



PLANNING COMMITTEE

Thursday, 10 February 2022 at 5.30 pm

In the Council Chamber at Walsall Council House

Public access to meeting via: <https://youtu.be/LyTO3z3mvdg>

MEMBERSHIP:

Councillor M. Bird (Chair)
Councillor G. Perry (Vice Chair)
Councillor G. Ali
Councillor B. Allen
Councillor P. Bott
Councillor S. Cooper
Councillor S. Craddock
Councillor C. Creaney
Councillor A. Harris
Councillor A. Hicken
Councillor K. Hussain
Councillor J. Murray
Councillor A. Nawaz
Councillor M. Nazir
Councillor W. Rasab
Councillor I. Robertson
Councillor S. Samra
Councillor M. Statham
Councillor A. Underhill
Councillor V. Waters

QUORUM:

Seven Members

A G E N D A

PART I – PUBLIC SESSION

1. Apologies.
2. Declarations of Interest.
3. Minutes of the previous meeting – 6 January 2022 – Copy **enclosed**
4. Deputations and Petitions.
5. **Local Government (Access to Information) Act 1985 (as amended):**

To agree that, where applicable, the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
6. Application List for Permission to Develop:
 - a) Items subject to Public Speaking;
 - b) Items 'Called-in' by Members
 - c) Items not subject to 'Call-in'
- Copy **enclosed**

PART II – PRIVATE SESSION

7. Minutes of the previous meeting – 6 January 2022 – Copy **enclosed**

[Exempt information under Paragraphs 3, 6 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972) (as amended)]

The Relevant Authorities (Discloseable Pecuniary Interests) Regulations 2012

Specified pecuniary interests

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

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

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

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

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

PLANNING COMMITTEE

Thursday 6 January 2021 at 5.30 pm

In the Council Chamber at the Council House, Walsall

Present:

Councillor M. Bird (Chair)
Councillor B. Allen
Councillor P. Bott
Councillor S. Craddock
Councillor C. Creaney
Councillor A. Hicken
Councillor J. Murray
Councillor M. Nazir
Councillor A. Nawaz
Councillor W. Rasab
Councillor I. Robertson
Councillor S. Samra
Councillor M. Statham
Councillor A. Underhill
Councillor V. Waters

In attendance:

A. Ives	–	Head of Planning & Building Control
N. Alcock	–	Solicitor
M. Brereton	–	Group Manager – Planning
L. Wright	–	Senior Planning Officer
K. Moreton	–	Head of Highways & Transport
I. Rathbone	–	Principal Environmental Protection Officer
D. Smith	–	Senior Legal Executive
F. Whitley	–	Senior Planning Enforcement Officer
P. Venables	–	Director, Regeneration and Economy
S. Crossen	–	Principal Planning Policy Officer
C. Goodall	–	Principal Democratic Services Officer
N. Gough	–	Democratic Services Officer

193/21

Apologies

Apologies for absence were submitted on behalf of Councillors S. Cooper and Councillor A. Harris.

194/21 **Minutes**

The Committee considered the minutes of the previous meeting, and Councillor P. Bott thanked Officers for responding to his query.

Resolved:

The Minutes of the meeting held on 2 December 2021, a copy having been previously circulated to each Member of the Committee, be approved and signed as a true record.

195/21 **Declarations of Interest**

The following declarations of interest were made:

Councillor W. Rasab declared an interest in planning application 20/0309, Rother, Highgate Drive, Walsall, WS1 3JJ, as he was related to the applicant.

Councillor M. Nazir declared an interest in planning application 20/0309, Rother, Highgate Drive, Walsall, WS1 3JJ as the applicant was his neighbour. He also declared an interest in planning application 21/0834, 58, Highgate Road, Walsall, WS1 3JE as he was the applicant.

Councillor Hussain declared an interest in declared an interest in planning application 20/0309, Rother, Highgate Drive, Walsall, WS1 3JJ, as he had called the application in to Committee prior to being a Member of the Committee.

196/21 **Deputations and Petitions**

There were no deputations introduced or petitions submitted.

197/21 **Local Government (Access to Information) Act, 1985 (as amended)**

Exclusion of the Public

Resolved:

That, during consideration of the items on the agenda, the Committee considers that the relevant items for consideration are exempt information for the reasons set out therein and Section 100A of the Local Government Act 1972 and accordingly resolves to consider those items in private.

198/21

Addition to the List of Buildings of Local Architectural and Historic Interest – Walsall Local History Centre, Essex Street, Walsall, WS2 7AU.

The Principal Planning Policy Officer presented the report and highlighted the salient points (annexed). The Committee were informed that the report requested that the Committee agreed to the permanent inclusion of Walsall Local History Centre, Essex Street, Walsall on the List of Buildings of Local Architectural and Historic Interest. The site was Council owned, and the listing was sought in order to protect it from future development that may result in the loss of the heritage asset. The Officer described the location, architecture, former uses, and history to the site. It was noted that the Department for Levelling Up, Housing and Communities had awarded Walsall £70k by the Black Country Authorities as part of £1.5m funding.

In response to the presentation Members discussed the adjacent site Abu Bakr School, and the potential for use of the Essex Street site. A Member questioned the future liabilities of listing the building and questioned the magnitude of this and the material value of the inclusion of this site. The Chair described the potential impact of the inclusion of this site as a listed building. A Member stated that the building listed in a residential area, and this may limit the future use and sale of the building, it was stressed that this should be carefully considered to avoid further cost to the Local Authority. Members discussed the implications of listing this building, and the legal consequences of this whilst respecting the heritage of the site.

It was moved by Councillor Craddock and seconded by Councillor Waters and upon being put to the vote:

Resolved (14 in favour and 2 against):

That the Walsall Local History Centre is not included on List of Buildings of Local Architectural and Historic Interest.

199/21

Application list for permission to develop

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

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

The Chair informed the Committee that the application - plans list item 1, application number 21/0113, Euro Foods Group LTS, Heath Road, Darlaston, Wednesbury, WS10 8XL had been withdrawn.

Plans List Item 2 – APPLICATION NUMBER 21/1275 - HARTSHORNE MOTOR SERVICES LTD, BENTLEY MILL CLOSE, BENTLEY, WALSALL, WS2 0BN

The report of the Head of Planning and Building Control was submitted (see annexed).

The Presenting Officer was M. Brereton, Group Manager, who advised the Committee of the background to the report and highlighted the salient points contained therein (annexed). In addition the Presenting Officer drew the Committee's attention to the additional information as set out within the supplementary paper.

The Committee then welcomed the first speaker on this item, Mr P. Shuker, who wished to speak in support to this application.

Mr Shuker stated that this application would reinvest in the infrastructure that was already at the site, to upscale and deal with future decarbonisation of the industry and investment in the company. This site would be the companies designated headquarters for the UK, it was noted that currently there were limited planning restrictions on the operation of the site and this application would include safeguards to ensure that any issues could be addressed in the future through enforcement.

The Committee then welcomed the second speaker on this item, Mr P. Gutteridge, who wished to speak in objection to this application.

Mr Gutteridge stated that residents had experienced ongoing problems with the company since the previous planning application for the MOT bay in 1995. The conditions associated with the previous planning application had been contravened, and residents had made several complaints in relation to hours of work, excessive noise, door's left open, radio's playing during the night, and horn's sounding. Following this residents had met with a company representative however the resolution was short lived. The objections to this proposal were based on the fact that the company had never adhered to their previous planning conditions. It was felt that the application would negatively impact residents due to increased light and noise pollution, and whilst the need for progress was recognised, it should not be at the detriment of local residents.

Committee Members were then invited to ask questions of the speakers.

A Member asked the objector for further information on the disruption faced by residents. Mr Gutteridge described residents experiences, which included radios playing during the night, machinery used in the early hours of the morning, HGVs sounding horns – it was stressed that this was during the night-time and not during the day. Residents reported these issues to security, however their response was not supportive, it was also stressed that this was reported to environmental health (Walsall Council) however this was not productive. Further to this a Member questioned if the problems had been listed and timetabled, however the speaker confirmed this had not been done – residents contacted the security officers to report the complaints.

The Speaker in support of the application was asked to comment on the issues raised by Mr Gutteridge. Mr Shuker responded to state that he was the agent of the applicant, and apologised if residents were being impacted in this way. He stressed that noise impact assessments had been completed, however there had been no recorded issues. Safeguards had been put into place to allow investigation and these were within the recommendations from the officers. The facility was a long established site, and employer in the area.

There then followed a period of questioning by Members to Officers in relation to approved hours of the facility. Officers confirmed that the previous planning permissions, the MOT testing bay hours would be carried forward and previous hours of operation in relation to the 'spray booth' would not be carried forward as this would be demolished. It was confirmed that the hours of operation would be:

- The MOT bay would operate Monday to Friday 8am – 6pm Saturdays 8-1pm with no operation on Sunday and public holidays.
- The spray booth would no longer be in operation.
- The remainder of the site was not under planning restrictions.

Following challenge and discussion from Members Officers confirmed that the Committee were not able to impose additional planning restrictions, based on the evidence presented as this would not meet the test for the application of conditions. It was concluded that the Tree Officer did not have objections to the removal of trees but would recommend 'soft planting' to provide screening for residents.

A Member suggested that a resident liaison group, to meet (at least) once every 6 months, was set up to discuss any concerns that they had, with local Councillors included and minutes shared with environmental health (Walsall Council). It was suggested that this was included as an advisory note.

Officers were asked if the boundary fence (which was in disrepair) would be replaced should the planning application be granted. It was confirmed that the installation and maintenance of the fence was included as a condition of the application.

It was **Moved** by Councillor Bird, **seconded** by Councillor Craddock and upon being put to the vote:

Resolved (Unanimous)

That the Head of Planning and Building Control be delegated authority to grant application number 21/1275 subject to conditions and to secure any necessary implementation and monitoring of a Travel Plan by way of a Section 106 Agreement or Planning Condition as appropriate and subject to;

- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Overcoming the outstanding objections raised by the Public Lighting Officer (External Lighting) and Environmental Protection (Asbestos).

- To include an advisory note to request that a 6 monthly resident liaison committee is set up by the applicant to include local ward Members to provide residents with an opportunity to raise any issues, the minutes of which are to be passed on to the Council's Environmental / Community Protection Teams.

201/21

Plans List Item 4 – APPLICATION NUMBER 21/0197 - WEST MIDLANDS CONSTABULARY, BROWNHILLS POLICE STATION, CHESTER ROAD NORTH, BROWNHILLS, WALSALL, WS8 7JW

The report of the Head of Planning and Building Control was submitted (see annexed).

The Presenting Officer was M. Brereton, Group Manager, who advised the Committee of the background to the report and highlighted the salient points contained therein (annexed). In addition the Presenting Officer drew the Committee's attention to the additional information as set out within the supplementary paper.

The Committee then welcomed the first speaker on this item, Mr, D. Golding who wished to speak in objection to this application.

Mr Golding described his property, and stated that the development would have a detrimental impact on his home and the potential for relaxation at his property. The felling of trees would also reduce visual barriers to the development. Many properties adjacent to the proposed McDonalds were privately owned and residents had been invested in them.

The Committee then welcomed the second speaker on this item, Mr, J. Robson, who wished to speak in support of this application. Mr, Robson informed the Committee that McDonalds had received 300 letters of support for the development and stated that people had recognised the positive impact that it would have on the town. Extensive work had been done to ensure that the proposal was acceptable, and to ensure this included in terms of parking and drive through queuing capacity. It was stressed that McDonalds was committed to investing in the local community and the provision of employment opportunities in the area. In addition the company's commitment to the green agenda was described, in order to allay residents' concerns – it was suggested that opening hours were reduced and it was stressed that McDonalds would continue to work with residents and be a good neighbour throughout construction.

Committee Members were then invited to ask questions of the speakers.

A Member questioned if it would be possible to retain the hedge on the boundary of the site. Mr, J. Robson stated that this would not be possible, however to mitigate this – an acoustic fence had been proposed to provide both visual and acoustic barriers. Mr Golding was asked, which height of fence was considered a better option, Mr Golding stated that a 3.2m would be preferable.

A Member asked for a projection of traffic using through the drive through service, the speaker stated it would be around 127 cars at peak time on a Saturday – however it was stressed that numbers would normally be significantly less. A Member questioned what contingencies would be put in place to prevent tailbacks onto the highway. Mr, J. Robson confirmed that it was designed to prevent this, and analysis estimated that there would be adequate capacity. It was also stated that the existing service road would also reduce the impact of tailbacks.

Committee Members were then invited to ask questions of the Officers.

A Member clarified the operating hours of the proposed site, Officers confirmed that operating hours would be from 6 am – 11 pm, 7 days a week. A Member noted that cars using the drive through would queue very close to resident's garden, and questioned the impact on pollution in the local area. The Principal Environmental Protection Officer suggested that the limited number of cars using the drive through would not affect the air quality objectives that were currently being met.

In reference to the letters in support, a Member questioned how many letters were from residents who lived adjacent to the site. Officers stated that this information was not available. In response to a question from a Member, Officers confirmed that the modelling did not predict a significant issue in local highways with tailbacks, however junction improvements had been included as part of the conditions.

Officers were asked if they considered proposals sufficient to prevent vermin in the area as a result of the development. It was confirmed that this was the case, however if issues were raised it would be dealt with via Environmental Health.

A Member asked if it could be conditioned that the applicant was asked to plant seven trees off site, Officers confirmed that this could not be insisted on as described in the report. The Member suggested that this was requested.

A discussion was held around the importance of the design to prevent traffic problems, it was suggested that McDonalds were a good neighbour and would produce economic benefits for the community. A Member summarised that locally there was support for this proposal, however concern for those in the adjacent properties was held and to protect these residents a 3.2 m fence was requested.

It was **Moved** by Councillor S. Craddock, **Seconded** by Councillor M. Bird, and upon being put to the vote was:

Resolved (14 in favour and 2 against)

That the Head of Planning and Building Control be delegated authority to grant application number 21/0197 subject to no new material considerations being received within the consultation period, the amendment and finalising of conditions, a 2.4m high acoustic boundary fence to site frontage and a 3.2m high acoustic fence along the rear shared boundary with residential gardens of Bradford Road, condition 3 to be updated to reflect correct operating hours of 06:00am to 23:00pm 7 days a week and a note to applicant to request off-site tree planting of seven trees.

Plans List Item 5 –APPLCIATION 20/0309 - ROTHER, HIGHGATE DRIVE, WALSALL, WS1 3JJ

Councillor M. Nazir, Councillor W. Rasab and Councillor K. Hussain, having declared pecuniary interests in this item, left the room during consideration and did not take part nor vote.

The report of the Head of Planning and Building Control was submitted (see annexed).

The Presenting Officer was Ms. L Wright, Senior Planning Officer, who advised the Committee of the background to the report and highlighted the salient points contained therein. In addition, the Presenting Officer drew the Committee's attention to the additional information as set out in the tabled supplementary paper.

The Chair clarified that this application was originally for an annex, and at the request of Officers was amended to an application for a separate dwelling.

The Committee welcomed the first speaker on this item, Mr K. Khan.

Mr Khan stated that originally the application was for an annex, however on the advice of the planning officer it was suggested to amend this to a separate dwelling. The proposed dwelling would be used as a home for the applicant's parents, both of whom suffered from health problems, and their current residence was not suitable. It was stressed that the family needed separation to allow hygiene to be maintained, and this application was to support the applicant's parents. Three bedrooms would be required to accommodate two residents and a career.

Committee Members were then invited to ask questions of the speakers.

A Member queried what would be done to do to protect the trees on site and asked for clarification that this building would be used as an annex. The applicant stated that they would leave a metre between the trees and the building filling the gap to prevent damage. The applicant confirmed that the proposed dwelling would be used as an annex with a shared driveway.

