

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 04 November 2021

Plans List Item Number: 4

Reason for bringing to committee

Called in by Councillor Andrew in the public interest and re-use of a previously developed site to protect other untouched Green Belt land which is under threat.

Application Details

Location: PEAR TREE FARM, FISHLEY LANE, BLOXWICH, WALSALL, WS3 3PZ

Proposal: FULL APPLICATION FOR RESIDENTIAL DEVELOPMENT OF 6 NO. 1.5 STOREY CHALET BUNGALOWS WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING ADJOINING PUBLIC RIGHT OF WAY ALD154.

Application Number: 21/0047

Case Officer: Gemma Meaton

Applicant: Mr Russell

Ward: Pelsall

Agent: Design Construction Management Services

Expired Date: 30-Mar-2021

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

Time Extension Expiry:



Recommendation

Refuse

Proposal

The submitted supporting documents explain that the proposal is for the demolition of all the existing buildings on the site and the provision of 6 new build “market sale” dwellings which each comprise 4 bedroom chalet-bungalows. The development would include an access highway built to adoptable standards, and car parking three parking spaces are provided per dwelling.

The following documentation was submitted in support of the proposal:

- Planning Statement
- Ecological Assessment
- Tree Survey and Arboricultural Report
- Preliminary Geoenvironmental Risk Assessment
- Coal Mining Risk Assessment

Site and Surroundings

The site is situated on the eastern side of Fishley Lane within the Green Belt and just to the north of Fishley Park Golf Club, and 2.1km north of Bloxwich district centre.

The site currently accommodates a range of brick, timber and steel portal frame construction general storage & distribution buildings and stables. According to the information submitted with the application the existing buildings have previously been used, but are no longer in use. In addition there is an area of hard standing and a ménage built in the south east of the site.

To the north of the application area is a single residential dwelling known as Pear Tree Cottage which is a bungalow of modern construction and which takes its access from Fishley Lane. Running along the South of the site is a public footpath (ALD 154.) the remainder of the site has views of open fields, with the Wyrley and Essington Canal passing approximately 100m to the east of the site, although the site is in Flood Zone 1 and therefore not recognised as liable to flooding.

Relevant Planning History

16/0974 - Prior Approval: Agricultural to C3, Prior Approval for change of use from agricultural building to dwelling house (Class C3),(Site Affects the setting of the Public Footpath Ald 154), Prior Approval: REFUSED, 16/08/2016

Reasons for refusal:

1. The works described above and in the details of the application fall outside the scope of Class Q of Schedule 2, Part 3 (Changes of Use) of the Town and Country Planning (General Permitted Development) Order 2015 as the building does not sit within an established agricultural unit which conflicts with Q.1(a) and (f). Furthermore, the building works involved would be more than reasonably

necessary for the building to function as a dwellinghouse in conflict with Q.1(i) As such an application for full planning permission is required for the proposed change of use.

16/0972 - Prior Approval: Agricultural to C3, Prior Approval for change of use from agricultural building to dwelling house (Class C3), (Site Affects the setting of the Public Footpath Ald 154), Prior Approval: REFUSED. 16/08/2016

Reasons for refusal:

1. The works described above and in the details of the application fall outside the scope of Class Q of Schedule 2, Part 3 (Changes of Use) of the Town and Country Planning (General Permitted Development) Order 2015 as the building does not sit within an established agricultural unit which conflicts with Q.1(a) and (f). Furthermore, the building works involved would be more than reasonably necessary for the building to function as a dwellinghouse in conflict with Q.1(i) As such an application for full planning permission is required for the proposed change of use.

16/0908 - Front and rear extensions to the existing playroom and first floor extension and alterations to create dormer bungalow across the whole width of the existing and extended bungalow, (Site Affects the Setting of the Public Footpath Ald 154), Grant Permission Subject to Conditions 22/09/2016

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

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

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

all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.2 to 3.5 The Countryside and Green Belt
- 3.6 to 3.8 Environmental Improvement
- 3.11 Forestry and Trees
- GP2: Environmental Protection
- ENV5: Stabling and Riding of Horses and Ponies
- ENV6: Protection and Encouragement of Agriculture
- ENV7: Countryside Character
- 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
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- T7 :Car Parking
- T8: Walking
- T9: Cycling
- T11 : Access for Pedestrians, Cyclists and Wheelchair users
- T12 : Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- GB1: Green Belt Boundary and Control of Development in the Green Belt
- EN1: Natural Environment Protection, Management and Enhancement
- EN4: Canals

- T4: The Highway Network

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

Canal and River Trust

No objection, subject to conditions regarding external lighting.

