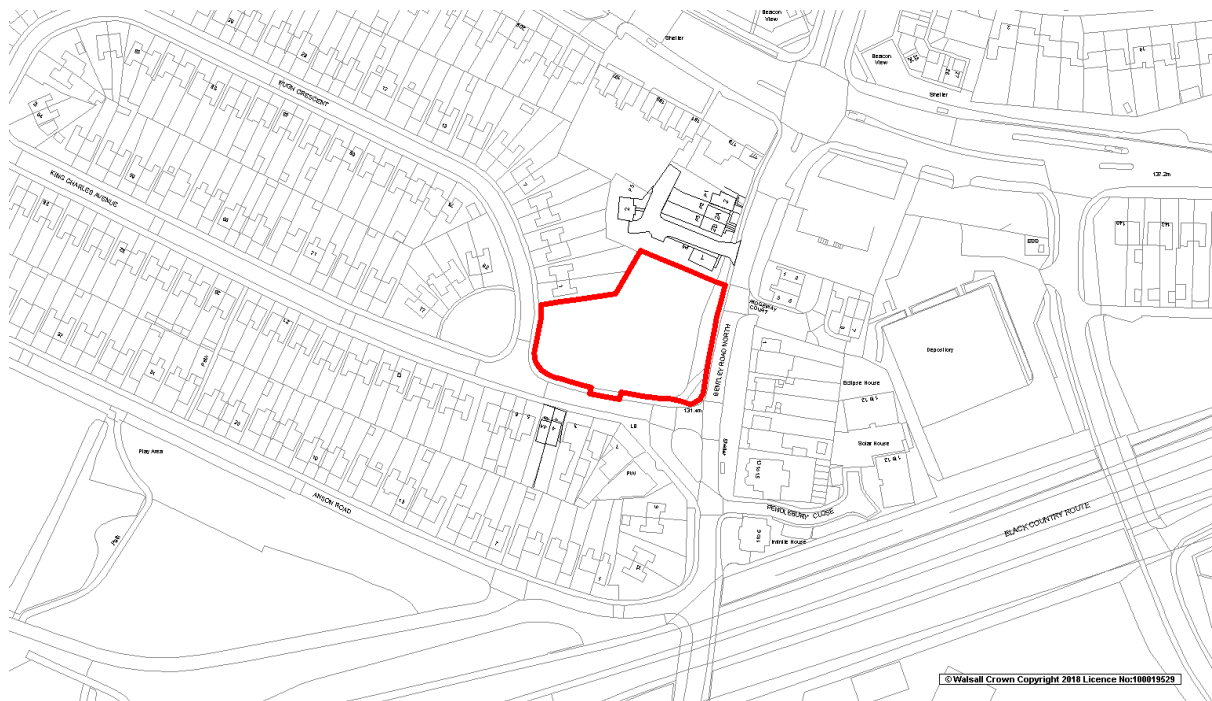
**Case Officer:** Mike Brereton

**Ward:** Bentley And Darlaston North

**Expired Date:** 10-Apr-2018

**Time Extension Expiry:** 30-Mar-2018

**Recommendation Summary:** TO DELEGATE TO THE HEAD OF PLANNING, ENGINEERING AND TRANSPORTATION TO GRANT OUTLINE CONSENT SUBJECT TO CONDITIONS AND SUBJECT TO COMPLETION OF A SECTION 106 AGREEMENT FOR OPEN SPACE, AFFORDABLE HOUSING PROVISION AND SITE MANAGEMENT



## **Application Status**

This application was deferred from Planning Committee of 1st February 2018 to consider impacts on street parking serving the church opposite and potential re-location of vehicle access nearer to Pugh Crescent.

The report was published for 1 March 2018 Planning Committee which was cancelled. The Local Highway Authority has since confirmed that the main trip generation times for a residential development would be at peak times whereas the main trip generation periods for a church would usually be outside of peak times, during the day and at weekends. For this reason it is considered the proposal would not result in severe transportation impacts.

The Local Highway Authority has also confirmed that re-locating the proposed vehicle access nearer to the junction with Pugh Crescent has the potential to reduce the 'Safe Stopping Distance' and would mean the visibility splay would cross the application site rather than across land under the Local highway Authority control. For these reasons, it is considered the proposed vehicle access should not be re-located.

The recommendation remains to Delegate to the Head of Planning, Engineering and Transportation to Grant Outline Consent Subject to Conditions and subject to completion of a Section 106 Agreement for Open Space, Affordable Housing provision and site management.

Reasons for the Decision.

Consideration has been given to the impact of the development on the surrounding area and the compliance with the policy framework. It is considered that the development will not cause any unacceptable impacts and as it may lead to the delivery of sustainable development subject to the completion of an appropriate reserved matters application, it is considered that the application, on balance, is acceptable subject to conditions and a S106 as per the recommendation.

In addition in March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

The original report now follows.

\*\*\* ORIGINAL REPORT \*\*\*

### **Application and Site Details**

The application site is a parcel of land at around 0.45 hectares located on the corner of King Charles Avenue, Bentley Road North and Pugh Crescent, in Bentley, Walsall previously occupied by 10 x bungalows which were demolished post 1970s. The site has since largely greened over.

A further parcel of open land exists directly to the north, is currently being developed for residential purposes) along with the Grade II Listed Bentley House further to the North. The remainder of the surrounding area is predominantly traditional two storey residential houses of simple design with a mix of hipped and pitched roofs, some with front gable features. Modern three storey flats are present along King Charles Avenue and convenience stores, a hot food takeaway and a church opposite the site along Bentley Road North and King Charles Avenue.

This outline application proposes residential re-development of the site seeking approval of main vehicle access only off King Charles Avenue with all other matters reserved. The indicative drawings show up to 16 new dwellings.

Scale has been removed for consideration under this current application following an objection from the Coal Authority on the grounds that no development should take place within a radius of 15m from the centre of a mine shaft in the south-east corner of the site. The following documents have been submitted in support of the planning application:

**Design and Access Statement** – Explains there are nearby areas of open space and parks, that the vehicle access off King Charles Avenue has been revised in light of Highway Authority and Tree Officer comments.

**Arboricultural Impact Assessment** – Explains 2 x trees would be removed to facilitate the development (T8 – Category U and T9 – Category C) and recommends a number of measures to protect retained trees during construction.

**Mine Shaft and Mine Working Investigation** – Explains how site investigations have been carried and identified a mine shaft within the application site in the south-east corner.

**Coal Mining Risk Assessment** – Concludes remediation measures regarding mine shafts and workings could be used to stabilise the site.

### **Relevant Planning History**

None.

### **Relevant Planning Policy Summary**

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

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

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

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

- ***NPPF 6 - Delivering a wide choice of high quality homes***
- ***NPPF 7 - Requiring good design***
- ***NPPF 10 - meeting the challenge of climate change, flooding and coastal change***
- ***NPPF 11 - Conserving and enhancing the natural environment***
- ***NPPF 12 - Conserving and enhancing the historic environment***

On **planning conditions** the NPPF says:

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

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

## **Local Policy**

### **Black Country Core Strategy**

[www.walsall.gov.uk/ldf\\_core\\_strategy](http://www.walsall.gov.uk/ldf_core_strategy)

- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation

- ENV7: Renewable Energy
- ENV8: Air Quality

### **Unitary Development Plan**

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

- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV27: Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- H1: Renewal of Existing Residential Areas
- T7: Car Parking
- T8: Walking
- T9: Cycling
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces

### **Emerging Site Allocation Document**

No objections have been received regarding the emerging allocation of the application site for housing (under site reference HO37) and weight can be given to the following emerging policy:

- HC1: Land Allocated for New Housing Development

### **Supplementary Planning Document**

[www.walsall.gov.uk/ldf\\_supplementary\\_planning\\_documents](http://www.walsall.gov.uk/ldf_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

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- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

### **Open Space**

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS5: Use of Contributions

### **Affordable Housing**

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH4: Provision Location
- AH5: Off Site Provision

### **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

Policies are available to view online: [www.walsall.gov.uk/planning\\_policy](http://www.walsall.gov.uk/planning_policy)

### **Consultations**

**Coal Authority** – No objection subject to conditions regarding treatment of mine entry and shallow workings and use of an appropriate no-build zone.

**Highway Authority** – No objection subject to conditions regarding parking, access, footways and cycle store.

**Housing Standards** – *No comments received. (NPPG confirms; ‘consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice’, which is the case in this instance).*

**Fire Authority** – Objects on the grounds that conflicting information has been provided regarding width of access. Adequate provision of water supply to be provided.

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**Pollution Control** – No objection subject to conditions regarding air quality, contaminated land and ground gas investigation, acoustic glazing/ventilation, and hours of work.

**Police** – No objection subject to security measures.

**Strategic Housing** – No objection subject to securing 4 on-site affordable houses for social rent.

**Tree Officer** – *No comments received. (NPPG confirms; 'consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice', which is the case in this instance).*

**Clean and Green** – No comments to make.

**Severn Trent** – No objection subject to a condition regarding drainage.

**Strategic Planning Policy** – No objection.

**Landscape Officer** – Landscape design requires additional work (*this is a reserved matter to be dealt with at a later stage*).

#### **Public Participation Responses (*Officer comments in italics*)**

Neighbours notified and 1 comment received:

- Land known to have mine shafts on it and land should be put to good use (*noted*).

#### **Determining Issues**

- Principle of Development
- Scale of Development
- Design, Layout & Security
- Vehicle Access
- Land conditions/coal legacy
- Local Finance Considerations
- Planning Obligations
- Conclusion

#### **Observations**

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

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This outline application site is located within a predominantly residential setting and is identified in the emerging Site Allocation Document (SAD) as a housing site (reference HO37), to which significant weight can now be given following public examination of the SAD in 2017. Furthermore, re-development of a vacant and previously developed site is considered would provide positive regeneration benefits to the local and wider area and improve the visual amenity of the area. The principle of proposed residential development is considered acceptable subject to all other matters being considered appropriate.

### **Scale of Development**

Whilst an indicative layout plan has been submitted scale, appearance, landscaping and layout are all reserved matters and conditions would be included to reflect this. However, based on the submitted indicative plans, up to 16 dwellings could be accommodated on the site subject to appropriate design which would be secured through a reserved matters application.

### **Design, Layout & Security**

The submitted indicative layout plan shows all flats would front the corner of Bentley Road North and King Charles Avenue leaving a portion of the site to the south-west undeveloped. This is considered would result in a poor layout, would result in an un-defined area of land which is likely to attract anti-social behaviour and security risks to the site and fails to make the best use of the prominent corner positions of the site. Furthermore, the flats as currently shown would encroach the Coal Authority's recommended no-build zone. Layout and appearance are reserved matters and these concerns could be addressed with an alternative design and secured at reserved matters stage and secured by condition. A condition would also be included to require submission and approval of facing materials to ensure satisfactory appearance of development.

Further conditions would be included to seek details of an external lighting scheme in the interest of safeguarding neighbours' amenity and site security and of energy consumption reduction measures, such as renewable energy, to meet the requirements of BCCS Policy ENV7.

The Police confirm the site is in an area suffering from a high proportion of anti-social behaviour and violent crimes. A condition would be included to ensure the development includes appropriate security measures in line with the recommendations of the Police and the Council's Community Safety Team.

### **Vehicle Access**

Main vehicle access is the only matter to be considered as part of this outline application. The access would be off King Charles Avenue and is considered acceptable as it would not result in severe transportation implications. Conditions would be included regarding laying out of the parking, access and footways along with a cycle store to serve flats in line with the recommendations of the Local Highway Authority. A further condition would be included to ensure the reserved matters application also meets the provisions of UDP T13 for on-site parking provision. Secondary vehicle and pedestrian accesses could also be considered at a later reserved matters stage.

A condition would also be included to require provision of electric vehicle charging points to meet the requirements of the Air Quality SPD.

The Fire Authority objected on the grounds that the content of the submitted design and access statement conflicted with the internal access drive dimensions shown on the indicative layout plan. The design and access statement has been updated as has the indicative layout plan which now shows a turning circle for a pump appliance. In any case, layout is a reserved matter and a condition would be included to ensure any revised layout meets the recommendations of the Fire Authority.

### **Land conditions/coal legacy**

The site contains a mine shaft in the south-east corner of the site which the Coal Authority advise requires a 'no build zone' with a radius of approximately 15m from the centre of the shaft i.e. a diameter of 30m. This would need to be addressed as part of later reserved matters applications and a condition would be included to reflect this.

A submitted environmental report identified potential ground contamination from the previous use of the site and further conditions can be included to require further investigations to be carried out along with any necessary remediation measures to ensure the health and safety of occupiers of the development in line with the recommendations of Pollution Control.

Submitted plans show removal of 1 x category 'C' tree and 1 x category 'U' tree. The group of protected trees along the Bentley Road North frontage would be retained and conditions would be included to require compensatory planting along with protection measures for retained trees in line with the recommendations of the submitted arboricultural report and tree protection plan.

### **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 the erection of up to 16 dwellings.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 792 new homes during 2010-2011 the award of £1,095,219 (which included a premium for affordable housing but also a deduction for an increase in vacancies) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards might be offset against reductions in the 'formula grant' the Council will receive from Government.

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

## **Planning Obligations**

The applicant has agreed to provide an off-site financial contribution towards Open Space and on-site affordable housing. These matters would be secured through a Section 106 Agreement to be completed alongside this application. As the exact number and mix of dwellings is currently unknown at this outline stage, the Section 106 Agreement would require the amount of open space contribution and affordable housing to be calculated in accordance with policy requirements and delivered prior to commencement of development.

Obligations would also be included within a Section 106 Agreement to require a management company to maintain all landscaped areas which fall outside of individual plots to ensure satisfactory appearance of development.

The applicant has agreed to costs associated with the completion of a Section 106 Agreement.

## **Conclusion**

This outline planning application, considering access only has been assessed taking a neighbour's comments and consultee comments into account. On balance the proposed principle of residential use and proposed vehicle accesses are considered acceptable and all other matters would be considered at reserved matters stage and dealt with by condition as set out in this report. The proposed conditions meet the Governments 6 tests on planning conditions.

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

### **Approve**

Officers have spoken with the applicant's agent and in response to concerns raised regarding an existing mine shaft, this outline application has been revised to exclude scale which would now be dealt with at a later reserved matters stage.

## **Recommendation**

To Delegate to the Head of Planning, Engineering and Transportation to Grant Outline Consent Subject to Conditions and subject to completion of a Section 106 Agreement for Open Space, Affordable Housing provision and site management.

1. Application(s) for approval of any Reserved Matter shall be made within 3 years of the date of this decision.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

2. No development shall take place until approval of the Reserved Matters has been obtained from the Local Planning Authority. The Reserved Matters are:

- i. Scale
- ii. Appearance
- iii. Landscaping
- iv. Layout

Reason: Pursuant to article 5 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

3. The development must be begun not later than 2 years from the final approval of the Reserved Matters, or in the case of approval on different dates, the final approval of the last Reserved Matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

4. This development shall not be carried out other than in conformity with the following plans and documents, unless otherwise stated in other conditions or approved as part of a Reserved Matters application:

- Location Plan (1 of 9). Amended deposited 10/01/2018
- Block Plan (3 of 9). Amended deposited 10/01/2018
- Indicative Layout Plan (5 of 9). Amended deposited 10/01/2018
- Tree Protection Plan (EA-2015-101 TPP). Deposited 25/02/2016
- Tree Constraints Plan (EA-2015-101 TCP). Deposited 25/02/2016
- Arboricultural Impact Assessment (10/11/2015). Deposited 25/02/2016
- Design and Access Statement. Amended deposited 05/12/2017
- Coal Mining Risk Assessment. Deposited 14/08/2017
- Mine Investigation Report (March 2017). Deposited 18/05/2017

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

5a. No development shall exceed damp proof course level until a schedule of facing materials to be used in external walls and roofs has been approved in writing by the Local Planning Authority.

5b. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure the satisfactory appearance of the development and to accord with UDP Policy ENV32.

6a. The reserved matters submission shall include the following:

- i. A plan to identify the location of the mine entry and appropriate 'no-build zones' around this feature of approximately 15m from the centre of the shaft i.e. a diameter of 30m;
- ii. A scheme of treatment for the mine entry for approval; and
- iii. A scheme of treatment for the shallow workings for approval.

6b. The approved details and remedial works shall be fully implemented prior to the commencement of development.

Reason: To ensure a safe and stable development and in accordance with NPPF paragraph 109 and UDP Policy ENV14.

7. The reserved matters submission shall include an amended layout which addresses the following:

- i. The submitted indicative layout plan 'Indicative Layout Plan (5 of 9)' deposited 10/01/2018 shows all flats would front the corner of Bentley Road North and King Charles Avenue leaving a portion of the site to the south-west undeveloped. This is considered would result in a poor layout, would result in an un-defined area of land which is likely to attract anti-social behaviour and security risks to the site and fails to make the best use of the prominent corner positions of the site; and
- ii. The flats as currently shown on the submitted indicative layout plan 'Indicative Layout Plan (5 of 9)' deposited 10/01/2018 would encroach the Coal Authority's recommended no-build zone.

Reason: To ensure a satisfactory layout, in the interest of safety and security of the site and to accord with NPPF Paragraph 109, NPPF 7, BCCS Policy CSP4, UDP Policy ENV32 and DW2 of the Designing Walsall SPD.

8a. As part of the Reserved Matters submission a plan shall be submitted to show the location of full infrastructure for electric vehicle charging facilities for each of the proposed dwellings.

8b. The agreed scheme shall be fully implemented in accordance with the approved details prior to first occupation of development and retained for the life of development.

Reason: In the interest of Air Quality and in accordance with UDP Policy ENV10 and Air Quality SPD.

9a. As part of the Reserved Matters submission a plan shall be submitted to demonstrate that the development provides sufficient parking spaces per dwelling to meet the criteria set out in UDP Policy T13 along with adequate motor, refuse and emergency vehicle movement within the site.

9b. Prior to first occupation all access ways, vehicle parking spaces and manoeuvring areas shall be fully consolidated, demarcated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain and thereafter retained and used for no other purpose.

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

10a. As part of the Reserved Matters submission details shall be submitted illustrating any external lighting, including its location, angle and positioning of the lighting heads plus the levels of illumination.

10b. The agreed details shall be fully implemented prior to the first occupation of the development and retained in working order thereafter.

Reason: In the interests of residential amenity and community safety and to accord with UDP Policy GP2.

11a. As part of the Reserved Matters submission details shall be submitted to demonstrate energy consumption savings of 10% of the overall on-site energy demand for the development.

11b. The development shall be constructed in accordance with the approved details and retained as such for the life of the development.

Reason: To encourage sustainable development and reduce impacts on the environment and to accord with NPPF 10 and BCCS Policy ENV7.

12a. As part of the Reserved Matters submission, details of compensatory planting to mitigate against the loss of the two trees (T8 & T9) as shown on 'Tree Protection Plan (EA-2015-101 TPP)' deposited 25/02/2016, shall be submitted to and approved in writing by the Local Planning Authority.

12b. The tree protection measures as shown on 'Tree Protection Plan (EA-2015-101 TPP)' deposited 25/02/2016, shall be implemented prior to construction and maintained during construction and any replacement planting to be carried out in accordance with the agreed details prior to the first occupation of the development.

12c. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period, any trees shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same size and same species as that originally required to be planted.

Reason: To safeguard trees with high visual amenity value and to ensure a satisfactory level of visual amenity is retained and to accord with UDP Policy ENV18 and NE8 and NE9 of the Natural Environment SPD.

13a. As part of the Reserved Matters submission, details shall be submitted of a covered cycle shelter to serve any flats within the development to include number of stands, details of security and illumination.

13b. Prior to the first occupation of any flat on the development, the approved cycle shelter shall be fully implemented and thereafter retained for the life of the development and used for no other purpose.

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

14a. As part of the Reserved Matters submission, details shall be submitted of:

- i. Vehicle access gates to the main vehicle access which shall be set back at least 5 metres from the carriageway kerb edge;
- ii. Pedestrian access gates serving the pedestrian access to flats; and
- iii. Boundary treatment around the perimeter of the site.



14b. The approved details shall be installed prior to first occupation of any part of the development and thereafter retained for the life of the development.

Reason: In the interest of security and to enable a vehicle to pull clear of the carriageway when the gates are in a closed position, in the interests of the free flow of traffic along the public highway and highway safety and to accord with UDP Policy T13 and DW2 of the Designing Walsall SPD.

15a. Prior to the commencement of any works on site including engineering and site clearance/preparation works a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority setting out:

- i. how the works will be undertaken;
- ii. detailing where the parking and turning facilities for site operatives and construction deliveries will be located;
- iii. giving details of arrangements for the control of noise, vibration, dust and debris (including site drag-out);
- iv. wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction; and
- v. the management of any materials arising from the works.

15b. The Construction Management Plan shall be fully implemented upon commencement of any works and shall be maintained until the site construction works are completed.

Reason: In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety, to protect local amenity and to accord with UDP Policy GP2.

16a. Prior to commencement of development a site investigation, ground contamination survey and ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be submitted to and approved in writing by the Local Planning Authority. (see Notes for Applicant CL1 and CL2).

16b. Prior to commencement of development a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2).

16c. The remedial measures as set out in the 'Remediation Statement' required by part b) of this condition shall be implemented in accordance with the agreed timetable.

16d. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part a) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part b) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

16e. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use (see Note for Applicant CL3).

Reason: To ensure safe development of the site, protect human health and the environment and to accord with NPPF Paragraph 109.

17a. Prior to commencement of development plans shall be submitted to and approved in writing by the Local Planning Authority to show the disposal of foul and surface water flows.

17b. The scheme shall be implemented in accordance with the approved details before first occupation of the development.

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

18. Prior to the main access road off King Charles Avenue first coming into use as shown on 'Indicative Layout Plan (5 of 9)' deposited 10/01/2018, vehicle footway crossings shall be installed to align with the new access points in accordance with the Council's footway crossing specification SD11/8 dated January 2008 and thereafter be retained as such for the life of the development.

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

19a. Prior to the first occupation of any dwelling on the development, a written Validation Report shall be submitted to and approved in writing by the Local Planning Authority to demonstrate the following measures have been installed and complied with:

- i. Habitable rooms with facades onto Bentley Road North shall have acoustic glazing with a minimum sound reduction property,  $R_w$ , of 38 dB.
- ii. Habitable rooms with a facade onto Bentley Road North shall have acoustic ventilation, with a minimum sound reduction property,  $R_w$ , of 38 dB in the open position.

19b. The approved measures shall be retained for the life of the development.

Reason: To safeguard the amenity of intended occupiers and to accord with UDP policy GP2.

20. Demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall not take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall not take place outside the hours of 08.00 to 18.00;

and 08.00 to 14.00 on Saturdays. Plant, machinery or equipment associated with such works shall not be started up or operational on the development site outside of the hours above.

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

Reason: To protect existing local amenity and infrastructure.

21. The development shall be constructed to meet the following minimum security measures and retained as such:

- i. Vehicle access and pedestrian access gates to flats at 2.1m high, to be self-closing and self-locking and designed to prevent climbing.
- ii. All ground floor windows and any accessible windows should have at least one pane of 6.8mm laminated glass. This includes French doors and patio doors.
- iii. The frontages and accessible windows of the houses and apartments shall have defensible planting under them.
- iv. Use of PAS 24:2012 doors.
- v. Use of a minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond Standard certification and ASB Thumb turn 3 star cylinders, Ultion Locks (or similar).
- vi. Use of 2.1 metre high rear perimeter fences to rear of dwellings erected so that the smooth face is always facing outwards including 300mm high anti-climb (Criss Cross) trellis topping. Where concrete post and panels are to be used the fence panels need to be secured together using galvanised metal straps, so that the panels cannot be lifted. The fencing shall be treated wood with a guaranteed life span of 25yrs. The fence height can be reduced to 1.8m between proposed rear garden areas.
- vii. All side entry gates to houses shall be 2.1m and be key lockable from both sides, positioned flush with the front of the building line. Their design and construction should not provide climbing aides for offenders.
- viii. No Lead or metal should be used on the ground floor, this includes outside taps to the front of properties. Where possible lead substitute products should be used.
- ix. All properties shall have a suitable intruder alarm, with a siren box front and back with dual or quad technology sensors and auto dialler function.

- x. Any communal entry to apartments shall be fitted with an access control system. This may be a proximity access control system, a door entry phone system and electronic lock release or a combination of these and shall include CCTV coverage of the flats.
- xi. Entrance and exit doors and frames to the flats shall be of a robust vandal resistant material, with vandal resistant viewing panels.
- xii. Entrances shall be well lit both internally and externally.
- xiii. Where communal areas are to be used for letterboxes DAD UK Ltd DAD009 1.5mm steel letterboxes shall be used.
- xiv. A Secured by Design cycle stand should be installed to serve any flats. The security anchor for the bike shall be certified to Sold Secure Silver standard or LPS 1175 issue 7:2010 SR1 and be securely fixed to the concrete foundation in accordance with manufacturers specifications.