The Chair stressed that personal circumstances could not be used as a material planning consideration.

In response to concerns contained within the report in relation to shared space and security, it was clarified that the proposed building and the existing building would be one entity and used by the family only. The applicant explained that the land which the property would be built on was around 1.5m lower than surrounding properties.

Committee Members were then invited to ask questions of the Officers.

A Member queried the concerns raised in the report in relation to security and Officers explained that as this application was for a separate dwelling the report

identified issues that had arose in relation to occupancy and security. Members discussed surrounding developments which contained small gardens and suggested this was not consistent with the points raised in the reports. Officers stated that the report was based on space standards as recommended in the designing Walsall SSPD, which was 68 metres of private amenity space.

A Member asked for further clarification on the impact of the tree, and if the Tree Officer was satisfied with the proposed solution to protect the tree. Officers confirmed that this was the case.

Members discussed the application, and acknowledged that the applicant was attempting to look after his parents. It was noted that the applicant had amended his application based on advice from Officers, and as a result of this advice the application was not considered acceptable. The following reasons for this were considered:

- The proposed dwelling would be at a much lower level than neighbouring properties, which mean that the impact on them would be minimal.
- The speaker had explained that there would be no issue with amenity space.
- There were concerns raised in relation to lighting in bedrooms 2 and 3, however the size of skylights could be increased to deal with this issue and thus not impacting on neighbours.
- The applicant had amended the application in order to protect the trees on the site.
- All reasons for refusal were based on the fact that it was a separate dwelling, however if it was conditioned that the new dwelling was an annex these would not be an issue.

Head of Planning & Building Control clarified the reasons for Officers suggesting the application was listed as a separate dwelling stating that this was due to the facilities that would be contained with the dwelling. The proposed building had all accommodation that meant it could be occupied independently to the main building.

Councillor A Nawaz moved that the application should be supported for the following reasons:

- The impact on surrounding properties would be minimal due to the height differences in land.
- Amenity space would be sufficient as this was an ancillary building to the main building.
- The application had been improved to reduce the impact on the trees.
- The application for it to be a separate dwelling, was at the request of Council Officers.
- It was suggested that a condition be included that the new building was ancillary to the main dwelling.

It was **Moved** by Councillor A. Nawaz, **Seconded** by Councillor P. Bott, and upon being put to the vote was:

Resolved (Unanimous)

- i. That the planning application number 20/0309 be granted subject to conditions, on the basis that the proposal would lead to minimal impact on surrounding properties due to height levels, amenity space would be sufficient given that the proposal is considered to be ancillary to the main dwelling, the proposal has been vastly improved since the original application and now has minimal impact on trees, the proposal is considered to be a separate dwelling at the request of the planning authority but is intended to be ancillary to original dwelling.
- ii. Conditions to be included for the proposed dwelling to remain ancillary to the original dwelling, construction management, hours of construction, removal of Permitted Development rights and agreement of materials to be used.
- iii. Officers draft a letter, on behalf of the Chair, to the Secretary of State, to request that – in the current climate –personal circumstances should be considered material planning considerations due to the social benefits to both individuals and Local Authorities.

203/21

Plans List Item 6 – APPLICATION NUMBER 21/0834 - 58, HIGHGATE ROAD, WALSALL, WS1 3JE

Councillors K. Hussain and W. Rasab returned to the meeting.

Councillor M. Nazir, having declared a pecuniary interest in this item, remained outside of the room during consideration and did not take part nor vote.

The report of the Head of Planning and Building Control was submitted (see annexed).

The Presenting Officer was Ms, L. Wright, Senior Planning Officer, who advised the Committee of the background to the report and highlighted the salient points contained therein. In addition, the Presenting Officer drew the Committee's attention to the additional information as set out in the tabled supplementary paper.

The Committee welcomed the first speaker on this item, Mr Cotton.

There were no questions to the speaker or to officers.

Mr Cotton addressed the Committee, and introduced himself as the agent to this application. The building had been designed as a separate building to accommodate a lift, rooms for careers and accommodation to allow independence for the habitant. Reference was made to the Hawthorne's, the appearance of which had been taken into consideration for this application as had the street scene. Trees at the front were high and it was proposed to reduce by two trees next to the road, and infill with a more compact vegetation to improve visibility from the road.

A Member asked the agent to confirm that he had worked alongside Planning Officers to amend the application. The Speaker confirmed that drawings had been reissued to adjust the design. A late report from the Conservation Officer had raised a number of issues. However there had not been adequate time to respond to these.

In response to a query from a Member, it was confirmed that the building was planned for the applicants Son who was disabled. It was stressed by a Member that if there was a concern from Highways in relation to the application this needed to be resolved.

A discussion ensued in relation to the impact on trees on the site, it was noted that there were outstanding issues in relation to trees with not enough evidence in relation to the potential harm to trees. Further discussion was held in relation to the access and visibility from the highway. Access would be created via a boundary wall which may have a detrimental impact on trees. It was noted that the trees surrounding the wall were not protected trees. A Member suggested that an additional access was not required as the driveway to the main dwelling could be utilised.

At this juncture, the Chair moved that Standing Orders be suspended to enable the meeting to continue over 3 hours. This was duly seconded and approved by the Committee.

It was **Moved** by Councillor S. Samra, **Seconded** by Councillor K. Hussain, and upon being put to the vote was:

Resolved (12 in favour and 2 against):

That the Head of Planning and Building Control be delegated authority to grant application number 21/0834 subject to conditions, and to the resolution of the highway issues, and that the proposal is considered to be a separate dwelling at the request of the planning authority but is intended to be ancillary to original dwelling.

Conditions to be included for the proposed dwelling to remain ancillary to the original dwelling, construction management, hours of construction, removal of Permitted Development rights and agreement of materials to be used.

205/21

Plans List Item 3 – APPLICATION 20/0634 QUEEN MARYS HIGH SCHOOL, UPPER FORSTER

The report of the Head of Planning and Building Control was submitted (see annexed). There were no speakers present for this item.

It was **Moved** and, **Seconded**, and upon being put to the vote was:

Resolved (Unanimous):

1. That the Head of Planning and Building Control be delegated authority to grant application number 20/063 subject to conditions and a S106 to secure costs for four replacement trees in the immediate location. And subject to;
2. The amendment and finalising of conditions.

207/21

Private Session

Exclusion of the Public

Resolved:

That, during consideration of the following items on the agenda, the Committee considered that the items for consideration were exempt information by virtue of Paragraphs 3, 6 and 7 of Schedule 12(A) of the Local Government Act 1972 (as amended) and accordingly resolved to consider that item in private session.

[Exempt information under paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)]

Summary of matters considered in the private session

208/21

Arrow Industrial Estate, Straight Road, Willenhall, WV12 5AE – Case reference E21/0066

A report of Head of Planning and Building Control was submitted (annexed) and highlighted the salient points. Members discussed the position and options following which the committee decided to instruct the head of Planning and Building control to pursue the options to take direct action.

209/21

Land at Wood Farm Cottage, Willenhall – Case Reference E21/0315

A report of Head of Planning and Building Control was submitted (annexed) and highlighted the salient points. Members discussed the position and options following which the committee decided to instruct the head of Planning and Building control to pursue the options to take direct action.

Termination of meeting

There being no further business, the meeting terminated at 8.30 pm.

Signed

Date



Development Management Planning Committee

Report of Head of Planning and Building Control on 10/02/2022

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Item	Planning Application Number	Planning Application Site Address	Planning Application Proposal	Officer Recommendation
1 Page 21 - 52	21/0113	EURO FOODS GROUP, HEATH ROAD Ward: Bentley And Darlaston North	PROPOSED NEW WAREHOUSE EXTENSION (USE CLASS B8 - STORAGE AND DISTRIBUTION)	GRANT SUBJECT TO CONDITIONS
2 Page 53 - 68	20/1289	FORMER JABEZ CLIFF AND CO LTD, LOWER FORSTER STREET Ward: St Matthews	OUTLINE APPLICATION FOR THE ERECTION OF A PART 5, PART 3 STOREY BUILDING TO FORM A MIXED USE COMMERCIAL AND LEISURE DEVELOPMENT (CLASS E) INCLUDING DETAILS OF ACCESS, APPEARANCE, LAYOUT AND SCALE	REFUSE
3 Page 69 - 84	21/0023	LAND BETWEEN WOOD STREET AND LOWER LICHFIELD STREET Ward: Willenhall South	FULL APPLICATION FOR A SELF-STORAGE WAREHOUSE (B8) WITH START-UP BUSINESS SUITES (E(G)(I)), EXTERNAL DRIVE-UP STORAGE UNITS, ASSOCIATED PARKING AND LANDSCAPING.	GRANT SUBJECT TO CONDITIONS
4	13/1567/FL and 13/1568/LB	GREAT BARR HALL AND REGISTERED PARK	RESTORATION AND ALTERATIONS TO GREAT BARR HALL GRADE II LISTED	REFUSE

Page 85 - 108		Ward: Pheasey Park Farm	BUILDING AND GRADE II REGISTERED PARK INCLUDING:- CREATION OF HOTEL/WEDDING CONFERENCE CENTRE/RESTAURANT - RESTORE LAWNS TO GREAT BARR HALL - 2 GATEHOUSE LODGES - MAINTENANCE BUILDING/STORE - 57 NEW DWELLINGS - ENHANCED OPEN SPACE AND NATURE CONSERVATION - ACOUSTIC BARRIER - BOAT HOUSE - SUMMER HOUSE - DEMOLITION OF FARM BUILDINGS AND INSTALLATION OF PHOTOVOLTAIC PANELS ALONGSIDE MOTORWAY. APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT.	
5 Page 109 - 128	21/0322	BRITISH LION WORKS, FOREST LANE Ward: Blakenall	CONSTRUCTION OF 15 DWELLINGS (2X2 BED AND 13X3 BED) AND ASSOCIATED ACCESS ROAD AND PARKING (DEMOLITION CARRIED OUT UNDER PREVIOUS APPROVAL 17/1240)	GRANT SUBJECT TO CONDITIONS
6 Page 129 - 139	21/0811	1 Barr Common Road Ward: Aldridge Central And South	ERECTION OF 4 BEDROOM REPLACEMENT DWELLING WITH GARAGE.	REFUSE
7 Page 140 - 152	21/0053	38 Norman Road Ward: Paddock	PROPOSED REPLACEMENT SIX BEDROOM 2.5 STOREY DETACHED DWELLINGHOUSE WITH FRONT AND REAR FACING DORMER WINDOWS TO	GRANT SUBJECT TO CONDITIONS

			ACCOMODATE HABITABLE SECOND FLOOR WITH DOUBLE STOREY GALLERY PORCH. (AFFECTING PUBLIC RIGHT OF WAY WAL104)	
8 Page 153 - 162	21/0971	48 Mellish Road Ward: St Matthews	RESUBMISSION OF 20/1268 FOR PART TWO STOREY AND PART SINGLE STOREY REAR EXTENSION PLUS GARAGE CONVERSION.	REFUSE
9 Page 163 - 173	21/0553	27 St Austell Road Ward: Paddock	TWO STOREY SIDE EXTENSIONS TO BOTH SIDES OF THE DWELLING, SINGLE STOREY REAR EXTENSION PLUS A DETACHED FRONT OUTBUILDING TO CREATE ADDITIONAL HABITABLE SPACE.	GRANT SUBJECT TO CONDITIONS
10 Page 174 - 182	21/1458	123 Leighswood Avenue Ward: Aldridge Central And South	PROPOSED FIRST FLOOR SIDE EXTENSION, LOFT CONVERSION AND ROOF REPLACEMENT AND GARAGE ALTERATIONS	GRANT SUBJECT TO CONDITIONS
11 Page 183 - 194	20/0550	42 Slaney Road Ward: Pleck	PROPOSED CHANGE OF USE FROM NURSING HOME (USE CLASS C2) TO PROVIDING HOUSING OF MULTIPLE OCCUPANCY (HMO (SUI GENERIS)) FOR THE VULNERABLE HOMELESS PEOPLE WITH ASSOCIATED AMENITY, RECREATION, TRAINING AND SIGNPOSTING.	REFUSE

Planning Committee

Report of Head of Planning and Building Control on 10 February 2022

Plans List Item Number: 1

Reason for bringing to committee

Major Application

Application Details

Location: EURO FOODS GROUP LTD, HEATH ROAD, DARLASTON, WEDNESBURY, WS10 8XL

Proposal: PROPOSED NEW WAREHOUSE EXTENSION (USE CLASS B8 - STORAGE AND DISTRIBUTION)

Application Number: 21/0113

Case Officer: Helen Smith

Applicant: Mr S. Hussain

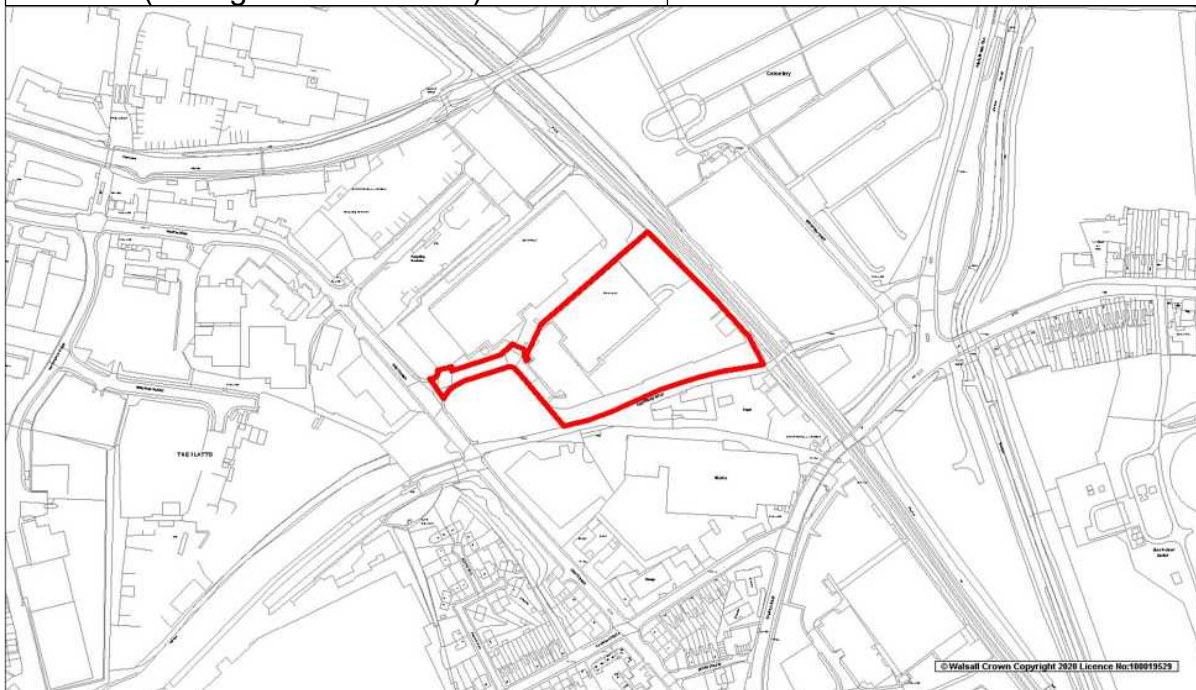
Ward: Bentley And Darlaston North

Agent: Mr Ian Williams

Expired Date: 31-May-2021

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

Time Extension Expiry:



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Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to;

- No new material considerations being received within the current consultation period;

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- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Overcoming the outstanding objections raised by the Fire Officer

Status

This planning application was withdrawn from the agenda of the Planning Committee meeting of 7th January 2022 to consider issues in relation to the site boundary and was not discussed, or presented, at that meeting. Since then the applicant has submitted amended plans and the report has been updated throughout to take account of this. This planning application has been re-consulted on these amendments. Any comments received prior to the Planning Committee meeting will be set out in the Supplementary Paper. The updated recommendation takes account of the current re-consultation.