Local Highways Authority

Objection - The Highway Authority considers the development has the potential to have an unacceptable impact on road safety in that residents of the development who may not own a car or desire one would have little alternative but to walk or cycle along Fishley Lane with little protection from passing vehicles or have the benefit of public lighting in order to access public transport or community facilities and would be contrary to the NPPF.

Local Access Forum

Although it would appear that ALD 154 should be unaffected by the development, the actual route of this path has been the subject of some uncertainty for some time its route should not be established prior to any planning permissions. The path is currently un-passable, and it should be made good at its exit on to Fishley Lane and then clearly defined back to ALD 154A.

Natural England

No objection

Pollution Control

No objection subject to conditions regarding contaminated land, compliance with the Black Country Air Quality SPD, smoke control and a Construction Environmental Management Plan.

Severn Trent Water

No objection subject to a drainage condition being applied.

Strategic Planning Policy

Objection - the proposal would have a greater impact on openness than the existing buildings and would represent inappropriate development in the Green Belt. The remote location would also represent unsustainable development.

Tree Officer

No objection subject to the imposition of a landscape condition

Waste Management (Clean and Green)

Very few properties are currently serviced in Fishley Lane meaning a transit size vehicle is used. With the introduction of these properties, this would need to be increased to a 26 tonne refuse collection vehicle. Concerns are raised with the use of Fishley Lane with such a vehicle and the potential for the turning point in the new development to be taken up with parked cars. If the turning point is ever blocked, the refuse vehicle would be unable to exit the location due to the narrowness of Fishley Lane itself.

West Midlands Fire Service

No objection subject to note requiring compliance with approved document B of the Building Regulations

Representations

None

Determining Issues

- Principle of Development / Impact on the Green Belt
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Ecology
- Trees / Protected Trees
- Ground Conditions and Environment
- Local Finance Considerations

Assessment of the Proposal

Principle of development / Impact on the Green Belt

The principle of residential development on the site is dependent on whether the scheme is compatible with its designation as Green Belt. The site lies in the Green Belt which is subject to Site Allocation Document (SAD) policy GB1, as well as the provisions of the National Planning Policy Framework, 2021 (NPPF).

Policy GB1 in the SAD states that relevant provisions within the NPPF and Black Country Core Strategy (BCCS) apply. Inappropriate development, as defined in the NPPF, will not be supported in the Green Belt in Walsall unless 'very special circumstances' exist which clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm.

BCCS policy CSP2 states that that the areas outside the Strategic Centres and Regeneration Corridors will provide: "A strong Green Belt to promote urban renaissance within the urban area and provide easy access to the countryside for urban residents where the landscape, nature conservation and agricultural land will be protected and enhanced where practical and possible";

NPPF paragraph 149 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, with certain exceptions, the relevant ones which include:

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would ...not have a greater impact on the openness of the Green Belt than the existing development.

Previously developed land is defined by the NPPF as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas

such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

Planning practice guidance on Green Belt was updated in July 2019. This states that assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;
- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation.

Taking all of the above into account, it is therefore key to determine whether or not the proposal would have a greater impact on the openness of the Green Belt than the existing development and thus amount to development that is inappropriate in the Green Belt.

Part of the site is previously developed with various single-storey structures along the western side, and some of the area is used for parking commercial vehicles and plant.

Plans have been provided that show the height and footprint of the existing buildings on site. The total footprint of the 8 buildings has been shown to be 775m². The proposed buildings would have a footprint of 216m² each, meaning a total footprint of the development of 1,296m². This would constitute a 67% increase over and above the existing footprint.

According to the information provided, the height of the existing buildings vary between 2.8 and 4.3m, while the proposed buildings would be 6.6m to the roof ridge and 3.6 to the eaves. This would constitute a significant increase in height over the existing structures.

The existing structures are located towards Fishley Lane, generally in line with Pear Tree Cottage with less development having occurred to the north east of the site, where it adjoins the field in this direction. The proposed development would create evenly spaced and densely packed plots across the site effectively developing its entirety with structures and fenced landscaped garden land.

