



Walsall Council

Planning and Building Control

Planning Committee 28 November 2024

Report of Head of Planning and Building Control

Plans list item number

Item number: 3

Reason for reporting to the planning committee.

Called in by a Councillor Saiqa Nasreen on the grounds that there is no significant harm to the amenities of the surrounding area from parking/ traffic /noise /disturbance /odour or loss of TPO trees.

Application details.

Application reference: 24/0361

Site location: LAND AT, BARR LAKES LANE, WALSALL

Application proposal: Full planning application for the proposed construction of 2no. five bedroom open market dwellings (Use Class C3). The proposal also includes vehicle access off Barr Lakes Lane.

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

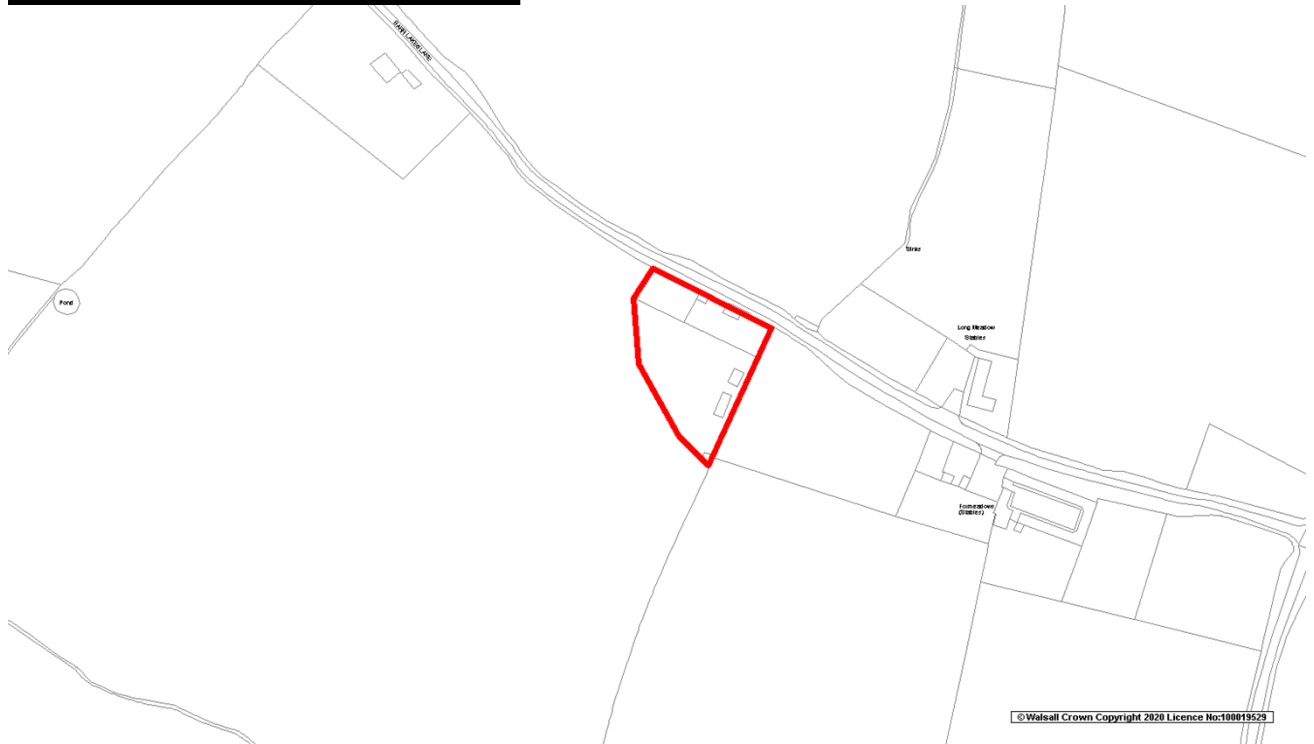
Link to application documents: <https://go.walsall.gov.uk/planningapps?id=24/0361>

Applicant: Shahzad Akram 775 Washwood Heath Road, Birmingham, B8 2NP

Planning agent: N/A

Ward: Pheasey Park Farm

Red line location



Recommendation

Refuse

Site and surroundings

The applicant seeks full planning permission for the proposed construction of 2no. five bedroom open market dwellings (Use Class C3). The proposal also includes vehicle access off Barr Lakes Lane.

The proposed dwellings will be positioned to the east of Barr Lakes Lane.

Plot One includes:

Lounge, lounge/dining, kitchen, study, utility, garage, W/C on the ground floor and dressing room, en-suite and five bedrooms.