Reason: To ensure the safety and security of the development and its occupiers, in the interests of visual and residential amenity and to accord with UDP Policy GP2.

22. Notwithstanding the provisions of condition 4, this permission only relates to access and does not give consent for the scale, layout, appearance or landscaping which are reserved matters.

Reason: To define the outline permission with all other matters reserved.

### **Notes for the Applicant:**

#### ***Highway Authority***

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to either enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.
3. All works within the public highway shall be in accordance with all statutory requirements.
4. Any alterations to street furniture required to accommodate the footpaths, such as modifications to trip rails, the bus stop pole, traffic signage, street lighting etc. or root protection works around the street trees, shall be at the applicant's expense.

## ***Fire Authority***

Suitable water supplies for firefighting should be provided. This shall be subject to consultation with West Midlands Fire Service once a Water Scheme plan has been produced and approved by the relevant Water Company.

The approval of Building Control will be required with regard to Part B of the Building Regulations

Any dead end greater than 20 m in length should have an appropriate turning facility for a pump appliance.

Dead end/cul de sac roadways should be a minimum of 5.5 metres in width and a minimum carrying capacity of 15 tonnes.

## ***Pollution Control***

### **Air Quality**

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

Charging Points:

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

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

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

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

## **Contaminated Land**

### **CL1**

*Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A1:2013 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.*

### **CL2**

*When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.*

### **CL3**

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

## **Acoustics**

If alternative acoustic measures are to be installed then these need to be supported with an acoustic survey that has been conducted with due regard to meeting British Standard BS8233:2014 'Guidance on sound insulation and noise reduction for buildings'. Any acoustic survey will be required to include at least one 24-hour period, Monday to Friday, and should not be undertaken during school holidays. The averaging period needs to be set to 5 minutes and maximum noise levels need to be considered, with maximum sound levels not regularly exceeding 45 dB(A) between 23.00 and 07.00. As a minimum the noise monitoring apparatus needs to comply with Class 1 specification BS EN 61672-1:2013 'Electroacoustics, Sound Level Meters, Specifications'.

## **Coal Authority**

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

[www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property)

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. The Coal Authority has adopted a policy where, as a general precautionary principle, the building over or within the influencing distance of a mine entry should wherever possible be avoided. The Coal Authority would take this opportunity to make the applicant aware of our adopted policy:

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

## **Severn Trent Water**

Severn Trent Water advise that there is a public sewer located within the application site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 7.**

### Reason for bringing to committee: Council Applications

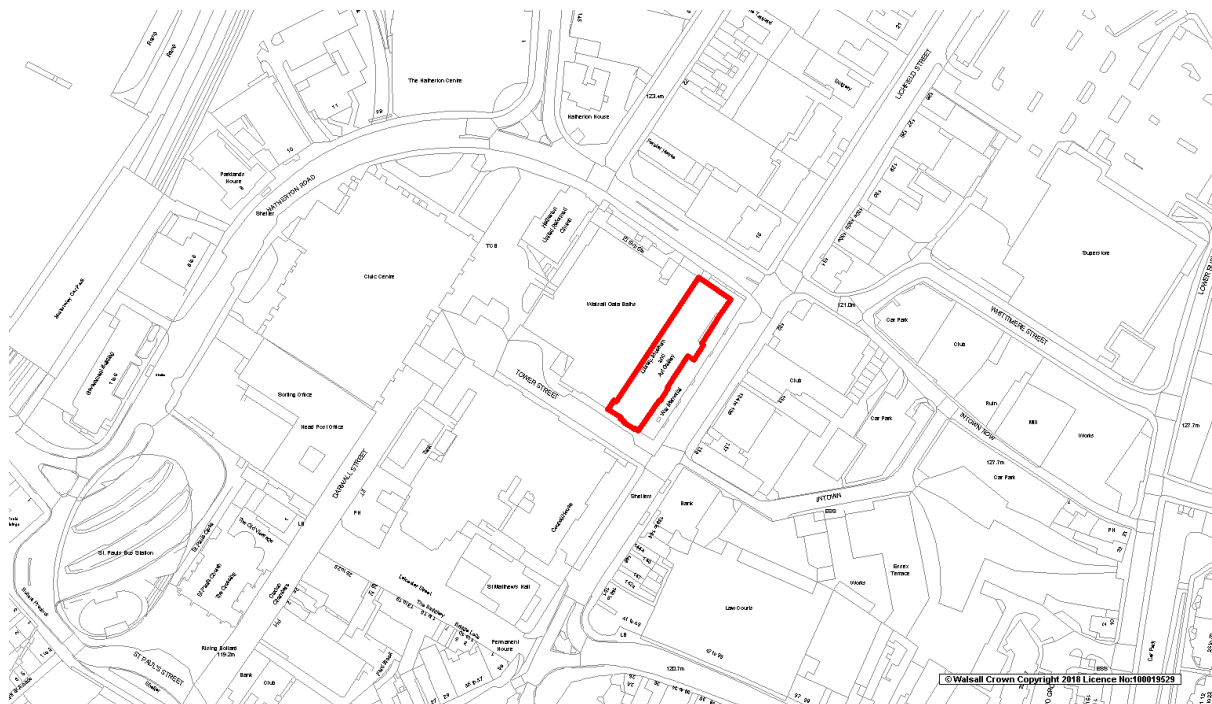
**Location:** WALSALL COUNCIL, CENTRAL LIBRARY, LICHFIELD STREET, WALSALL, WS1 1TR

**Proposal:** REPLACEMENT FLAT AND TILED ROOF AREAS AND WINDOWS AND NEW EXTERNAL ROOF MOUNTED PLANT DECK  
AND LISTED BUILDING CONSENT: INTERNAL ALTERATIONS, REPAIR WORK AND REPLACEMENT ROOF FINISH

**Application Number:** 18/0125 & 18/0028  
**Applicant:** Walsall Council  
**Agent:** CPMG Architects Ltd  
**Application Type:** Full Application & Listed Building Consent

**Case Officer:** Mike Brereton  
**Ward:** St Matthews  
**Expired Date:** 05-Apr-2018  
**Time Extension Expiry:**

**Recommendation Summary:** Grant Planning Permission Subject to Conditions  
AND Approve Listed Building Consent Subject to Conditions





## Proposal

This planning application, and associated Listed Building application proposes internal and external works associated with the creation of 'Walsall Hub', which will provide library, archive and local history facilities within one central location. This application also proposes restoration works to the Grade II Listed Central Library.

These applications propose:

- Replacement of existing rosemary clay roof tiles on the original 1906 library building area with 'Acme Red Smooth' clay roof tiles. The submitted Heritage Statement explains this is necessary to regain a water-tight roof and to prevent further internal water damage;
- Replacement window panels and restoration of existing windows in the original 1906 library building;
- Restoration works to existing double wooden entrance doors fronting Lichfield Street in the original 1906 library building;
- Internal works involving removal of non-original partitions and modifications along with restoration works to reveal, restore and enhance original features in the original 1906 library building;
- Creation of new partitions which the submitted Heritage Statement explains would be positioned to be sensitive to original features and minimise harm to the listed asset;
- Provision of ancillary café, events, job skills and training areas;
- Replacement double glass doors to the 2006 glass link structure;
- Repair and cleaning of flat roof areas, along with application of liquid plastic covering above the later 1965 museum building to the north-east;
- Replacement windows and curtain wall panels to the later 1965 museum building; and
- Installation of a new plant and deck area to a north-west section of flat roof area above the later 1965 museum building.

These applications are supported by:

**Design and Access Statement** – Explains the proposal has been worked up in accordance with key planning policy and guidance and how it would provide accessible entrance points.

**Heritage Statement** – Sets out the importance of the heritage asset and explains how the proposals seek to restore and enhance the original features along with sensitive internal modern additions.

**Construction Method Statement** – Explains the use of hoarding, temporary porta cabin buildings, delivery areas and other protection measures would be employed during the works.

**Plant Noise Assessment** – Concludes the proposed plant equipment would not result in any significant detrimental noise impacts to nearby residential uses or to users of the library and other commercial or leisure uses.

**Access & Maintenance Strategy** – Sets out how the works will be carried out along with future maintenance measures.

## Site and Surroundings

The application site is Walsall Central Library and connected museum building fronting Lichfield Street and on the corners of Tower Street and Hatherton Road, in Walsall town centre and within the Lichfield Street Conservation Area.

The original library building from 1906 is a traditional two storey Grade II listed building with hipped main roof, arched window and gable features and stone detailing. The library forms a key role as part of a historic collection of nearby civic buildings including the Town Hall and Council House which are also Grade II Listed. A further Grade II Listed building is located directly opposite the application site at 133 Lichfield Street.

Walsall Gala Baths, a modern building of simple appearance and shallow pitched roof adjoins the application site at rear to the north-west along with the Grade II Listed Hatherton United Church further beyond.

## Relevant Planning History

BC55408p/c - Erection of 2 no. turrets on the ridge of the roof to provide natural ventilation. GSC 07/04/2000

BC57470P/C - a) alterations and extension to entrance foyer to provide new stairs and lift for disabled access b) internal alterations to provide new fire escape. GSC 12/07/2001

BC57472P/C – CONSERVATION AREA CONSENT: a) alterations and extension to entrance foyer to provide new staircase and lift for disabled access b) internal alterations to provide new fire escape. Granted 12/07/2001

18/0028 (Listed Building application) - Internal alterations, repair work and replacement roof finish. Currently undetermined and forming part of this current report.

## 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*".

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

- Find ways to enhance and improve places in which people live their lives

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

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

- **NPPF 2 - Ensuring the vitality of town centres**
- **NPPF 7 - Requiring good design**
- **NPPF 12 - Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

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

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

### **NPPF Consultation 2018**

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

### **Local Policy**

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

### **Black Country Core Strategy**

- CSP4: Place Making
- CEN4: Regeneration of Town Centres
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

### **Unitary Development Plan**

- GP2: Environmental Protection
- GP6: Disabled People
- ENV10: Pollution
- ENV27: Buildings of Historic or Architectural Interest
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals
- S4: The Town and District Centres: General Principles

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- WA5: Conservation Areas and Areas of High Townscape Value  
b) *Within these areas, the Council will encourage the sensitive refurbishment of buildings for appropriate purposes.*

## **Supplementary Planning Document**

### **Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW6 Legibility
- DW8 Adaptability

### **Emerging Area Action Plan**

- AAPLE2: Sport and Cultural Facilities  
b) *Walsall Library (TC39) will be protected and where possible invested in as a key cultural facility in the centre*

## **Consultation Replies**

**Conservation Officer** – No objection subject to conditions and notes to applicant regarding protection of original features and use of materials / methods.

**Walsall Civic Society** – No comments have been received.

**Victorian Society** – No comments have been received.

**Twentieth Society Group** – No comments have been received.

**Society Protection of Ancient Buildings** – No comments have been received.

**Georgian Group** – No comments have been received.

**Council for British Archaeology** – No comments have been received.

**Ancient Monuments Society** – No comments have been received.

**Pollution Control** – No objection.

## **Representations**

Nearby neighbour and occupiers notified and no comments received.

## Determining Issues

- Principle of Development
- Design, Appearance and Heritage
- Amenity
- Environment

## Assessment of the Proposal

### Principle of Development

The proposed works are in association with the creation of a single community hub and would aid the continuation of a key community facility in Walsall Town Centre. This proposal is considered acceptable in principle.

Whilst the scheme involves the upgrading the facilities provided at the premises, the proposed improvements do not alter the primary function of the building as a library and therefore no change of use issues arise.

### Design, Appearance and Heritage

The proposed restoration works and replacement windows, doors and external cladding are all welcomed as these would help to regenerate the application buildings. These works are considered acceptable subject to the use of appropriate methods and materials which can be secured by condition and in line with the recommendations of the Conservation Officer.

A range of potential replacement roof tiles for the original 1906 library building have been submitted for consideration and notwithstanding the proposed 'Acme Red Smooth' clay tile, it is considered that the submitted 'Acme Smooth Brindle' is preferable as it gives a slight variation on colour, would reflect the original rosemary tiles and would provide a more instant weathered appearance. This tile would also weather well and over time would give a darker appearance as currently seen on the roof. This would be secured by condition along with ensuring the tiles are laid to match the original roof pattern in line with the recommendations of the Conservation Officer.

The proposed repair works, cleaning and use of liquid plastic covering to the flat roof area above the later 1965 museum building is considered acceptable and would not be visible from any public vantage points.

Overall, the above works are considered would preserve and enhance the appearance of the conservation area and the application buildings and would not result in any harm to the character or appearance of the area.

Due to the proposed location of the plant equipment to the rear of the later, and un-listed museum part of the site, when combined with the presence of a tightly built surrounding urban fabric, views of it are likely to be limited at a human scale i.e. passing pedestrians and vehicle users. On this basis it is considered this element of the proposal would result in less than substantial harm to designated heritage assets and the public benefits in the regeneration of a key community facility is considered to outweigh any such harm in this instance.

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Submitted plan (Proposed Elevations - 8245-CPM-ZZ-ZZ-DR-A-20301 Rev P1) refers to replacement signage above the main entrance points fronting Lichfield Street and these would require separate Advertisement Consent. A note to applicant would be included on this basis.

The Conservation Officer recommends inclusion of a condition to require an on-site meeting between the Local Planning Authority and contractors prior to works commencing. Further conditions are also recommended which relate to restriction of certain works until binding contracts and other consents have been provided. This is a Council application and it is understood that contractors are already in place. In this instance, these recommended conditions are considered would fail to meet the governments tests on planning conditions, would be unreasonable and would not be easily monitored or enforced. These matters could instead be included as notes to applicant.

### **Amenity**

The submitted noise assessment concludes the proposed plant equipment would not result in any significant additional noise disturbance to nearby residents, occupiers, or users of nearby services or facilities. Pollution Control concur with this report.

On this basis it is considered the proposed plant equipment would not result in any significant additional harm to amenity and no conditions are necessary in this instance.

It is recognised that some disruption is likely to occur during the works and this is to be expected to some degree and would only be on a short term basis. Furthermore, conditions would be included to secure appropriate construction management as set out in the submitted Construction Method Statement in an effort to minimise disruption and impacts on nearby occupiers' amenity.

### **Environment**

The submitted documents refer to the removal of asbestos and a further condition would be included to ensure this material is removed safely by a licensed operative and disposed of to a licensed facility in the interest of the safety of the local environment.

With regard to the new plant being installed, no conditions have been proposed by the Pollution Control Officer. Consideration has been given to the potential harm to adjoining users but noting the site is in the town centre and the distance to sensitive receptors, conditions are not considered necessary in this instance. Should significant harm arise from the operation of the plant, powers exist through Environmental Health legislation for this to be regulated.

No condition on the hours of use have been recommended either as the site is in the town centre and there are no immediate neighbours. If it is proposed that the premises is used to hold functions then licencing controls will be utilised.

## Conclusions and Reasons for Decision

The proposal is considered would retain, enhance and regenerate a key community facility within Walsall Town Centre and accords with NPPF2 and is supported by BCCS Policy CEN4, UDP Policy S4 and AAPLE2 of the emerging AAP.

Furthermore, the proposed restoration works, replacement windows, doors and external cladding are considered would preserve and enhance the appearance of the conservation area and the application buildings and would not result in any harm to the character or appearance of the area. The proposed plant equipment is considered would result in less than substantial harm to designated heritage assets and the public benefits in the regeneration of a key community facility is considered to outweigh any such harm in this instance. The proposal accords with NPPF7, NPPF12, BCCS Policies CSP4, ENV2 & ENV3, UDP Policies ENV27, ENV29, ENV32, S4 & WA5 and DW3 of the Designing Walsall SPD.

As there are no material planning matters against this proposal there is no reason to refuse these applications.

## Positive and Proactive Working with the Applicant

### Approve

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

## Recommendation

Grant Planning Permission Subject to Conditions  
AND  
Approve Listed Building Consent Subject to Conditions

## Conditions and Reasons

### *Conditions to be attached to Planning Permission:*

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

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

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

- Heritage Statement (8245-CPM-ZZ-ZZ-RP-A-10401). Deposited 01/02/2018
- Roof Plan Proposed (8245-CPM-ZZ-L04-DR-A-24002). Deposited 01/02/2018
- Construction Method Statement (8245-CPM-ZZ-ZZ-RP-A-10401). Deposited 01/02/2018

- External Door & Window Elevations (8245-CPM-ZZ-ZZ-DR-A-32101 Rev P1). Deposited 01/02/2018
- Proposed Third Floor (8245-CPM-ZZ-L03-DR-A-20104). Deposited 01/02/2018
- Proposed Ventilation Layout Roof Level (8245-PEV-Z1-RF-DR-M-0105 Rev P06). Deposited 01/02/2018
- First Floor 1906 Replacement Riser. Deposited 26/02/2018
- Proposed Plant Platform (8245-PEV-XX-03-DR-S-3001 Rev P01). Deposited 01/02/2018
- Block Plan (8245-CPM-ZZ-ZZ-DR-A-10002 Rev P2). Deposited 01/02/2018
- Access & Maintenance Access Strategy (8245-CPM-ZZ-L00-DR-A-70001 Rev P1). Deposited 01/02/2018
- Proposed Elevations (8245-CPM-ZZ-ZZ-DR-A-20301 Rev P1). Deposited 01/02/2018
- Plant Noise Assessment (8<sup>th</sup> February 2018). Deposited 09/02/2018
- Safety Method Statement and Risk Assessment (8245-CPM-ZZ-ZZ-RP-A-10401). Deposited 01/02/2018
- Access & Maintenance Strategy (8245-CPM-ZZ-ZZ-RP-A-10301). Deposited 01/02/2018
- Proposed Ground Floor (8245-CPM-ZZ-L00-DR-A-20101 Rev P1). Deposited 01/02/2018
- Proposed Second Floor (8245-CPM-ZZ-L02-DR-A-20103 Rev P1). Deposited 01/02/2018
- Location Plan (8245-CPM-ZZ-ZZ-DR-A-10001 Rev P3). Deposited 01/02/2018
- Proposed First Floor (8245-CPM-ZZ-L01-DR-A-20102 Rev P2). Amended deposited 26/02/2018
- Demolition Plan First Floor (8245-CPM-ZZ-L01-DR-A-11002 Rev P2). Deposited 26/02/2018
- Demolition Plan Ground Floor Floor (8245-CPM-ZZ-L00-DR-A-11001 Rev P1). Deposited 08/01/2018
- Wall Finishes Ground Floor (8245-CPM-ZZ-L00-DR-A-33101). Deposited 08/01/2018
- Wall Finishes First Floor (8245-CPM-ZZ-L01-DR-A-33102). Deposited 08/01/2018
- Design and Access Statement (8245-CPM-ZZ-ZZ-RP-A-10701\_P1). Deposited 01/02/2018



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

3a. The tiled roof over the original and listed library building and as shown on submitted 'Roof Plan Proposed (8245-CPM-ZZ-L04-DR-A-24002)' shall be replaced with 'Acme Smooth Brindle' clay roof tile and laid to match the original roof pattern (spacing).

3b. The flat roof area over museum building as shown on submitted 'Roof Plan Proposed (8245-CPM-ZZ-L04-DR-A-24002)' shall be finished in liquid plastic covering.

3c. Code 5 lead shall be used to the flash banding and ridge sections of the roof.

Reason: To ensure the satisfactory appearance of the development, to preserve and enhance the Listed Building and Conservation Area and to comply with NPPF12, BCCS Policy ENV2 and UDP Policies ENV27, ENV29 & ENV32.

4. All alteration and demolition works to the listed library building shall be supervised at all times by:

- Willmott Dixon Construction Manager;
- a specialist supervisor for any external cleaning; and
- a roofing supervisor with experience in conservation roof repair/replacement building works.

Reason: To ensure the satisfactory appearance of the development, to preserve and enhance the Listed Building and Conservation Area, and to comply with NPPF12, BCCS Policy ENV2 and UDP Policies ENV27, ENV29 & ENV32.

5. All asbestos shall be carefully removed by a licensed operative and disposed of to a licensed facility.

Reason: To safeguard the local environment and to comply with UDP Policies ENV10 & GP2.

***Conditions to be attached to Listed Building Consent:***

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

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

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

- Heritage Statement (8245-CPM-ZZ-ZZ-RP-A-10401). Deposited 01/02/2018
- Roof Plan Proposed (8245-CPM-ZZ-L04-DR-A-24002). Deposited 01/02/2018
- Construction Method Statement (8245-CPM-ZZ-ZZ-RP-A-10401). Deposited 01/02/2018

- External Door & Window Elevations (8245-CPM-ZZ-ZZ-DR-A-32101 Rev P1). Deposited 01/02/2018
- Proposed Third Floor (8245-CPM-ZZ-L03-DR-A-20104). Deposited 01/02/2018
- Proposed Ventilation Layout Roof Level (8245-PEV-Z1-RF-DR-M-0105 Rev P06). Deposited 01/02/2018
- First Floor 1906 Replacement Riser. Deposited 26/02/2018
- Proposed Plant Platform (8245-PEV-XX-03-DR-S-3001 Rev P01). Deposited 01/02/2018
- Block Plan (8245-CPM-ZZ-ZZ-DR-A-10002 Rev P2). Deposited 01/02/2018
- Access & Maintenance Access Strategy (8245-CPM-ZZ-L00-DR-A-70001 Rev P1). Deposited 01/02/2018
- Proposed Elevations (8245-CPM-ZZ-ZZ-DR-A-20301 Rev P1). Deposited 01/02/2018
- Plant Noise Assessment (8<sup>th</sup> February 2018). Deposited 09/02/2018
- Safety Method Statement and Risk Assessment (8245-CPM-ZZ-ZZ-RP-A-10401). Deposited 01/02/2018
- Access & Maintenance Strategy (8245-CPM-ZZ-ZZ-RP-A-10301). Deposited 01/02/2018
- Proposed Ground Floor (8245-CPM-ZZ-L00-DR-A-20101 Rev P1). Deposited 01/02/2018
- Proposed Second Floor (8245-CPM-ZZ-L02-DR-A-20103 Rev P1). Deposited 01/02/2018
- Location Plan (8245-CPM-ZZ-ZZ-DR-A-10001 Rev P3). Deposited 01/02/2018
- Proposed First Floor (8245-CPM-ZZ-L01-DR-A-20102 Rev P2). Amended deposited 26/02/2018
- Demolition Plan First Floor (8245-CPM-ZZ-L01-DR-A-11002 Rev P2). Deposited 26/02/2018
- Demolition Plan Ground Floor Floor (8245-CPM-ZZ-L00-DR-A-11001 Rev P1). Deposited 08/01/2018
- Wall Finishes Ground Floor (8245-CPM-ZZ-L00-DR-A-33101). Deposited 08/01/2018
- Wall Finishes First Floor (8245-CPM-ZZ-L01-DR-A-33102). Deposited 08/01/2018
- Design and Access Statement (8245-CPM-ZZ-ZZ-RP-A-10701\_P1). Deposited 01/02/2018

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

3a. Notwithstanding the information contained within the submitted 'Construction Method Statement (8245-CPM-ZZ-ZZ-RP-A-10401)', prior to any external cleaning of the listed library building, a detailed method statement shall be submitted to and approved in writing by the Local Planning Authority setting out how such works will be carried out in a sensitive manner to protect the original features and external materials.

3b. The works shall be carried out in accordance with the agreed details.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building and to comply with UDP Policy ENV27 and Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4a. Following the completion of the hereby approved replacement tile roof and prior to the restoration works of internal plaster features to the listed library building, details shall be submitted to and approved in writing by the Local Planning Authority of the method of restoration and the proposed materials and finish to internal plaster features.

4b. The works shall be carried out in accordance with the agreed details.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building and to comply with UDP Policy ENV27 and Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

5a. Prior to the installation of any insulation to the listed library building, a detailed specification of 'breathable' insulation shall be submitted to and approved in writing by the Local Planning Authority.

5b. The works shall be carried out in accordance with the agreed details.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building and to comply with UDP Policy ENV27 and Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6. All alteration and demolition works to the listed library building shall be supervised at all times by:

- Willmott Dixon Construction Manager;
- a specialist restoration supervisor for the plaster repairs;
- a specialist supervisor for any external cleaning; and
- a roofing supervisor with experience in conservation roof repair/replacement building works.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building and to comply with Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7. Any intact historic window glass panes in the listed library building damaged during the building works shall be immediately reported to the Local Planning Authority and shall be replaced like-for-like from a suitable approved source. (Note: conventional polished plate glass will not be acceptable).