The character of the entire site would effectively be suburbanised, replacing agricultural buildings and sheds with regular, suburban development. The addition of the access road, parking spaces, and domestic regular gardens with boundary fences would all contribute to this dramatic change in character.

The former horse-related use would have attracted a limited amount of traffic, with occasional use of larger vehicles such as horse boxes. However, six dwellings with a total of eighteen parking spaces would result in a greater number of vehicles parked on the site and associated activity, as well as domestic paraphernalia such as garden sheds and fences around gardens.

The relative isolation of the development, and the public right of way along the rear of plots 4, 5 and 6 would expose their private amenity to the public realm making them vulnerable to anti-social behaviour as there would be limited natural surveillance. This could cause these residents to suffer from a fear of crime would make it more likely for the development to be characterised by high boundary fences as a means of protection, creating further impact on openness and the Green Belt.

Taken together, these factors of a very significant (521m² or 67%) increase in footprint coupled with an increase in height (2.3m or 53%) causing a marked perceived increase in scale and visibility, distribution of development over the entire site rather than clustering in the west of the site and suburban character of development as a result of the layout design and built form, landscaped gardens domestic paraphernalia (including sheds, bin storage, children's play equipment, garden structures and boundary fences) and activity mean that the proposal would have a significantly greater impact on openness and character representing inappropriate development in the Green Belt. The proposal is therefore contrary paragraph 149 of the NPPF, SAD Policy GB1 (Green Belt Boundary and Control of Development in the Green Belt), and BCCS Policy CSP2 (Development Outside the Growth Network).

Design, Layout and Character

The site is within the Green Belt and character of the area is one of rural isolated open fields, with the closest suburban residential development at least 1km to the south in Bloxwich. Surrounding development is limited to isolated farm houses and the carrying of agricultural activity with some diversification having taken place including a boarding kennels and overnight accommodation. The proposal is in contrast to this prevailing character comprising development of densely packed layout of large dwellings in relatively small plots with short gardens. The dwellings are identical and evenly spaced with no variation in siting or landscaping, at odds with their rural location.

Designing Walsall SPD Annexe D sets the minimum garden length for residential development at 12m, and while the proposed dwellings only fall short of this minimum by a small margin at 11.5m it is far below what would be expected for large family homes in a rural location. The buildings are also separated by only 1.9m which adds to the urban character of the scheme which would be starkly incongruous with the surrounding rural area creating almost a wall of built suburban form.

The layout is set around a single straight access road with turning head which is again out of character from development in rural areas which is characterised by organic formation and sweeping curves following historic desire lines rather than engineered modern 90-degree angles and straight roads.

The addition of a large number of Velux-style roof lights and the 1.5 storey bungalows is also not a feature readily associated with the rural environment. While it is acknowledged that a decrease in height may have a positive impact on the perception of scale and massing of the development, the use of chalet bungalows is stylistically contrary to the character of the Green Belt and of rural areas, and would continue to have a significant visual impact on the surroundings.

According to the planning statement the dwellings will be of traditional cottage brick and tile construction with timber windows and doors. Rainwater goods will be cast iron hopper heads and downpipes. Brick detailing will be proposed to the gable ends, windows and doors. Barn style shippon (cow shed) features would be incorporated into the design such as three bay layout, porthole windows, decorative three centred arches and pop-hole ventilation brick detailing. However, the proposed built form means these features would likely appear contrived and artificial, and without the functionality of design that is characteristic of buildings in rural areas.

Farmsteads are characterised by a main farmhouse and smaller ancillary buildings for example grain store, stables etc. The proposal is not reflective of this type of rural development, but seeks to fill previously undeveloped parts of the site with densely packed urban development. The proposal represents a cramped, incongruous form of development and as such would have a harmful visual impact and would harm the rural character of the area and would be contrary to BCCS Policy ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality), Saved UDP Policy ENV7 (Countryside Character) and ENV32 (Design and Development Proposals) and the Designing Walsall SPD.