Proposal

This application proposes an extension to an existing Planning Use Class B8 storage and distribution warehouse used by Euro Foods Group (EFG) to support their ongoing trading and expand their business. EFG are an international manufacturer and distributor of frozen and fresh foods.

The planning application has recently been revised to a larger warehouse than previously proposed and following these updates re-consultation is required. The report has been updated to explain these proposed amendments.

The planning agent advised that the proposed extension has been designed to also operate as a stand-alone distribution warehouse to give the site maximum flexibility and extend the life of the building which would require a new planning consent in the future. There will be an internal connection between the existing and proposed warehouse. The proposal states that it aims to support the applicant's aspiration for the site to support a high quality distribution warehouse which takes advantage of narrow aisle high density racking systems.

The proposed new warehouse would be split into two thirds dry store and one third cold store linked by a chilled transition area. Racking systems would be accessed via specialist forklift trucks.

The proposal would include;

- 3466.19 sq. metres gross internal floor space
- 2 heavy goods vehicle loading docking bays
- 25 parking spaces
- 2 accessible parking bays
- 2 electric car charging bays
- 8 covered cycle parking locations
- 3 external fire exit staircases
- Chilled Store
- Cold Store
- Dry Store
- Plant room
- Access ramp
- Fire engine access area to side of the proposed warehouse

Access would be retained via the existing shared access from Heath Road which is designed to accommodate HGVs. Certificate B has been completed with the requisite notice served on interested parties as included on the application form.

An existing storage building of approximately 142.8 metres sq. would be demolished. A dedicated cycle access is proposed on the south eastern boundary and the north east boundary of the site abuts the proposed site for a new railway station which is the subject of planning application reference 20/0746 which is currently under assessment.

The existing warehouse and proposed new extension would be connected to the north east elevation of the proposed new extension with the loss of a loading door and associated access.

The proposed new unit would have a steel frame with exterior profile steel cladding to match the existing unit with subdivision into coloured panels to reduce its perceived mass. The proposed colour palette would be mostly mid grey, light grey to the top of the building and a series of dark grey panels. Solar photovoltaic panels are to be fitted on the roof and exterior lighting information will be provided with details to be agreed.

Hours of opening would be as follows;

Monday to Friday – 00.01hrs to 23.59hrs

Saturdays – 08.00hrs to 16.00hrs

Sunday and Bank Holidays – 12.00hrs to 23.59hrs

The key dimensions would be;

- Height to eaves 16.2 metres to 17.6 metres
- Between 17.6 metres to 18.95 metres high to the ridge
- Length 109 metres
- 33.2 metres wide
- Between 3 (north-east) and 8.7 (south-east) metres from the eastern boundary of the application site.
- 2.7 metres higher than the ridge of the existing building

The planning application states that landscaping will be designed to support local wildlife and plants to add to the diversity of the site. The site currently has 50 full time employees and 4 part time employees. The proposal states that 25 full time equivalent additional staff would be employed to serve the proposed development.

The plans have been amended to include a new Network Rail boundary which is to be agreed with Network Rail and a 3 metres wide gap to the side of the proposed new development to ensure that the proposed development does not conflict with the new railway station (planning application reference 20/0746). The area to the south of the proposed new unit is proposed to be used temporarily for storage and provision of associated facilities during the construction of the new railway station.

The application is supported by the following documents;

- Design and Access Statement (Revision E) 2022 01 17) which states the proposal would;

- Develop an existing site which is not being intensively used
 - Support the expansion of an existing local employer
 - Provide new employment
 - Provide a purpose built, high quality modern distribution warehouse to meet current and future needs of the area.
- Surface Water Drainage Strategy
 - Ecological Impact Assessment
 - Energy Statement
 - Flood Risk Assessment
 - Geotechnical Summary Report
 - Planning Statement
 - Transport Statement
 - Coal Mining Risk Assessment

Site and Surroundings

The application site sits within 2.2 hectares of land to the east of Heath Road and north of its junction with Kendricks Road.

To the north of the site is an existing warehouse and yard operated by Acerinox and to the east is a railway line. A new railway station including two platforms, footbridge and parking is proposed on land to the north of the application site (planning application reference 20/0746).

The application site is located within an established industrial estate and an existing group of industrial units of significant size. The existing yard is concreted with parking and access for heavy goods vehicles. The site is mostly level and an existing storage building site on the site would be demolished.

The site is located within a designated Flood Zone 2 area and a Development High Risk Area for Coal. This site is allocated as existing high quality employment land, part of site IN97 listed under Walsall's Site Allocation Document Policy IND1.

Relevant Planning History

The application site:

19/0183 - Prior approval for the installation of solar photovoltaics on the roof – Prior Approval Granted 20/03/19

13/1116/FL - Change of use of part of existing warehouse to allow Cash and Carry and trade counter use (floor space maximum of 320 sq. m.) – GSC 22/11/13

BC52714P – Construction of 3no. Production/warehouse buildings with ancillary office and associated works. Granted 13/10/98.

Former AB Waste Site, Cemetery Road, Darlaston:

20/0746 - Construction of new railway station including two platforms, footbridge, installation of steps and lift, platform furniture, lighting, soft and hard landscaping, flood mitigation, services and boundary treatment and other associated works.

Construction of car park (up to 300 spaces) incorporating accessible spaces and parking, charging facilities for electric vehicles, parking for cycles and motorcycles and installation of measures to restrict vehicular access to Kendricks Road bridge –

On 15/10/20 Planning Committee resolve to delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and the securing of a S106 Agreement for a river level gauge, plus off-site way finding along Bentley Mill Way and works to the adjacent canal towpath including improving accessibility via a financial contribution for the proposed improvement works and subject to ...

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Overcoming the outstanding objections from the Local Lead Flood Authority and Archaeologist plus finalising negotiations between the applicant the Canal and River Trust regarding wayfinding and improvements for accessibility and use of the towpath.

The decision notice has not yet been issued pending conclusion of the associated Section 106 Agreement.

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 6 – Building a strong, competitive economy**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

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

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

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments

that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

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.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- S1: Definition of Town Centre Uses
- S4: The Town and District Centres: General Principles
- S7: Out-of-Centre and Edge-of-Centre Developments
- 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

Black Country Core Strategy

- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- 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
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

IND1: Existing High Quality Industry
 IND5: New Employment Opportunities
 EN1: Natural Environment Protection, Management and Enhancement
 EN3: Flood Risk
 T3: The Rail Network
 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
- DW7 Diversity
- DW8 Adaptability
- 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

Any further received consultee responses will be updated in the Supplementary Paper in relation to the current re-consultation on amended plans received on 20/1/22.

Archaeology – No objections

Coal Authority – No objections subject to the inclusion of planning conditions to secure intrusive site investigation works, if necessary, remediation of coal mining legacy affecting the site and development with a suitably designed piled foundation

Community Safety Team – No objections

Environment Agency – No objections and require the inclusion of a planning condition to ensure that the development does not contribute to water pollution from previously unidentified contamination sources.

Environmental Heath – No objections

Fire Officer – Object as the proposal does not appear to meet the requirement for the provision of water for firefighting (parts 16.8 a & b of Approved Document B, Volume 2, Buildings other than Dwellings, 2019 – *see Notes for Applicant*)

Highways England – No objections

Historic England – No comments

Lead Local Flood Agency – No objections

Local Highways Authority – No objections subject to the inclusion of planning conditions in respect of access ways, parking bays, vehicle manoeuvring, surfacing, and cycle shelters.

Natural England – No comments

Network Rail – No objection

Pollution Control – No objections subject to the inclusion of planning conditions in respect of contaminated land investigations.

Severn Trent Water – No objections following agreement to a sewer diversion approved by their Developer Service Team and subject to the inclusion of a planning condition in respect of the disposal of foul and surface water.

Sport England – No objection

Strategic Planning Policy – No objections

Structures & Geotechnics – No objections

Transport West Midlands – no response

Representations

None

This will be updated at planning committee following the current re-notification if comments are received.

Determining Issues

- Principle of Development
- Darlaston Railway Station
- Design Appearance and Character
- Amenity
- Ecology
- Ground Conditions
- Flooding and Drainage
- Access and Parking

Assessment of the Proposal

Principle of Development

The site is allocated as existing high quality employment land, part of site IN97 listed under SAD policy IND1. The proposed development can therefore be strongly supported on planning policy grounds. The site lies next to the proposed Darlaston Railway Station and is considered to be a sustainable location and would increase the employment opportunities available on the site. The existing permission is for a warehouse with an ancillary trade counter and the current application is therefore considered acceptable on planning policy grounds. The previous proposal included a small ancillary office and staff welfare facilities which have been removed from the proposal.

Darlaston Railway Station

In October 2020 planning committee resolved to approve the construction of new Darlaston railway station, which includes two platforms, footbridge, installation of steps and lift, platform furniture, lighting, soft and hard landscaping, flood mitigation, services and boundary treatment, 300 space car park and other associated works

The proposed location for the railway station is adjacent the site of the original station known as James Bridge Station which was built on the Grand Junction Railway in 1837 and closed in January 1965. This site sits to the north east of the application site.

Transport West Midlands and Network Rail have been consulted as part of this current planning application being considered. Network rail have provided detailed requirements and conditions as the proposed development includes works less than 10 metres from the railway boundary and the applicants will be required to interface with Network Rail to ensure the safe operation and integrity of the railway is maintained during construction and as a permanent arrangement. Network Rail initially objected to the proposed positioning of the unit. To address this, the applicant's plans have been amended to increase the distance from the new railway station to accommodate a 3 metres wide easement. Updated comments have been received from Network Rail advising that the revised magenta coloured line shown on the revised plan excludes the land West Midlands Combined Authority and Network Rail requires for the station, however the red line of the application remains the same. Network Rail consider that

the red outline should be amended to exclude Network Rail land. The planning agent has confirmed, as this land is in the applicants' ownership, the red line will remain as submitted until Network Rail have bought the land. The LPA agrees with this point. Land ownership is a civil matter between the applicant and Network Rail to now secure the land for themselves and does not prevent the LPA determining the current planning application.

Network Rail have also commented previously that Plan 71130-297173 appears to show footpaths etc. around the new extension. Network Rail would need to be satisfied again that these are not within the land required for the station. The Planning agent has confirmed that the footpaths around the perimeter of the extension will not be constructed on land required for the new station. The Local Planning Authority does not have a copy of this plan however the LPA has sufficient information to determine the application. However, this objection is not sufficient to hold the application up and a matter between landowners. Land ownership is a civil matter and the planning agents' advice that the red line is correct must be taken at face value. Network Rail have been re-consulted on the amended plans received 20/1/2022.

Design Appearance and Character

The proposed scale and layout of the new extension along with the proposed exterior materials is considered acceptable and would reflect the design and appearance of the existing industrial units on this estate. The proposed use of three grey colour tones of profile metal sheeting is considered would break up the perceived bulk of the new unit, if the application is approved.

Photovoltaic panels would be added to the roof which can be conditioned to ensure contain anti-reflective glass. Details of a landscaping scheme can be required by planning conditions as this would soften the appearance of the development and provide biodiversity enhancement. A landscaped area is proposed between the east facing side of the proposed new warehouse and the side boundary with the railway.

Amenity

The nearest residential properties are approximately 200 metres away from the proposed building on Station Street and are screened from the application site by intervening industrial units. Consequently, it is considered that the proposal would have a limited impact on the amenity for neighbouring occupiers because of the separation distance and intervening buildings.

It is considered, the proposal would have little additional impact on the operation of neighbouring commercial units.

Ecology

The Ecological Impact Assessment report prepared by Midland Ecology, dated 14 January 2021 confirms that the application site is not subject to any statutory or non-statutory designations. Tree lined boundaries are considered to serve a landscape scale-role in connecting nearby woodland to the wider landscape and so are ecologically valuable green infrastructure when evaluated at the district scale. The site boundaries are known to support nesting birds and have the potential to support hedgehog and foraging/commuting bats. The report states that all other protected species are likely absent from the site due to unsuitable habitats, levels of disturbance, species range and/or landscape context. However, the report specifically recommends that care is taken to protect bats, breeding birds, badger and hedgehogs that may be on the site post ecological survey. Safeguarding conditions can be included.

No invasive and non-native species were observed during the ecological survey.

The report advises that further ecological surveys are not considered to be necessary providing recommended avoidance measures can be accommodated in respect of protected species and nesting birds as outlined in the report. Ecological enhancements to secure a net gain for biodiversity are recommended. The ecologist has advised that should the following measures be implemented in full then only residual ecological impacts are anticipated;

- Design of wildlife friendly lighting
- Measures to protect trees from construction activities
- Inclusion of plant species of known value to wildlife in any landscape proposals
- Design and implementation of measures to improve ecological connectivity; such as strengthening the tree-lined boundaries into hedgerows. These are to contain a minimum of 6 suitable native hedgerow species.

These matters can be secured and safeguarded by planning conditions that meet the 6 tests if the application is approved.

Ground Conditions

Contaminated Land

The Council's Pollution Control Team have advised that the applicant will need to undertake a contaminated land and ground gas investigation for the area where the extension is proposed to ensure that any potential contamination and ground gas mitigation measures are considered within the building design.

The Geotechnical Information Summary also indicates the need for ground testing to be undertaken to determine appropriate foundation design. Therefore, the Applicant should combine the contamination/ground gas/geological testing to ensure appropriate foundation design is incorporated into the proposed building. Suitable conditions in respect of these requirements can be included if the proposal is approved.

Coal

The application site falls within the defined Development High Risk Area. The Coal Authority's information indicates that the site lies in an area where historic unrecorded shallow coal mining activity is likely to have taken place in the past.

The Coal Authority records indicate the presence of two recorded mine entries (shafts 398297-048 and 398297-049) close to the south western boundary of the application site, for which The Coal Authority hold no details of any past treatment. Whilst the potential zones of influence associated with these shafts may encroach into the application site, they are a significant distance away from the area where development is proposed.

The Coal Authority withdrew their objection to the planning application on 17/8/21 subject to relevant planning conditions being imposed on any planning permission granted.

The Coal Authority advised that following receipt of a Coal Mining Risk Assessment (dated 23 March 2021, prepared by the commercial arm of the Coal Authority) this report reiterated that shallow underground coal (and possibly ironstone) mining activity posed a risk to the proposed development, but also identified that the potential failure of off-site recorded mine shaft 39827-021, located to the north of the site, posed a

potential stability risk to the development due to the significant depth of superficial deposits in the locality.

The Coal Mining Risk Assessment recommended that a ground investigation should be carried out before finalising the development layout, in order to establish the likely extent of instability in the event of an off-site shaft collapse and to demonstrate that the development will be sited outside the affected area. As these works had not been carried out and no information had been submitted to demonstrate that the layout of development avoids the area of instability associated with the shaft, the Coal Authority objected to the application in our consultation response letter of 28 April 2021.

The applicants subsequently submitted a Coal Mining Risk Assessment – Summary Review (undated, prepared by Morgan Structural Ltd) which has been prepared following a discussion with The Coal Authority.