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building and to comply with Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Notes for Applicant**

### **LISTED BUILDING INFORMATIVES**

1. Before work begins contractors should arrange a site meeting with the local planning authority to ensure that the Conditions attached to this decision are understood and can be complied with in full.

2a. Listed Building Consent is required for any [abrasive cleaning/sand-blasting] of any part of this building.

2b. Listed Building Consent may be required for the repointing of brickwork to this listed building.

2c. All leadwork should follow the Codes and details recommended by the Lead Sheet Association.

3. All works subject of this decision should be carried out by appropriately qualified and competent persons.

4. NPPF Paragraph 136 states that: ' Local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.' It would also be reasonable to expect such development to take place expeditiously and for evidence of this to be provided.

No works of demolition should begin until a binding contract has been entered into for the carrying out of works for redevelopment of the site in accordance with all the necessary permissions and consents.



**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 8.**

**Reason for bringing to committee: Significant Community Interest**

**Location:** MORRISONS PLC, ANCHOR ROAD, ALDRIDGE, WALSALL, WS9 8PT

**Proposal:** REPLACEMENT OF 6 EXTERNAL ILLUMINATED FASCIA SIGNS AND 1 ILLUMINATED TOTEM SIGN

**Application Number:** 18/0054

**Applicant:** Wm Morrison Supermarkets PLC

**Agent:** Jenna Padgett

**Application Type:** Advertisement Consent

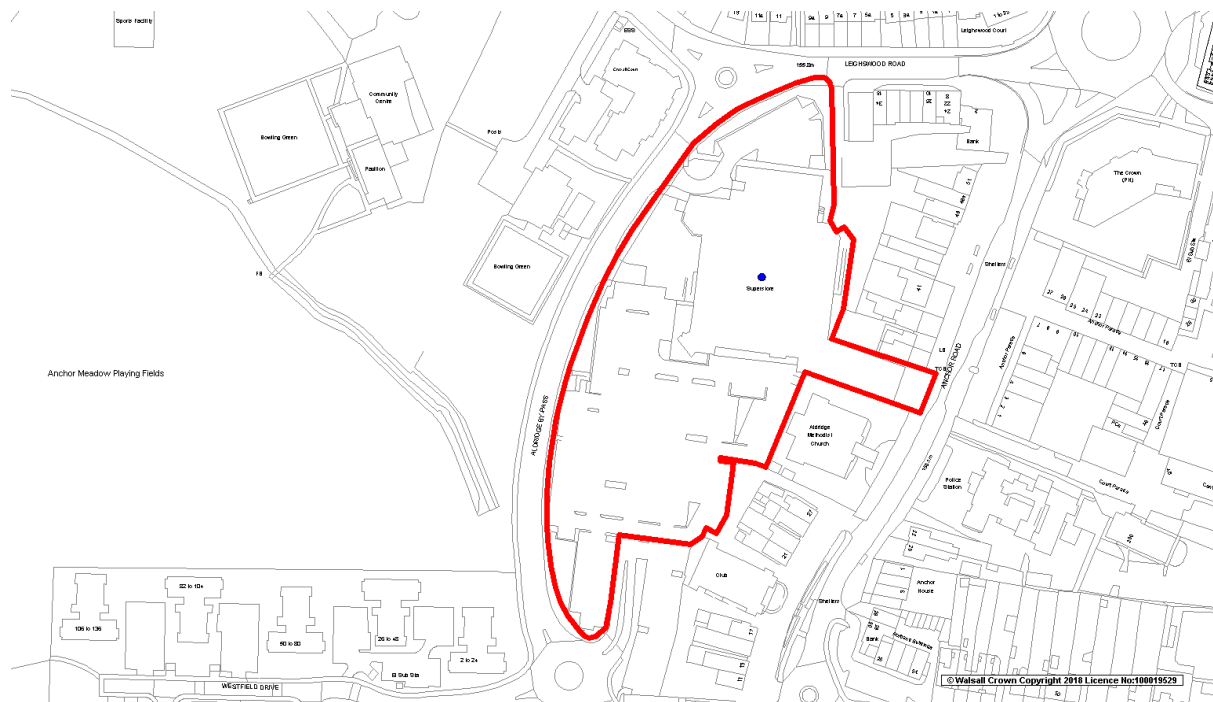
**Case Officer:** Stuart Crossen

**Ward:** Aldridge Central And South

**Expired Date:** 19-Mar-2018

**Time Extension Expiry:** 29-Mar-2018

**Recommendation Summary:** GRANT SUBJECT TO CONDITIONS AND NO NEW MATERIAL CONSIDERATIONS WHICH CANNOT BE MITIGATED FOR BY CONDITION, FOLLOWING FURTHER CONSULTATION



## Proposal

The application proposes replacement Morrisons Shop Signage. Some of the signs have already been installed. There are 7 illuminated signs proposed as follows:

The Morrisons logo sign on the front gable above the main entrance would be replaced by a larger lettered new Morrisons Logo sign, predominantly white with green text. The measurements of this sign would be as follows:

7 metres from the ground  
2.66 metres high

5.22 metres wide

0.9 metres deep

luminance level of 300CD/m

2 green Morrisons text signs are proposed either side of the main entrance. The measurements of these signs would be as follows:

5 metres from the ground  
0.92 metres high

5.22 metres wide

0.9 metres deep

luminance level of 300CD/m

Green Morrisons text sign to the rear of the building. The measurements of this sign would be as follows:

5.6 metres from the ground  
0.74 metres high

4.18 metres wide

0.9 metres deep

luminance level of 300CD/m

White Morrisons text sign on the entrance facing Anchor Road. The measurements of this sign would be as follows:

3.7 metres from the ground  
0.92 metres high

5.22 metres wide

0.9 metres deep

luminance level of 300CD/m

Morrisons logo sign with green text on the side of the building. The measurements of this sign would be as follows:

5.2 metres from the ground

1.33 metres high

1.27 metres wide

0.17 metres deep

luminance level of 300CD/m

An internally illuminated free standing totem sign is proposed in the forecourt predominantly RAL 6005 matt green with the “Morrisons” in green logo, store opening times, nutmeg clothing logo, party shop logo and the following white text “Pharmacist, Cafe & Free wifi, Hot Food to Go, Hand Made Pizza, Bread Baked daily, In Store Butchers”. This sign would measure:

5.87 metres high

1.66 metres wide

0.20 metres deep

### **Site and Surroundings**

The site is situated in the Aldridge District Centre between Anchor Road and Aldridge By-Pass. The site comprises an existing retail food store with car parking to the south and west, vehicle access from an existing traffic island situated to the south of the site, pedestrian link access to the east onto Anchor Road, service yard and access onto Aldridge By-Pass to the west of the existing building and an existing ambulance station (single storey building and parking area) set to the north of the site, with its own access off Aldridge By-Pass.

A public right of way exists through the existing car park to the south of the building and a footpath (created when the store was built) sits between the existing store and the ambulance station, and runs from Aldridge By-Pass through to Anchor Road.

### **Relevant Planning History**

BC33819P, outline application for the erection of a foodstore, associated service area, parking, new vehicle access and pedestrian link to the town centre and diversion of a public footpath. Granted subject to conditions 16-10-91 after a local appeal.

BC36201P, amended proposal for a foodstore, associated service area, car parking, new vehicle access and pedestrian link to the town centre and regional offices. Granted subject to conditions 07-07-92.

BC52221P, proposed extension adjacent to the entrance to form cash point room, extension to canopy and alterations to car park. Granted subject to conditions 25-03-98.



03/2067/FL/E12, extension to existing foodstore. Granted subject to conditions 15-01-04. Subsequent appeal against Condition 5 relating to car park charges, dismissed 08-09-04.

09/0915/FL Demolition of existing ambulance station and erection of warehouse extension to existing foodstore, construction of new service yard, extension of existing car park and provision of ambulance office and ambulance parking bay and diversion of public footpath. Refused 25/11/09.

10/0893/FL Demolition of existing ambulance station and erection of a warehouse extension to existing foodstore, creation of new staff car park and diversion of existing footpath. Granted subject to Conditions 10/09/10.

10/1685/MA Reduction in the footprint and height of part of the roof on the extension approved under planning application 10/0893/FL, addition of high level panelling to west elevation to match existing and removal of first floor corner office. Granted subject to Conditions 24/03/11.

17/1457 Proposed entrance extension to create enclosed entrance lobby and front extension to create new floor space. 09/01/18

## Relevant Policies

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

### National Planning Policy Framework (NPPF) [www.gov.uk](http://www.gov.uk)

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

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

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

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

- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

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

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

### **NPPF Consultation**

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

### **Local Policy**

#### **Black Country Core Strategy**

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

#### **Unitary Development Plan**

- GP2: Environmental Protection
- ENV11: Light Pollution
- ENV32: Design and Development Proposals
- ENV37: Small Poster Panel Advertisements
- JP7: Use of Land and Buildings in Other Employment Areas

#### **Supplementary Planning Document**

##### **Designing Walsall**

- DW3 – Character
- DW9 High Quality Public Realm

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

#### **Other relevant guidance**

Institute of Lighting Professionals – Professional Lighting Guide 05 (2014)

### **Consultation Replies**

Highways – No objections

### **Representations**

4 objections received on the following grounds:

Extra illumination impact on homes opposite.

Unnecessary use of electricity.

In relation to signs 4 and 6 they should not be illuminated which is the case currently.

Out of character

Already extended the car park which is not full.

Removed trees now looks desolate. Trees should be replaced

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Attracts young people who leave litter.  
Sign too large  
7 additional signs unnecessary.

The consultation letters for Croxall Court were all returned on the 03/03/18 this is due a technical error which amended the addresses. A new consultation has now been undertaken.

## **Determining Issues**

### **Visual Appearance**

#### **Neighbouring Amenity**

#### **Highway and Public Safety**

## **Assessment of the Proposal**

### **Visual Appearance**

The signage does not significantly affect the visual appearance of the building and would replace existing signage of a similar size compatible with a large supermarket in a district centre location. The position of the illuminated signage being visible from the public highway in the context of the existing shopping area nearby is considered would have not have a significant impact on the visual appearance of the area which has existing illumination which is to be expected in an urban area.

#### **Neighbouring Amenity**

The application site is within an urban location which is designated as zone E3 in the Institute of Lighting Professionals – Professional Lighting Guide 05, which recommends that luminance does not exceed 600cd/m<sup>2</sup> for signage under 10m<sup>2</sup> of illuminated area, only the largest proposed sign exceeds 10m<sup>2</sup> and the recommended maximum for a sign of this size is 300cd/m<sup>2</sup>. The application only proposes a luminance of 300cd for all signs and a condition can be attached to ensure that this luminance is not exceeded to ensure there would not be any undue unacceptable impact on the amenities of any nearby residents.

It is understood that existing signage is not illuminated, however as explained above the illumination is in a suburban location and the luminance falls below the recommended limits.

#### **Highway and Public Safety**

The signage is considered would have little if any impact on Highway Safety and in this regard raises no objection from Highways Officers.

The use of electricity for the adverts and whether they are necessary is a matter for Morrison's to consider.

The lights could be left on 24 hours, this is a district centre location and there are reports of anti-social behaviour. Lighting of the site could help deter anti-social behaviour if culprits are more visible. This will also benefit the quality of CCTV images to identify potential anti-social behaviour.

### **Other Issues Raised Through Consultation**

Comments raised about the car park, trees and young people are not determining issues of this advert application.

### **Conclusions and Reasons for Decision**

The design and prominence of the scheme is acceptable and similar to what is already present in the district centre and accords with UDP policy ENV32.

The luminance can be controlled through condition, is considered acceptable and would accord with planning policy ENV11.

The scheme would have little if any impact on highway safety and it is considered that this illumination in the district centre outside of the shopping hours would improve visual surveillance, a deterrent to unsociable behaviour and would benefit the quality of CCTV images which would accord with UDP policy ENV32.

Taking into account the above factors the application is recommended for approval.

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

Officers have spoken with the applicant's agent and in response to concerns raised regarding ground gas and the power connection to the freestanding totem, additional details have been submitted which enable full support to be given to the scheme.

### **Recommendation**

Grant Subject to Conditions and no new material considerations which cannot be mitigated for by condition, following further consultation.

### **Conditions and Reasons**

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission

*Reason:* It is a requirement of the Regulations that the site owners permission be obtained before any advertisement is displayed.

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

Aldridge (241) Daily – Planning Booklet – Issue 1 – 17/01/18 received 17/01/18.

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

3. Notwithstanding the submitted information the luminance levels of the signage hereby approved shall not exceed 300cd/m2.

*Reason:* To ensure the satisfactory amenities of nearby residents and to comply with UDP policy ENV10 and GP2.

4. No advertisement shall be sited or displayed so as to-

- Endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
- Obscure, or hinder the ready interpretation of, any traffic sign, railway signal, or aid to navigation by water or air; or
- Hinder the operation of any device used for the purpose of securing or surveillance or for measuring the speed of any vehicle.

*Reason:* In the interest of public safety.

5. Any advertisement displayed, and any site used for the displaying of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

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

6. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

*Reason:* In the interest of public safety and amenity

7. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair on visual amenity.

*Reason:* In the interest of public safety and amenity



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 9.**

**Reason for bringing to committee: Called in by Councillor Ferguson**

**Location:** LAND TO REAR OF 24-28, CHESTER ROAD NORTH, BROWNHILLS, WALSALL, WS8 7JP

**Proposal:** CONSTRUCTION OF 3 NO DETACHED DWELLINGS AND ASSOCIATED ACCESS, PARKING AND GARAGING.

**Application Number:** 17/1546

**Applicant:** Mr Portsmouth

**Agent:** Mr Roger Palmer

**Application Type:** Full Application

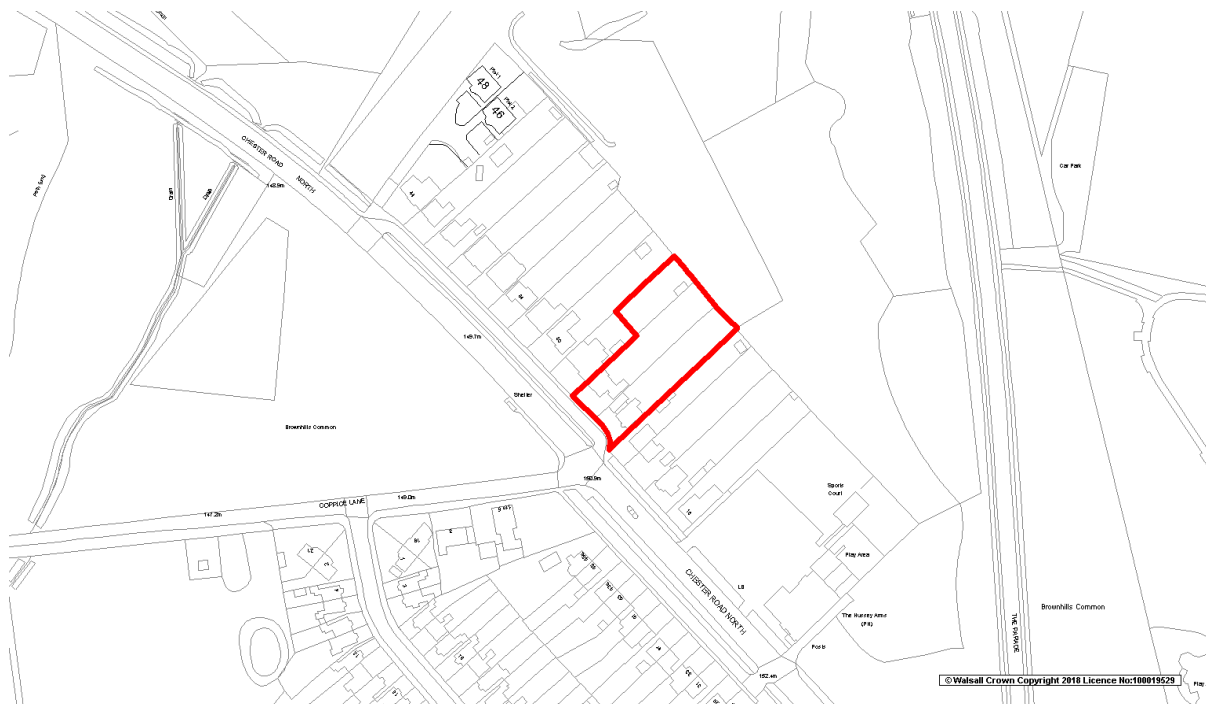
**Case Officer:** Barbara Toy

**Ward:** Brownhills

**Expired Date:** 15-Jan-2018

**Time Extension Expiry:** 29-Mar-2018

**Recommendation Summary:** REFUSE



## **Status**

Councillor Ferguson has called the application in to Committee as he considers that the application should be considered by Members as it requires delicate judgement.

The report was published for 1 March 2018 Planning Committee which was cancelled.

Further to the earlier report in March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

The original report now follows.

## **Proposal**

This is a revised application for the demolition of the existing single storey side garage at No 24 to create an access drive and the erection of 3 detached dwellings on the land to the rear, with a double detached garage for Plot 3. The previous application for a similar development was withdrawn from the Planning Committee agenda on 31<sup>st</sup> August 2017 and the application was subsequently withdrawn by the applicant.

The three plots would sit across the rear of the site facing Chester Road North

The scheme has been amended in an attempt to overcome the previous recommended reasons for refusal.

The redline boundary of the site has been amended and now includes No 26 Chester Road North, with details of the proposed off street parking facilities for the existing houses at No 26 and No 24 included. The width of the proposed access drive has been increased from 4.5m to 5m wide. The single garage set to the rear of No 24 has been deleted from the scheme.

The three dwellings would sit across the rear of the site facing Chester Road North, in same position as the previous application, with each plot having the same footprint as previously.

Plots 1 and 2 would be broadly the same as the previous application apart from a reduced ridge height. Both plots would have the same design, a 3 bed dormer bungalow with an integral single garage. There would be 2 bedrooms and a bathroom within the roof space with 2 gable roofed dormer windows to the front and to the rear and 2 further roof lights to the rear. The bungalows would have a footprint of 9.3m x 10m with a small forward projection of the garage. Both plots have a garage space and 2 driveway parking spaces and rear gardens exceeding 120sqm. The bungalows have a gable roof with a maximum ridge height of 6.6m, 0.8m lower than the previous application.

Plot 3 would be the same as the previous application apart from a reduced ridge height and a reduced height of the two front gables. Plot 3 would be a larger plot and property, providing a 4 bed dwelling with 3 bedrooms, en-suite and bathroom within the roof space with gable features to the frontage 6.3m in height, a dormer window to the front and 3 dormer windows to the rear elevation. The property would have a detached double garage on the frontage of the plot immediately to the rear of No 28, the gable roof of the garage has been turned through 90 degrees. The property would have a footprint of 9.75m x 12.5m with a gable roof maximum height of 6.6m, 0.7m lower than the previous application and would have a rear garden of 165sqm.

The site has an area of 0.17 Hectares, 3 dwellings would result in a density of 17.6 dwellings per hectare.

The following have been submitted in support of the proposals:

- Planning Statement
- Coal Mining Risk Assessment
- Preliminary Ecological Survey

## **Site and Surroundings**

The site is on the north eastern side of Chester Road North (A452 Strategic Highway Network) towards the edge of the built up area with designated Green Belt and Brownhills Common SINC to the rear of the site.

The site comprises the end section of the rear gardens of 24, 26 and 28 Chester Road North, 3 detached two-storey houses. The houses together with 8 other detached properties front onto a service road off the main road. All of the houses have front gardens/driveways and large mature rear gardens.

The site sits within a block of 15 properties providing a mix of detached bungalows and houses fronting Chester Road North. The opposite side of the road is a further part of Brownhills Common open land and houses within Coppice Lane. Immediately to the rear of the site is a band of mature trees within the Common.

## **Relevant Planning History**

17/0739, construction of 3 detached dwellings and associated access, parking and garaging. Withdrawn 26-09-17, following report withdrawn from Planning Committee agenda on 31-08-17.

### 44 Chester Road North

16/1586, erection of 2 detached 3 bed dormer bungalows on land to the rear GSC 09-12-16



### 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*".

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

- Find ways to enhance and improve places in which people live their lives
- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas.
- Proactively drive and support sustainable economic development to deliver the homes that the country needs.
- contribute to conserving and enhancing the natural environment
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value

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

- **NPPF 6 - Delivering a wide choice of high quality homes**
- **NPPF 7 - Requiring good design**
- **NPPF 9 - Protecting Green Belt Land**
- **NPPF 11 - Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

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

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

### Local Policy

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

### **Black Country Core Strategy**

- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV2: Historic Character and Local Distinctiveness

- ENV3: Design Quality

## Unitary Development Plan

- GP2: Environmental Protection
- ENV2: Control of Development in the Green Belt
- ENV3: Detailed Evaluation of Proposals within the Green Belt
- ENV10: Pollution
- ENV18: Existing Woodland, trees and hedgerows
- ENV32: Design and Development Proposals.
- ENV33: Landscape Design
- H3: Windfall Sites on Previously Developed Land
- T7: Car Parking
- T10: Accessibility Standards – General
- T13: Parking Standards

## Supplementary Planning Document

### Designing Walsall

- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW9 High Quality Public Realm
- Appendix D

### Air Quality SPD

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

## Consultation Replies

**Transportation** – No objections subject to conditions relating to surfacing of access road, parking and manoeuvring areas, works to dropped kerbs, to ensure parking for No 24 and No 26 are provided, visibility splays and refuse bin collection area.

**Coal Authority** – No objections subject to conditions to secure intrusive site investigation work.

**West Midlands Police** – Due to the moderate levels of crime in the area it is recommended that Secure By Design principles be adopted in the new homes

**Fire Officer** – No objections

## **Representations**

Four objections received.

Objections:

- Same reasons as previously, little change, the revisions do not address previous objections
- The site backs onto public land (Common), Question 24 is therefore incorrect
- There is no highway report, same concerns re on street parking in the service road
- Loss of privacy and overlooking
- Security issues to the rear of properties
- Noise pollution
- Light pollution
- Large sycamore tree on the boundary of 22/24 needs looking at
- Single garage for No 24 removed from the scheme but no replacement parking for No 24 shown, this will lead to further on street parking in the service road, which is already congested
- The increased width of the driveway brings the access road closer to No 24
- No difference in the plans for the 3 dwellings, previously described as being of poor design in comparison to the surrounding properties
- Dwellings in close proximity to rear boundary and likely to be overshadowed by the tall trees on the Common
- Plot density will remain at 17.6dph compared to the surrounding 10.7dph
- Backland development setting a precedent for future development
- Loss of views to the common from existing houses
- Planning Statement refers to 44 Chester Road North, but this is a different nature of development
- How can this be a windfall site?
- Not a sustainable form of development
- No need for this development in Walsall as housing objectives already met
- The applicant appears to continue forward despite previous pre application advice and previous officers report to Committee.

## **Determining Issues**

- Principle of the development
- Design and layout
- Impact on the character and appearance of the area and on the amenities of the adjoining residential occupiers
- Access and parking
- 

## **Assessment of the Proposal**

### **Principle of the development**

The site is situated on the edge of the built up area, within walking distance of Brownhills district centre where there is access to local shops, services and supermarkets and is therefore considered to be in a sustainable location.

The site comprises the mature rear gardens of three existing properties fronting Chester Road North. Annex 2: Glossary of the NPPF confirms that land in built up areas such as private residential gardens are not considered to be previously developed land therefore not regarded as brownfield land, in this context the proposals are not considered to be an effective use of the land.

The NPPF also says that housing applications should be considered in the context of the presumption in favour of sustainable development. There are three elements to sustainable development, economic, social and environmental. For economic: the need to ensure that sufficient land of the right type is available in the right places and at the right time; for social: providing the supply of housing required to meet the needs of present and future generations and environmental: contributing to protecting and enhancing our natural, built and historic environment. In Walsall, the 5 year requirement of housing supply is currently being met through the allocation of housing land and granting of planning permission significantly on brownfield land. Therefore, there are no overarching requirements necessitating the release of this site at the present time for residential use.

It is recognised that the central thread of the NPPF seeks to secure the delivery of sustainable forms of development particularly residential. Consideration is therefore given as to whether this scheme represents sustainable development or if any harm arising from the development can be addressed whether through the use of conditions or obligations.

Councillor Ferguson has called in the application for consideration by Committee indicating that the application requires delicate judgement, but has provided no reasons for this.