Plot Two includes:

Lounge, study, hall, lounge/dining, kitchen, W/C, utility, garage on the ground floor and dressing room, en-suite and five bedrooms

The house designs are two- storey dwellings include a main pitched roof with gable end, to the front with main access, main habitable room windows to the front and rear elevations.

The key measurements are:

Plot One:

16.3 metres deep maximum
15.2 metres wide
4.4 metres high to the eaves
7.6 metres high to the roof ridge

Plot Two:

16.4 metres deep maximum
15.2 metres wide
4.4 metres high to the eaves
7.6 metres high to the roof ridge

Amended plans have been received but do not address the issues of the principle of development and accessibility issues.

To support the application, the applicant has submitted the following documents:

- Site Layout Plan
- Design and Access Statement

The site is located on Barr Lakes Lane within the designated Green Belt area. It spans approximately 2670m² and is currently undeveloped. The site is surrounded by generally open agricultural fields with minor individual developments of dwelling houses in the near vicinity. A golf course is also located to the south.

The site also lies within Great Barr Conservation Area, Ecological site (with possible bats in the vicinity) and in a low coal risk area.

Relevant planning history

23/1068 - Proposed change of use of disused agricultural land to a burial ground - Permission Refused - 21-Nov-2023.

Reasons for refusal:

1. Insufficient information has been submitted to demonstrate that an acceptable drainage strategy is proposed as the proposed development may present risks of flooding on site, and, or off site if surface water runoff is not effectively managed. The absence of an adequate drainage strategy is therefore contrary to Black Country Core Strategy Policy ENV5 (Flood Risk, Sustainable Drainage Systems and Urban Heat Island) and the National Planning Policy Framework paragraphs 167 and 169.

2. The application fails to provide sufficient evidence to demonstrate whether there would be any adverse impact upon protected species, or their habitats and the proposals are therefore contrary to UDP Saved Policy ENV23 (Nature Conservation and New Development), Black Country Core Strategy Policy ENV1 (Nature Conservation), SAD Policy EN1 (Natural Environment Protection, Management and

Enhancement), Supplementary Planning Document: Conserving Walsall's Natural Environment and the National Planning Policy Framework paragraph 182.

3. Sufficient information has not been provided to determine the harm by way of inappropriateness that the proposed development would cause to the Green Belt, including its openness. The proposal is contrary to Saved Policy GP2 (Environmental Protection) of the Walsall UDP, Policy GB1 (Green Belt Boundary and Control of Development in the Green Belt) of the Walsall Site Allocation Document and the National Planning Policy Framework paragraph 147.

4. The level of car parking within the site is inappropriate development in the Green Belt for which there are no very special circumstances to outweigh the harm arising to the Green Belt by way of the proposed intensification and urbanisation. The proposal is contrary to Saved Policy GP2 (Environmental Protection) of the Walsall UDP, Policy GB1 (Green Belt Boundary and Control of Development in the Green Belt) of the Walsall Site Allocation Document and the National Planning Policy Framework paragraph 147.

5. The application fails to provide sufficient evidence to determine whether the proposal would not have an unacceptable impact on road safety contrary to the NPPF paragraph 111. The proposal is therefore contrary to Black Country Core Strategy Policy TRAN2 (Managing transport impacts of new development), and saved policies T7 (Car Parking), T13 (Parking Provision for Cars, Cycles and Taxis) of the Walsall UDP.

6. The proposed development by virtue of the proximity to adjacent trees would have an adverse impact on the trees due to potential for root severance and consequent tree failures that would have a detrimental impact on the amenity of the area contrary to saved UDP policy ENV18 (Existing Woodlands, Trees and Hedgerows), ENV32 (Design and Development Proposals), GP2 (Environmental Protection), Policies NE7 (Impact assessment) and NE8 (Retained Trees, Woodlands and Hedgerows) of the Conserving Walsall's Natural Environment SPD.

7. The site is within Great Barr Conservation Area, a designated heritage asset, no Heritage Statement has been submitted with the application. The proposal is contrary to paragraph 194 of the NPPF.

8. The proposed use of the site as a burial ground together with proposed seated areas, hard surfaced access way, parking areas associated with a cemetery use, and the erection of multiple monument structures (headstones, grave marker, tombstone, memorial) associated with a cemetery use would have a detrimental visual impact upon the open rural character of the area, the proposed use would eliminate the agricultural character of the existing site, as well as introducing an isolated cemetery feature amongst existing open agricultural fields, failing to enhance and preserve the character and appearance of the Great Barr Conservation Area. The proposal is contrary to Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, Saved Policies GP2, ENV32 of the UDP and Policy EN5 of the SAD.