This report states, *“There is mine entry on the adjacent land to the rear (not on the site). There is superficial fill on the adjacent site. In the event of a collapse, there is a risk that part of the fill may encroach into our site. However, this will not affect the structure on our site because the foundations are supported on piles which are socketed into bedrock which will be unaffected by this. In summary the risk of collapse of superficial fill from adjacent site, affecting the structure in our site is not deemed significant, due to robust piled foundation solution.”*

The Coal Authority have commented, whilst the applicant has not demonstrated the proposed extension will be clear of the area of land associated with an off-site collapse. They have clarified the building will be constructed with piled foundations, which the Coal Authority are satisfied will mitigate against instability posed by a collapse of the site.

Based on the submitted information and the professional opinions contained therein, and in light of the scale of the proposed development and constraints to repositioning the extension elsewhere on site, The Coal Authority withdrew their objection to the application. This withdrawal is subject to the construction of the development with a suitably designed piled foundation and the imposition of conditions to secure the investigation and, if necessary, the remediation of coal mining legacy affecting the site, as set out in their initial consultation response letter

Flooding and Drainage

Flooding and surface water drainage matters will be updated in the supplementary planning paper once comments have been received from the Lead Local Flood Agency.

Severn Trent Water advised, the applicant would need to divert the sewer, providing full clearance (5m either side of the pipe 10m across the diameter. Not to be offset). The developer liaising with Severn Trent Water, confirmation was received on 26/10/21, the proposed sewer diversion has been approved by Severn Trent’s Developer Service Team (sap reference 10001403). Severn Trent Water require the inclusion of a planning condition in respect of drainage.

The Environment Agency have commented solely in respect of ‘Controlled Waters’, advising in reference to the 1:50,000 scale geological map, this indicates the site is located on the Pennine Lower Coal Measures and Superficial Glaciofluvial deposits are also indicated. Both strata are designated a Secondary A Aquifer by the Environment Agency. These are permeable strata capable of supporting water supplies at a local rather than strategic scale and in some cases forming an important source of base flow

to rivers. The site is not located within a groundwater Source Protection Zone and there are no licensed abstractions within 1km of the site. The River Tame is located approximately 280 metres to the east of the development site.

Reviewing the Geotechnical Summary submitted by the Environment Agency ('Proposed New Warehouse Heath Road Wednesbury WS10 8XL Geotechnical information Summary', Morgan Structural Limited), it is considered contains a basic preliminary assessment, identifying the need for further investigations to assess the contamination risk.

The Environment Agency recommend a condition be included on any planning permission, to deal with any significant contamination that may represent a risk to controlled waters. They recommend that initially the applicant should undertake a comprehensive Phase I desk study review to determine the potential for ground contamination. A conceptual site model should be produced, to include identifying potential pollutant linkages with respect to controlled waters. Appropriate site investigations should then be scoped based on the findings of the desk study. Safeguarding conditions are imposed that meet the 6 tests.

The Lead Local Flood Agency have confirmed they are satisfied with the submission and have no objections to the granting of planning permission on flooding grounds.

Access and Parking

Access onto Heath Road is via a private access road which the Local Highways Authority considers is adequate to serve the development.

In terms of parking, the existing development currently has provision for 57 car parking spaces, which is inclusive of 5 disabled spaces. There are currently 8 articulated lorry bays at loading docks, as well as 2 fuelling bays.

An additional 25 parking spaces, inclusive of 2 disabled spaces and 2 electric charge point equipped parking spaces are to be provided. It is also proposed that 2 articulated lorry bays will be provided at loading docks. The additional parking provision is considered acceptable.

The Local Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2018 paragraph 109

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance, it is considered the proposed development to extend a previously approved warehouse will not involve any change in the use. The existing permission is for a warehouse with an ancillary trade counter and the current application is therefore considered acceptable on planning policy grounds.

Subject to the resolution of Network Rail's concerns regarding the proposal of the development next to the new Darlaston Railway Station and Fire Officers concerns the proposal is considered acceptable on planning policy grounds and would provide additional employment opportunities for the borough.

The nearest residential properties are approximately 200 metres away from the proposed building on Station Street and are screened from the application site by intervening industrial units. Consequently, it is considered that the proposal would have

a limited impact on the amenity for neighbouring occupiers because of the separation distance and intervening buildings.

The use of safeguarding conditions will further ensure that the neighbours' amenity and impacts on the environment are protected and 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.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework (para 127), policies CSP3, CSP4, CSP5, EMP1, EMP2, CEN1, TRAN2, TRAN 4, TRAN5, ENV2, ENV3, ENV5, ENV7 and ENV8 of the Black Country Core Strategy and saved policies GP2, GP6, ENV10, ENV11, ENV14, ENV17, ENV32, ENV35, ENV40, T7, T8, T9, T10, T11, T12 and T13 of Walsall Unitary Development Plan, policies IND1, IND5, EN3, T3 and T4 of Walsall's Site Allocation Document and Supplementary Planning Documents Designing Walsall and Air Quality. Taking into account the above factors it is considered that the application should be recommended for approval.

The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment.

Positive and Proactive Working with the Applicant

Officers have liaised with the Planning Agents to assist with addressing consultee concerns prior to this application being heard at planning committee

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to;
 - No new material considerations being received within the current consultation period;
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;
 - Overcoming the outstanding objections raised by the Fire Officer

Conditions and Reasons

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

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

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

- Block Plan, drawing no. PL-03 Revision B, deposited 20/01/2022
- Proposed Site Layout Plan with Station Planning Layout, drawing PL-14 Rev. A, deposited 20/01/2022

- Design and Access Statement, Revision E- 2022 01 17, deposited 20/01/2022
- Surface Water Drainage Strategy prepared by Avocet dated January 2021, deposited 08/11/2021
- Ecological Impact Assessment prepared by Midlands Ecology dated 14/01/2021 and deposited 28/01/2021
- Energy Statement prepared by Watt Design dated January 2021, deposited 28/01/2021
- Existing Site Layout Plan, drawing no. PL-02 Revision A, deposited 20/01/2022
- Existing Plans and Elevations Building (To be Demolished) drawing no. PL-06, deposited 20/11/2021
- External Works Plan, drawing no PL-12 Revision D, deposited 20/01/2022
- Flood Risk Assessment prepared by Avocet dated January 2021, deposited 28/01/2021
- Geotechnical Information Summary prepared by Morgan Structural Ltd, deposited on 28/01/2021
- Planning Statement by Mango Planning and Development Ltd, reference AH/200123/R0001VFINAL/A dated January 2021, deposited 28/01/2021
- Proposed Elevations, drawing no. PL-09, Rev. B deposited 20/01/2022
- Proposed Outline Section, drawing no. PL10 Rev A, deposited 20/01/2022
- Proposed Plan, drawing no. PL08 Rev. B, deposited 20/01/2022
- Proposed Roof Plan, drawing no. PL11, Rev. B deposited 20/01/2022
- Proposed Site Layout Plan, drawing no. PL-07 Rev E, deposited 20/01/2022
- Proposed Site Layout with former planning layout overlay, drawing no. PL-19, deposited 20/01/2022
- Site Location Plan, drawing no. PL-01 Rev A, deposited 20/01/2022
- Transport Statement prepared by Cotswold Transport Planning dated January 2021, deposited 28/01/2021.
- Flood Exceedance Route, drawing no. AVO-20079-PLA-003, Rev. A01, deposited 08/11/21
- Proposed Drainage Strategy, drawing no. AVO-20079-PLA-001 Rev. A03, deposited 08/11/21
- Coal Mining Risk Assessment – Summary Review by Morgan Structural Ltd, Version 1.0616, deposited 02/08/21
- Coal Mining Risk Assessment by The Coal Authority dated 26/03/21 deposited 16/04/2021

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

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary porta-cabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site

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- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
- xiii) Re-covering of holes, escape from holes, tree/hedgerow protection for terrestrial mammals etc.

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

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties, to safeguard the railway and its boundary from demolition machinery and dust and debris and to control the environmental and highway impacts of the development in accordance with saved policies GP2, ENV10, ENV32, T7 and T13 of Walsall's Unitary Development Plan.

4: a) Prior to the commencement of development hereby permitted a remediation strategy to deal with the risks associated with contamination of the site and the proposal shall be submitted in writing to and approved in writing by the local planning authority. This strategy shall include the following components:

- (i) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
- (ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
- (iii) The results of the site investigation and the detailed risk assessment referred to in (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- (iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

Reasons: To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution from previously unidentified contamination sources at the development site and to minimise the risk of pollution and to safeguard water quality from fuels, oils and other

chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40

5: a) Prior to the commencement of any development hereby permitted details set out in parts I to IV shall be submitted in writing to and approved in writing by the Local Planning Authority;

- I. Details of intrusive site investigations for past coal mining activity;
- II. the approved details of intrusive site investigations shall be undertaken and a report of findings arising from the intrusive site investigations including the results of any monitoring;
- III. details of remedial works;
- IV. Details of a suitably designed piled foundation;

5: b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

5: c) Prior to the first occupation of the development hereby permitted a signed statement/declaration prepared by a suitably competent person confirming the site has been made, safe and stable for the permitted development shall be submitted in writing to and approved in writing by the Local Planning Authority. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure the safety and stability of the development, to safeguard the amenities of occupants and to comply with NPPF Paragraph 109 and saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

6: a). Prior to the commencement of any development hereby permitted a method statement and risk assessment relating to the operation of the railway during remediation and construction of the building shall be submitted in writing to and approved in writing by the Local Planning Authority

6: b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: To ensure that the construction and subsequent maintenance of the proposal can be carried out without adversely affecting the safety, operational needs or integrity of the railway and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

7: a) Prior to the commencement of the development hereby permitted details of the disposal of both surface water and foul water drainage directed away from the railway shall be submitted in writing to and approved in writing by the Local Planning Authority.

7: b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: To protect the adjacent railway from the risk of flooding, soil slippage and pollution and in accordance with saved policies GP2, ENV10 and ENV32 of Walsall's Unitary Development Plan.

8: a) Prior to the commencement of the development hereby permitted full details of ground levels, earthworks and excavations to be carried out near to the railway boundary shall be submitted in writing to and approved in writing by the Local Planning Authority.

8: b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: To protect the adjacent railway and its boundary and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

9: a) Prior to the commencement of the development hereby permitted details of scaffolding works within 10m of the railway boundary shall be submitted in writing to and approved in writing by the Local Planning Authority

9: b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development construction period.

Reason: In the interests of protecting the railway and its boundary from over-sailing scaffolding and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

10: a) Prior to the commencement of the development hereby permitted any proposed vibro-impact works on site, a risk assessment and method statement shall be submitted in writing to and approved in writing by the Local Planning Authority

10: b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development construction period.

Reason – to prevent any piling works and vibration from de-stabilising or impacting the railway and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

11: a) Prior to the commencement of the development hereby permitted details of appropriate vehicle safety protection measures along the boundary with the railway shall be submitted to the Local Planning Authority

11: b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: to prevent the design and layout of the road and parking spaces from impacting the adjacent operational railway with accidental vehicle incursion and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

12: i) Prior to the commencement of the development hereby permitted a site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken (see Note for Applicant CL1)

12: ii) Prior to the commencement of the development hereby permitted 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 in writing to and approved in writing by the Local Planning Authority (see Note for Applicant CL2)

12: iii) Prior to the commencement of the development hereby permitted 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 in writing to and approved in writing by the Local Planning Authority (see Note for Applicant CL2)

12: iv) The remedial measures as set out in the 'Remediation Statement' required by part iii) of this condition shall be implemented in accordance with the agreed timetable.

12: v) If during the undertaking of the approved remedial works or during 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 has been submitted in writing to and agreed in writing by the Local Planning Authority.

12: vi) Prior to the first occupation of the development hereby permitted until a validation report setting out full details of the remedial measures implemented and cross referencing those measures to the approved Remediation Statement together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted in writing to and agreed in writing by the Local Planning Authority. (See Note for Applicant CL3)

12: vii) The development shall not be carried out otherwise than in accordance with the approved Remediation Statement and the remedial measures shall thereafter be retained for the lifetime of the development.

Reason: To ensure safe development of the site and to protect human health and the environment. In addition, to meet the requirements of the National Planning Policy Framework (2019) 170 and 178.

13: a) Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

13: b) The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other

chemicals from the site in accordance with NPPF14, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

14: a) Prior to commencement of any building operations above the damp proof course of the development hereby permitted details of the proposed finished floor levels, ridge and eaves heights of the buildings hereby permitted shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding properties.

14: b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: In the interests of the amenities of the area in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

15: a). Prior to the commencement of the development hereby permitted details of landscaping including both hard and soft landscape works with plants species of known value to wildlife, including strengthening the tree-lined boundaries into hedgerows with a minimum mixture of 6 approved native hedgerow species to improve ecological connectivity, and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.

15: b) Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

15: c) If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: In the interests of the visual amenities of the area in accordance with saved policies ENV17 and ENV33 of Walsall's Unitary Development Plan.

16: a) Prior to the commencement of building operations above damp proof course of the development hereby permitted until details of the proposed boundary treatment of the site, including heights, positions and extents, materials, colours and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

16: b) The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

16: c) prior to the first occupation of the development hereby permitted all boundary treatments have been erected in accordance with the approved schedule and thereafter be maintained and retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary

Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

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

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

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

18: Prior to the occupation of the development hereby permitted all access ways, parking bays, vehicle manoeuvring and turning areas shall be consolidated, drained and hard surfaced, together with the clear demarcation of all parking bays. These areas shall thereafter be retained for the lifetime of the development and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2, ENV40, T7 and T13.

19: a) Prior to the occupation of the development hereby permitted, details of the proposed cycle shelter, which shall be covered and illuminated, shall be submitted in writing to and approved in writing by the Local Planning Authority.

19: b) The development shall not be carried out otherwise than in accordance with the approved details and the approved cycle shelter shall thereafter be retained for the lifetime 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.

20: a) Notwithstanding the Ecological Impact Assessment carried out by Midland Ecology dated 14 January 2021 all workers on the site shall be made aware that bats and badgers may be present and shall not undertake demolition works including the dismantling of roofs, soffits, gables or in the vicinity of cracks and crevices otherwise than with the use of hand tools. All roofing materials shall be listed carefully (and not dragged or slid) and the undersides examined for bats or bat droppings.

20: b) If during the construction period bats or evidence of bats or their roosts are found:

- i. bats and badgers shall not be handled or touched
- ii. The vicinity of any bat roost or badger sett shall be immediately reinstated.
- iii. No further destructive works shall be carried out until the need for Natural England licence has been established.
- iv. Within one week of finding a badger sett and/or bats or evidence of bats or their roosts, a written report by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy shall be submitted in writing to and approved in writing by the Local Planning Authority. The report

- shall record what was found, and propose appropriate mitigation measures, including a timetable for their implementation
- v. Work shall not continue otherwise than in accordance with the approved mitigation measures and the approved timetable

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

21: Site clearance and dismantling works shall be undertaken outside the bird nesting season. The bird nesting season extends between March and August inclusive but is weather dependant and nesting may take place outside this period. If nesting birds are discovered, clearance works should be delayed until the young have fledged.

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

22: Site clearance and dismantling works shall be undertaken outside the hedgehog hibernation season between September and March inclusive but is weather dependant and hibernation may take place outside this period. If hedgehogs are discovered, care should be taken to avoid disturbance.

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

23: a) Prior to the installation of any external lighting on the site details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

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

Reason: In the interests of the visual amenities of the area and to minimise ecological impacts in accordance with saved policies GP2, ENV11, ENV23 and ENV32 of Walsall's Unitary Development Plan.

24: No loading and unloading of goods or storage of goods materials or equipment shall take place within the parking/turning/vehicle manoeuvring/bin storage areas and open areas outside the building.

Reason: To ensure the satisfactory functioning of the development and in the interests of highway safety and to prevent pollution in accordance with the saved Walsall's Unitary Development Plan policy GP2, T7, T13, ENV10 and ENV32.