## **Design and Layout**

The front elevation of plot 3 appears as a two-storey building with two large gables either side of the frontage, creating a large 4 bed property out of keeping with the surrounding pattern of development. Despite the fact that the ridge height has been reduced by 0.7m since the previous application and the height of the front gable features reduced to be subservient to the main roof the design of the dwelling is still considered to be out of keeping. Whilst plots 1 and 2 would have dormer windows to the front and rear, the ridge height of the properties would be the same as plot 3, which at 6.6m is more characteristic of a two-storey dwelling. The overall design of plots 1 and 2 is considered unacceptable as the proportions of the roof to building appear out of context, the eaves height would be 2.3m with a 4.3m roof above. The roof would therefore be almost double the height of the building below it, creating a top-heavy design.

It is considered despite the amendments made since the previous application that the overall impact of the properties would remain as the previous application.

Separation between the existing conservatory at No 28 and the proposed detached double garage for plot 3 would just meet the 13m separation distance recommended by Appendix D of Designing Walsall. Nevertheless the distance separation is uncharacteristic of the surrounding pattern of development, creating built form in such close proximity to the existing house. The garage would also be only 6.0m in front of the main ground floor windows on the frontage of plot 3 reducing the light and outlook from the property. It is

considered that the change to the roof compared to the earlier application (turned through 90 degrees) would not alter the impact the garage in this position would have.

There is a separation of just 10.0m from the rear of the proposed properties to the boundary with the Common. Although the buildings will initially be screened from the Common by a belt of mature trees, there is likely to be pressure from future residents to prune or remove trees on the Common to allow more light into their properties. Should this occur, this would be detrimental to the character of the area and result in the properties becoming exposed to views from the Common.

Part H of the Building Regulations identifies travel distance to refuse collection as 55m. Although Plots 1 and 2 would just meet the standards, Plot 3 would have a travel distance exceeding 70m to the back of pavement on the service road off Chester Road North, exceeding the 55m maximum distance required. The site layout now includes a hardstanding at the back of pavement adjacent to the driveway access for bin collection days. The position of the hardstanding would be detrimental to the visual amenity for the existing residents as well as inconvenient for the future occupiers given the distance to drag the bins.

For these reasons the layout is unsatisfactory.

### **Impact on Character and appearance of the area and on the amenities of the adjoining Residential Occupiers**

As the NPPF says that decisions should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the built environment. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character. Policies CPS4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3,6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed/influenced by their context and reinforce locally distinctive elements. Plot sizes and built density will relate to their local context.

The area is characterised by detached and semi-detached properties with street frontages and large private rear gardens. The proposals would create a backland development with a contrived access drive (5m) created through the demolition of the existing single garage at No 24. The three houses would be set back a minimum of 56m from the road and the development would fail to integrate with the existing form of development and street frontage. As such the proposals would be at odds with the established pattern, layout and general character of the area, with the properties not visible from the street.

The development would provide a density of 17.6 dph, which exceeds the density of the established surrounding pattern of development which has a density of 10.7 dph.

The three proposed properties would introduce built form, vehicle activity and disturbance to numbers 24 and 26 Chester Road North. The increased width of the access drive brings the access drive immediately adjacent to the side gable wall of No 24, closer than previously proposed by 0.5m. The access would bring the vehicle activity in very close proximity to the existing houses particularly at number 24 where the bedrooms to the side of the property will be immediately adjacent to the service road.

The creation of the new access drive would result in a reduced plot width for the existing house at No 24 from 9.3m to 8.8m, which would be out of character with the other properties within the service road street frontage that vary in plot width between 11.2m and 13.7m wide.

Whilst a recent development was approved at the rear of No 44 Chester Road North at the end of the block of properties, the circumstances of this development vary significantly from the application proposals. The land to the rear of No 44 was a long established commercial yard with established access 5.3m wide. The land included a large area of hardstanding and a large blockwork storage/workshop building. The land was not mature rear gardens. It was considered that residential development of the site would remove a non-conforming commercial use in this sensitive location adjacent to residential properties and Green Belt land (and SINC). The development, which is now completed comprises 2 detached 3 bed dormer bungalows with a maximum ridge height of 6m and has reduced the extent of vehicle activity along the access drive over that of the authorised commercial use of that site.

The current proposals would create 3 properties with a maximum ridge height of 6.6m (0.6m higher than those at 44) via a new access 0.3m narrower, on a site that currently comprises mature gardens with no large areas of hardstanding or permanent buildings, and therefore represents completely different circumstances to the site at No 44. For these reasons the earlier application to the north cannot be considered as a comparable case sufficient to set a precedent to support the current proposal.

Whilst the proposed layout would comply with the 24m separation distance required by Appendix D of Designing Walsall, the development would result in plot sizes for both the existing and proposed dwellings that would be out of character with the surrounding pattern of development, currently characterised by houses with large rear gardens. It is considered that this failure to respond to local character would cause harm to the local area and would set an unwanted precedent for future backland development which may spread along the rear of properties facing Chester Road North

Security of the existing properties has been raised by objectors. It is acknowledged that the development would create a change in circumstances for the existing properties by exposing what are currently secure private gardens to the public realm.

Whilst the surrounding land forms part of the Brownhills Common SINC and is Green Belt, the existing tree belt on the edge of the Common would currently screen the site from full views from the open space. Any glimpsed views of the properties from the open space would be seen against the back drop of the existing houses along the frontage of Chester Road North which would limit the impact of the development on the openness or character of the Green Belt. However, as highlighted earlier, it is expected there will be future pressure to secure the felling of trees to the rear of the dwellings to improve the outlook from the gardens which would exacerbate the appearance of the buildings from the Common.

### **Access and Parking**

The proposed single detached garage to the rear of No 24 proposed on the previous application has now been removed from the scheme and off street parking for No 24 and No 26 (sufficient to comply with Policy T13) has now been identified on the frontage with separate access arrangements from the new access road.

Whilst one of the objectors has raised concerns about the extent of existing parking and congestion within the service road, likely to be made worse by the development, the proposals would comply with parking requirements for both the existing and proposed dwellings and would not cause severe disruption to the existing highway network.

The access drive has been amended from 4.3m on the previous application to 5m wide, which would now allow two way traffic and reduce the likelihood of vehicles queueing into the service road. It is considered that the turning space within the site would be of a sufficient size to allow a Fire Appliance to turn.

The proposals therefore overcome the concerns raised by Transportation on the previous application. Transportation consider that the development would not have severe transportation implications.

## **Conclusions and Reasons for Decision**

Although the delivery of new properties is welcomed by the NPPF, attention is given to the amendments made since the last undetermined application.

The proposals would result in the unsustainable development of garden land for residential development when there is no requirement to release of less preferable sites for housing when Walsall's identified housing need has already been met. The proposals would therefore conflict with guidance in the NPPF and Policy HOU1 of the BCCS.

Furthermore, the proximity of the new access road to the side gables of both No 24 and No 26 Chester Road North would create vehicle activity and disturbance to the detriment of the amenities of the occupiers of these existing houses which is considered unacceptable.

The proposed layout would be out of keeping with the established pattern of development and would fail to respond to local character, reinforce local distinctiveness or reinforce the existing urban structure in terms of plot size and density and the height, massing and design of the dwellings would be unacceptable in this backland location.

The proposed site comprising mature rear gardens represents completely different circumstances to the existing development at the rear of 44 Chester Road North, which had an established vehicle access drive to an authorised commercial yard, with a large building and areas of hardstanding. On this basis, it is considered no weight can be attributed to this site to support the proposed development.

The revised access and parking arrangements since the previous application now comply with guidance and overcome previous concerns raised by Transportation. It is considered that the development will not have severe transportation implications and is acceptable in accordance with the NPPF and Policy T13 of Walsall's UDP.

On balance therefore, whilst weight can be attributed to the delivery of new housing and the resolved highway access, the wider harm to the character of the area and importantly the detriment to the dwellings at 24 and 26 Chester Road, the scheme cannot be supported and is therefore recommended for refusal.

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

The applicants agent has been advised that despite the amendments to the scheme following the previous withdrawn application officers are still unable to support the proposals, in line with pre application advice given in May 2015.

## **Recommendation**

Refuse

## **Conditions and Reasons or Reasons for Refusal**

1. The provision of the new access road between numbers 24 and 26 Chester Road North would introduce a new vehicle access between the existing houses and built form resulting in vehicle activity and disturbance to the detriment of the amenities of the occupiers of the existing houses. The development would therefore be contrary to the aims and objectives of the National Planning Policy Framework, policies ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2, ENV10 and ENV32 of Walsall's Unitary Development Plan and the Supplementary Planning Document, Designing Walsall.
2. The proposed layout would be out of keeping with the established pattern, layout and general character of the area which is defined by properties with a direct street frontage and large mature rear gardens. The proposed layout fails to respond to local character, reinforce local distinctiveness or reinforce the existing urban structure. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies CPS4, HOU2, ENV2, ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 of the Walsall Unitary Development Plan and Supplementary Planning Document: Designing Walsall.
3. The design and layout of the development would be out of character with the surrounding pattern of development in terms of density and plot size and would expose the private rear gardens of the existing houses to the public realm. The development would therefore be contrary to the aims and objectives of the National Planning Policy Framework, policies ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2 and ENV32 of Walsall's Unitary Development Plan and the Supplementary Planning Document, Designing Walsall.
4. The height, massing and design of the proposed dwellings would be unacceptable in this backland location, with the roof depth on plots 1 and 2 being disproportionate to the overall height of the buildings and the large front gables on plot 3 emphasising the height, bulk and massing of the dwelling. The development would therefore be contrary to the aims and objectives of the National Planning Policy Framework, policies ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2 and ENV32 of Walsall's Unitary Development Plan and the Supplementary Planning Document, Designing Walsall.







## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 10.**

**Reason for bringing to committee:** Called in by Councillor Murray

**Location:** LAND REAR OF 142-144 WHETSTONE LANE, ALDRIDGE, WALSALL, WS9 0EZ

**Proposal:** ERECTION OF 3 DETACHED 4 BED, TWO STOREY HOUSES.

**Application Number:** 16/0138

**Applicant:** Mr Anthony Doohar

**Agent:** Mr Paul Spooner

**Application Type:** Full Application

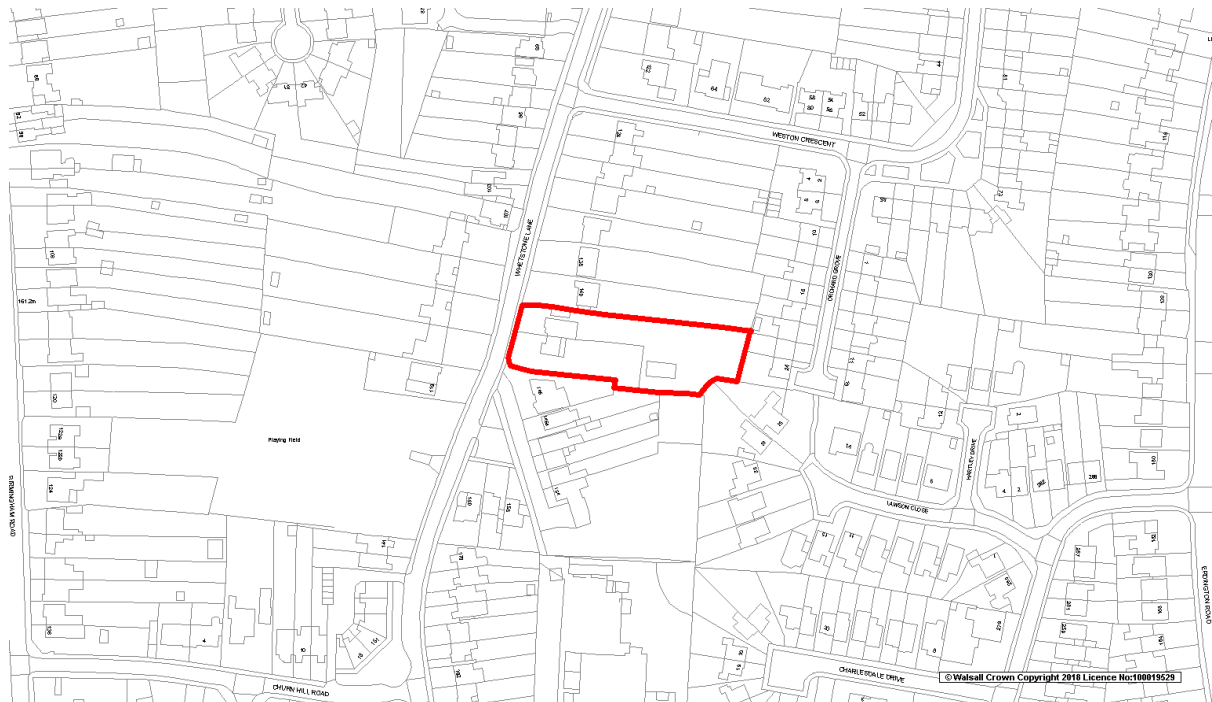
**Case Officer:** Barbara Toy

**Ward:** Aldridge Central And South

**Expired Date:** 21-Mar-2016

**Time Extension Expiry:**

**Recommendation Summary:** REFUSE



## Status

Councillor Murray has called the application in to Committee as he considers that the application should be considered by Members as it requires delicate judgement.

The report was published for 1 March 2018 Planning Committee which was cancelled. Since publication of the report there has been a further representation claiming that objectors were not informed that the application was being put forward again. Council records identify amended consultations were sent.

In addition in March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

### **The original report now follows**

## Proposal

This application proposes the erection of three detached two storey four bed houses, set across the rear gardens of 142 and 144 Whetstone Lane. They occupy the full width of the site, facing the rear of the existing houses at a distance of approx. 40m and lie beyond a band of mature trees. The houses would be accessed via a new footway crossing and access driveway (5m wide) to the south of 144. The existing vehicle access to 142 and 144 would be retained separate to the new access. The new access would be used to provide 2 off street parking spaces to the rear of 144 for the existing house, within a hammerhead in the access drive.

The new houses would each have an integral garage and driveway parking and four bedrooms, one with en-suite. The houses would have a gable roof (maximum 7.1m high), with front gable feature at first floor, a canopy roof feature across the frontage at ground floor level and chimney. Each house would have a footprint of approx. 74sqm and have rear garden areas of 210sqm, 240sqm and 117sqm.

The proposed layout would result in rear garden areas for the existing houses at 154sqm for No 142 and 71sqm for 144.

The site has an area of 0.265 Hectares, which includes the two existing houses, the additional 3 dwellings would result in a density of 18.8 dwellings per hectare.

The following have been submitted in support of the proposals:

- Design and Access Statement
- Bat Report
- Tree Report

## Site and Surroundings

The site is located on the eastern side of Whetstone Lane. 142 and 144 comprise a pair of semi-detached two storey houses set back from and set higher (approx. 2m) than the road. The houses have a shared access located centrally to the houses and large rear mature gardens that rise away from the houses. There are a large number of mature trees in the rear gardens, three of which are protected by TPO 8 of 2004.

There is a large brick outbuilding in the rear garden of No 144 (75sqm), close to the boundary with 146. 142 has a single storey detached garage set to the side whilst 144 has driveway parking to the side.

The site is situated within a well-established residential area, within walking distance of Aldridge District Centre to the north.

140 Whetstone Lane lies immediately to the north of the site and comprises a detached dormer bungalow set further back from the road than 142. Two storey detached houses sit beyond 140 to the north and follow the same building line at 140. 140 sits approx. 1 – 1.5m lower than the application site. To the south 146 Whetstone Lane comprises a detached dormer bungalow that fronts onto a private unsurfaced access drive, which provides access to five other properties (146A – 154). Further to the south is Whetstone Field Primary School, with vehicle access off Beaufort Way but a pedestrian route via PRW Ald25 from Whetstone Lane, parallel to the unsurfaced access drive.

To the west on the opposite side of Whetstone Lane is a new built detached house and a number of semi detached bungalows. To the east (rear of the site) are two storey semi detached houses in Orchard Grove and detached bungalows in Lawson Close that sit at an angle to the site.

## Relevant Planning History

03/2382/FL/E6, erection of one dwelling, Refused 27-01-04.

Reason for Refusal:

The proposal constitutes an isolated form of development which would not be in keeping with the existing pattern of development in the area, and as such compromises the quality of the environment as its design and layout is not informed by the wider context. Additionally the proposed dwelling would, by reason of its siting and form, have an adverse impact on the amenities currently enjoyed by the occupants of No.140 Whetstone Lane resulting from overshadowing and its detrimental visual impact.

Appeal Dismissed 05-10-04

Harm to the areas character and appearance from such a large and prominent dwelling in an isolated rear garden position. Unduly harmful effect on the living conditions of neighbouring occupiers.

## 87 Whetstone Lane

13/0192/FL, four dwellings to the rear, refused 09-08-13.

Appeal Dismissed 29-01-14

Adverse impact on the character and appearance of the area.

14/0609/FL, 3 dwellings, Granted subject to conditions 24-07-14.

The approved scheme included the demolition of the existing house at No 87 and erection of 3 dwellings in a row to the rear facing Whetstone Lane and visible from the main road.

## **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*".

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

- Find ways to enhance and improve places in which people live their lives
- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas.
- Proactively drive and support sustainable economic development to deliver the homes that the country needs.
- contribute to conserving and enhancing the natural environment
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value

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

- **NPPF 6 - Delivering a wide choice of high quality homes**
- **NPPF 7 - Requiring good design**
- **NPPF 11 - Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

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

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

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

### **Local Policy**

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

### **Black Country Core Strategy**

- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

### **Unitary Development Plan**

- GP2: Environmental Protection
- ENV2: Control of Development in the Green Belt
- ENV3: Detailed Evaluation of Proposals within the Green Belt
- ENV10: Pollution
- ENV18: Existing Woodland, Trees and Hedgerows
- ENV32: Design and Development Proposals.
- ENV33: Landscape Design
- H3: Windfall Sites on Previously Developed Land
- T7: Car Parking
- T10: Accessibility Standards – General
- T13: Parking Standards

### **Supplementary Planning Document**

### **Designing Walsall**

- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW9 High Quality Public Realm
- Appendix D

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

Development with the potential to affect trees, woodlands and hedgerows

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

### **Air Quality SPD**

- ***Section 5 – Mitigation and Compensation:***
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures

- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

## Consultation Replies

**Transportation** – Objection on the grounds of unacceptable access. The proposals would introduce a new vehicle access point to serve 4 houses (3 new and parking for No 144) immediately adjacent to an existing multiple access point to the south as well as the retention of the existing access to the north, effectively creating a continuous dropped kerb over 25m in length, serving up to 11 residential properties. This part of Whetstone Lane is heavily used by parents and children to the Whetstone Field Primary School. The proposals would be detrimental to the free and safe passage of pedestrians along the public footpath.

**Public Rights of Way** – No objections. There are no recorded public rights of way which cross or directly adjoin the application site so there are no direct impacts on any public right of way. Definitive public footpath 25 Aldridge is located to the south of the site and provides a well-used pedestrian access into Whetstone Fields Primary School. This footpath connects to Whetstone Lane near to the proposed new access. Comments from Road Safety should be sought in case of any known road safety issues that may need to be addressed.

**Tree Officer** – Objection. The proposed houses would sit very close to the retained trees, some of which are protected by a TPO. The proximity of the houses to the trees is likely to cause significant overshadowing, leaf litter etc. and possible future safety concerns from future residents and likely to lead to pressure to have the trees severely pruned or removed which would be detrimental to the landscape character of the area.

The submitted tree report identifies upwards of 16 trees to be removed, some due to their poor condition and some to enable implementation of the proposed development and driveway, these are mainly category C trees.

**Pollution Control** – No objections subject to conditions relating to a construction management plan, hours of working on site and the provision of electric vehicle charging facilities for each house.

**West Midlands Police** – No objections but recommend Secure by Design

**Severn Trent Water** – No objections subject to drainage condition.

## Representations

21 objections received from 16 addresses and including 1 anonymous letter.

Objections:

Highways

- Site situated on a bend in the road

- Traffic and parking terrible in this part of the road due to the proximity to Whetstone Fields Primary School
- More houses will add to the danger, congestion and obstruction of the highway and create access issues for emergency vehicles.
- New driveway will adjoin existing private driveway (146) and access road to 6 other houses.
- Footpath link to the school in very close proximity
- Visibility poor at this bend in the road when using driveways opposite
- Tenants of the houses currently park on the road
- At school in and out times parents park obstructing driveways and the footpath on both sides of the road, causing a danger to pedestrians
- Safety of children going to school particularly during construction phase

#### Natural Environment

- Mature gardens that provide essential habitat for species
- Trees removed from the site during previous applications in 2003/2004
- Loss of trees detrimental to local wildlife
- Impact on large mature trees in adjoining gardens
- Loss of outlook of mature gardens

#### Residential Environment

- Loss of privacy to No 140 which sits at a lower level than the site
- Side gable of plot 1 will sit adjacent to the boundary with 140, will be imposing and a dominant feature over shadowing the garden due to the level differences between the properties.
- Additional traffic to rear gardens would be out of character
- Fire risk to surrounding properties
- Houses will sit in an elevated position in relation to Orchard Grove and Lawson Close and would be overbearing and intrusive
- Adverse impact on the amenities of 142 and 144, reduced amenity and vehicle activity to the rear
- Loss of privacy and increased noise from additional vehicles to rear
- Elevated position will result in headlights from cars illuminated existing houses
- Loss of sunlight

#### Design and Layout

- No details of waste storage or collection
- No details of finished floor levels
- Poorly designed 'box' houses, do not fit with the character of the area
- No street scene drawing to show how the development will relate to the street
- Not a good windfall site due to height, poor layout and effect on neighbours

#### Character of the Area

- Too much of Aldridge already developed
- Development will spoil the area
- Previous refusal for one house and appeal dismissed, now 3 houses and no change in circumstances
- Reference to 87 Whetstone Lane irrelevant, different circumstances to this site. 87 was demolished to provide 3 houses as an extension to Whetstone Lane, can be seen from the road.
- Out of character and context with the area
- Unsatisfactory backland development with insufficient space to create a proper cul-de-sac.



- Increase in housing density
- Will not integrate with existing pattern of settlement
- Set a precedent for future development, destroying the character of the area.

Other (*case officer comments in italics*)

- Bungalows may be a better option
- The submitted Design and Access Statement fails to refer to the NPPF or local policy (*the case officer has reviewed the NPPF*)
- Concerns re drainage of the site, existing flooding issues in Lawson Close
- Parking and additional hardstanding and its run off could create localised flooding
- Property devaluation (*not a material planning consideration*)

## Determining Issues

- Principle of the development
- Highway safety
- Impact on trees
- Design and layout
- Impact on the character and appearance of the area and on the amenities of the adjoining residential occupiers

## Assessment of the Proposal

### Principle of the development

The site is situated within a well-established residential area, within walking distance of Aldridge district centre where there is access to local shops, services, supermarkets and bus services and is therefore considered to be in a sustainable location.

The site comprises the mature rear gardens of two existing properties fronting Whetstone Lane. Annex 2: Glossary of the NPPF confirms that land in built up areas such as private residential gardens are not considered to be previously developed land therefore not regarded as brownfield land, in this context the proposals are not considered to be an effective use of the land.

The NPPF also says that housing applications should be considered in the context of the presumption in favour of sustainable development. There are three elements to sustainable development, economic, social and environmental. For economic: the need to ensure that sufficient land of the right type is available in the right places and at the right time; for social: providing the supply of housing required to meet the needs of present and future generations and environmental: contributing to protecting and enhancing our natural, built and historic environment. In Walsall, the 5 year requirement of housing supply is currently being met through the allocation of housing land and granting of planning permission significantly on brownfield land. Therefore, there are no overarching requirements necessitating the release of this site at the present time for residential use.

It is recognised that the central thread of the NPPF seeks to secure the delivery of sustainable forms of development particularly residential. Consideration is therefore given as to whether this scheme represents sustainable development or if any harm arising from the development can be addressed whether through the use of conditions or obligations.

## Highway Safety

The proposed layout would provide a new access drive for use by the 3 new houses as well as parking for the existing house at No 144, the existing shared access for 142/144 would remain in its current location immediately to the north of the new access.

The position of the new access would result in a continuous dropped kerb over 25m in length as the new access would link in to the existing access for 142/144 to the north, the vehicle access to 146 and the unsurfaced access road that provides access to 146A – 154 Whetstone Lane to the south. This continuous dropped kerb would provide vehicle access for up to 11 properties and would therefore result in a significant intensification of vehicle movements at the extended access.

Excessive lengths of dropped kerbs raise pedestrian safety concerns as they give the impression of vehicular priority over the footways and leaves no safe refuge for pedestrians to wait whilst vehicles manoeuvre in/out of parking spaces. This is an important consideration as the site is close to a public footpath link from Whetstone Lane to Whetstone Field Primary School which runs immediately alongside the unsurfaced access road to 146A – 154, which is heavily used by parents and pupils at school in and out times. Additionally, overlong footway crossings also reduce on-street car parking capacity for the public including parents dropping off and collecting children and for general visitors to the street.