Amenity of Neighbours and Amenity of Future Occupiers

The site is surrounded by open fields and there are no adjacent occupiers other than Pear Tree Cottage. The proposed buildings would be 1.5 storeys in height and while plots 1-3 would look out directly to the side garden of the cottage, they would be separated by at least 30m from the side elevation of the building which is itself of single storey construction. It is considered the proposal would not have any significant negative impact on the amenity of surrounding occupiers.

The proposed dwellings would be generously proportioned internally and would be well in excess of the minimum sizes recommended by the Nationally Described Space Standards. Amenity space provided would be short which would negatively impact on the outlook provided to the rear of the dwellings, however the total provision of amenity space would be consistent with a large family home at over 250m², meaning that in terms of the amenity of future occupiers this aspect could be regarded as acceptable.

The presence of the public right of way at the rear of plots 4, 5, and 6, as well as the exposed nature of the gardens to Plots 2 and 3 would be likely to create a fear of crime and potential anti-social behaviour, which would mean the need to implement secured by design principles would be very important for the development. Measures would include locks and alarms on doors and windows careful siting of meter boxes, and likely lockable rear bin storage. These measures would also impacts on the openness and character of the green belt whilst bringing further visual intrusion. While these matters could make the development acceptable and could be conditioned, it would be important to assess the location and design of these features particularly given the Green Belt location.

The dwellings would be spaced only 1.9m apart, and with habitable room windows on the ground floor serving the proposed dining rooms and kitchen located less than 1m from the boundary which would necessarily be fenced to ensure privacy between the plots. The outlook of these windows would therefore be severely constrained and would amount to a view of the boundary treatment only. Access to light would be good

as roof lights over these areas would provide additional light to the kitchen and dining room, and the side-window would only be a secondary window to the dining area with a primary window facing the rear. The kitchen window would be constrained in this manner but the area is open-plan with the dining area and a kitchen is not strictly considered a habitable room. On balance, while the outlook to these areas would be constrained it is not considered significant enough to constitute a reason for refusal of the application.

Highways and Servicing

Paragraph 110 of the NPPF states development should ensure:

'a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;' and *b) safe and suitable access to the site can be achieved for all users'.*

Paragraph 112, of the NPPF states *'Within this context, applications for development should:*

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*

Access to the proposed development would be provided via a new access off Fishley Lane.

Fishley Lane has no segregated pedestrian facilities and no street lighting, which would make access by any other method than motorised vehicle difficult and unsafe. The site is divorced from any significant built up area which would provide ease of access to shops and local community facilities. The remote location would represent unsustainable development in that there is no public transport nearby – the closest bus stop is at Stoney Lane Approximately 1.5km away - and no footpath along the road which is narrow and unsuitable for walking or cycling. In practical terms the site is only accessible by car.

Waste Management has confirmed, there are very few properties in Fishley Lane being serviced by them, which adds weight to the fact the proposed development is in an unsustainable location. Waste Management has confirmed that currently a small collection vehicle is used to service these properties. With the introduction 6 additional dwellings as proposed there would be a need to introduce a 26 tonne refuse collection vehicle. Fishley Lane is particularly narrow and there are concerns that the required vehicle would be unable to access the proposed properties. Within the development itself, whilst an access road and turning head has been provided, concerns regarding the turning head were ever blocked, the refuse vehicle would be unable to exit the location due to the narrowness of Fishley Lane itself.

The Highway Authority has concerns stating the development has the potential to have an unacceptable impact on road safety in that residents of the development who may not own a car or desire one would have little alternative but to walk or cycle along Fishley Lane with little protection from passing vehicles or have the benefit of public lighting in order to access public transport or community facilities.

Taken together these factors show the proposal for development would be an unsustainable location, with narrow unsafe access for pedestrians, cyclists and the servicing of the proposed development, the proposal would therefore be contrary to the NPPF paragraph 110, 111 and 112, DEL1 (Infrastructure Provision) of the BCCS, Saved Policy T8 (Walking) and T11 (Access for Pedestrians, Cyclists and Wheelchair users) and T12 (Access by Public Transport) of the UDP.