25: a) The solar PV panels will consist of anti-reflective glass and this shall be retained as such thereafter.

25: b) The solar PV equipment or solar thermal equipment is removed as soon as reasonably practicable when no longer needed

Reason: To prevent glare and safeguard the amenity of neighbours and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

Notes for Applicant

Highway Authority

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.

Fire Officer

Approved Document B, Volume 2, Buildings other than Dwellings, 2019.

Requirement B5: Access and facilities for the fire service

The proposal does not appear to meet the requirement for the provision of water for firefighting (See below 16.8 a & b).

Section 15: Vehicle access

Buildings not fitted with fire mains

15.1 For small buildings (up to 2000m², with a top occupied storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

- a. 15% of the perimeter.
- b. Within 45m of every point of the footprint of the building (see Diagram 15.1).

15.2 For all other buildings, provide vehicle access in accordance with Table 15.1.

15.3 Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m (e.g. a 150m elevation would need a minimum of two doors)

Design of access routes and hard-standings

15.7 Access routes and hard-standings should comply with the guidance in Table 15.2. Requirements can only apply to the site of the works. It may not be reasonable to upgrade the route across a site to a small building. The building control body, in consultation with the fire and rescue service, should consider options from doing no work to upgrading certain features, such as sharp bends.

15.8 Where access to an elevation is provided in accordance with Table 15.1, the following requirements should be met, depending on the building height. a. Buildings up to 11m, excluding small buildings (paragraph 15.1): pump appliance access should be provided adjacent to the building for the specified percentage of the total perimeter. b. Buildings over 11m: access routes should comply with the guidance in Diagram 15.2.

15.9 Where access is provided for high reach appliances in accordance with Table 15.1, overhead obstructions (such as cables and branches) should be avoided in the zone shown in Diagram 15.2.

15.10 Dead-end access routes longer than 20m require turning facilities, as in Diagram 15.3. Turning facilities should comply with the guidance in Table 15.2.

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that **WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes** (ADB Vol 2, Table 15.2)

Section 16: Fire mains and hydrants

Provision of private hydrants

16.8 A building requires additional fire hydrants if both of the following apply.

- a. It has a compartment with an area more than 280m².
- b. It is being erected more than 100m from an existing fire hydrant.

16.9 If additional hydrants are required, these should be provided in accordance with the following.

- a. For buildings provided with fire mains – within 90m of dry fire main inlets.
- b. For buildings not provided with fire mains – hydrants should be both of the following.
 - i. Within 90m of an entrance to the building.
 - ii. A maximum of 90m apart.

16.10 Each fire hydrant should be clearly indicated by a plate, fixed nearby in a conspicuous position, in accordance with BS 3251. 16.11 Guidance on aspects of provision and siting of private fire hydrants is given in BS 9990.

Water

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 16 and National Guidance Document on the Provision for Fire Fighting published by Local Government Association and WaterUK:

<https://www.water.org.uk/wp-content/uploads/2018/11/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

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

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, Section 8)

The external access provisions for a building should be planned to complement the internal access requirements for a fire attack plan. (CIBSE Guide E, Fire Safety Engineering 2010, p. 13-14)

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 2018; 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); Land contamination risk management (LCRM) 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.

Network Rail Notes

This proposal includes works less than 10m from the railway boundary – therefore the proposal WILL require the applicant to interface with Network Rail and conditions to be applied to ensure the safe operation and integrity of the railway is maintained both during construction and as a permanent arrangement.

Measurements to railway tracks and railway boundary

When designing proposals, the developer and council are advised, that any measurements must be taken from the operational railway / Network Rail boundary and not from the railway tracks themselves. From the existing railway tracks to the Network Rail boundary, the land will include critical infrastructure (e.g. cables, signals, overhead lines, communication equipment etc.) and boundary treatments (including support zones) which might be adversely impacted by outside party proposals unless the necessary asset protection measures are undertaken. No proposal should increase Network Rail's liability. To ensure the safe operation and integrity of the railway, Network Rail issues advice on planning applications and requests conditions to protect the railway and its boundary.

RAMS

The developer is to submit directly to Network Rail, a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway under Construction (Design and Management) Regulations, and this is in addition to any planning consent. Network Rail would need to be re-assured the works on site follow safe methods of working and have also taken into consideration any potential impact on Network Rail land and the existing operational railway infrastructure. Builder to ensure that no dust or debris is allowed to contaminate Network Rail land as the outside party would be liable for any clean-up costs. Review and agreement of the RAMS will be undertaken between Network Rail and the applicant/developer. The applicant /developer should submit the RAMs directly to:

AssetProtectionLNWSouth@networkrail.co.uk

Encroachment

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail land and its infrastructure or undermine or damage or adversely affect any railway land and structures.

- There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land or under the Network Rail boundary.
- All buildings and structures on site including all foundations / fencing foundations must be constructed wholly within the applicant's land ownership footprint.

- Buildings and structures must not over-sail Network Rail air-space.
- Any future maintenance must be conducted solely within the applicant's land ownership.
- Rainwater goods must not discharge towards or over the railway boundary
- Should the applicant require access to Network Rail land to facilitate their proposal they would need to approach the Network Rail Asset Protection Team at least 20 weeks before any works are due to commence on site. The applicant would be liable for all costs incurred in facilitating the proposal and an asset protection agreement may be necessary to undertake works. Network Rail reserves the right to refuse any works by an outside party that may adversely impact its land and infrastructure.
- Any unauthorised access to Network Rail air-space or land will be deemed an act of trespass.

Scaffolding

Scaffolding which is to be constructed within 10 metres of the Network Rail / railway boundary must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffolding must be installed. The applicant / applicant's contractor must consider if they can undertake the works and associated scaffolding / access for working at height within the footprint of their land ownership boundary. The applicant is reminded that when pole(s) are erected for construction or maintenance works, they must have a minimum 3m failsafe zone between the maximum height of the pole(s) and the railway boundary.

This is to ensure that the safety of the railway is preserved, and that scaffolding does not:

- Fall into the path of on-coming trains
- Fall onto and damage critical and safety related lineside equipment and infrastructure
- Fall onto overhead lines bringing them down, resulting in serious safety issues (this is applicable if the proposal is above the railway and where the line is electrified).

Vibro-Impact Machinery

If vibro-compaction machinery / piling machinery or piling and ground treatment works are to be undertaken as part of the development, details of the use of such machinery and a method statement must be submitted to the Network Rail for agreement.

- All works shall only be carried out in accordance with the method statement and the works will be reviewed by Network Rail. The Network Rail Asset Protection Engineer will need to review such works in order to determine the type of soil (e.g. sand, rock) that the works are being carried out upon and also to determine the level of vibration that will occur as a result of the piling.
- The impact upon the railway is dependent upon the distance from the railway boundary of the piling equipment, the type of soil the development is being constructed upon and the level of vibration. Each proposal is therefore different and thence the need for Network Rail to review the piling details / method statement.

Maximum allowable levels of vibration - CFA piling is preferred as this tends to give rise to less vibration. Excessive vibration caused by piling can damage railway structures and cause movement to the railway track as a result of the consolidation of track ballast. The developer must demonstrate that the vibration does not exceed a peak particle velocity of 5mm/s at any structure or with respect to the rail track.

Demolition

The demolition works on site for the existing structure close to the railway boundary must be carried out so that they do not endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures and land. The demolition of the existing building(s), due to its close proximity to the Network Rail boundary, must be carried out in accordance with an agreed method statement. Review of the method

statement will be undertaken by the Network Rail Asset Protection Engineer before the development and any demolition works on site can commence. Network Rail would like to add that the applicant is strongly recommended to employ companies to demolish buildings / structures belonging to the National Federation of Demolition Contractors. This will ensure that all demolition works are carried out to professional standards and the company itself will also include liability insurance as part of its service.

Drainage proposals and Network Rail land

The NPPF states:

178. Planning policies and decisions should ensure that:

a) A site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability.

And

163. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.

In order to comply with the NPPF, the applicant must ensure that the proposal drainage does not increase Network Rail's liability, or cause flooding pollution or soil slippage, vegetation or boundary issues on railway land. Therefore, the proposed drainage on site will include the following:

- All surface waters and foul waters must drain away from the direction of the railway boundary.
- Soakaways for the proposal must be placed at least 30m from the railway boundary.
- Any drainage proposals for less than 30m from the railway boundary must ensure that surface and foul waters are carried from site in closed sealed pipe systems.
- Suitable drainage or other works must be provided and maintained by the developer to prevent surface water flows or run-off onto Network Rail's land and infrastructure.
- Proper provision must be made to accept and continue drainage discharging from Network Rail's property.
- Drainage works must not impact upon culverts, including culverts/brooks etc. that drain under the railway. The applicant will not be permitted to direct surface or foul waters into culverts which run under the railway – any discharge of surface water under the railway via a culvert will require review and agreement from Network Rail who reserve the right to refuse use of any culverts.
- The developer must ensure that there is no surface or sub-surface flow of water towards the operational railway.
- Rainwater goods must not discharge in the direction of the railway or onto or over the railway boundary.

NB: Soakaways can materially affect the strength of soil leading to stability issues. A large mass of water wetting the environment can soften the ground, and a build-up of water can lead to issues with the stability of Network Rail retaining walls/structures and the railway boundary. Network Rail does not accept the installation of soakaways behind any retaining structures as this significantly increases the risk of failure and subsequent risk to the travelling public.

If the developer and the council insist upon a sustainable drainage and flooding system then the issue and responsibility of flooding, water saturation and stability issues should not be passed onto Network Rail. We recognise that councils are looking to proposals that are sustainable, however, we would remind the council that flooding, drainage, surface and foul water management risk as well as stability issues should not be passed 'elsewhere', i.e. on to Network Rail land.

The drainage proposals are to be agreed with Network Rail and surface water drainage on the site should be removed by a closed sealed pipe system.

The HSE identifies railways as a Major Hazard Industry. An earthwork failure within a high-hazard area has the potential to result in a catastrophic accident with multiple fatalities or long-lasting environmental issues. It should be noted that where the actions of an adjacent landowner have caused a landslide on the railway the loss adjusters are likely to advise recovery of Network Rail costs from the 3rd party, which would include costs of remediation and recovery of costs to train operators. Many railway earthworks were constructed in the Victorian period and are susceptible to failure by water saturation. Water saturation leads to an increase in pore water pressure within the earthwork material. Please also note that railways, and former railway land adjacent to it, is considered as contaminated land due to historic use of railways, which can affect the suitability of infiltration drainage.

Excavation and Earthworks and Network Rail land:

The NPPF states:

178. Planning policies and decisions should ensure that:

a) A site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability.

In order to comply with the NPPF, the applicant will agree all excavation and earthworks within 10m of the railway boundary with Network Rail. Network Rail will need to review and agree the works to determine if they impact upon the support zone of our land and infrastructure as well as determining relative levels in relation to the railway. Network Rail would need to agree the following:

- Alterations to ground levels
- De-watering works
- Ground stabilisation works
- Works to retaining walls
- Construction and temporary works
- Maintenance of retaining walls
- Ground investigation works must not be undertaken unless agreed with Network Rail.
- Confirmation of retaining wall works (either Network Rail and/or the applicant).
- Alterations in loading within 15m of the railway boundary must be agreed with Network Rail.
- For works next to a cutting or at the toe of an embankment the developer / applicant would be required to undertake a slope stability review.

Network Rail would need to review and agree the methods of construction works on site to ensure that there is no impact upon critical railway infrastructure. No excavation works are to commence without agreement from Network Rail. The council are advised that the impact of outside party excavation and earthworks can be different depending on the geography and soil in the area. The council and developer are also advised that support zones for railway infrastructure may extend beyond the railway boundary and into the proposal area. Therefore, consultation with Network Rail is requested. Any right of support must be maintained by the developer.

3m Gap

Network Rail requires that the developer includes a minimum 3 metres gap between the buildings and structures on site and the railway boundary. Less than 3m from the railway boundary to the edge of structures could result in construction and future maintenance works being undertaken on Network Rail land, and close to the railway boundary potentially impacting support zones or lineside cabling. All the works undertaken to facilitate the design and layout of the proposal should be undertaken

wholly within the applicant's land ownership footprint including all foundation works. Network Rail requires a minimum 3m easement between structures on site and the railway boundary to ensure that we can maintain and renew our boundary treatments.

Trees

Proposals for the site should take into account the recommendations of, 'BS 5837:2012 Trees in Relation to Design, Demolition and Construction', which needs to be applied to prevent long term damage to the health of trees on Network Rail land so that they do not become a risk to members of the public in the future.

No trees shall be planted next to the boundary with the railway land and the operational railway, except for evergreen shrubs which shall be planted a minimum distance from the Network Rail boundary that is equal to their expected mature growth height. The vegetation planting must be in line with the attached matrix which has been agreed with the Tree Council. This is to prevent long term issues with leaf fall impacting the operational railway.

Parking / Hard Standing Area

As the proposal calls for the following adjacent to the boundary with the operational railway, running parallel to the operational railway or where the existing operational railway is below the height of the proposal site:

- hard standing areas
- turning circles
- roads, public highways to facilitate access and egress from developments

Network Rail requests the installation of suitable high kerbs or crash barriers (e.g. Armco Safety Barriers).

BAPA (Basic Asset Protection Agreement)

As the proposal includes works which could impact the existing operational railway and in order to facilitate the above, a BAPA (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail. The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs / presence, site visits, review and agreement of proposal documents and any buried services searches. The BAPA will be in addition to any planning consent.

The applicant / developer should liaise directly with Asset Protection to set up the BAPA.

AssetProtectionLNWSouth@networkrail.co.uk

Should the above proposal be approved by the council and should there be conditions, where the proposal interfaces with the railway (as outlined in this response) the outside party is advised that a BAPA (Basic Asset Protection Agreement) must be in place, in order for Network Rail to review and agree the documentation and works outlined in conditions (and those areas covered by the discharge of conditions).

The applicant is advised that before the proposal progresses (should it be approved) they will be required to submit the development form to Network Rail's Asset Protection team and agree the BAPA before any works commence on site.

Network Rail is a Government funded Organisation and we are expected to recover our involvement costs from this type of interface, to proceed in more detail with discussions a signed Basic Asset Protection Agreement (BAPA) would be required to be in place.

Permanent impacts of development are usually material considerations (such as the position of permanent structures, or drainage design etc.) and where these are likely to occur, requests for planning conditions or scheme amendments are requested to

protect the existing railway infrastructure from the impacts of the works on site and as a permanent arrangement. Controls on the temporary impact of construction to outside party land should also be picked up via building control, or in some cases a party wall surveyor.

Once the attached Asset Protection Questionnaire has been completed and forwarded to the team the enquiry will then be processed and an email sent to the applicant giving a project reference number and name of person with the asset protection team that will deal with the enquiry.

For further information on interfacing with Network Rail please see Working by the railway - Network Rail

Severn Trent Water

Severn Trent Water advise that there is a public 300-375mm foul 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 that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or is not permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

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 0345 266 7930

Coal

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance. 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: <https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information (such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.

In formulating this response, The Coal Authority has taken full account of the professional conclusions reached by the competent person who has prepared the Coal Mining Risk Assessment or other similar report. In the event that any future claim for liability arises in relation to this development The Coal Authority will take full account of the views, conclusions and mitigation previously expressed by the professional advisers for this development in relation to ground conditions and the acceptability of development.

Environment Agency

The Environment Agency recommend that initially the applicant should undertake a comprehensive Phase I desk study review to determine the potential for ground contamination. A conceptual site model should be produced that should include identifying potential pollutant linkages with respect to controlled waters. Appropriate site investigations should then be scoped based on the findings of the desk study.