Paragraph 35 of the NPPF advises that developments should be located and designed to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians and give priority to pedestrian and cycle movements.

It is considered that the introduction of a further vehicle access point in this location would be detrimental to the free and safe passage of pedestrians along the public footway (particularly children heading to and leaving school) contrary to highway safety and in conflict with the NPPF.

## Impact on Trees

There are numerous trees on the site, 3 of which are protected under TPO 8 of 2004 (1 Beech, 1 Oak and 1 Ash). The Ash tree was removed in 2013 under TPO exemption as it was in a dangerous condition after the loss of a major limb which caused property damage. A replacement Ash tree should have been planted within 12 months of the removal which would be protected by the original TPO. No evidence has been provided to prove that this replacement tree has been planted.

The submitted tree report identifies upwards of 16 trees to be removed, some due to their poor condition and some to implement the proposed layout and driveway. Whilst a number of the trees are category C trees (low arboricultural value) many are of moderate arboricultural quality with life expectancy exceeding 20 years.

The more significant trees on site are proposed for retention (including the TPO trees) and have been categorised as B which are trees of moderate quality. The arboricultural report demonstrates that the retained trees could be adequately protected throughout any construction phase by the erection of protective fencing and where required recommended working methodology within root protection areas (RPA). Given the proximity of the trees to the proposed construction works it is expected that working within the RPA of some of the

retained trees will be required, this is not ideal as root damage is likely to occur but the risk can be minimised using this methodology. However, this is difficult to monitor unless arboricultural supervision is available on site.

The proposed dwellings are very close to the retained trees and experience demonstrates that trees and dwellings in such close proximity inevitably cause problems such as significant overshadowing, leaf litter, bird droppings on cars etc. and future residents are likely to have safety concerns and concerns over property damage whether direct or indirect. There are also trees outside of the site adjacent the boundary which will cause partial shading of the properties, in particular the Holly trees to the south. These problems whether real or perceived will lead to pressure from future residents to have the trees severely pruned or removed which will be detrimental to the landscape character of the area.

## **Design and Layout**

The houses would all be of the same generic design, which fails to include design characteristics within the immediate vicinity. Whetstone Lane is characterised by semi-detached and detached houses and bungalows of varying styles, ages and design. It is considered that the generic design of the houses would not reflect the design and character of properties in the vicinity.

Plot 1 would have a travel distance exceeding 80m to the back of pavement on Whetstone Lane, exceeding the combined 55m maximum distance for refuse collection identified in Part H of the Building Regulations. The site layout fails to identify any provision for bin collection that would overcome this, which may result in bins being left on the pavement within Whetstone Lane on bin collection days. As a consequence bins left out would be inconvenient to pedestrians, detrimental to the visual amenity for the existing residents and inconvenient for the future occupiers for the distance to drag the bins.

Whilst the proposals would provide garden areas for each of the new houses and the existing houses that would exceed the 68sqm required by Appendix D of Designing Walsall, the resultant size of gardens would be out of character with the existing properties within Whetstone Lane, where the properties have substantial mature rear gardens.

Issues of drainage of the site raised by objectors could be resolved through a condition if the proposals were acceptable in principle.

## **Impact on Character and appearance of the area and on the amenities of the adjoining Residential Occupiers**

As the NPPF says that decisions should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the built environment. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character. Policies CPS4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3,6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed/influenced by their context and reinforce locally distinctive elements. Plot sizes and built density will relate to their local context.

The area is characterised by detached and semi-detached properties with street frontages and large private rear gardens. The proposals would create a backland development with a contrived access drive (5m) through the removal of the driveway parking area for the existing house at 144. The three houses would be set back a minimum of 63m from the road and the development would fail to integrate with the existing form of development and street frontage. As such the proposals would be at odds with the established pattern, layout and general character of the area, with the properties not visible from the street.

The development would provide a density of 18.8 dph, which exceeds the density of the established surrounding pattern of development of properties fronting Whetstone Lane which has a density varying between 7.5 and 9.3 dph. The proposals would introduce a cramped development out of character with the surrounding pattern of development within Whetstone Lane.

The three proposed houses would introduce built form in an isolated position in rear gardens, with vehicle activity and disturbance to the surrounding properties in Whetstone Lane as well as properties to the rear in Orchard Grove and Lawson Close, which all sit at a lower level than the site, increasing the likely impact of the built form.

The access drive would be situated just over 1m from the side gable of the existing house at 144 and approx. 4m from the side gable of No 146. The drive would provide access to the 3 new houses as well as new parking for the existing house at 144, creating significant vehicle activity in close proximity to 144 and 146, with the potential to cause noise and disturbance to the occupiers of both properties.

The creation of the new access drive would result in a reduced plot width for the existing house at No 144 to 7.5m, which would be out of character with the other properties in the immediate vicinity that vary in plot width between 9m and 14m wide.

Whilst the proposed layout would meet the separation distances required by Appendix D of Designing Walsall, the proposals would be uncharacteristic of the surrounding pattern of development, creating built form in such close proximity to the existing houses. Whilst the proposed layout would comply with the 24m separation distance required by Appendix D of Designing Walsall, the development would result in plot sizes for both the existing and proposed dwellings that would be out of character with the surrounding properties in Whetstone Lane, currently this is characterised by houses with large rear gardens. It is considered that this failure to respond to local character would cause harm to the local area and would set an unwanted precedent for future backland development which may spread along the rear of properties facing Whetstone Lane.

Security of the existing properties has been raised by objectors. It is acknowledged that the development would create a change in circumstances for the existing properties by exposing what are currently secure private gardens to the public realm.

There is a significant difference in levels between the site and the surrounding properties to the north, south and east and despite a request for a levels plan to show the relationship between the proposed houses and the surrounding land no details have been submitted.

No 140 to the north sits approx. 1 – 1.5m lower than the site and the new house at plot 1 would sit up to the boundary, this would result in a 7.2m maximum height side gable wall sitting on the boundary, with the impact on the amenities of 140 exacerbated by the change in levels. Whilst the existing trees provide some shadowing to No 140, this changes throughout the year, whereas the proposals will result in a permanent solid built form.

Whilst a recent development has been built at the rear of No 87 Whetstone Lane to the north west of the site, the circumstances of this development vary significantly from the application proposals. No 87 has been demolished to create a formal road and gap between the houses on the frontage of 13.6m and the 3 houses set to the rear face the main road and are fully visible and integrate into the street scene. The application proposals would not include the demolition of any of the existing properties but would provide 3 new houses in the rear gardens with a contrived new access. The properties would fail to integrate into the street. It is therefore considered that the earlier application to the north cannot be considered as a suitable precedent to support this proposal.

In 2003 the current applicant made an application for a large two storey house in a similar position within the site, which was refused and dismissed by an appeal Inspector. The Inspector concluded that the large and prominent house in an isolated rear garden position would harm the character and appearance of the area and would have an unduly harmful effect on the living conditions of the neighbouring occupiers and would not achieve a satisfactory residential environment. The scheme has been amended from a single large two storey house to three detached two storey houses, in a similar position within the site. It is considered that the circumstances of the site have not changed in the intervening period and the development would continue to provide a large mass of built form in an isolated rear garden location that would be out of character with the surrounding pattern of development. The increase from one dwelling to three could also be considered to worsen the situation.

## **Conclusions and Reasons for Decision**

Whilst the development proposes the delivery of three new houses which is supported in principle, the location of the proposed access and its relationship with three existing access points would result in an excessively long dropped kerb which would be detrimental to the free and safe passage of pedestrians along the public footway. This is contrary to highway safety and as such would conflict with guidance in paragraph 35 of the NPPF, Policy TRAN2 of the BCCS and Policy GP2 of Walsall's UDP.

The proposals would also result in the loss of a large number of trees. Whilst many of these are of low quality and many of the better trees are to remain, the proposed houses would be very close to the retained trees some of which are protected by a TPO. The close proximity of the trees to the proposed buildings will inevitably cause problems such as significant overshadowing, leaf litter, etc and future occupiers are likely to have safety concerns and concerns over property damage.

These problems whether real or perceived are likely to lead to pressure from future residents to have the remaining trees severely pruned or removed which would be detrimental to the landscape character of the area and in conflict with Policy ENV18 of Walsall's UDP.

In addition to these concerns, the proposed layout would be out of keeping with the established pattern of development and would fail to respond to local character, reinforce local distinctiveness or reinforce the existing urban structure.

The introduction of built form and a new access drive will result in vehicle activity and disturbance to the surrounding properties in Whetstone Lane as well as properties to the rear in Orchard Grove and Lawson Close, which all sit at a lower level than the site.

The proximity of Plot 1 to the boundary with No 140 Whetstone Lane is likely to have an adverse impact on the amenities of the occupiers of 140 in terms of outlook and overshadowing.

Consideration is given to the scheme approved at 87 Whetstone Lane. This scheme though included the demolition of the existing house and integration of the development with the main street scene. This scheme cannot therefore be considered as a suitable precedent to support this proposal and no weight is attached to this example.

Although the application has been called in by Councillor Murray indicating that the application requires delicate judgement, no reasons have been provided to substantiate what the planning matters requiring delicate judgement are. Accordingly, no weight can be attributed to these comments in the determination of the application.

Taking these material planning matters into consideration and the policies within the development plan, it is considered that on balance, the proposed development cannot be supported and is therefore recommended for refusal.

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

The applicant's agent has been advised that officers are unable to support the proposals.

### **Recommendation**

Refuse

### **Reasons for Refusal**

1.The location of the proposed access and its relationship with three existing access points to the north and south would result in a continuous vehicle footway crossing exceeding 25m in length, serving up to 11 properties, which would be detrimental to the free and safe passage of pedestrians along the public footway (particularly children heading to and leaving the adjacent Whetstone Field Primary School) contrary to highway safety and as such would conflict with guidance in paragraph 35 of the NPPF, Policy TRAN2 of the BCCS and Policy GP2 of Walsall's UDP.

2.The proximity of the proposed buildings and access road to retained trees, some of which are protected by TPO 8 of 2004 will inevitably cause problems such as significant overshadowing, leaf litter, bird droppings on cars etc and future residents are likely to have safety concerns and concerns over property damage. These problems are likely to lead to pressure from future residents to have the remaining trees severely pruned or removed which would be detrimental to the landscape character of the area and in conflict with Policy ENV18 of Walsall's UDP.

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3.The proposed layout would be out of keeping with the established pattern, layout and character of the area which is defined by properties with a direct street frontage and large mature rear gardens. The proposed layout fails to respond to local character, reinforce local distinctiveness or reinforce the existing urban structure. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies CPS4, HOU2, ENV2, ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 of the Walsall Unitary Development Plan and Supplementary Planning Document: Designing Walsall.

4.The design and layout of the development would be out of character with the surrounding pattern of development in terms of density and plot size and would expose the private rear gardens of the existing houses to the public realm. The development would therefore be contrary to the aims and objectives of the National Planning Policy Framework, policies ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2 and ENV32 of Walsall's Unitary Development Plan and the Supplementary Planning Document, Designing Walsall.

5.The introduction of built form and a new access drive will result in vehicle activity and disturbance to the existing occupiers of 142 and 144 Whetstone Lane and surrounding properties in Whetstone Lane, Orchard Grove and Lawson Close, which all sit at a lower level than the site, increasing the likely impact of the built form. The proximity of Plot 1 to the boundary with 140 Whetstone Lane is likely to have an adverse impact on the amenities of the occupiers of 140 in terms of outlook and overshadowing. The development would therefore be contrary to the aims and objectives of the National Planning Policy Framework, policies ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2, ENV10 and ENV32 of Walsall's Unitary Development Plan and the Supplementary Planning Document, Designing Walsall.



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 11.**

### Reason for bringing to committee: Called in by Councillor Fellows

**Location:** THE SNEYD, 67, VERNON WAY, BLOXWICH, WALSALL, WS3 2LU

**Proposal:** PROPOSED RE-DEVELOPMENT OF EXISTING FORMER CAR PARK TO PUBLIC HOUSE TO CONSIST OF THE ERECTION OF 4 NO. 5 BEDROOM DWELLINGS, INSTALLATION OF PUBLIC GREENWAY ROUTE, IMPROVEMENTS TO EXISTING BOUNDARY TREATMENTS AND LANDSCAPE WORKS.

**Application Number:** 17/0979

**Applicant:** Parbinder Kang

**Agent:** Jaspreet Bal

**Application Type:** Full Application

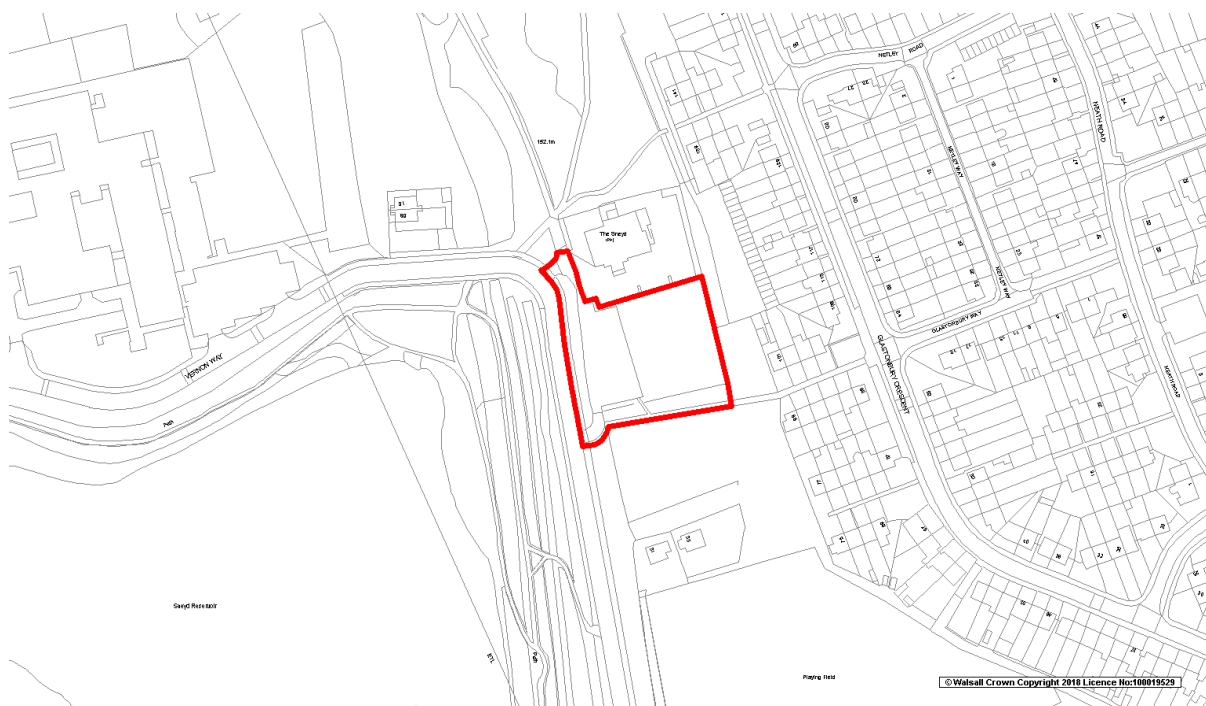
**Case Officer:** Stuart Crossen

**Ward:** Bloxwich West

**Expired Date:** 20-Sep-2017

**Time Extension Expiry:** 29-Mar-2018

### Recommendation Summary: REFUSE





## Status

Councillor Follows has called the application in to Committee as it is considered that it is in the public interest to tidy a derelict site that is a nuisance to local residents.

The report was published for 1 March 2018 Planning Committee which was cancelled.

## Proposal

The application proposes to use an overspill parking area of an existing public house and replace it with 4 detached houses. A single access point is proposed in the centre of the site with the road extending in front of the proposed houses.

The houses would be two storey traditional hipped roof designs with the loft space used for extra room. Each house would have a projecting front gable and the key measurements are:

- 9 metres wide
- 14.6 metres maximum depth
- 5 metres high to the eaves
- 7.6 metres high

Each house would have:

- Entrance Hall
- Single Garage
- Living Room
- WC
- Kitchen/Dining
- Utility
- 5no. Bedrooms, 2 with En-suite
- Family Bathroom
- Storage

Plots 1 and 4 would have two car parking spaces to the front, plots 2 and 3 have a single space and there are 4 non allocated spaces at the front of the site opposite plots 1 and 4.

## Site and Surroundings

The site is situated on the eastern side of Vernon Way near to the bend in the road. The site comprises a modern purpose built vacant public house and car park. The building is part single storey, part two storey with its main entrance on the southern elevation and has planning permission for the conversion into a house. The car park is the location for the proposed 4 houses.

The site is within the Green Belt with public open space to the north and north west, and an isolated pair of semi-detached houses further to the west. Immediately to the north is the former pub, but this does not form part of the site boundary, there are two further isolated houses to the south. To the west on the opposite side of Vernon Way is the Sneyd Reservoir

SINC. A vacant unused garage court to houses in Glastonbury Crescent sits to the west of the site.

A design and access statement has been submitted which provided the following key comments:

*The current condition of the site is not befitting for a 'Green Belt' site. The derelict and remote nature of the site has provided a neglected site which has been subject to dumping grounds, fly tipping and ASB occurring regularly on the site.*

*The proposal will encourage and propose openness and elements of public green spaces that will improve connectivity and visual permeability through and around the site. Existing links will be improved to encourage public activity along the greenway.*

*The locations of the dwellings have been set back toward the eastern edge of the site deliberately to create a focal point to the existing Maple Tree within the site.*

*In accordance with the Local Authority' vision for the proposed greenway which runs along the western edge of the site (within the former car park area), we have proposed a greenway runs along Vernon Way and connects into the landscape to the north.*

*Refuse collection will be in the form of wheelie bin collection in accordance with the Local Authority Waste Management Strategy. Residents will place wheelie bins along the footpath to the front edge of each plot for collection by refuse vehicle.*

### **Relevant Planning History**

BC24756P, extensions and alterations to pub, flat and car park, GSC 24-04-89

BC28324P, Demolition of existing pub and erection of new pub, flat and car park, GSC 04-04-90

BC28325P, outline for residential development, refused 04-04-90

BC32178P, display of illuminated signs, GSC 19-02-91

17/0152 - First floor extension and change of use of vacant pub to 6 bed dwelling. GSC 12-Apr-2017

### **Relevant Policies**

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

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

- **NPPF 4 - Promoting sustainable transport**
- **NPPF 6 - Delivering a wide choice of high quality homes**
- **NPPF 7 - Requiring good design**
- **NPPF 9 - Protecting Green Belt Land**
- **NPPF 10 - Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 11 - Conserving and enhancing the natural environment**

- **NPPF 12 - Conserving and enhancing the historic environment**

### **NPPF Consultation**

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

### **Local Policy**

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

### **Black Country Core Strategy**

- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island

### **Unitary Development Plan**

- GP2: Environmental Protection
- ENV1: The Boundary of the Green Belt
- ENV2: Control of Development in the Green Belt
- ENV3: Detailed Evaluation of Proposals within the Green Belt
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV15: Forest of Mercia
- 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
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T4 - The Highway Network
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis
- LC5: Greenways

## **Supplementary Planning Document**

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

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

### **Designing Walsall**

- 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**

**Strategic Planning Policy** – Objection, very special circumstances not demonstrated.

**The Coal Authority** – No objection subject to conditions for further intrusive site investigation condition.

**Transportation** – No objections subject to conditions for hard surfacing, footway crossing and dropped kerbs.

**Severn Trent** – No objections

**Public Rights of Way** – Details of boundaries, boundary treatment and motorcycle barriers are required.

## **Representations**

None

## **Determining Issues**

- Principle of residential development and impact on the openness of the Green Belt
- Character and appearance of the surrounding area
- Residential amenity
- Tree Protection
- Access and parking
- Greenway Provision
- Coal mining
- Site of special scientific interest

## **Assessment of the Proposal**

### **Principle of development and impact on the openness of the Green Belt**

Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.

Paragraph 80 of the NPPF sets out the five purposes of the Green Belt, these being:

- to check the unrestricted sprawl of large built-up areas;

The Green Belt here forms a clear boundary to the Mossley Estate

- to prevent neighbouring towns merging into one another;

The Green Belt here separates Bloxwich from New Invention but is only 500m wide, including the motorway corridor, so is highly sensitive to development that might reduce this gap

- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 87 states that inappropriate development should not be approved except in very special circumstances.

Paragraph 89 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt, with a limited list of exceptions. One of these is limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it (as set out in NPPF paragraph 80) than the existing development.

The proposal is to construct 4 new dwellings on the former garden to the pub. As the site is currently not developed, the proposal would have a greater impact on openness of the greenbelt and therefore is in direct conflict with Paragraph 89 of the NPPF and also saved Policy GP2: Environmental Protection of the UDP as it would represent inappropriate development only acceptable if very special circumstances can be proved.

Very special circumstances are, by definition, circumstances that are unusual or which happen rarely. Issues of flytipping and anti-social behaviour whilst undesirable, are not considered to be classified as very special. The majority of existing buildings in the Green Belt are isolated and the converted public house is not particularly remote or different to many other properties on the edge of the urban area. Indeed, there are two other dwellings to the south of the application site on Vernon Way which have been in place for a number of years which have not seen development within their grounds to address the concerns highlighted.

With regard to the reasons put forward by the Councillor, matters of fly-tipping and anti-social behaviour are associated with the visual appearance of the area. Whilst these concerns are noted, the principle of the Green Belt allocation is to focus the location of development into sustainable locations notably within the built up area and to encourage regeneration. It is not a policy which seeks to preserve the attractiveness or character of a location for example like an Area of Natural Beauty or a Conservation Area and accordingly little weight can be given to the arguments in favour of improving the appearance of the site when considering harm to the Green Belt. The key consideration in this instance is the harm to the openness and whilst fly –tipping is a transitory problem which can be addressed through other legislation to address any short-term harm, the creation of four new dwellings will result in a permanent intrusion to the landscape which will be detrimental to the openness of the Green Belt.

The question of impact on views is not material to the question of whether a proposal is inappropriate in the Green Belt. A development does not even have to be visible to harm openness. There has been recent case law (High Court [R (Boot) v Elmbridge Borough Council [2017] where it was held (in the case of a new sports stadium in the Green Belt) that a development cannot “preserve” the openness of the Green Belt when it causes harm to openness. In this instance the site would be visually prominent being next to a public right of way.

On balance, it is considered that it is not possible to demonstrate very special circumstances in this case, even taking account of the grounds suggested and that such a scheme would not meet any of the exceptions set out in paragraph 89 of the NPPF. Accordingly, no material planning weight can be applied to the proposed very special circumstances. These concerns have been shared with the agent.

### **Character and appearance of the surrounding area.**

The NPPF says that decisions should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the, built environment. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character. Policies CSP4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3,6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed/influenced by their context and reinforce locally distinctive elements. Plot sizes and built density will relate to their local context.

The character of the application site is predominantly defined by the existing pub and open space. The public house has been converted into a large single house, however this was a conversion and its appearance or harm to the openness of the Green Belt is not significantly different to the previous pub. This single large property does not define the character of the area which is more rural than urban in form.

Although the proposal would in part be seen against the existing development in Glastonbury Crescent to the rear, the prevailing character is the rural character of Vernon Way. The existing density of Glastonbury Crescent is 47dph, the density of the proposal is 18dph. Although BCCS Policy HOU2 refers to achieving a minimum density of 35dph this is subject to instances where higher densities would prejudice historic character and local distinctiveness. In this instance it is considered the immediate character of Vernon way is defined by free standing properties including the public house, the two dwellings to the south and the property to the west and not clusters of houses which collectively have a density of approximately 1 dwelling per hectare. A higher density would therefore be considered to be inappropriate in this instance.

### **Residential amenity**

The proposed dwellings are approximately 25.0m away from the side elevation of 101 Glastonbury Crescent and approximately 44.0m away from the rear elevation of 109 to 119 Glastonbury Crescent to the rear. The northern plot is also 19.0m away from the public house.

Taking into account the standards in the Council's adopted Design SPD, it is considered that the proposed dwellings will not have an impact on neighbouring amenity levels.

### **Tree Protection**

It is noted that there is a protected Maple ref 27/2008 to the front of the site. Although the applicants are proposing to incorporate this into the development, an arboricultural assessment has not been undertaken. Accordingly it is not possible to ascertain if this development will cause harm to the tree particularly in terms of damage to the root system through the development stage on on-going compression of the ground around the tree from the drives above.

In the absence of this information, no certainty can be given that the proposed development will not be in conflict with Policy ENV18: Existing Woodlands, Trees and Hedgerows

## **Pollution Control**

Pollution Control requires the applicant to undertake appropriate investigation in order to assess the extent of any ground contamination at the site and inform of any remedial measures that may be required.