9. The application fails to provide sufficient evidence to determine whether the proposal would not have an unacceptable impact on both the application site and wider area's archaeology. The proposal would be contrary to policy ENV25 of Walsall's

Unitary Development Plan and paragraphs 192 and 194 of the National Planning Policy Framework.

10. The application fails to provide sufficient evidence to determine whether the proposal would not have an unacceptable risk of pollution groundwater. The proposal would be contrary to paragraph 174 of the National Planning Policy Framework.

Relevant policies

National Planning Policy Framework (NPPF)

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

Human rights and reducing inequalities

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

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

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

Walsall Council Development Plan

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

Our Development Plan includes:

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

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

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

Consultee comments (planning officer's summary)

Conservation Officer

Objection – in the absence of a Heritage Assessment to evaluate the development against the Conservation Area Appraisal and Management Plan.

Ecology Officer

Objection on the grounds that there was a failure to provide a Preliminary Ecological Assessment

Local Highways Authority

Objection on the grounds that lack of visibility splays details, lack of public amenity services to travel in and around the site, fails to meet the aims and objectives of the NPPF 2023 and will have an unacceptable impact of road safety aspect.

Severn Trent Water

No objection on the grounds that a drainage plans for the disposal of foul and surface water flows conditions and an informative is attached to the decision notice.

Strategic Planning Policy

Objection on the grounds that the proposed development is contrary to policy NPPF and GB1 – inappropriate development in Green Belt.

West Midlands Fire Service

No objection and suggested a B5 - Access and Facilities for the fire service informative.

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

Objections

Eighteen occupiers of neighbouring properties were notified via letter and a site notice was.

One letter of objection was received and there was one letter of support from a local councillor.

Letter of objection on the grounds that:

- Proposal is contrary to the National Planning Policy Framework Green Belt policy
- Inappropriate development in the Green Belt
- No regards to the site surroundings
- The proposal is ‘opportunistic’
- Impact on transport safety
- Impact of new access on a restricted and narrow lane
- Isolated location that is not served by public amenity/ highways networks/local services.
- Site notice on a road speed sign in Barr Lakes Lane.
- Residents were not notified including the Beacon Action Group
- Applicant is the same as the applicant for application refused on the site in 2023.
- Inappropriate development in Conservaton Area
- Potential Flood Risk
- Impact on existing ecology and potentially protected species and vegetation
- There is no sewage system on the site
- Drainage leads to a brook that leads to the Holbrook where there are White Clawed Crayfish and Newts.
- Crook Lane, Skip Lane and Chapel Lane are unsuitable for heavy goods vehicles.
- The farmer will need to use the access to his land at all times of the day for his business
- The loud noise from the development will affect quality of life and nearby ponies
- Potential archaeology
- The development will encourage Urban Sprawl

Councillor Saiqa Nasreen – Supports the development on the grounds that there are no significant harm to the amenities of the surrounding area from:

- parking/ traffic
- Noise
- Disturbance

- Odour
- Loss of TPO trees

Determining issues

1. Principle of development / Green Belt assessment
2. Heritage assessment / Great Barr Conservation Area
3. Design, layout, and character
4. Amenity of neighbours and future occupiers
5. Highways
6. Ecology and Biodiversity Net Gain
7. Flood risk / Drainage
8. Other key determining issues

Assessment of the proposal

Principle of development / Green Belt assessment

The application site lies in the Green Belt as defined by SAD policy GB1. It also lies in the Great Barr Conservation Area.

SAD policy GB1 states that in the Green Belt, UDP saved policies will apply as well as the relevant provisions within the NPPF, BCCS and policies contained within this document.

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.

NPPF (December 2023) paragraph 154 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, with a small number of exceptions. These include ... 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.

The NPPF defines previously developed land 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 states "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 ramifiability – 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.

The application site is currently a field with several single-storey structures in the corner, some of which are now derelict and replaced by tipping. These structures appear to be associated with the use of the field for keeping horses. There is no record of any planning permission for this use or for the structures, although aerial photographs suggest that the structures and use have been present for at least 10 years so will now be lawful.

The existing structures are unsightly, but they are low key and are associated with a use of land that is not inappropriate in the Green Belt. The proposed new dwellings however would be two-storey and, with associated parking and other domestic paraphernalia, would harm the openness of the green belt, as well as the character of the conservation area. They would therefore represent inappropriate development.

NPPF paragraph 84 also states that planning policies and decisions should avoid the development of isolated homes in the countryside unless certain circumstances apply, none of which are relevant in this case.'