We recommend that developers should:

- Follow the risk management framework provided in Land Contamination Risk Assessment when dealing with land affected by contamination.
- Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The local authority can advise on risk to other receptors, such as human health.
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed.
- Refer to the contaminated land pages on GOV.UK for more information.

We would like to refer the applicant/enquirer to our groundwater position statements in 'The Environment Agency's approach to groundwater protection', available from gov.uk. This publication sets out our position for a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heat pumps
- Drainage

Additionally, it should be noted that in accordance with Government policy detailed in the National Planning Policy Framework (paragraph 188), 'where a site is affected by contamination or land stability issues responsibility for securing a safe development rests with the developer and/or landowner'. Therefore, should any significant contamination subsequently become apparent then responsibility will remain with these parties.

Further Advice

Should you wish us to review any technical documents or want further advice to meet the requirements of the conditions recommended, we may do this as part of our charged for planning advice service.

Further engagement will provide you with certainty of our position as to what our response to your application to discharge conditions will be. It should also result in a better quality and more environmentally sensitive development.

As part of our charged for service we will provide a dedicated project manager to act as a single point of contact to help resolve any problems. We currently charge £100 per hour, plus VAT. We will provide you with an estimated cost for any further discussions or review of documents. The standard terms of our charged for service are available [here](#).

If you would like more information on our planning advice service, including a cost estimate, please contact us on the details provided below. Please consult us on the details submitted to your authority to discharge this condition and on any subsequent amendments/alterations.

Planning Application Advice

Should the applicant or any subsequent owners wish to create a separate planning unit with the proposed new warehouse then planning permission shall need to be sought and obtained.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 10 February 2022

Plans List Item Number: 2

Reason for bringing to committee

Called in by Councillor Singh-Sohal due to requiring sensitive planning judgement – community interest.

Application Details

Location: FORMER JABEZ CLIFF AND CO LTD, LOWER FORSTER STREET, WALSALL, WS1 1XA

Proposal: OUTLINE APPLICATION FOR THE ERECTION OF A PART 5, PART 2 STOREY BUILDING TO FORM A MIXED USE COMMERCIAL AND LEISURE DEVELOPMENT (CLASS E) INCLUDING DETAILS OF ACCESS, APPEARANCE, LAYOUT AND SCALE

Application Number: 20/1289

Case Officer: Sally Wagstaff

Applicant: James Malkin

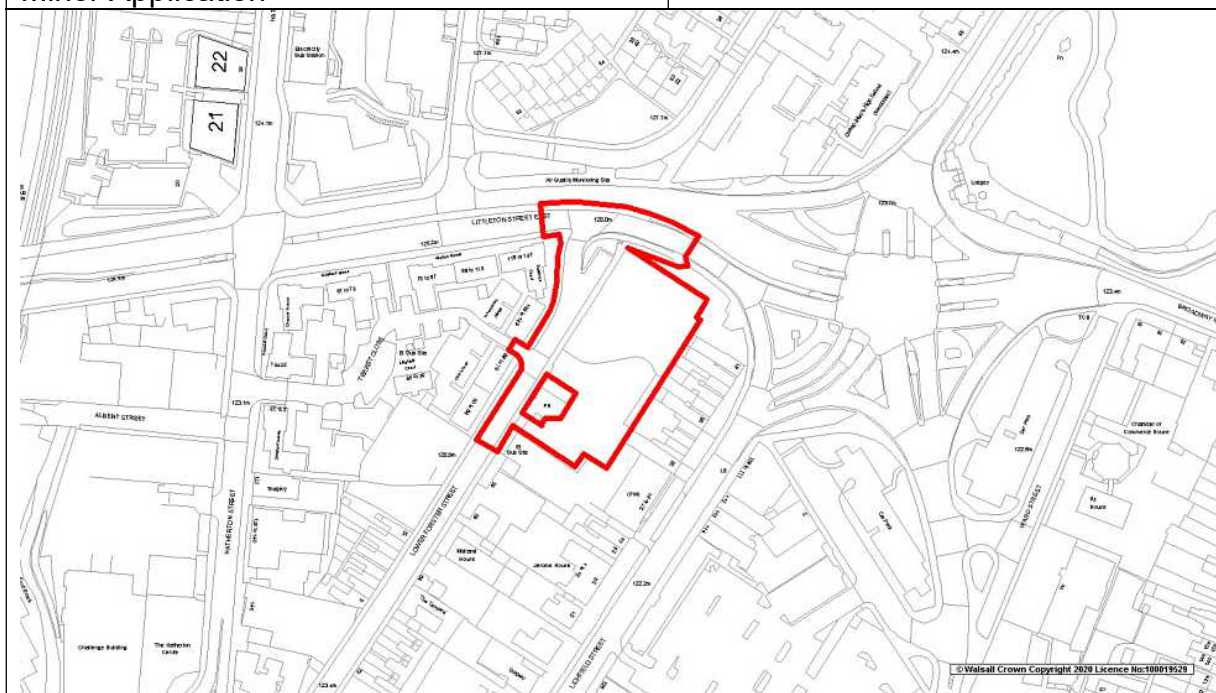
Ward: St Matthews

Agent: Mr Jim Malkin

Expired Date: 13-Dec-2020

Application Type: Outline Permission:
Minor Application

Time Extension Expiry: 12-Nov-2021



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Recommendation

Refuse Permission

Current Status

At the 4th November 2021 Planning Committee meeting, this application was deferred by Committee to consider a more acceptable design due to location of the site within the Conservation Area.

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

Supplementary Paper

Matters contained within the previous supplementary paper:

For clarity the site is on the corner of Lower Forster Street and Littleton Street East as there are sections in the report which incorrectly refer to Little Street East or Littleton Street. Also for clarity the site is within the Lichfield Street Conservation Area - the report incorrectly refers to Lichfield Conservation Area in parts of the report and recommended reason for refusal 1.

For clarity the Location Plan at the top of the plans list refers to a superseded plan. An amended redline on the Location Plan was received on 22/06/21 changing the extent of the redline. Members of the public and relevant consultees have been consulted on the change. The consultation period ended on 07/10/21, no additional comments were received by local residents. Local Highway Authority comments within officer report relate to the amended redline Location Plan. To note. No change to officer recommendation.

A Preliminary Ecological Assessment has been submitted alongside this application. The Assessment concludes the brownfield site has no clear ecological connectivity to natural or semi natural areas in the local or wider area. The assessment recommends:

An updated walkover survey for invasive species once the site has been cleared of drug paraphernalia is considered necessary. Precautionary measures for nesting birds implemented. Other enhancements including bird boxes. Safeguarding conditions regarding any potential identification of protected species during construction.

There were no other matters contained within the previous supplementary paper relating to this item.

Any Other Updates

The following matters have been updated to relating to the assessment:

Additional information and amended plans

A document has been submitted titled 'Appendix 2' which explains the rationale for the scale, mass, design and materials used in addition to the changes made to the proposal. The document explains as summarised:

- The building is positioned on the same front footprint as the original building (Jabez Cliff) was located
- The appearance of the external elevations have been designed with reference to the modernity

Changes made to the scheme are described follows:

- The ground floor envelope design proposes a solid façade, created by red brick walls as a reference to the Conservation Area and traditional materials used in the past.
- The solid brick walls will be divided by curtain walling
- The height of the building has been reduced by 3 metres from the previous proposal

Amended plans illustrate the building remains predominantly 5 storeys but the height has been reduced by 3 metres from 25 metres in total height to 22 metres in total height. Whilst it is not mentioned in the text of the submitted 'Appendix 2' document, plans show a storey has been removed on the western elevation adjacent to Fountain Inn Public House reducing the building from 3 storeys to 2 storeys. This part of the reduction is approximately 18 metres in height to 11 metres in height.

Consultee comments

Conservation Officer

Concerns raised. Changes made to materials and design of the building have not overcome previous conservation objections. The amended scheme is not in keeping with the character and appearance of Lichfield Street Conservation Area and furthermore, fails to enhance and preserve the character and appearance of Lichfield Street Conservation Area. The proposed development would harm the setting and significance of the above listed and locally listed buildings/structures that scale of harm would be medium to high.

Fire Officer

No adverse comments subject to any comments made by WMFS against the previous versions of this application that WMFS have received and the following;

Blocks of flats with a floor more than 11m above ground level should be fitted with a sprinkler system, throughout the building.

The approval of Building Control will be required to Part B of the Building Regulations 2010 (*comments below in original report*)

Natural England

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal

Police Architectural liaison Officer

No new comments to make, refer to previous. (*comments in original report below*).

Pollution Control

No comments to make on the amendments, comments submitted 4th December 2020 remain relevant (*comments in original report below*).

Representations

None

Determining Issues

Does the design of the proposal overcome concerns regarding its impact upon character and appearance of Lichfield Street Conservation Area

Assessment of the Proposal

The 4th November 2021 Planning Committee deferred the application for the applicant to consider amending the proposal for the scheme to integrate with the local characteristics of the area including the design and materials.

In response to this, the proposal has been amended in relation to the overall height being reduced by 3 metres, removal of a storey adjacent to Fountain Inn Public House and the introduction of red brick walls to the ground and part of the first floor of the building. Other materials remain as per the original proposal.

Whilst it is acknowledged the applicant has made some amendments to the scheme, it is considered on balance the proposed design and materials have not been altered sufficiently to overcome the concerns in relation to the impact upon the character and appearance of the Conservation Area and the setting and significance of the Grade II listed building Queen Mary's School.

Whilst the overall height of the building has been reduced by 3 metres, which is considered a positive amendment in relation to the amenity of adjoining properties on Lichfield Street, partially addressing concerns relating to overshadowing in the early evening. Whilst the amended proposed buildings proximity to the rear of properties on Lichfield Street has not altered. On balance it is considered the amended proposal would limit the shading and loss of light impact to the rear amenity areas and rear first floor windows within the flats at no. 36, 40, 40a and 41 Lichfield Street. It is considered that on balance that the reduction in harm means refusal reason two can fall away by the amendment to the height of the building.

On balance, it is considered that whilst there have been some improvements to the scheme and weighing the potential investment into the town, in this instance, the level of remaining harm to the heritage assets, it is considered the recommendation remains as set out within the original report.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed development by reason of its scale, mass, bulk, height, design, and materials represents poor design that visually detracts from the character, architectural and historical significance of the street scene and the character and setting of Lichfield Conservation Area that neither enhances nor preserves the Conservation Area and the setting and significance of the Grade II listed building Queen Mary's School. As such the proposal is contrary to the National Planning Policy Framework, Policies ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) of the Black Country Core Strategy, UDP Saved Policies GP2 (Environmental Protection), ENV27 (Buildings of Historic or Architectural Interest), ENV32 (Design and Development Proposals), AAPLV5 (Protecting and Enhancing Historic Character and Local Distinctiveness), AAPLV6 (Securing Good Design) and AAPINV6 (Secondary Development Sites) of the Town Centre Area Action Plan, and DW3 (Character) of Designing Walsall SPD.

Recommendation

Refuse Permission

1. The proposed development by reason of its scale, mass, bulk, height, design, and materials represents poor design that visually detracts from the character, architectural and historical significance of the street scene and the character and setting of Lichfield Conservation Area that neither enhances nor preserves the Conservation Area and the setting and significance of the Grade II listed building Queen Mary's School. As such the proposal is contrary to the National Planning Policy Framework, Policies ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) of the Black Country Core Strategy, UDP Saved Policies GP2 (Environmental Protection), ENV27 (Buildings of Historic or Architectural Interest), ENV32 (Design and Development Proposals), AAPLV5 (Protecting and Enhancing Historic Character and Local Distinctiveness), AAPLV6 (Securing Good Design) and AAPINV6 (Secondary Development Sites) of the Town Centre Area Action Plan, and DW3 (Character) of Designing Walsall SPD.

Original Report from 4th November 2021 Planning Committee Now Follows Below

Proposal

This proposal relates to an outline planning application for a mixed use commercial and leisure development, part 5 storey part 3 storey building including details of access, appearance, layout and scale. Landscaping is a reserved matter for future consideration.

The proposed building is sited on the corner of Little Street East and Lower Forster Street. It comprises of two floors of leisure use (for a national gym operator) and three floors of commercial use (described as offices with conference space). Access into the site is from Lower Forster Street along with a car park including 55 parking spaces and 28 bike lockers.

The design of the building includes a 'stepped' approach with 3 storey's adjacent to the 'Fountain Inn' on Lower Forster Street 'stepping up' to 5 storeys on the corner of Lower Street and across Littleton Street East, down to 3 storeys adjacent to the rear of Lichfield Street.

The application is supported by:

Design and Access Statement – Sets out the context of application site and proposed development.

Planning and Statement – Provides justification for the development.

Heritage Statement – Assesses the proposal's impacts on heritage assets within the vicinity of the application site.

Transport Statement - Confirms the development would promote a sustainable pattern of development and would not result in any material risk to highway safety.

Framework Travel Plan – defines a long term management strategy for the site that seeks to deliver sustainable transport objectives which is regularly reviewed.

Preliminary Ecological Appraisal - Makes an assessment of potential ecological impacts.

Phase 1 Site Appraisal – Risk Assessment report relating to the site's history, geology and environment.

Following the receipt of comments from the Local Highways Officer, the applicant has revised the access arrangement to retain the existing one-way operation of Lower Forster Street. Members of the public have been consulted on these changes, and no further comments were received during this period.

Sketches of potential revised elevations have also been submitted for consideration by the Local Planning Authority following discussion with officers in relation to the scale, bulk and mass of the proposal. Despite the LPA providing feedback to the applicant on these potential revisions, these have not been formally submitted along with the necessary suite of updated plans for this planning application. Notwithstanding this, the LPA consider such changes would not adequately address the concerns and would not therefore change the recommendation set out in this report.

Site and Surroundings

The 0.3 ha site is located on the corner of Lower Forster Street and Littleton Street approx. 300 metres north of Walsall Town Centre. It was host to a former locally listed factory building used for saddle making known as Jabez Cliff 'Globe Works' which was subject to a fire in 2011 and was later demolished. The site has been vacant since. Prior to the fire, the site occupied a number of buildings of historic and architectural interest and value to the benefit of the area.

The site sits high above the ring road (Littleton Street East). It is a very prominent location and commands long reaching views from both directions along the ring road, Broadway and Lichfield Street/Road.

The site is located within the Lichfield Street Conservation Area and on the opposite side of Littleton Street East to the Grade II listed building Queen Marys High School which itself falls within the Arboretum Conservation Area. The Arboretum is a Grade II listed registered park. The site is therefore within a highly sensitive location.

The site is located on the boundary of Walsall Gigaport allocated within the Walsall Town Centre Action Plan (APP) 'APPINV3' for high quality office development. Nearby recent development includes; Walsall Housing Group located on the corner of Littleton Street East and Hatherton Street and Jhoots Pharmacy which are both modern landmark buildings.

Adjacent to the site is the Fountain Inn, a 19th Century two storey public house designated as an Asset of Community Value.

Opposite the site on Lower Forster Street is a part three, part four storey residential development comprising of flats accessed from Hatherton Street known as Terret Close.

Lichfield Street is to the east of the site which comprises two storey businesses including retail and commercial with some residential at first floor. Lichfield Street sits below the application site due to the significant change in land levels.

Relevant Planning History

11/1555/CC – Demolition of Former Jabez Cliff. Conservation Area Consent 09/03/2012.