It is noted that the public footpath along the southern edge of the site is currently obstructed. Contrary to the indication on the submitted plans, the Land Registry indicates that this lies within the ownership of the applicant. This fact was previously made clear during pre-application advice provided to the applicant on 8 January 2021. The footpath should be unblocked regardless of the current application, however the provision of private gardens within the footpath would likely make this difficult to achieve, as there is likely to be pressure from future occupiers to keep it closed in the interest of safety, security and fear of crime, with future residents wanting to extend their gardens. The Proposed Block Plan shows solid boundary treatments transecting and thereby blocking the footpath in several locations. Policy CSP3 of the BCCS states that Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity. The policy explicitly includes the protection of pedestrian and cycle routes. The proposal has failed to show how definitive public right of way ALD154 will be protected, proposing that private gardens are created through it, contrary to BCCS Policy CSP3 (Environmental Infrastructure).

Ecology

The site is within Pelsall North Sites of Importance for Nature Conservation and Sites of Local Importance for Nature Conservation.

An Ecological Appraisal was submitted with the application which concludes that:

- The trees within and bordering the site offer little bat roosting habitat; however, they do offer good foraging habitat and commuting routes for bats. Bat boxes should be sited within the wildlife area, which should offer roosting habitat within or close to the foraging/commuting areas.
- The buildings on site were surveyed for signs of bats or bat potential. No signs or features which are suitable for potential bat roosting were detected during the survey. The internal makeup of the buildings consists of corrugated tin rooves with steel framework; the extremities in temperature created by the tin roof result in negligible bat potential.
- Any floodlighting should be positioned sensitively to minimise light spill across adjacent hedgerows.
- A single Leylandii tree, of low conservation importance, will be lost to facilitate the proposed development. The development plans include the planting of several native trees throughout the site.

- No ponds were found on site or within 250m of the site boundary. It is unlikely that the proposal will have any negative impact on amphibians, given the lack of a pond adjacent the proposal site.
- A hedgehog hibernation box should be provided within the proposed wildlife area, and the garden fences of the proposed properties have hedgehog highway gaps to allow access for the animals.
- Given the rural position of the yard/garden environment, that any vegetation clearance should be undertaken outside the bird-nesting season, April – August. Should this not be possible, a pre-works check by a qualified ecologist should be undertaken to ensure that nesting birds are absent.

The arboricultural report confirms that a group of 6 Cypress trees would be removed as part of the proposal and one Oak Tree, as well as a holly hedge along Fishley Lane.

The proposed layout does not include a proposed wildlife area that would make the recommendations of the Ecological Appraisal in terms of Bat Boxes and a Hedgehog Hibernation Box possible. Since the proposal is contrary to the submitted Ecological Appraisal meaning the layout fails to take full account of existing features of value for wildlife or make reasonable proposals to provide mitigation to adequately compensate for the features lost, the proposal is contrary to saved Policy ENV23 (Nature Conservation and New Development) of the UDP, and the Conserving Walsall's Natural Environment SPD.

Trees

There are some mature trees on the site, including a row of Holly extending approximately 22.0m along the front of the site (essentially a hedge), a group of approximately 4 Cypress towards the centre of the site and an individual Oak tree in the south west corner of the site adjacent to Fishley Lane.

The application proposes that they are all removed to accommodate the development. A Tree Survey and Arboricultural Report were submitted as part of the application. Using the BS 5837: 2012 tree categorisations, these trees have been categorised as 'C' class trees in the supplied tree report, 'C' class trees are of low arboricultural value either because of impaired condition and / or poor form.

The Tree Officer has agreed with the 'C' class categorisation attributed to the trees in the tree report, and indicated that the 'C' class trees would not normally be a constraint to development and there would be no objections to their removal, subject to the submission of a landscape plan including details of both tree and shrub planting, their sizes, locations and quantity which could be secured by condition.

Ground Conditions and Environment

A Preliminary Geo-environmental Risk Assessment was submitted as part of the application. The report identified moderate to low risks associated with potentially contaminated materials beneath the hardstanding areas and beneath building footprints, associated with imported sub-base and materials beneath the ménage. Localised leakage and spillage of vehicle fluids may also have occurred and there may be asbestos contaminated associated with stockpiles of demolition type materials on the site.

On this basis an intrusive ground investigation was recommended to obtain samples of the made ground and natural ground beneath for chemical laboratory analysis, particularly beneath the proposed soft landscaped gardens within the north-western part of the site where the buildings, hardstanding and ménage areas are present.

Pollution Control agreed with these findings and recommended that a contaminated land condition be required to secure this.