Concerning air quality, Walsall Council has recently adopted a Supplementary Planning Document (SPD) setting out guidance on minimising air quality impacts, in particular the requirements for promotion of alternative travel choices. As part of Section 5, 'Minimising Unacceptable Air Quality Impacts through Mitigation and Compensation', the SPD states that 'as a minimum, new developments should include the provision of electric vehicle charging points' (Type 1). To allow future residents a readily available infrastructure to switch to environmentally sustainable transport in the future and having regards to the SPD, it is recommended that the Applicant make provision for future electric vehicle charging points. This could be conditioned if the scheme were to be approved.

Conditions could also be used to control construction impacts upon neighbouring residential premises and the highway and are therefore recommended and could be attached if the application was acceptable in all other respects.

## **Access and parking**

Highways Officers have raised no objections but require further details and cross sections of the proposed road and parking areas. It is considered that this information could be conditioned and any required changes would not raise any new material considerations due to the relationship between the development and surrounding development.

The proposed shared drive and parking spaces provide sufficient space to serve the development.

## **Greenway Provision**

The application has raised a number of questions about the relationship between the proposal and the Greenway.

In principal though, the provision on a dedicated strip of land to the front of the site is welcomed in accordance with UDP policy LC5. The route though is severed by the proposed access into the site and, as it runs parallel to the existing pavement, is not considered to offer a substantial benefit to users of the Greenway. Whilst details of boundary treatment, motorcycles barriers and other engineering details could be dealt with by condition provided the application was acceptable in all other respects, the applicant has not provided details of measures to address part (c) of policy LC5 which seeks to ensure appropriate maintenance arrangement are in place. Accordingly, little or no weight can be given to this aspect of the development.

## **Coal Mining**

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.



In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

A condition would require prior to the commencement of development:

- \* The submission of a scheme of intrusive site investigations for approval;
- \* The undertaking of that scheme of intrusive site investigations;
- \* The submission of a report of findings arising from the intrusive site investigations;
- \* The submission of a scheme of remedial works for approval; and
- \* Implementation of those remedial works.

### **Site of special scientific interest**

The land immediately to the east of the site across Vernon Way is identified as the Sneyd Reservoir SINC in the UDP. Policies ENV23: Nature Conservation and New Development and ENV33: Landscape Design requires a landscape plan to be approved prior to determination by virtue of the following locational criteria set out in policy ENV23.

VIII. Within or adjacent to Local Nature Reserves, Sites of Special Scientific Interest, Sites of Importance of Nature Conservation, parks, cemeteries or public open spaces.

IX. Within or adjacent to Green Belt, agricultural or open land.

Because changes to the character of the area and the visual impact on the Green Belt are considered to be of significant importance, it is felt that these matters should not be conditioned as they cannot be assessed as part of the application. So that the development minimises any potential impact on the character of the area landscaping is a material consideration and the application fails to demonstrate that the existing countryside character of the area would be retained.

### **Other matters**

The case officer notes the call in reason and would like to clarify that the Council has enforcement powers to minimise any public nuisance at the site and that such issues do not constitute very special circumstances.

Officers have received a complaint with regards to the untidiness and appearance of the site. We have assessed the impacts and consider that there is a detrimental impact on the amenity of the area and the site is in breach of planning control. We have written to the owners to invite voluntary undertake works to tidy up the site and address the breach. If this is not successful then officers would seek to issue a formal notice under S215 to address the condition of the land.

## Conclusions and Reasons for Decision

The proposal is contrary to paragraph 89 of the NPPF which regards such development as inappropriate. For the reasons outlined in the assessment the applicant has not provided very special circumstances and is a reason to refuse the application.

The proposed design, scale, density and mass is at odds with the character of the existing development in the area and is contrary to policy HOU2 of the UDP and a reason to refuse the application.

The level of amenity for occupants and its location 18 metres from the converted Public house is sufficient that all residents would receive adequate levels of light and that there would not be an overbearing impact.

The access and parking subject to conditions as recommended would ensure satisfactory levels of parking and access for occupants and accords with UDP policies T7 and T13. Although the suggestion of a greenway to the front of the site is welcomed, the absence of any maintenance arrangements results in a conflict with Policy LC5 and therefore little or no weight can be attributed to this aspect of the development.

Conditions can be attached to mitigate for past ground mining works to safeguard the amenities of the area and to comply with UDP policy ENV14.

The potential domestic landscaping would be at odds with the existing open countryside character of the application site and no habitat improvements have been proposed as part of a landscaping plan contrary to the requirements of UDP policy ENV23 and is a reason to refuse the application. The absence of information on the impact on the protected Maple is also noted.

On balance therefore, it is considered that whilst there are some matters in support of the development notably, the delivery of four dwellings, these are significantly outweighed by the harm to the openness to the Green Belt that would be caused by the development for which no material planning grounds have been presented to establish very special circumstances as required by paragraph 89 of the NPPF.

## Positive and Proactive Working with the Applicant

The agent has received pre-application advice and has been made aware of the Council's position on the principle of the development, no further justification of very special circumstances has been provided. As there is little if any potential to amend this scheme satisfactorily no further survey work or information has been requested or is required to make a decision.

## Recommendation

Refuse

## Reasons for Refusal

1. The development due to its location and layout would result in significant harm to the openness of the Green Belt being visually prominent from houses along Glastonbury Crescent in particular to which very special circumstances have not been justified to outweigh any harm to the openness of the Green Belt. For these reasons the proposal would be contrary to the aims and objectives of the National Planning Framework in particular policies 56, 58, 60, 61, 64, 79, 80, 87, 88 and 89, The Black Country Core Strategy policy CSP2, Walsall's Saved Unitary Development Plan policies, in particular GP2, ENV2 and ENV32.

2. The design of the proposal would not integrate with the existing built development due to the higher proposed density which would be at odds with the surrounding built development along Vernon Way, contrary to the expectations of BCCS policy HOU2. For these reasons the proposal would be contrary to the aims and objectives of the National Planning Framework in particular policies 56, 58, 60, 61, 64, 79, 87, 88 and 89, The Black Country Core Strategy, policies CSP4, HOU2 and ENV3, and Walsall's Saved Unitary Development Plan policies, in particular GP2, and ENV32.

3. The application lacks sufficient ecology information to be able to assess the character of the proposed development and its impact on the openness of the Green Belt as follows:

- ecological value of some of the existing features.
- Any proposed effective retention of existing features.
- Any proposed landscape measures.

For these reasons the proposal would be contrary to the aims and objectives of the National Planning Framework in particular policies 56, 58, 60, 61, 64, 79, 87, 88, 89, 109, 111, 118, 123 The Black Country Core Strategy, policy ENV1 and Walsall's Saved Unitary Development Plan policies, in particular ENV23, ENV32, and ENV33 and The Supplementary Planning Document Conserving Walsall's Natural Environment'.

4. In the absence of an arboricultural report to consider the impact of the proposed development on the protected Maple tree, it is considered that the proposed development is contrary to saved UDP policy ENV18: Existing Woodlands, Trees and Hedgerows



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 12.**

**Reason for bringing to committee:** Significant community interest and called in by Cllr Robertson.

**Location:** 14, PROFFITT CLOSE, WALSALL, WS2 8BD

**Proposal:** CONVERSION FROM SINGLE DWELLING TO 2 SELF CONTAINED FLATS.

**Application Number:** 17/1609

**Applicant:** Mohammed Akhtar

**Agent:** BSP Design

**Application Type:** Full Application

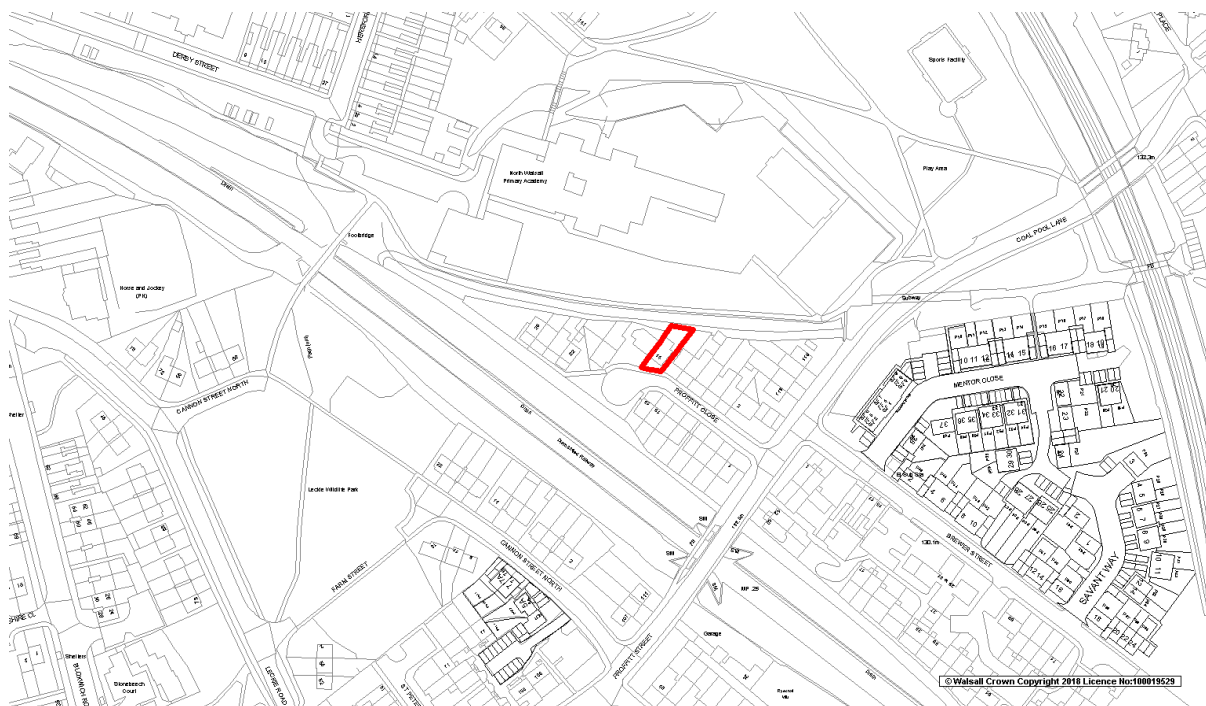
**Case Officer:** Devinder Matharu

**Ward:** Blakenall

**Expired Date:** 29-Jan-2018

**Time Extension Expiry:**

**Recommendation Summary:** GRANT SUBJECT TO CONDITIONS



## Proposal

The proposal seeks the conversion from a single dwelling to 2 self-contained flats with a flat on the ground floor and a flat at first floor. Both flats can be accessed from the existing front door with the rear door allowing access to the ground floor flat 1 only.

The ground floor flat would have a small amenity area outside the main bedroom window with a 1.5m high close board fence. A communal area for both flats would also be provided in the rear garden of the property. A bin store and cycle storage would be provided towards the rear of the site within the rear garden.

One car parking space in front of the premises has been shown on the submitted plans.

There are non-habitable room windows facing number 12 at both ground and first floor. There is a secondary bedroom window facing towards number 12 in the rear single storey extension.

The agent has submitted a covering letter which states:

- They are content with a planning condition to secure cycle storage details
- They do not propose to have an access control pedestrian gate to the rear but a simple key pad entry system
- Feather edge panel fencing with concrete posts is to be used
- The lighting column to the front of the site is to be relocated with the applicant paying for relocation costs.

A Design and Access Statement has been submitted which addresses the proposal.

## Site and Surroundings

Number 14 is a two storey semi detached property located on the northern side of Proffitt Close with a single storey rear extension. The area of the site is screened by trees and beyond this tree canopy is a school.

Number 12 Proffitt Close is located to the east of the application site, a two storey terrace property with a first floor side facing window. The relationship between number 12 and 14 is one where the houses are staggered, number 14 sits further forward in the street scene than number 12.

The houses are set back from the highway to provide front gardens, the boundary of the houses to the public footpath are low boundary walls and hedgerows. The houses have tiled canopies across the front doors on the front elevation.

There is a lamp post outside number 14.

Proffitt Close is a cul de sac accessed from Proffitt Street and serves twenty two houses. Some of the houses have off road parking facilities and others park on street.

The site is 0.58km (580m) from the edge of Stafford Street local centre and 1.15km (1015m) from the edge of The Butts local centre. Proffitt Street is served by the number 29 bus

service which operates a 7 minute service, six buses per hour to and from Walsall to Bloxwich via Blakenall between the hours of 05.30 to 23.15.

## Relevant Planning History

None

## 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*".

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

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

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

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 4 - Promoting sustainable transport**
- **NPPF 6 - Delivering a wide choice of high quality homes**
- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

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

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

## **NPPF Consultation**

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

## **Local Policy**

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

## **Black Country Core Strategy**

- CSP4: Place Making
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility

## **Unitary Development Plan**

- GP2: Environmental Protection
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T4 - The Highway Network
- T13: Parking Provision for Cars, Cycles and Taxis

## **Supplementary Planning Document**

### **Designing Walsall**

- DW3 Character
- DW9 High Quality Public Realm

## **Consultation Replies**

Community Safety Officer – No objection but makes comments on fencing, a robust tenancy agreement be developed to ensure action can be taken if needed. A normally quiet street and in recent years been the target of crime and anti-social behaviour, due to its isolated nature, this should be considered by the owner as a pertinent factor.

Police- No objection but makes comments regarding building regulations, secure by design and security and makes reference to no off road parking in an area where demand for on street is high.

Pollution Control – No objection

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Transportation – No objection subject to planning conditions relating to access, parking and cycle shelter.

## **Representations**

Nine letters have been received objecting to the proposal on the following grounds:

- Noise disturbance due to machinery and building works, loud music
- Existing anti-social behaviour will be increased
- Drug use in area
- Increase in anti-social behaviour
- Lack of parking
- Existing parking issues in the street

Councillor Robertson has called the application in on the grounds of:

- Concerns to local residents.
- Lack of parking
- Fear of increased anti-social behaviour
- Poor supervision from landlord

## **Determining Issues**

- Principle of development
- Design and layout
- Impact upon adjoining residential occupiers
- Access and parking

## **Assessment of the Proposal**

### **Principle of development**

The house is within a residential area and within easy walking distance of Stafford Street local centre. This local centre is within the maximum 1000m walking distance as defined in paragraph 7.51 of the UDP for small residential development and therefore not too dissimilar to the surrounding houses and considered to be consistent with guidance in the NPPF, BCCS and UDP in terms of sustainability. Furthermore, The Butts local centre although slightly over the 1000m maximum walking distance is in close proximity to the application site.

Policy ENV14 of the UDP seeks to support the reuse of previously developed sites and policy H3 of the UDP supports windfall sites coming forward. The building is currently vacant. It is considered that the proposal to convert the house into flats would not harm the local area and would not adversely impact on the character and identity of the vicinity.

The site is located within walking distance of Proffitt Street where there is a regular bus service to and from Walsall and Bloxwich via Blakenall. The site is within a sustainable location with easy access to Walsall and Bloxwich. Furthermore, the site is within walking distance of Stafford Street where there are a number of bus services to and from Walsall.



In principle the use of the house into two flats is considered acceptable as the site is in a sustainable location.

### **Design and layout**

The proposal does not seek to undertake any external alterations other than fencing in the rear garden and minor internal alterations. The proposed development would make use of existing rooms and windows within the house.

The proposal would provide a bin store area and secure and covered cycle storage area within the rear garden along the rear boundary of the site. Details of both of these will be secured by conditions, as it is not clear whether the bin storage area would be a structure or a hardstanding area to accommodate bins.

The proposal seeks to provide a small amenity area to the rear of the ground floor bedroom to provide some privacy and prevent overlooking and loss of privacy from the communal amenity area.

The Police have made comments relating to building regulations but this would be addressed at building regulations stage. They also make comments on secure by design, which would be included as a note for applicant.

On balance the design and layout of the proposed flats are considered acceptable.

### **Impact upon amenities of adjoining neighbouring occupiers**

There are side facing windows on the main house facing towards number 12. The proposal seeks to utilise these windows for non-habitable rooms, on this basis, it is considered the proposal would not unduly result in loss of amenity, loss of light or privacy to either number 12 or 14.

There is an existing side facing window in the rear extension at 14 facing towards number 12. The submitted plans state there is an option to obscurely glaze this window. This would have been an existing habitable room window when the house would have been occupied as a single house. The proposal seeks to install a 2.1m high fence which would provide a screen between number 14 and 12 and also prevent any direct overlooking or loss of privacy between the two properties. The Crime Safety Officer has requested that the fence is secure to prevent fence panels being lifted, this can be secured by way of a planning condition.

Neighbours and the Crime Safety Officer have raised concerns that in recent years the street has been the target of crime and anti-social behaviour and drug use. There is no evidence to suggest potential occupiers of the flats would exacerbate any existing issues with regards to anti-social behaviour. Furthermore, issues regarding drug use and anti-social behaviour is a matter for the Police to investigate.

No external works or building works are proposed that would result in excessive noise and disturbance to neighbouring occupiers to warrant refusal of the application. To protect neighbours amenity whilst any works are being undertaken a planning condition can be attached to ensure any building works are undertaken during the day. With regards to

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comments made about loud music, there is no evidence to suggest potential occupiers would exacerbate any existing issues with regards to anti-social behaviour such as playing loud music. Furthermore, these matters can be dealt with through environmental health legislation.

On balance the proposed use of the house as two flats would not unduly harm the amenities of neighbouring occupiers in terms of noise and general disturbance, loss of overlooking or loss of amenity to warrant refusal of the application.

### **Access and parking**

The existing houses currently has no parking facilities. Some of the residential properties along Proffitt Close have off road parking facilities and others do not. Cars are also parked within the turning head by existing residents.

The proposal seeks to provide one off road parking space that will involve the relocation of a lamp post which is a betterment over the exiting provision particularly as Proffitt Close is a relatively narrow road (at less than 4.5m in width) and wherefore on street parking can be problematic.

The Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with the NPPF in this respect.

## **Conclusions and Reasons for Decision**

On balance the proposed use of the house into two flats is considered acceptable as the site is in a sustainable location. The design and layout of the proposed flats are considered acceptable. The proposal would not unduly harm the amenities of neighbouring occupiers in terms of noise and general disturbance, loss of overlooking or loss of amenity to warrant refusal of the application. The development will not have severe transportation implications. The proposed development would meet the aims and objectives of the National Planning Policy Framework, Draft National Planning Policy Framework, policies CSP2, HOU1, HOU2, DEL1, DEL2 and ENV3 of the Black Country Core Strategy, Saved Policies GP2, ENV14, ENV32, H3, T4, and T13 of the Walsall Unitary Development Plan and policies DW3 and DW9 of Designing Walsall SPD.

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

### **Approve**

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

## **Recommendation**

Grant subject to conditions

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

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

2. The development shall be completed in accordance with the following approved plans and documents only:

- Drawing number 2017\_193\_01/Rev A entitled existing plans submitted 12-02-18
- Drawing number 2017\_193\_02/Rev B entitled proposed plans submitted 12-02-18
- Design and Access Statement submitted 30-11-17

*Reason:* To define the permission

3a. Prior to the first occupation of the development, the frontage parking area shall be fully consolidated, hard surfaced and drained so that surface water run-off from this area does not discharge onto the highway or into any highway drain.

*Note for Applicant:* The use of loose unbound surface material such as gravel or chippings will not be permitted.

3b. The parking area shall thereafter be retained and used for no other purpose.

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

4a. Prior to the frontage parking area first coming into use, a new vehicular footway crossing shall be installed in accordance with the Council's footway crossing specification SD11/8 dated January 2008. The new crossing shall not exceed five 900mm flat kerbs and two 900mm taper kerbs. All works within the public highway shall be in accordance with all statutory requirements.

4b. Prior to the installation of the vehicular footway crossing, the existing street lighting column shall be repositioned to a suitable location with the agreement of the Council's Street Lighting partner AMEY. *Reason:* To ensure the satisfactory completion and operation of the access, in accordance with UDP Policy GP2, the Council's footway crossing procedure and in the interests of highway safety.

5a. Prior to the development first coming into use, full details of the proposed cycle shelter, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented in accordance with the approved details.

5b. The cycle shelter facility shall thereafter be retained and used for no other purpose.

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

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

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

Reason: In order to safeguard the amenities of the surrounding occupiers.

7. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015, or succeeding orders, no change of use within the provisions of Schedule 2, Part 3, Class L shall take place to change the flats hereby approved from Class C3 (dwellinghouses) to Class C4 (houses in multi occupation).

Reason: To safeguard the amenities of the occupiers of adjoining premises and to allow the LPA to retain control of the site.

#### Notes for the Applicant:

##### Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to 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 please contact the Traffic Management Team on 01922 654675.
3. The applicant will need to contact the Council's Street Lighting partner Amey on 0121 568 3673 in respect of the repositioning of the street lighting column. All costs incurred shall be met by the applicant.

##### Police

Nature of this development falls under Regulation 3 of the Building regulations 2010 (2015 edition) and will place an obligation on the applicant to conform to the standards set out in the below document.

Approved Document Q – Security –Dwellings.

<https://www.gov.uk/government/publications/security-in-dwellings-approved-document-q>

Any work be undertaken to the apartments be to the standards laid out in the Secured by Design 'New Homes 2016' guide. These are available to view, or download, at;

[http://www.securedbydesign.com/wp-content/uploads/2017/06/Secured by Design Homes 2016 V2.pdf](http://www.securedbydesign.com/wp-content/uploads/2017/06/Secured_by_Design_Homes_2016_V2.pdf)

Recommend that each individual flat is treated as a separate dwelling for the purpose of the standards of door security.

**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 13.**

**Reason for bringing to committee: Called in by Councillor Ditta**

**Location:** 31, RUTTER STREET, WALSALL, WS1 4HN

**Proposal:** FIRST FLOOR FRONT EXTENSION (RE-SUBMISSION OF 09/0635/FL)

**Application Number:** 17/1390

**Applicant:** Mr Abdul Rehman

**Agent:** Mr Anthony Spruce

**Application Type:** Full Application: Householder

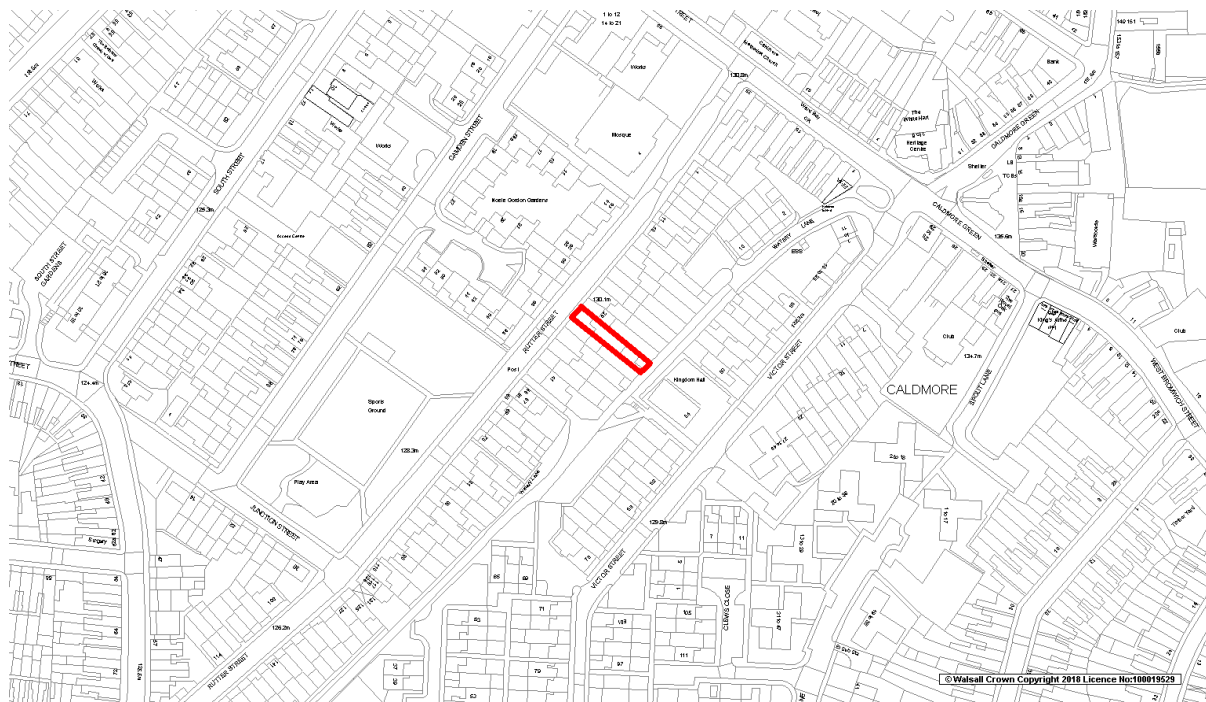
**Case Officer:** Mike Brereton

**Ward:** Palfrey

**Expired Date:** 27-Dec-2017

**Time Extension Expiry:** 30-Mar-2018

**Recommendation Summary:** REFUSE



## **Application Status**

Reason for bringing to committee: Called in by Councillor S Ditta

Councillor S Ditta previously requested that this application be reported to Planning Committee on the grounds that they consider the proposal is in keeping with the street scene and would not be out of character.