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 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**
- **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

- GP2: Environmental Protection
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV23: Nature Conservation and New Development
- ENV27: Buildings of Historic or Architectural Interest
- ENV30: Registered Parks and Gardens
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- T7 - Car Parking NOTE

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP4: Place Making
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN8: Car Parking in Centres
- 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
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV7: Renewable Energy

- ENV8: Air Quality

Walsall Town Centre Area Action Plan 2019

AAPLV5: Protecting and Enhancing Historic Character and Local Distinctiveness

AAPLV6: Securing Good Design

AAPINV2: St Matthews Quarter

AAPINV3: Walsall Gigaport

AAPINV6: Secondary Development Sites

AAPINV7: Addressing Potential Site Constraints

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW3 Character
- DW5 Ease of Movement
- DW6 Legibility
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- ***Section 5 – Mitigation and Compensation:***
- Type 1 – Electric Vehicle Charging Points

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

Consultation Replies

Archaeology

No Archaeological implications

Conservation Officer

Objection - The proposed design does not relate well to the existing historic environment within Lichfield Conservation Area, this is due to its size (height and footprint) and the materials palette chosen. It is assessed that the proposed design does not offer 'locally distinctive' design – and would fail to preserve or enhance the character of the Conservation Area because of integrating poorly with the existing local built environment.

Local Highways Authority

No Objections subject to conditions in relation to the submission of a Construction Methodology Statement in the interests of highway safety. The implementation of access ways, parking and vehicle manoeuvring and the modification of dropped kerbs prior to the development first coming into operation. Also details of the bike lockers prior to the development first coming into use to encourage sustainable modes of transport.

Fire Officer

No objection subject to the relevant Building Regulations Requirements in relation to access in the event of a Fire.

Police Architectural Liaison Officer

No objection – Security recommended using principles of Secured by Design.

Natural England

No comments to make.

Environmental Protection

No objections - Conditions recommended to implement a Construction Management Plan, undertake an intrusive contaminated land investigation and remediation, ensure external machinery and plant will not result in significant noise disturbance to nearby residential premises, and agree measures to comply with the Black Country Air Quality SPD for Electric Vehicle charging points.

Severn Trent Water

No objection subject to conditions relating to the submission of drainage plans for foul and surface water.

Strategic Planning Policy

No objections subject to inclusion of conditions to restrict the use class of development to former B1a and D2 uses now contained within the much wider Use Class E as the site lies outside of the primary shopping area and certain uses would not be considered appropriate at this site.

Representations

Three objections have been received from two nearby property owners and a local resident. Concerns raised relate to: (*Officer comments in italics*)

- The height of the building would result in:
 - a) Loss of view of the Arboretum Park due to siting of the building (*Loss of views is not a material consideration in the determination of planning applications*).
 - b) Loss of light to property
 - c) Loss of privacy due to being overlooked
- Building used for class E could result in an additional noise within the neighbourhood
- Redline boundary incorrect in relation to 'The Fountain Inn' (*This matter has been rectified and the red line boundary altered*).

Determining Issues

- Principle of Development
- Heritage Assets

- Layout
- Scale
- Appearance
- Access
- Planning Obligations

Assessment of the Proposal

Principle of Development

Walsall Area Action Plan identifies the site within the Town Centre boundary, but falling outside of the Primary Shopping Area (PSA).

The site is within a sustainable location with public transport links to Walsall town centre, cycle routes and pedestrian routes. Vehicular access can be gained from Lower Forster Street.

The site is identified within Walsall Area Action Plan Policy AAPINV3 as site reference TC37 and the Policies Map highlights the location as a gateway site within Walsall Gigaport. Whilst the site is not within the Gigaport Boundary, it is within the vicinity of the Gigaport area so could be suitable for office use.

The supporting table with policy AAPINV3 states that TC37 is allocated for opportunities for mixed town centre uses. This proposal relates to a mixed use commercial building incorporating office space and leisure facilities over four floors. The Design and Access Statement states, *“The commercial building will offer office accommodation with associated conference space as a modern digital platform from which high tech companies can network and operate. It will also offer leisure facilities for a national gym operator”*.

The principle of a mixed use commercial development is considered acceptable in this location as identified within AAP Policy AAPINV3. It is noted that the application form refers to former use classes B1(a) and D2, however these are not identical to the new use class E. Class E mainly comprises a wider range of uses than the two former classes. Whilst nearly all the categories in class E are town centre uses, not all would be appropriate for this location, or the design and functioning of the proposed building.

Former class B1(a) and D2 comprised use as an office, or use as a cinema, concert hall, bingo hall or casino, dance hall, swimming bath, skating rink, gymnasium or area for indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

New class E places offices in sub-class E(g)(i) whilst indoor sport, recreation or fitness is in sub-class E(d). Outdoor sport or recreation is listed under class F2(c) whilst an indoor or outdoor swimming pool or skating rink is listed under class F2(d). Use as a cinema, concert hall, bingo hall or a dance hall, as well as use as a drinking establishment, are now listed as ‘sui generis’ uses that do not fall within any use class.

Class E also includes retail (class E(a)), the sale of food and drink for consumption on the premises (class E(b)), medical or health services, and use as a crèche, day nursery or day centre.

The uses in the former classes B1(a) and D2 would be acceptable in this location and in the proposed building. However, the site is outside the primary shopping area. Use of the site as an eating establishment, for example as a banqueting suite, would also give rise to significant concerns, especially on traffic grounds, given the location of the site

directly off the ring road, unless the retail or eating use was ancillary to the main use of the site, as required by AAP policy AAPINV3.

It is therefore recommended, that should Members be minded to support this proposal that any permission is subject to a condition that limits the use to classes E(c) to (g) only. Any proposal to use part of the building for classes E(a) and (b) should be subject to further approval. This would enable control to be retained should both of these uses be proposed for part of the building in future.

Heritage Assets

The site is situated in Lichfield Street Conservation Area and there a number of nearby historic building/ conservation constraints including, Grade II listed Queen Mary's Grammar School, Walsall Arboretum Grade II registered Park and Garden and locally listed buildings including 55,56 to 58 Lichfield Street, Arboretum Gate. The Fountain Inn which is an asset of community value is also a non- designated heritage asset adjacent to the site.

Paragraph 197 of the NPPF states *'In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness'*.

The Design and Access Statement states that the proposed design "...*strongly identifies with the local history and character of Walsall.*" It is considered that the modern industrial appearance is not reflective of the previous character of the site. Whilst the Local Planning Authority do not consider a pastiche development would be more appropriate for the site, it is considered the proposal fails to acknowledge the architectural style or merit of the former Jabez Cliff building.

Whilst the elevated position of site means it is suitable for a landmark building, it is considered that the proposed building is excessive in terms of height and mass. The proposal would result in the building being unduly dominant within the Conservation Area due to the proposed height and scale in comparison to the context of the wider Conservation Area.

The expansive use of glass and perforated metal panels, along with the shades of grey colour scheme, are not key feature design elements elsewhere within the Lichfield Conservation Area.

It is considered the due to the height, footprint and palette of materials chosen the development would not integrate with the historic environment within the Lichfield Conservation Area. The proposals fails to enhance and preserve the character and appearance of the Lichfield Street Conservation Area.

The proposed development would also harm the setting and significance of the Grade II listed building, Queen Mary's School and is contrary to Section 16 of the NPPF 'Conserving and enhancing the historic environment' and Development Plan Policies.

Layout

The proposal is for a large 'L' shaped building which would sit partly in place of the original 'Globeworks' building. The footprint of the building would be focused on the corner of Littleton Street East and Lower Forster Street.

Vehicular entrance into the site would be from Lower Forster Street with car parking provision within the middle of the site and against the boundary with the rear boundary of premises on Lichfield Street.

Pedestrian access into the building is from Lower Forster Street and separated between the commercial and the leisure facilities. Access can also be gained from within the site itself.

The building would be sited approx. 17 metres from the nearest residential block of flats with habitable room windows adjacent to the site accessed from Terrat Close.

The Design and Access Statement includes a sun path diagram which is considered clearly illustrates that the proposal, due to its bulk, mass, height and proximity, is likely to result in additional shading and loss of light to the rear gardens and rear facing habitable first floor windows of premises on Lichfield Street during early to late evening.

There are residential units located within the first floor of no's. 36, 40, 40a and 41 Lichfield Street approximately 23 metres from the proposed building. There are windows within the rear elevations of these buildings which are likely to serve habitable rooms, and the applicant has failed to address this concern.

It is therefore considered that the proposal fails to address this relationship and demonstrate the proposal would not result in a loss of light and shading to habitable rooms and rear amenity areas on Lichfield Street.

Generally, in principle the proposed layout of the site is considered to be acceptable insofar as the footprint reflects historic and current pattern of development. However, the proposal by way of its scale, mass, bulk and height fails to demonstrate it would not result in a detrimental impact upon neighbouring residents in terms of light and shading.

Given the recent changes to the Use Class Order and the extensive use of permitted development, should Members be minded to approve this proposal a condition is recommended to restrict the change of use from offices to residential without the submission of a planning application. This is to ensure that the Local Planning Authority can make a full assessment as to the impacts upon potential occupiers in terms of internal layout of the building and the absence of any outdoor amenity space to serve the development, plus safety and security of the site overall. A residential development of this scale would also usually be required to contribute to local infrastructure to make the development acceptable i.e. likely open space contribution to local open space arising from additional pressure from further residents in the locality.

Scale

Policy AAPL6 within Walsall Area Action Plan states that, "new development should seek to create a positive environments with an identity that relates to the specific character of Walsall Town Centre and its historic context. New buildings should i) be of appropriate scale and massing to the streetscene...".

The proposed building would be part 5 part 3 storey with a reduction in height to three storeys adjacent 'The Fountain Inn' and on the eastern elevation towards Lichfield Street.

Whilst the elevated position of site means it is suitable for a landmark building, it is considered that the proposed building is excessive in terms of height and mass. It is

considered the scale in relation to height and mass and would result in a development which is not appropriate within the streetscene. The height of the building at three storeys adjacent to Lichfield Street would dwarf the two storey buildings which are set lower than the application site. In addition it is considered the scale of the building would be over bearing in relation to the historic 'Fountain Inn' which would appear diminutive in comparison. Whilst it is acknowledged that there is a multi-storey residential block adjacent to the site, which in part is four storeys, it is considered that the scale of the apartment block cannot be directly compared to the proposed development due to the significant additional height and difference in design whereby the apartments include architectural features which help to break up the mass of the building.

The applicant has been informed of officer concerns in this regard. Whilst draft revised elevations were submitted for consideration, these did not mitigate these concerns.

Appearance

The proposed aesthetic as specified within the Design and Access Statement is 'modern, industrial development. The palette of material include glazing and metal cladding in grey and black.

It is noted that there are modern developments within the vicinity of the application site including WHG building and JHoots. It is considered that whilst the use of a modern design is not opposed, in this instance the significant mass coupled with the proposed use of materials would not be in keeping with the context of the character of the area.

Access

The revised access proposal now looks to implement Access Option 1 to retain the existing one-way operation of Lower Forster Street. Having explored Access Option 2, which was to allow development traffic out onto the Ring Road, this was not found not to be achievable.

The planning submission to date had been based on the Option 2 access arrangement. However, it has been found the potential difficulty and disruption in modifying the Littleton Street E / Lower Forster Street junction and it is now proposed to provide the site access arrangements based on the Option 1 arrangement. That is the proposed simple T-junction to access the site would maintain the current one-way southbound Lower Forster Street arrangement and provide a left in / left out site access arrangement as shown on the attached Site Layout Plan (SMD Architect drawing 1910-PL-011_Rev G).

The development looks to provide 55 parking spaces and 28 bike lockers. This is significantly below the UDP T13 parking policy maximum of 233 spaces (inclusive of 22 disabled spaces). However, taking into account the site is in the town centre which is a highly sustainable location, with good access to public transport and public car parking within reasonable walking distance, on balance the Highway Authority considers the level of parking provision acceptable.

The on-site car park will be supervised by a car park management company such that unauthorised parking by non-development related vehicles will be managed and suitably enforced if misuse is identified such that the car park is specifically for the use of the development patrons.

A Transport Assessment has been submitted to support the application which sets out

the traffic impact of the development.

The proposed development is predicted to generate up to 52 pedestrian journeys, one by cycle, 12 by bus and 8 by train during a peak hour. The existing and proposed infrastructure would be able to accommodate that increase in demand. The development would further enable sustainable transport by the production of a Travel Plan that will be delivered through a S106.

The development would generate up to 44 traffic movements in a peak hour. The impact of that traffic on the surrounding highway network has been examined. The calculations and assessments in this report highlight that the proposed development would not have a severe impact on the local highway network in the vicinity of the site. This is accepted by the Highway Authority.

The Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2021 paragraph 111.

Should the application gain approval, conditions are recommended in relation to the submission of a Construction Methodology Statement in the interests of highway safety; and the implementation of access ways, parking and vehicle manoeuvring and the modification of dropped kerbs prior to the development first coming into operation. To add, full details of the bike lockers shall be submitted to and approved by the LPA prior to the development first coming into use to encourage sustainable modes of transport.

Planning Obligations

A Travel Plan has been submitted to mitigate the relatively low level of on-site parking and encourage sustainable travel modes as the site has benefit of being in a highly sustainable town centre location. It is recommended therefore the Travel Plan, which will require review and monitoring, is delivered through a S106 Agreement should Members be minded to approve this planning application.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed development by reason of its scale, mass, bulk, height, design, and materials represents poor design that visually detracts from the character, architectural and historical significance of the street scene and the character and setting of Lichfield Conservation Area that neither enhances nor preserves the Conservation Area and the setting and significance of the Grade II listed building Queen Mary's School. As such the proposal is contrary to the National Planning Policy Framework, Policies ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) of the Black Country Core Strategy, UDP Saved Policies GP2 (Environmental Protection), ENV27 (Buildings of Historic or Architectural Interest), ENV32 (Design and Development Proposals), AAPLV5 (Protecting and Enhancing Historic Character and Local Distinctiveness), AAPLV6 (Securing Good Design) and AAPINV6 (Secondary Development Sites) of the Town Centre Area Action Plan, and DW3 (Character) of Designing Walsall SPD.

The proposal would also have a detrimental impact to the adjoining premises on Lichfield Street due to additional shading and loss of light to rear amenity areas and rear windows within first floors of residential premises within flats at no. 36, 40, 40a and 41 Lichfield Street. Therefore the proposal is contrary to saved policies GP2

(Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan and the National Planning Policy Framework.

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. Revised elevations have been submitted for consideration by the Local Planning Authority following discussion with officers in relation to the scale and mass of the proposal. The Local Planning Authority gave feedback on the revised proposals. The revisions have not been formally submitted for consultation.

Recommendation

Refuse Permission

1. The proposed development by reason of its scale, mass, bulk, height, design, and materials represents poor design that visually detracts from the character, architectural and historical significance of the street scene and the character and setting of Lichfield Conservation Area that neither enhances nor preserves the Conservation Area and the setting and significance of the Grade II listed building Queen Mary's School. As such the proposal is contrary to the National Planning Policy Framework, Policies ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) of the Black Country Core Strategy, UDP Saved Policies GP2 (Environmental Protection), ENV27 (Buildings of Historic or Architectural Interest), ENV32 (Design and Development Proposals), AAPLV5 (Protecting and Enhancing Historic Character and Local Distinctiveness), AAPLV6 (Securing Good Design) and AAPINV6 (Secondary Development Sites) of the Town Centre Area Action Plan, and DW3 (Character) of Designing Walsall SPD.