The site lies in the Coal Development Low Risk Area. A Coal Mining Risk assessment was submitted with the application, which concludes that there are no probable unrecorded shallow workings with the shallowest seam located at least 5m below ground level. While the risk of unrecorded workings was considered low further intrusive investigations were recommended to identify the thickness and depth of seams up to 20m.

Ground Conditions do not present a constraint to development subject to appropriate remediation on site which could be secured by conditions.

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 6 new homes.

The Government has indicated that, for 2019-20, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

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

Conclusions and Reasons for Decision

The significant increase in footprint and in height would cause marked perceived increase in scale and visibility as a result of the development. The scheme would create development over the entire site rather than clustering in the west and suburban character of development as a result of the layout design and built form, landscaped gardens domestic paraphernalia and activity mean that the proposal would have a significantly greater impact on openness and would represent inappropriate development in the Green Belt.

The development would be an unsustainable location, with narrow unsafe access for pedestrians, cyclists and to allow servicing in terms of refuse collection. The proposal is not reflective of rural development but seeks to fill previously undeveloped parts of the site with densely packed urban development. The proposal represents a cramped, incongruous form of development and as such would harm the rural character of the area.

The layout does not make provision for a wildlife area contrary to the recommendation of the submitted Ecological Appraisal meaning the layout fails to take full account of existing features of value for wildlife or make reasonable proposals to provide mitigation to adequately compensate for the features lost. The proposal has also failed to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded in relation to definitive public right of way ALD154.

It is not considered that the proposal would have any significant negative impact on the amenity of surrounding occupiers, and the proposed dwellings would be generously proportioned internally and give a good living environment for potential occupiers.

The Tree Officer has agreed that the trees on site would not be a constraint to development and there would be no objections to their removal, subject to the submission of a landscape plan including details of both tree and shrub planting, their sizes, locations and quantity which could be secured by condition. In addition, ground conditions do not present a constraint to development subject to appropriate remediation on site which could be secured by conditions.

Given the overwhelming weight of negative material considerations created by the proposal it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Refuse

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal.

Recommendation

Refuse

Reasons for Refusal

1. The proposed development entails a significant (521m² or 67%) increase in footprint in comparison to the existing situation coupled with an increase in height (2.3m or 53%) causing a marked perceived increase in scale and visibility, distribution of development over the entire site rather than the existing clustering in the west of the site creating a densely packed suburban character and visual impact of the proposed development as a result of the layout, design and built form, domestic boundary fencing, landscaped gardens, security features and other domestic paraphernalia and activity mean that the proposal would have a significantly greater impact on openness and character and would represent inappropriate development in the Green Belt. The scheme is therefore contrary paragraph 149 of the NPPF, SAD Policy GB1 (Green Belt Boundary and Control of Development in the Green Belt), and BCCS Policy CSP2 (Development Outside the Growth Network).

2. The spaces between proposed dwellings, short gardens, contrived addition of rural-style design features, urban layout and built form means the scheme creates a cramped, incongruous form of development and as such would have a harmful visual impact and would harm the rural character of the area and would be contrary to BCCS Policy ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality), Saved UDP Policy ENV7 (Countryside Character) and ENV32 (Design and Development Proposals) and the Designing Walsall SPD
3. The layout does not include a wildlife area that would make the recommendations of the Ecological Appraisal in terms of Bat Boxes and a Hedgehog Hibernation Box possible and is therefore contrary to the submitted Ecological Appraisal meaning the layout fails to take full account of existing features of value for wildlife or make reasonable proposals to provide mitigation to adequately compensate for the features lost contrary to saved Policy ENV23 (Nature Conservation and New Development) of the UDP, and the Conserving Walsall's Natural Environment SPD.
4. The proposal has failed to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded, specifically in the protection of pedestrian and cycle routes in relation to definitive public right of way ALD154, in proposing that private gardens are created through it, contrary to BCCS Policy CSP3 (Environmental Infrastructure).
5. The development would be an unsustainable location, with narrow unsafe access for pedestrians, cyclists and to allow servicing, contrary to NPPF paragraph 110, 111 and 112, DEL1 (Infrastructure Provision) of the BCCS, Saved Policy T8 (Walking) and T11 (Access for Pedestrians, Cyclists and Wheelchair users) and T12 (Access by Public Transport) of the UDP.

END OF OFFICERS REPORT