Barr Lakes Lane is an area of large mixed fields that has landscape sensitivity that is high to medium landscape value. The introduction of the proposed development will have a significant visual impact on the openness of the Green Belt.

The proposed development is considered inappropriate in the Green Belt with no very special circumstances to outweigh Green Belt Policy, therefore is contrary to the national and local policies of NPPF 13 – Protecting Green Belt Land, SAD policy GB1 and saved UDP policies G2 of the Walsall Unitary Development Plan.

Heritage assessment / Great Barr Conservation Area

The applicant has failed to provide a Heritage Statement. A Heritage Statement is a statutory and local requirement when submitting an application that lies in/ adjacent to a Listed Building or a Conservation Area. This is in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990. A Heritage Statement would be required to justify the impact upon the value or 'significance' heritage asset and its setting.

The site comprises open countryside used as agricultural land, sparsely populated with farmsteads and other sporadic residential development of twentieth century date. In general, field boundaries have formed through the amalgamation of smaller parcels of land since the land was enclosed in the eighteenth century, with further changes

undertaken in the twentieth century. This is most obvious in the land to the east. Land to the west however also includes the twentieth century “Beacon Heights” a static home settlement. The area now has large elements of horse paddock, with associated buildings and stables. This area also includes the northern portion of the locally designated Area of High Historic Townscape Value “Settlement at Over End”, lying directly north of the core of the old Great Barr Estate’. Currently, on the application site there appears to be some field shelters which are assumed to be removed as part of the development.

The introduction of two properties of a poor design and layout fails to reflect or enhance the character of the Great Barr Conservation Area. Also, it fails to demonstrate that the development would not result in harm to the immediate and wider setting. The proposal would result in less substantial harm through inappropriate positioning and design and there are no substantial public benefits arising which would outweigh the identified harm.

The area of the application site is proposed to be removed from the Conservation Area as set out within, The Great Barr Conservation Area Appraisal Plan document (CAAMP). This document has been out to public consultation which finished on the 11th October 2024. At present, it shows the application site lies outside the proposed revised boundary of the Conservation Area. The conclusions of the plan were noted by Planning Committee on 31st October 2024 however the document is yet to be formally adopted. Limited weight can be given to the CAAMP at this stage therefore the planning application must be assessed against the current Conservation Area boundary.

This application is contrary to Saved Unitary Development Plan Policies GP2 (Environmental Protection), ENV32 (Design and Development Proposals) and ENV33 (Landscape Design), Black Country Core Strategy Policy ENV2 (Historic Character and Local Distinctiveness), Site EN5 (Development in Conservation Areas) and DW3 (Character) of the Designing Walsall SPD and the National Planning Policy Framework.

Design, layout, and character

The proposed layout of the site includes two properties accessed from Barr Lakes Lane with significant hard standing to the front of the properties to be utilised for car parking. The layout of the site is not considered to relate to its surroundings and would introduce urban features within this rural Green Belt Area. The applicant has not provided elevational plans of plot 2 although have stated that it is to mirror plot 1.

The unsympathetic design including the height, scale and proportion causes a detrimental visual impact to the site and wider area. The proposed design is considered not to integrate in the site surroundings thus is out of character within the area and impacts on the openness of the Green Belt land and the current Conservation Area.

The character of the area is defined by openness in the Green Belt Land. The introduction of the two x two storey detached dwellings in the Green Belt will be dominant in a rural setting. By virtue of the poor design and lack of consideration to the site surrounding the proposal is inappropriate in the setting.

In the interests of fire safety as recommended by the West Midlands Fire Officer the development is required to meet fire safety standards.

The proposed development will have a visual impact on the rural setting which will be affected by this character. Thus, the development is contrary to, ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality), Site Allocation Document Policy GB1 (Green Belt Boundary and Control of Development in the Green Belt), NE7 to NE10 of the Conserving Walsall's Natural Environment SPD, DW3 of the Designing Walsall SPD and the National Planning Policy Framework.

Amenity of neighbours and amenity of future occupiers

The nearest housing estate to the proposed development is approximately 0.75 metres to the west. The nearest frequent bus stops are on Park Hall estate over 1km away from the development site or 1.7km to the north on Sutton Road.

The proposed development would have a limited impact upon the amenity of nearest neighbouring residents by virtue of loss of privacy, outlook, or loss of light due to the significant distance.

The location is rural in character and is not considered to be a sustainable location for residential development. The site does not have access to any public transport and the narrow road with no path for pedestrians could result in conflict between pedestrians and vehicles.

The proposal is contrary to Saved Policy GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall UDP.

Objections have been received by local residents in relation to the location of the site and not receiving neighbour/consultee notification letters. To confirm, the consultation on this application has been carried out in line with statutory requirements.