This application was subsequently deferred at Planning Committee of 1<sup>st</sup> February 2018 to allow further discussions to take place between the Planning Officer, the applicant and their representatives to identify potential revisions to the scheme. The report was published for 1 March 2018 Planning Committee which was cancelled.

The meeting took place on 12<sup>th</sup> February at which the Officer recommended that the depth of proposed front extension be reduced to be in line with the front elevation of adjoining No.29 to minimise impacts on the character of the street scene and to comply with the Council's 45 degree code whilst minimising impacts on amenity to adjoining neighbour No.33. The applicant has since confirmed that the suggested reduction would not be cost effective and would not provide sufficient space for a bedroom. The proposed reduced bedroom size would be similar to an existing bedroom within the property and is considered a reasonable amendment to enable the scheme to be supported.

In addition in March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

### **Reasons for the Decision**

The applicant has provided personal justification for the proposed extension which is to accommodate additional family members in the house and explains the family are unable to re-locate to a larger house due to personal commitments to the local community. Consideration has been given to the applicant's circumstances and these have been taken into consideration. The planning policy framework does not offer support for the arguments promoted by the applicants. Accordingly, very limited weight can be given to the applicants argument in the decision making process of this application. The Councils planning policies do address the issue of design in Policies GP2 and ENV32 together with the Councils Design SPD.

On further reviewing the proposal and its relationship with adjoining neighbour No.33, it appears this neighbours nearest first floor window is obscure glazed and likely to serve a non-habitable bathroom window. As such, limited weight can be applied to impacts on this window. Harm to this neighbour is now restricted to the breach of the 45 degree code to a nearest ground floor habitable room window. However, a balanced decision is needed taking

into account there is an existing breach of 45 degree code to this window arising from a forward projecting extension at ground floor.

After due consideration, the recommendation remains one of refusal on the grounds of design and impact on the neighbouring dwellings as set out at the end of the original report.

The original report now follows.

\*\*\* ORIGINAL REPORT \*\*\*

### **Application and Site Details**

This application is a re-submission of a previously refused application and proposes a first floor front extension to create an extra bedroom, providing a total of 3 bedrooms.

The application house is a modern mid-terrace two-storey house within a row of similarly styled houses. The character of the area is defined by similar modern terraced properties. The house is constructed from brick and has a tiled pitched roof with a sloping roof to the front covering a previous ground floor front extension.

The proposed extension would be located above an existing single-storey front projection that has a mono-pitch roof which slopes down towards the road. The proposed extension is to have a hipped roof and box guttering with a single window to the front elevation; no windows are proposed in either side elevation.

The proposed extension would measure 3.3m deep, 4.15m wide and 6.6m to ridge (5.5m to eaves to match existing).

### **Relevant Planning History**

04/0766/FL/H1 - Single Storey Extensions at Front and Rear at 31 Rutter Street, Walsall. Granted Subject to Conditions 02/06/04

08/1965/FL - First floor bedroom extension to front at 31 Rutter Street, Walsall. Refused - 31/03/09. The proposed front first floor gable extension would be out of keeping with the design of the existing house and its neighbouring houses, and would create a strident feature within a row of terraced houses which would be out of character with the area. Also the proposed extension would have an overbearing impact on the adjoining houses number 29 and 33, because of its excessive depth, height and close proximity to the windows of these properties.

09/0635/FL - Front first floor extension to domestic dwelling. Refused 02/09/2009 on grounds of harm to character of the area and detriment to the amenity of occupiers of No.33.

### **Relevant Planning Policy Summary**

**National Planning Policy Framework (NPPF)** [www.gov.uk](http://www.gov.uk)

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

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contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

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

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

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

- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

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

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

## **Local Policy**

### **Black Country Core Strategy**

[www.walsall.gov.uk/ldf\\_core\\_strategy](http://www.walsall.gov.uk/ldf_core_strategy)

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

### **Unitary Development Plan**

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

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

## **Supplementary Planning Document**

[www.walsall.gov.uk/ldf\\_supplementary\\_planning\\_documents](http://www.walsall.gov.uk/ldf_supplementary_planning_documents)

### **Designing Walsall**

- DW3 Character
- Appendix D – Amenity

Policies are available to view online: **[www.walsall.gov.uk/planning\\_policy](http://www.walsall.gov.uk/planning_policy)**

## **Consultations**

None required.

## **Public Participation Responses (*Officer comments in italics*)**

Neighbours notified and no comments received,

## **Determining Issues**

- Whether the application overcomes the previous reasons for refusal.

## **Observations**

**Whether the application overcomes the previous reasons for refusal.**

### ***Refusal Reason 1 – Out of character with the area***

The previous proposal for a 4m deep first floor extension to front was considered excessive and would result in a strident feature within a row of terraced houses and out of character with the area. This current application shows a reduced 3.3m deep extension set back from the front of the existing single storey extension below by around 0.8m.

A first floor front extension has previously been constructed at nearby No.39. However, this extension only projects 2.1m forward of the original front elevation and is also significantly set back from the front of the single storey ground floor extension below by 2.2m which helps to minimise the harm to the character of No.39 and the nearby area.

Whilst the proposed reduced depth of extension in this current application for No.31 is an improvement, on balance it is considered the proposed extension at 3.3m deep is still excessive and would still result in harm to the character of the application house and nearby area.

Furthermore, this current proposal includes box guttering at first floor that would be an incongruous and undesirable feature within the street scene resulting in harm to the character of the area.

For this reason it is considered that this application fails to overcome the first refusal reason and would result in harm to the character of the application house and nearby area.

### ***Refusal Reason 2 – Overbearing impact to No.33***

The previous proposal, due to its excessive depth at 4m, height at 6.6m and close proximity to the windows at adjoining neighbour No.33 was considered would result in an overbearing impact to this neighbour and breached the 45 degree code.

This current proposal shows a reduced depth of 3.3m but the same height of 6.6m to ridge as previously refused. Whilst the reduced depth is considered an improvement, the proposal would still breach the Council's 45 degree code to a nearest habitable window to No.33. When combined with the proposed height of 6.6m and existing 3.8m single storey front extension, it is considered the proposal would result in an overbearing impact and additional shadowing to this neighbour during late afternoon and early evening.

It is considered that this application fails to overcome the second refusal reason and would result in harm to the amenity of No.33.

## **Conclusion**

In weighing the key material considerations against the national and local planning policies and guidance, and the previous refusal reasons, it is considered that this application fails to overcome the previous refusal reasons and would result in harm to the character of the application house and nearby area and harm to neighbours amenity.

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

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal for the reasons as set out in this report.

## **Recommendation**

### **Refuse Permission**

1. The proposed front first floor gable extension, due to its proposed depth and use of box guttering, would be out of keeping with the design of the existing house and its neighbouring houses, and would create a strident feature within a row of terraced houses which would be out of character with the area. The development would result in harm to the character of the application house and nearby area and is contrary to NPPF 7, BCCS Policies CSP4, ENV2 & ENV3, UDP Policy policies GP2 & ENV32 and DW3 of the Designing Walsall SPD.
2. The proposed extension would have an overbearing impact on the adjoining house number 33, because of its excessive depth, height and close proximity to a habitable window to this neighbours property and would result in additional shadowing during late afternoon to early evening. Furthermore the proposal would breach the Councils 45 degree code to a ground floor habitable window to No.33. The development would result in additional harm to this neighbours amenity and is contrary to UDP Policy GP2 and Appendix D, Designing Walsall SPD.

**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 14.**

**Reason for bringing to committee:** Significant Community Interest

**Location:** 51, BROOKHOUSE ROAD, WALSALL, WS5 3AE

**Proposal:** PROPOSED TWO STOREY FRONT AND REAR EXTENSION, SIDE EXTENSION ALONG WITH A SINGLE STOREY OUTBUILDING IN REAR GARDEN (GAMES ROOM)

**Application Number:** 17/0159

**Applicant:** Mr Kulwinder Singh

**Agent:** Mr Kay Singh

**Application Type:** Full Application

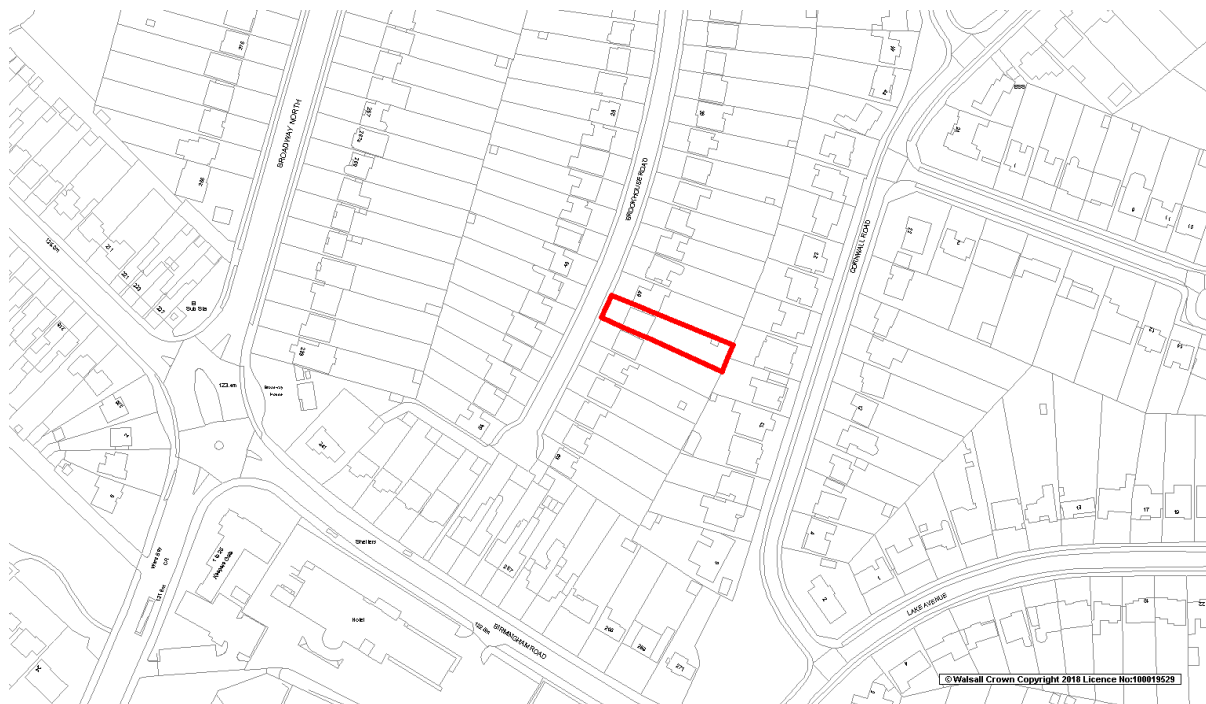
**Case Officer:** Karon Hulse

**Ward:** Paddock

**Expired Date:** 10-Aug-2017

**Time Extension Expiry:**

**Recommendation Summary:** GRANT SUBJECT TO CONDITIONS



## Current Status

Amended plans indicating the proposed use of the outbuilding as a bar and gym were received. Re-consultation with neighbours has been carried out following which additional objections have been received. The following are comments in response to those objections:

- There is no previous planning history on the application site, there have not been three applications!
- The original submission included a two storey outbuilding which was reduced to a single storey following officer comments
- A condition restricting the future use is recommended.
- The scale and design is considered acceptable (similar to 263 Broadway North which was allowed by the Planning Inspectorate)
- The application site is not within a flood zone as identified by the Environment Agency
- There are no brooks indicated on the councils mapping system
- Subject to safeguarding conditions restricting its use it will not have any detrimental impact on the amenities of nearby residents. This conclusion reflects the Planning Inspectors consideration of the appeal at 263 Broadway North also for an outbuilding and where the appeal was dismissed.
- It is now proposed that the use of the outbuilding is for a bar and games room ancillary to the main house.
- The "Outbuilding" is not intended as a habitable building only a recreational facility
- The siting of the outbuilding complies with the Designing Walsall SPD. The distance between habitable room windows in the rear of houses on Brookhouse Road and the outbuilding will be between 27 and 30 metres. Clearly this is in excess of the Designing Walsall SPD (24mts) and at the rear there will be at least 16 mts between a blank gable wall of the rear of the building and the rear of houses on Cornwall Road, again clearly in excess of the required 13 mts
- The pitched roof runs away from the boundary along the rear with Cornwall Road thereby reducing any potential impact.
- There is no right to light
- None of the trees are protected. That said there are methods which can be employed to protect tree roots if necessary
- The maximum number of car parking spaces required off street is 3, there is space on the frontage for possibly 4 parking spaces as such the requirement for off street parking is complied with.
- Any issue with access for fire is dealt with by building regulations however access would be gained through the house as is the situation with many properties that have been extended.

## Proposal

This application seeks to extend a detached two storey house to the front, side and rear at ground and first floor at no. 51 Brookhouse Road, Walsall and construct a detached single storey out building located at the end of the rear garden along the boundary with no. 15 and 17, Cornwall Road, Walsall.

The key measurements of the application are as follows:

### House Extensions

The existing roof will be raised by 1.0mt from 8.8mts to 9.8mts to cover the enlarged first floor extensions to the rear and front. The orientation of the ridge would change from across the house to being front to rear

*Side and front extension* wraps around the front and side to create a garage and porch extension and covered side passage measuring:

- 2.4mts to the eaves
- 3.9mts high (adjoining the main house)
- 7.3mts across the frontage of the proposed
- 14.7mts along the side pedestrian passage and 1.45mts wide

The proposed *front first floor extension* will bring the existing front elevation in line with bay windows on the other side of the front elevation and be 0.8mts deep.

*Rear first floor extension* above an existing ground floor rear extension measuring

- 9.1mts wide
- 5.4 mts to the eaves
- 3.35mts deep
- Having a hipped gable roof 9.2mts to the ridge

This will allow the first floor to be reconfigured to provide two en-suite bathrooms.

### *The Outbuilding*

The outbuilding has been amended to provide for a games room only and not as previously intended for visiting guests as part of the extended family. This amendment has been reconsulted on.

It would be ancillary to the use of the dwelling house and would provide an open plan bar and games room with a separate toilet.

The key measurements are:

- 4.2 metres high to the ridge and
- 2.6 metres to the eaves.
- 9.8mts wide by
- 6.2 mts deep
- total floor area is 60.76 square metres
- have a hipped roof line all round
- patio doors and two full glazed windows facing rear of houses along Brookhouse Road
- Constructed in brick and tile
- sited 1.0mt in from the side boundaries of no's 49 and 53 Brookhouse Road and
- 15 and 17 Cornwall Road
- between 28 and 30 metres between the outbuilding and rear of houses on Brookhouse Road
- 16 metres from the rear of the outbuilding and rear of houses on Cornwall Road (east of outbuilding)

There is no boundary demarcation or sub division of the rear garden areas between the outbuilding and the principal dwelling. The outbuilding is not independently accessible from Brookhouse Road, it relies on access through the main house.

## Site and Surroundings

This area is predominantly residential with the application property being a traditionally styled, hipped roof, detached house set in a row of similar styled and size detached houses. The street has a residential character of large, detached houses with mature long rear gardens. They consist of a mix of external finishes include render (various colours), brick and tile. There are examples of side, first floor and rear extensions at nearby dwellings.

The rear garden of the application site measures 33mts long by 10.5mts wide. The boundaries consist of 2 mts high close boarded fencing on all three sides.

The application house is detached fronting Brookhouse Road of traditional design with rectangular bay windows and there is a ground floor rear extension the full width of the application house.

The nearest residential houses to the rear are 15 and 17 Cornwall Road which are 49 mts from the rear of the application house and 16mts from the rear of the proposed outbuilding.

There are gaps on each side of the application house to adjacent houses:

no.49 - 1.7mts

no.53 - 1.8mts.

Other properties along Brookhouse Road have also raised the roof height (21, 26 27 and 29) in all cases the roof of the existing house has been raised by between 0.7 and 1.0 metre at the apex height to enable the use of the loft for additional accommodation

No 53 has a bathroom window at first floor level nearest to the proposed first floor rear extension. At ground floor it too has a large ground floor rear extension along a similar line to that of the application house.

No. 49 has a bedroom window at first floor level nearest to the proposed first floor rear extension. At ground floor it too has had a large ground floor rear extension along a similar line to that of the application house.

The outbuilding would be erected along the rear garden boundary.

None

## Relevant Policies

**National Planning Policy Framework (NPPF)** [www.gov.uk](http://www.gov.uk)

## **NPPF Consultation**

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application

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

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

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

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

- ***NPPF 7 - Requiring good design***

On **planning conditions**, the NPPF says:

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

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

## **Local Policy**

### **Black Country Core Strategy**

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

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

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- GP2: Environmental Protection
- ENV32: Design and Development Proposals.

## Supplementary Planning Documents (SPD)

### Designing Walsall

- 24m separation between habitable windows in two storeys (and above) developments.
- 13 m separation between habitable room windows and blank walls exceeding 3 metres in height.

Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### Consultation Replies

None

### Representations

Following amended plans which reduced the scale of the outbuilding from two storey to single storey the following comments and objections have been received which relate only to the outbuilding:

- backs onto my garden and do not wish to have living accommodation adjacent to my property
- outbuilding will have a detrimental effect on the "ambience" of the area
- standalone building at the back of a garden
- health and safety complexities (fire, access)
- increase in total occupants and inevitable impact on car parking
- extra living accommodation expands the house
- numerous cars and activity becoming a nuisance
- precedent for other applications

Comments to the original proposals were as follows:

- plans for two storey outbuilding is not an outbuilding.
- kitchen, bedroom, en-suite and living room is a small house.
- set a precedent for future applications
- two story outbuilding at the rear of the garden would block light from my garden and house,
- my garden is only 25 feet long... 2 story building would be close and an eyesore
- my property is a bungalow so it would tower over my property
- The garden is surrounded by many mature trees, and two in particular are within 3 metres of the proposed "outbuilding"
- 5 cars already parked on the front of the house
- further living space increase parking
- no objection to the house extensions.

- proposed development: size, depth, width height and massing would have an unacceptably adverse impact on the amenities of adjacent properties
- forward facing large windows and balcony very intimidating.
- The mass, bulk and proximity of the rear elevation would present an overbearing and intrusive element
- no sunlight after 3.30 pm because this building would block it out.
- completely out of context with the existing character of the area
- not ancillary to the existing dwelling
- considered as a new dwelling.
- does not meet the minimum guideline set in Appendix D of SPD "Designing for Walsall"
- significant disruption for any building works
- no access for emergency services in the event of fire to the rear.

Anonymous comment received stating that the outbuilding is too big and will set a precedent and result in more people living in the road with more cars.

## Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Protected Species
- Parking
- Comments on objections

## Assessment of the Proposal

### Design of Extension and Character of Area

*Outbuilding* - Where there are long gardens it is becoming usual to fully utilise the garden space by providing additional facilities such as out buildings along rear garden boundaries in the area.

The length, width and positioning of the outbuilding together with its design with a hipped roof all round, is considered compatible with the original house and surrounding area and will not be visible from the street. As such it would have limited impact upon the wider public area. Furthermore, it would reflect the design of other domestic out buildings in the area, which have been erected on similar size plots. This is further supported by a recent Planning Inspectors decision against an appeal for the retention of an outbuilding in which it was concluded that he could not identify any significant harm to the character or appearance or living conditions arising from the development.

To ensure the development integrates into the character of the area a condition to secure matching materials is necessary and meets the six tests.

*House Extensions* - The application property is a traditionally styled, hipped roof, detached house at the end of a row of similar styled and size detached houses. The street has a residential character of large, detached houses with mature gardens. They consist of a mix of external finishes include render (various colours), brick and tile.

The proposed house extensions would reflect the character of several extensions carried out by other properties along Brookhouse Road and nearby which includes examples of raised ridge heights. As such and on balance it is considered the proposed extensions to the front side and rear will not have any significant impact on the character of the area or the streetscene.

### **Amenity of Nearby Residents**

*Outbuilding* – No. s 15 and 17 Cornwall Road share the rear boundary with the application site, the distance between the blank single storey rear elevation of the outbuilding and the rear of no.s 15 and 17 is 16 mts, the Designing Walsall SPD requires a minimum distance of 13mts as such this distance is met and is therefore considered acceptable.

The distance to the rear of houses along Brookhouse Road and the front of the outbuilding will be between 27 and 30 mt. The Designing Walsall SPD requires a minimum distance of 24mts between habitable room windows, therefore this distance is met and ensures that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area.

A planning condition can be attached to ensure the building shall only be used incidental to the enjoyment of the main dwelling house and not be used to provide a separate dwelling or living accommodation. This will safeguard the amenity of neighbours.

*House extensions* - The proposed first floor front extension will not have any impact on nearby residents particularly as it is a small infill above the garage where there is a gap of 2.2mts to the side of no. 49. It will bring the front of this part of the house in line with the front of no 49.

The rear first floor extension will be above the existing ground floor extension. No 53 to the south has a bathroom window near to the side of the proposed extension. When applying the 45 degree guidance the proposed first floor extension exceeds the 45 degree line by 0.2 mts. However, the guidance applies only to habitable room windows and as this is a bathroom window (non-habitable room) it is considered the proposed extension is acceptable and will not have any undue impact on the residential amenity of those occupiers.

With regards to the amenity of no 49 the proposed first floor extension complies with the 45 degree guidance.

The proposals reflect the character of several extensions carried out by other properties along Brookhouse Road, and would reflect the character of the nearby area which includes examples of raised ridge heights and as such and on balance will not have any significant impact on the character of the area or the streetscene.

The proposed the front side and rear extensions are considered would integrate with the host dwelling and neighbouring houses

There are examples of a number of other similar extensions which have required the raising of the ridge of the roof so the proposals are not out of keeping with the area.

### **Protected Species**

The rear garden has been cleared of any trees or bushes (none of these were protected by a Tree Preservation Order), whilst there are a few scattered mature trees within 50 metres of the application site generally the immediate neighbourhood of the site is unexceptional bat foraging habitat. There is a residual risk of bats being present and the inclusion of an informative note for the applicant should be included in any permission granted if all other aspects are acceptable.

### **Parking**

The application does not increase the number of bedrooms at the property, which has space for four cars, including the garage. Based on the outbuilding being ancillary to the main house, the proposal would not require any further parking spaces. There is sufficient off-street parking to meet the needs of the development and to accord with the Councils parking standards.

### **Comments on objections (in italics)**

- The majority of issues raised by objectors are addressed in the report. Health and safety complexities (fire, access) are *addressed by other legislation*
- Precedent setting: *each application is dealt with and considered on its own merits as such it would not be setting a precedent*
- *Any comments referring to the scale and impact of a two storey outbuilding have been addressed by the reduced scale of the amended proposals.*
- No sunlight after 3.30 pm because this building would block it out - *there is no right to light and it is not a material planning consideration*
- Significant disruption for any building works – *with all building works there is to be expected a level of disruption however this is short term only, any adverse levels of disruption and noise would be a matter for environmental health*
- No access for emergency services in the event of fire to the rear – *access for firefighting emergency services is dealt with under building regulations legislation.*

### **Conclusions and Reasons for Decision**

The key material planning considerations, neighbour comments and consultee responses have been weighed in assessing the planning application and it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, BCCS policies ENV2 and ENV3, Unitary Development Plan (UDP) saved policies GP2 and ENV32 and Designing Walsall SPD Supplementary Planning Document (Appendix D) and on balance is considered to be acceptable.

The use of the outbuilding is considered would not give rise to noise and disturbance in excess of the existing use of this residential property and garden, it is located at the end of the rear garden, is not visible from the public realm and is located beyond the 13m and 24m separation distances specified in the Councils design guide. As such it is considered that the use of the outbuilding as a games room, will be an ancillary use to the existing house and will have limited impact on neighbours' existing light and amenity. To ensure the outbuilding

remains ancillary to the dwelling house, to prevent the sale or let of the building for use as a separate dwelling a safeguarding condition is required restricting its use.

The design of the house extensions would be compatible with the character of the area and the existing house and will not unduly impact upon the neighbouring residential occupiers in terms of loss of light, privacy, overlooking or visual harm to warrant refusal of the application. Loss of view/outlook is not a material planning consideration.