Highways

There will be sufficient parking for two vehicles per property with a garage for the new dwellings which accords with the Council's parking standards of T13 Parking Policy. However, the applicant has failed to address the poor visibility splay from the existing point. No details were provided to overcome this issue. Therefore, this is contrary to the aims and objectives of the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

Also, it is considered that the proposed development for residential use at this location fails to meet the aims of the NPPF and is unacceptable also from a road safety aspect. The application site is not in a sustainable location. It is not properly connected by public transport. The site does not have the benefit of segregated pedestrian footway links to the built-up areas to access to the bus stops thus the residents of the development would have difficulty to safely benefit from public transport.

The applicant has failed to provide additional information to address the highways concerns about visibility splays. The proposal is unacceptable and contrary to saved UDP policies T7 and T13 of the Walsall Unitary Development Plan. Development in this location fails to meet the aims of the NPPF 2023 Paragraph 9 'Promoting Sustainable Transport'.

Ecology and Biodiversity Net Gain

The application site comprises of a semi-natural habitat, including grassland and hedgerows. The applicant has failed to provide a Preliminary Ecological Assessment to support the application.

A Preliminary Ecological Assessment would be able to determine whether there are habitats present and assess the risk and potential impact to protected species and sites and ecologically valuable habitat and other possible issues associated with the proposal i.e. if a further survey work to be undertaken. In the absence of this document, the proposal is contrary to the aims and objectives of the saved policy ENV23 of the Walsall Unitary Development Plan, policy ENV1 of the Black Country Core Strategy and NPPF paragraphs 174 and 180.

In relation to Biodiversity Net Gain, this application was submitted on the 18th March 2024 and encompasses an area totalling less than 1 hectare. As such the application is considered exempt under the temporary exemption for minor applications until 2nd April 2024.

Flood risk / Drainage

Severn Trent are satisfied with the proposed drainage details subject to a drainage condition and informative being attached to the decision. The proposed development complies with Walsall's Unitary Development Plan saved policies GP2 and ENV40.

Other key determining issues

The case officer requested that the agent provide additional information to support the application, this has not been forthcoming therefore the application has been assessed on the information submitted.

Conclusion and reasons for decision

The principle of development is contrary National and local Green Belt policy as it is inappropriate development within the Green Belt with no very special circumstances to outweigh Green Belt policy.

The applicant has failed to provide Heritage Statement to assess the significance of the Great Barr Conservation area and to ascertain the impact of the proposal on Great Barr Conservation Area.

Due to the remote location, lack of safe accessibility to the site on foot, by cycle or public transport could cause highway and safety issues for future occupiers.

The applicant has not provided a Preliminary Ecological Impact Assessment to assess the risk and potential impact to protected species and sites and ecologically valuable habitat

This proposal is therefore considered to be unacceptable and in contradicts with local and national planning policies and guidance set out in this report. Considering the above factors, it is considered that the application should be recommended for refusal.

Recommendation

Refuse

Reasons for refusal

1. The proposed erection of two dwellings, associated vehicle access and driveway in the Green Belt is considered to be inappropriate development for which there are no very special circumstances to outweigh Green Belt Policy. The proposal is contrary to The National Planning Policy Framework paragraph 154, policy ENV1 of the Black Country Core Strategy, Saved Policies 3.2 to 3.5, GP2, and ENV7 of the Walsall UDP, Policies GB1 and EN1 of the Walsall Site Allocation Document.
2. The application site is within Great Barr Conservation Area. No Heritage Statement has been submitted with the application. This it is contrary to the policies of the NPPF 2023 and the aims and objective of Policies GP2 and ENV32 of the UDP and The Planning (Listed Buildings and Conservation Areas) Act 1990.
3. The application fails to provide sufficient evidence to determine whether the proposal would not have an unacceptable impact on pedestrian or road safety contrary to the NPPF paragraph 111. The proposal is therefore contrary to Black Country Core Strategy Policy TRAN2 (Managing transport impacts of new development), and saved policies T7 (Car Parking), T13 (Parking Provision for Cars, Cycles and Taxis) of the Walsall UDP.
4. The application fails to provide sufficient evidence to demonstrate whether there would be any adverse impact upon protected species, or their habitats and the proposals are therefore contrary to UDP Saved Policy ENV23 (Nature Conservation and New Development), Black Country Core Strategy Policy ENV1 (Nature Conservation), SAD Policy EN1 (Natural Environment Protection, Management and Enhancement), Supplementary Planning Document: Conserving Walsall's Natural Environment and the National Planning Policy Framework paragraph 185.

End of report