The proposal would not give rise to conditions prejudicial to highway safety.

The use of safeguarding conditions in respect of materials, side facing windows and use of the outbuilding will ensure that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

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

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

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice revised plans have been submitted to enable full support to be given to the scheme.

### **Recommendation**

Grant Subject to Conditions

### **Conditions and Reasons**

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

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

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

- Location and Block plan (3047 AD (16)01 REV B) received 29/8/17
- Proposed Out-buildings Plans and Elevations (3047 AD (16)03 REV C) received 13/2/18
- Existing and Proposed Plans and Elevations (3047 AD (16)02 REV A) received 16/6/17

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

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

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 and ENV32 of Walsall's Unitary Development Plan.

4. The walls and roof of the extension shall comprise facing materials that match in scale, colour and texture of those which are used in the existing building as it exists at the time of this application and as shown on the approved drawings. The materials shall be retained as such after completion of the extension.

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

5. The outbuilding shall remain ancillary to the existing dwelling at no. 51 Brookhouse Road, Walsall and shall not be let, sold, or otherwise used as a separate dwelling without the prior approval of a further planning application.

*Reason:* The site is not suitable for independent occupation because of the lack of separate amenity space, levels of privacy and parking normally required in a separate dwelling, and to comply with policy H10 of Walsall's Unitary Development Plan and to safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 and ENV32 of Walsall's Unitary Development Plan.

#### **Note for Applicant**

Notwithstanding the information provided any future raised decking, platform or steps to provide access into the garden building in excess of 300mm high will require planning permission.





## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 15.**

**Reason for bringing to committee:** Significant Community Interest

**Location:** 4 A, FOLEY CHURCH CLOSE, STREETLY, B74 3JX

**Proposal:** PART RETROSPECTIVE PORCH ENTRANCE AND GARAGE CONVERSION

**Application Number:** 18/0010

**Applicant:** Hitesh Patel

**Agent:**

**Application Type:** Full Application: Householder

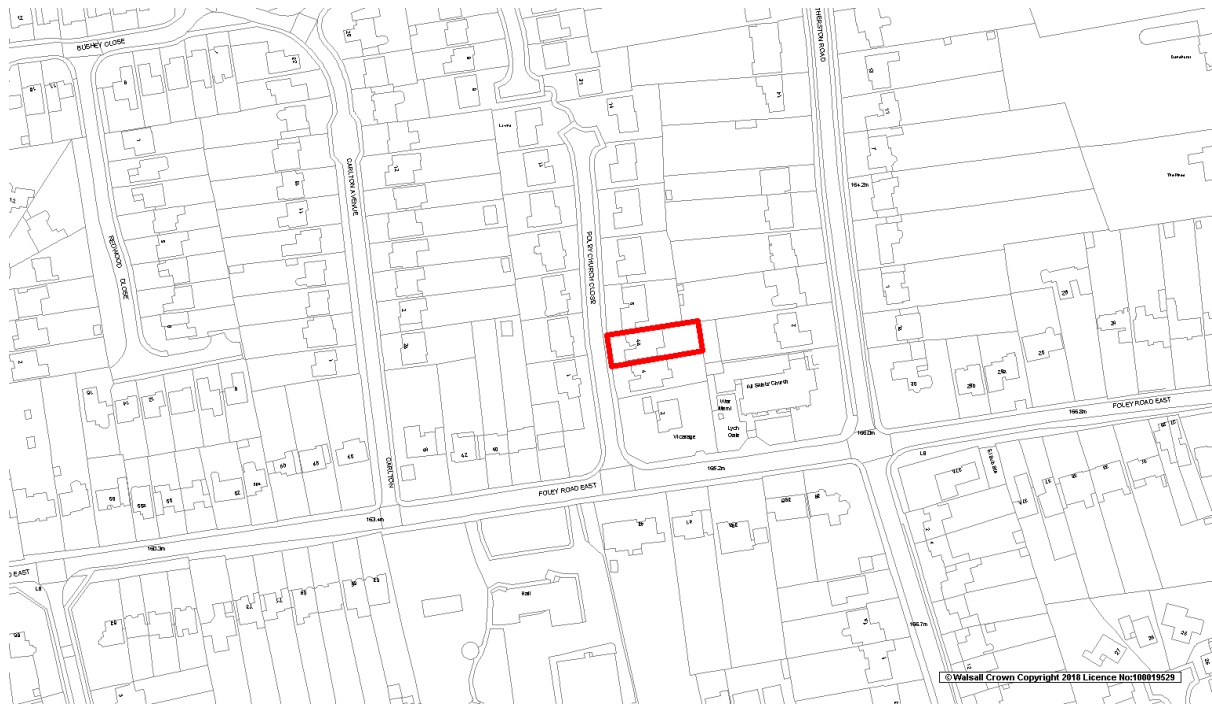
**Case Officer:** Sally Wagstaff

**Ward:** Streetly

**Expired Date:** 05-Mar-2018

**Time Extension Expiry:** 26-Mar-2018

**Recommendation Summary:** GRANT SUBJECT TO CONDITIONS





## Proposal

The application relates to the retention of a porch entrance and garage conversion to habitable room including a 400 mm increase in height. A window has been inserted into the front elevation replacing the garage door. A new window replaces the existing bedroom window and changes to fenestration details including the insertion of windows to the ground floor side elevations and replacement of first floor windows. These changes do not form part of the proposal as they can be inserted under permitted development. For clarity the agent has added the rear dormer on the plans as this has been recently constructed using permitted development rights. .

The porch entrance is 3.9 metres in depth, 3.1 metres in width with a flat roof 2.9 metres in height with a roof light. There is glazing across the front elevation with the door to the centre.

The garage conversion to a habitable room includes a 400 mm increase in height with a new flat roof linking to the new entrance and window.

The ground floor is rendered in an off white/grey colour with grey upvc glazing.

Whilst on site the officer noted works was being carried out at the property, since the site visit the officer has been made aware that the works to the front of the property have continued and are now complete.

## Site and Surroundings

The property is a detached house of modern design with a cat slide roof and low eaves level. It has two windows at first floor level and a dormer within the rear roof slope constructed under permitted development. The property originally had a flat roof stone clad wc which was attached to the entrance to the property which has now been demolished. The flat roof garage structure which projects beyond the front elevation remains in situ. The property has a driveway for two vehicles to be parked off road, and a lawn area.

Foley Church Close consists mainly properties similar in age and character, some with single garages and some with double garages. There is evidence within the street scene of modifications properties including insertion of windows at first floor and a neighbouring property has had a garage conversion.

The neighbouring property no. 4 is a detached dwelling similar in size and character to the host property before the amendments to the front elevation. There is approximately 1 metre separation distance between the two properties. The existing garage structure projects beyond the front of this property by approximately 2.5 metres. The entrance is screened by the garage so is not visible from this property.

The neighbouring property no. 6 is a detached dwelling larger in size to the host property which had a double garage with one of the garages converted to a habitable room with a bow window. There is approximately 1 metre distance between the two properties with a level difference of approx. 500 mm. The entrance is screened by the existing 1<sup>st</sup> bedroom so is not visible from this property.

Properties no. 1 and 3 are opposite the application site and are approximately 21 metres from the front of the host dwelling.

The nearby property no. 2 Foley Church Close is within the Streetly Area of Townscape Character however the host property does not fall within this designation.

## Relevant Planning History

BC1953- Erection of Additional Garages for Plots 1,2,3,4 and 8 off Foley Road East – Permitted Development removed for garage conversions to ensure the satisfactory nature and appearance of the development.

## 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*".

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

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

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

- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

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

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

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## **NPPF Consultation**

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

## **Local Policy**

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

## **Black Country Core Strategy**

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

## **Unitary Development Plan**

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking

## **Supplementary Planning Document**

## **Designing Walsall**

- DW3 Character
- Appendix D –Designing Walsall

## **Consultation Replies**

None

## **Representations**

3 objections and two general comments have been received from three neighbouring properties, Objections relate to:

- Construction of rear dormer which is not shown on plans
- Works began without planning consent and consultation
- Number of bedrooms amount of occupants at the property and its use
- Use of materials and extent of alterations to front and rear of the property differing in appearance to other properties.

Two general comments have been received by one neighbouring property regarding the registration of the address and finding the application on the Council website.

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## Determining Issues

- Design and Character of the Area
- Amenity of Nearby Properties
- Parking
- Other matters

## Assessment of the Proposal

### Design and Character of the Area

The development is viewed against the existing property and whilst the entrance hall is larger than the original footprint it does not project beyond the existing front elevation and is considered not to be of excessive scale. The additional roof height to the converted garage is marginal and is not considered to be excessive.

Whilst the entrance hall is not common feature within the street scene it does include a flat roof which integrates with the host dwelling and neighbouring houses. To add, there was a flat roof structure previously in this location.

It is acknowledged that the palette of materials used materials does not match the existing brick built property and the brick built properties on Foley Church Close however it is noted that brick colours do vary between red brick and sandy brick and stone cladding. The use of render and its colour to the ground floor and large amounts of glazing is not a common characteristic within the street scene and whilst it is a contrast with the neighbouring properties it is not unduly erode the character and identity of area. There is evidence within the vicinity of the application site of rendered properties on Foley Road West.

A neighbouring property has made reference to their planning application made 20 years ago for the conversion of a double garage into study. Whilst officers at the time felt it was necessary to ask for the bricks to be matching, it is considered under the current policies that render is not unacceptable in this location.

### Amenity of Nearby Residents

The additional 400 mm height to the converted garage is considered minimal and would have limited additional impact on existing light and outlook from the neighbour's habitable room window within no. 4.

The new bedroom window is approximately 21 metres from the nearest habitable room within no. 1 opposite the application site. Whilst this window is closer to the neighbouring than the existing bedroom window on the left hand side of the property the proposal would not result in undue overlooking in comparison with the current situation. Also this view is across the highway where levels of privacy are not the same.

There are no changes to the dimensions of the gable next to the neighbouring property on. 6. The development has a limited impact upon the amenity of this property.

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Comments have been received with regards to the number of bedrooms at the property, numbers of occupants and its use. The number of bedrooms at ground floor will not increase with the garage conversion as existing bedroom two and three will become one room. The bedrooms within the roof void and dormer do not form part of this application however it is noted that the resulting property would have five bedrooms. The property is classed as a C3 dwelling house and the Local Planning Authority do not need to know the number of occupants living at the property.

## **Parking**

The property currently has a garage and two parking spaces to the front elevation. Permitted development rights have been removed for garage conversions. The proposal includes the conversion of the garage into a habitable room and whilst this wouldn't involve any additional bedroom at ground floor the property is 5 bedrooms in total. UDP parking policy T13 requires 3 parking spaces for 4+ bedroom dwellings. The development retains 2 frontage parking and has the means of extending the driveway for three car parking spaces to accord with the policy requirement. A condition will be necessary for an extended frontage to accommodate three motor vehicles. Means of access is unchanged.

## **Other matters**

Comments have been received by neighbouring residents with regards to the rear dormer which has been constructed under permitted development. Neighbouring properties notified the planning department of works to a rear dormer and porch, the alleged breach was investigated and neighbouring properties were subsequently notified that the rear dormer is permitted development and does not require planning permission. As the porch and garage conversion required permission this is why we have an application for their retention. The agent has amended the plans for clarity as the dormer has now been constructed so should be reflected on the existing plans however it does not form part of the proposal under assessment within this application. Comments have raised with regards to the works being carried out prior to any relevant permission or consultation, these comments are acknowledged and whilst the applicant had carried out works without planning permission, this application seeks to regularise this situation.

The officer contacted the neighbouring resident who has made comments regarding the registration of address and finding the application online to ensure that they were able to view the plans. The address for the application is correct and all plans are publically viewable.

## **Conclusions and Reasons for Decision**

The design of development is considered to be acceptable in terms of size, height and materials and on balance would not harm the character of the area. The proposal complies with UDP Policy ENV32 and Designing Walsall SPD DW3 Character.

The development has a limited impact upon the amenity of neighbouring properties in terms of light, outlook and privacy. The proposal complies with Designing Walsall SPD Appendix D.

The proposal when weighing the concerns of the neighbour, against the national/local policies and guidance, is considered accords with the aims and objectives of relevant Council policy and guidance and on balance is considered to be acceptable.

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

#### **Approve**

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

### **Recommendation**

Grant Subject to Conditions

### **Conditions and Reasons**

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

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

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

Porch and Garage Conversion, drawing no. TW/186/A - deposited 15/02/18.

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

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

4: a) Prior to the development first coming into use, the proposed extended frontage parking area to accommodate two motor cars shall be fully consolidated, hard surfaced and drained so that surface water run-off from this area does not discharge onto the highway or into any highway drain.

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

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





## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 22-Mar-2018

**Plans List Item Number: 16.**

**Reason for bringing to committee:** Called in by Councillor Wilson who considers this requires delicate consideration.

**Location:** 132, WHETSTONE LANE, ALDRIDGE, WALSALL, WS9 0EZ

**Proposal:** TWO STOREY SIDE AND REAR EXTENSION PLUS FRONT PORCH

**Application Number:** 17/1528

**Applicant:** Carl Perry

**Agent:** David Jones

**Application Type:** Full Application: Householder

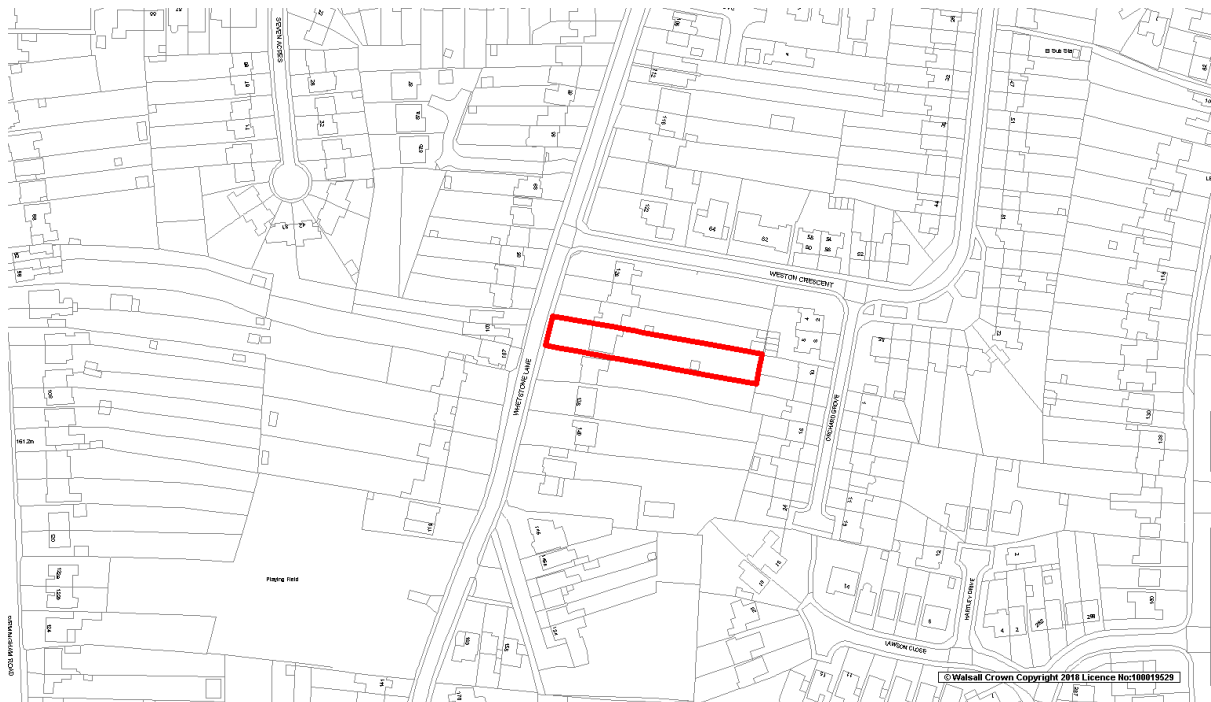
**Case Officer:** Jenny Townsend

**Ward:** Aldridge Central And South

**Expired Date:** 12-Jan-2018

**Time Extension Expiry:** 30-Mar-2018

**Recommendation Summary:** REFUSE





## Status

The report was published for 1 March 2018 Planning Committee which was cancelled.

Further to the earlier report in March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

## The original report now follows

## Proposal

This application is for extensions to a detached house that would add a new porch to the front and convert part of the garage to a utility room at ground floor and add a first floor side extension that would enlarge one of the existing bedrooms, add an en-suite shower room and a new bedroom. A first floor extension is also proposed on the rear which would enlarge the existing rear bedroom.

The number of bedrooms would increase from 4 to 5. The existing bathroom is to be re-located to provide a better layout of the first floor. Amended plans have been received which propose a hipped roof with a large flat area on top and a gutter sitting on top of the side wall. This is an amendment from an earlier design that had a steeper pitched hipped roof higher at the ridge than the original roof and had eaves that matched with the existing house but would have overhung the boundary with number 130.

No change is proposed to the front of the existing garage but a new porch is proposed alongside which would measure:

- 1.9 deep
- 3.9 metres wide
- Have a pitched roof between 2.5 and 3.7 metres high.

The amended plans shows the proposed first floor side extension nearest to number 130 to be:

- Set back 0.6 metres from the front of the existing first floor part of the house (the original plans showed this set back 1.5 metres)
- have a hipped roof 1.0 metre lower at the ridge than the original roof
- the side elevation wall next to number 130 would be built to the boundary and measure 5 metres high with the gutter on top to avoid overhanging number 130
- have a window to the new bedroom on the front elevation and a large full height window on the rear serving the master bedroom
- a velux window to the en-suite shower room is proposed in the side roofslope

The proposed rear first floor extension nearest to number 134 would be built above part of the existing ground floor and would measure:

- 2.2 metres deep
- 3.6 metres wide
- Have a low hipped roof with a flat section over part of the extension
- A window to the enlarged bedroom would be on the rear elevation

## **Site and Surroundings**

The application site is in a residential area of mainly detached houses that vary in design. The application house is a 1950's design with a hipped roof and double bay windows to the front. A ground floor side and front extension including a porch was added in the 1990's and a first floor extension added on the rear around 2003.

The road slopes up in level from the south to the north and the houses are stepped up in level from each other.

Number 134 is to the south with a gap of approximately 3 metres between the houses. Number 134 has a bedroom window on the rear and a first floor window in the side elevation that already faces the two-storey part of the application house. The window appears to be a secondary window to the bedroom. There is a ground floor window below which is already screened by the tall boundary fence.

Number 130 is to the north and approximately 0.5 metres lower in level. This house has been extended with a first floor extension added on the rear and a window inserted at first floor level in the original side wall of the house to serve a bedroom. This window is the only window to the room.

The rear garden is approximately 58 metres long.

## **Relevant Planning History**

BC02138P Erection of first floor bedroom and bathroom. GSC14/01/82 with condition for no additional side windows and obscure glazing to some specified windows.

BC37503P Ground floor garage & porch extension with canopy over, first floor bedroom & en-suite shower room & new pitched roof over existing rear extension. Refused 02/02/93 on the grounds that the proposed development would, by reason of siting, design and height, adversely affect the amenities of the occupiers of 130 Whetstone Lane.

BC39277P Front and rear single storey extensions and pitched roof over existing extensions. Refused 01/02/94 on the grounds that the proposed projecting front false canopy would be a dominant and visually intrusive feature, out of character with the streetscene and detrimental to the visual amenities of the adjoining residential neighbours and the applicant has not demonstrated that the proposed extension and associated guttering would not encroach onto the neighbouring property.

BC41812P Ground floor extension and new pitched roofs to existing ground floor extension.  
GSC 12/09/94.

03/0997/FL/H4 First floor extension over existing garage. Withdrawn 18/07/03.

03/2054/FL/H4 First floor rear extension. GSC 16/12/03.

## 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*".

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

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

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

- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

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

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

### **Local Policy**

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

#### **Black Country Core Strategy**

- ENV3: Design Quality

#### **Unitary Development Plan**

- GP2: Environmental Protection

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

## **Supplementary Planning Document**

### **Designing Walsall**

#### **Appendix D**

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

## **Consultation Replies**

None.

## **Representations**

Four letters from neighbours in relation to the original plans, objecting to the proposal on the following grounds:

- Overdevelopment;
- Design and height of extension;
- Loss of light to side bedroom, kitchen, utility, garden, front lounge, bedroom and landing;
- Loss of privacy;
- Overhanging eaves and guttering;
- Terracing;
- Previous planning history.

In relation to the amended plans, five letters have been received (four from the same addresses as previously) raising the same objections but the following comments were made in addition:

- Front aspect is monolithic and will impact on neighbours across the road;
- Development should be taking into consideration the elevation of the Lane and should be only the depth or width of the original property;
- The amended scheme increases impact on loss of light to front, side and rear windows of number 130.
- No note on the plans stating that pipework remains inside the premise and will not cross the boundary;
- No statement explicitly stating that no extraction will take place over the boundary.

## **Determining Issues**

Design of Extension and Character of Area

Amenity of Nearby Residents

Parking

### Design of Extension and Character of Area

The design of the proposed first floor side extension with a large flat roof would not be compatible with the existing roof shape of the house. Also due to the difference in levels between the application house and number 130 and because the first floor part of number 130 is set back, this area would be prominent in the street scene. Furthermore the gutter on top of the side elevation with no eaves would not match with the existing eaves design of the rest of the roof and is considered would not be appropriate in this prominent position. The application refused in 1994 was partly because the design including a parapet wall to avoid overhang to number 130 which was not considered acceptable because of its prominent position in the street. The same applies to the current proposals.

The roof of the proposed porch built right to the sill of the first floor window is considered unnecessarily high and over dominant.

The application has been called in for delicate consideration but no planning reason or explanation has been provided explaining why this is thought to be the case.

The proposal is considered would have a detrimental impact on the appearance of the house and would be out of keeping with the character of the area.

### Amenity of Nearby Residents

The first floor extension proposed on the rear of the house nearest to number 134 would be to the north of this neighbour and would comply with the 45 degree code measured from the quarter point of the rear first floor window of number 134. The existing side first floor window already faces the two storey part of the application house and is a secondary window to the room. The proposal is considered would have little impact on the light, outlook or privacy of the occupiers of number 134.

Number 130 is to the north of the application house and the proposed first floor extension is considered would further block light to and outlook from the side bedroom window of number 130, the only window in the room. The outlook from this window is already limited by the existing rear first floor extension at number 132 which is set in approximately 3 metres from the boundary and 4.5 metres from the window. The proposed extension would be built right to the boundary leaving a gap of only 1.5 metres between the window and the two-storey wall. The extension would project approximately 5 metres beyond the window and is considered would significantly reduce the light into the room. The proposed extension is considered would have a detrimental impact on the amenity of this bedroom.

This impact is the reason that two previous applications for similar first floor side extensions were refused.

The extension would project approximately 1.6 metres beyond the rear of number 130. The height of the extension together with the difference in levels between the houses and the orientation of the extension to the south of number 130 is considered would result in an overbearing impact on the rear of number 130 which would result in harm to the living conditions of the occupiers of this house.

The long rear garden would continue to provide sufficient separation with the houses at the rear to maintain the privacy and outlook of both the neighbours and the applicants.

## **Parking**

There is sufficient space on the existing frontage to provide three parking spaces which would accord with UDP policy for a house with 4 or more bedrooms.

The design of the extension with a large flat roof and gutter on top of the side wall is not compatible with the existing house and is considered would have a detrimental impact on the appearance of the house and the area due to its prominent position in the streetscene. This would conflict with saved policies GP2, which considers visual appearance, ENV32 which states that 'Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted' of Walsall's UDP and Designing Walsall SPD, Appendix D which states that 'For residential developments should reflect the existing and emerging character of the area.'

The proposed first floor side extension nearest to number 130 would, by reducing the gap between the side wall of the extension and the first floor side bedroom window belonging to number 130 to approximately 1.5 metres, have a detrimental impact on the light, outlook and amenity of this habitable room. This would not comply with saved policy GP2 of Walsall's UDP which considers overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby properties or Designing Walsall SPD, Appendix D which states that 'privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity.'

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

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

## **Recommendation**

Refuse

## **Reasons for Refusal**

1. The design of the extension with a large flat roof and gutter on top of the side wall is not compatible with the existing house and is considered would have a detrimental impact on the appearance of the house and the area due to its prominent position in the streetscene. This would not comply with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan and Designing Walsall, Appendix D.

2. The proposed first floor side extension nearest to number 130 would reduce the gap between the side wall of the extension and the first floor side bedroom window belonging to number 130 to approximately 1.5 metres and would have a detrimental impact on the light, outlook and amenity of this habitable room. This would not comply with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan and Designing Walsall, Appendix D.