2. The proposal would also have a detrimental impact to the adjoining premises on Lichfield Street due to additional shading and loss of light to rear amenity areas and rear windows within first floors of residential premises within flats at no. 36, 40, 40a and 41 Lichfield Street. Therefore the proposal is contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan and the National Planning Policy Framework.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 10 February 2022

Plans List Item Number: 3

Reason for bringing to committee

Major Application

Application Details

Location: LAND BETWEEN WOOD STREET AND LOWER LICHFIELD STREET, WILLENHALL

Proposal: FULL APPLICATION FOR A SELF-STORAGE WAREHOUSE (B8) WITH START-UP BUSINESS SUITES (E(G)(I)), EXTERNAL DRIVE-UP STORAGE UNITS, ASSOCIATED PARKING AND LANDSCAPING.

Application Number: 21/0023

Case Officer: Ann Scott

Applicant: Storage Giant Ltd

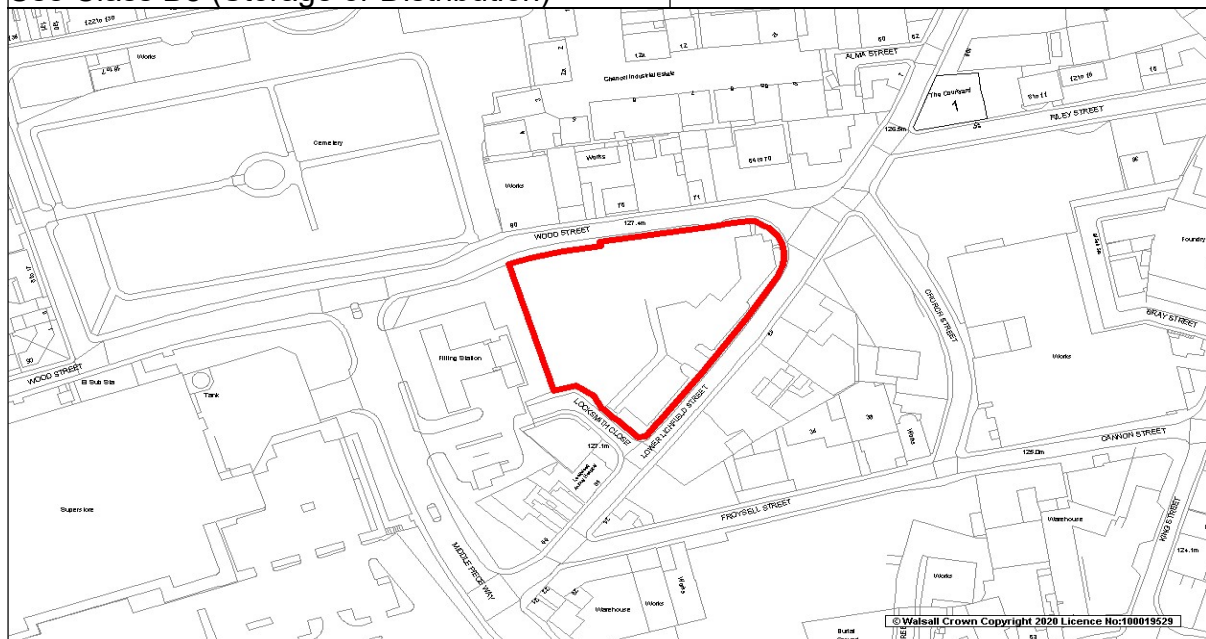
Ward: Willenhall South

Agent: Oxford Architects LLP

Expired Date: 08-Apr-2021

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

Time Extension Expiry:



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Recommendation

Delegate to Head of Planning and Building Control to Grant Planning Permission Subject to Conditions and the amendment and finalising of conditions.

Proposal

Full Application for a self-storage warehouse (B8) 1761m², with start-up business suites E(g)(i) 152.6m², external drive-up storage units, associated parking and landscaping. The proposed main storage building will measure approximately 41.15 long, by 28 wide, by 15.2 high to the ridge and the site area is approximately 0.47 hectares in total.

The smaller storage building wraps around the perimeter of the site and measures approximately, 36 metres long to the North Boundary, 17.2 meters long to the East Boundary and 41.3 metres long to the South boundary. The building is relatively low level at approximately. 2.5 metres high. Within the courtyard of the smaller storage building is another smaller storage building measuring 14.6 metres by 10.8 metres, by 14.2 metres by 2.5 metres high. This building has a triangular shape and will not be readily seen from the street scene. The materials are similar to the main building.

The proposal for the storage B8 use is proposed 24 hours, 7 days a week including bank and public holidays. In addition the proposed business office use Class E - E(g)(i) previously B1 Offices, is proposed to be operated between the hours of 08:00 hours to 18:00 hours Mondays to Saturdays, Sundays, Bank and Public Holidays.

There are 15 parking spaces, 2 disabled spaces, 12 cycle parking spaces, and 2 Light goods vehicles spaces/public carrier vehicles parking spaces.

The number of jobs being created with this application is 26 full time jobs and 1 part time job.

Site and Surroundings

The application site is presently 0.47 hectares of vacant land which has been previously used for industrial purposes but has been vacant since approximately 2010.

The site is partly self-seeded scrub with areas of tarmac from the previous industrial use formerly Yale Locks. A chain link fence forms the boundary of the site and the site has an existing vehicular access. There are existing silver birch trees situated mainly around the perimeter of the site with a few self-seeded specimens in the middle of the site that will be removed. The site is not covered by a tree preservation order.

The local area is historically known as an industrial area for lock making.

The surrounding area comprises a mix of commercial, leisure and industrial uses.

The site is located in flood zone 1 as defined on the Environment Agency Flood Map for Planning.

Relevant Planning History

09/0163/FL – variation of condition 9 of o/l planning permission 07/0639/FL/W2 relating to part of site included in o/l application for residential development. Alteration of condition to remove the word “residential” from the condition. – Land South of Wood Street Willenhall, approved 23 July 2009.

08/1415/FL – Removal of condition 26 of Planning application 07/0639/FLW2 Retention and reuse of façade of Yale Works. – Land between wood street, Upper Litchfield Street, and Lower Litchfield Street, extending to Walsall Street Willenhall. Approved 21 October 2008.

17/1482 Full application major use class C3 (dwelling houses) 43A Lower Litchfield Street Willenhall Refused 20-July 2018– Appeal Dismissed 19 August 2019.

18/1215 – Demolition of existing buildings and erection of residential development providing 7 x 1 bed and 8 x 2 bed apartments, including parking and amenity –Land adjacent to 43 Lower Litchfield Street Willenhall Refused 30 August 2019. Appeal dismissed 28 July 2020.

Relevant Planning History – 19/1472 – 80 Wood Street Demolition of existing buildings and erection of 2 pairs of semi detached dwellings. Refused 13-1-2020.

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 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **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.

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV23: Nature Conservation and New Development
- ENV27: Buildings of Historic or Architectural Interest
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest
- ENV29: Conservation Areas-
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- 4.6 The Service Sector
- JP8: Bad Neighbour Industrial Uses
- 5.3 to 5.11 Strategic Policy Statement
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- 7.4 Strategic Policy Statement
- T1 - Helping People to Get Around
- T2 - Bus Services
- 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

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP4: Place Making
- EMP1: Providing for Economic Growth
- EMP5: Improving Access to the Labour Market
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy

- CEN2: Hierarchy of Centres
- CEN4: Regeneration of Town Centres
- CEN5: District and Local Centres
- TRAN1: Priorities for the Development of the Transport Network
- 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
- ENV7: Renewable Energy
- ENV8: Air Quality

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
- 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 – no objections subject to conditions to investigations being carried out in relation to the risks posed by past shallow coal mining activity.

Lead Local Flood Authority – no objections subject to conditions in relation to the provision of SUDS Sustainable Drainage.

Police Architectural Liaison officer - recommend security measures using the principles of Secured By Design.

Local Highways Authority - the Highway Authority supports the application in principle. Subject to conditions in relation to adoptable highway works, parking and turning within the site, cycle parking and construction method statement.

Natural England – no comments to make on this application.

Archaeology - there are no archaeological implications for this proposal.

Pollution Control - requires conditions for the Applicant to investigate potential for ground contamination and ground gas, and remediate if necessary, implement a management plan to minimise environmental impact during the course of building works, and for the installation of an electric-vehicle charging point.

Public Health - no direct Public Health objections to this planning application.

Severn Trent Water- No objections subject to the inclusion of drainage conditions and a note to applicant regarding public sewers.

Strategic Planning Policy – Support on the grounds that the site will provide additional employment land to support investment for the site for employment purposes.

Historic England – No comments to make.

Fire Service – No objections and makes a number of recommendations which can be added as notes to applicant.

Representations

Representations received from nearby occupiers:

- Our property is directly across in Wood Street from the larger of the units proposed and would directly impose on our light & view. We would also be concerned about the additional traffic & parking involved with this application. Therefore, we would object to the application in its current form.
- Just to point out the existing access is for car and light commercial vehicles and not heavy goods vehicles which would cause problems if they park up in the side roads while waiting to unload.

Determining Issues

- Principle of Development
- Design, Layout and Character

- Trees / Landscape / Biodiversity
- Amenity of Neighbours / Occupiers
- Highways
- Heritage Assets
- Flood Risk / Drainage
- Ground Conditions and Environment

Assessment of the Proposal

Principle of Development

The application site lies within the development limits for Willenhall Part of the Walsall Urban area. This site lies within Willenhall District Centre so is covered by the inset map of the UDP rather than the SAD. However, it has no current allocation. It lies within the area of the outline planning permission for the Morrisons store which included residential development on this part of the site for 103 apartments, so has been considered as a potential residential site. However, it is surrounded by land that is allocated as 'consider for release' employment land under SAD Policy IND4.

The strategic policies in the Black Country Core Strategy, including policy DEL2, apply both to areas inside and outside the district centre. It was originally envisaged when the BCCS and subsequently the Site Allocation Document were prepared that CFR land would eventually be redeveloped for housing, subject to the requirements of BCCS policy DEL2 being met (relating to there being an adequate supply of employment land available, arrangements being made to relocate industrial occupiers and a comprehensive approach being taken). Emerging evidence for the BCP is that there is a need to increase and retain as much employment land as possible to safeguard the economy and retain employment.

BCCS Policy DEL2 relates to Managing the balance between employment land and housing and seeks to ensure that the delivery of special objectives 2 and 3 are supported by objectives 5, 6 and 7 by providing a clear framework for continuous housing and employment land to meet the needs of the Black Country to 2026.

The proposal will not result in a loss of employment land but will provide for the use for storage 1761m² and start up business suites with associated parking and landscaping. The proposed start up business use is to enable an ancillary use for class E(g)(i) **Offices** to carry out any operational or administrative functions to operate on the site and is approximately 152.6 m². The use would be controlled by a suitable planning condition and would remain ancillary to the main use for class B8.

Taking account of the above mentioned policies and guidance the proposal is considered to be acceptable in principle and accords with the aims and objectives of BCCS Policy DEL2, SAD Policy IND4, subject to other plan policies and development control criteria.

Design, Layout and Character

The proposed main storage building will measure approximately 41.15 long, by 28 wide, by 15.2 high to the ridge and the site area is approximately 0.47 hectares. The proposed materials are aluminium powder coated doors/cladding and windows. Roller Shutter doors to the self-storage facility are proposed in corporate orange. The external Drive up storage is proposed with Aluminium powder coated roller shutter doors in orange. The proposed external storage units are low level and wrap around the perimeter to the East side of the application site.

The site layout is proposed with hardstanding areas in tarmacadam for the parking

and turning facilities with a belt of landscaping around the perimeter of the site with lawned areas incorporating the existing Silver Birch Trees around the perimeter of the site. The proposal is considered to accord with Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, DW3 Character, and DW5 Ease of movement of the Designing Walsall urban design document.

Trees/Landscape/Biodiversity

A condition to secure additional landscape measures to augment the proposed landscape scheme is considered necessary. In addition the proposed landscape drawing 20108 submitted with the application proposes a proposed hedge with hazel and laurel hedge. It is considered more native hedge species such as hawthorn, wild privet, buckthorn and Holly may be more appropriate than Laurel which is not a native species. Hazel as set out on the landscape drawing is a native species but mixed hedging of the type suggested will help to enhance the biodiversity of the site as most provide food for foraging birds and insects. The number of plants are not shown on the submitted plan and therefore a landscape planting schedule would need to be submitted and agreed in writing with the LPA together with a timescale for implementation of the landscaping measures and replanting should any plants fail. The species mentioned above also couple with security aims and objectives as they are primarily species which include thorns and give protection from intruders around the perimeter together with the proposed perimeter fencing. The proposal is considered to accord with the Unitary Development Plan Policies ENV14 (Development of Derelict and previously developed sites), ENV18 (Existing Woodlands, Trees and Hedgerows) and ENV23 (Nature conservation and new development).

Amenity of Neighbours / Occupiers

The site is primarily surrounded by commercial premises and the proposed use is appropriate to the character of the area.

In terms of the impact on existing and future occupiers some comments have been received from third parties opposite the site in relation to light and view. Loss of light is a material consideration, but a loss of view is not a material consideration. It is considered that buildings opposite the site are of a sufficient distance so as not to impact on light due to the orientation of those buildings which are to the North of the application site. The approximate distance between the proposed storage building and the nearest neighbouring property is 15 metres between the proposed North East corner of the building and the property nearest at 75 Wood Street. The external storage buildings are much lower in height at approximately 3 metres high. A central external storage building is situated within the courtyard created by the low level external storage building which is 14.2 metres wide at the widest point. This is not considered to adversely affect the amenities of nearby present and future occupiers.

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

Highways

The Highway Authority generally supports the proposal and would be looking for the highway footways along Lower Lichfield Street and Wood Street frontages of the site, to be widened to 2 metres where they fall below this width, and the additional width to

be offered for adoption under a S38 agreement.

Willenhall is an historic industrial town and as such many of the roads and footways are what are considered today to be of a sub-standard design. In order to make modest improvements to the highway infrastructure to the benefit not only of the site users but also the wider public, where redevelopment opportunities arise as in this case, the Highway Authority would look to seek reasonable and modest improvements as and where necessary. The footways fronting this site are mostly around 1.5m in width and are considered presently below current standards particularly for a town centre location. Manual for Streets 1 guidance recommends footways should be 2 metres in width.

The Highway Authority considers that widening of the footway to 2 metres would have a minimal impact on the development layout and a marginal impact of the proposed landscaping. A suitable condition to secure a revised site layout will be required showing the footway widening and annotated on the drawing. The condition would be a pre commencement "Grampian" condition to secure the details in accordance with the requirements of the Highway Authority as the footway lies outside the limits of the development of the site but is appropriate and can be secured as the footway is within the control of the Local Highway Authority.

There have been comments from third parties with regard to the potential for an increase in traffic generation from vehicles using the site and on street parking and turning. These matters can however be controlled by suitable conditions and there are no reasons to refuse the application on highway grounds.

The application is considered to accord with "saved policies" T7 - Car Parking T13: Parking Provision for Cars, Cycles and Taxis, and the Black Country Core Strategy Policy TRAN2: Managing Transport Impacts of New Development.

Heritage Assets

The NPPF makes it clear at Paragraphs 194 and 195 that great weight should be given to safeguarding designated heritage assets, and that clear and convincing justification should be provided where harm arises. This approach is echoed within the Council's adopted Development Plan Policies, in particular Black Country Core Strategy Policy ENV2 which seeks to protect the historic environment, and Site Allocation Document Policy EN5 which makes it clear that development will not be permitted where it erodes the important character of a Conservation Area.

When considering a development proposal within a conservation area or within the setting of a listed building, sections 66 and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the asset and Paragraphs 199-202 of the NPPF 2021 states that when considering the impact of a proposed development on the significance or setting of a designated heritage asset, great weight should be given to the asset's conservation.

Paragraph 201 of the NPPF seeks to ensure that where a development proposal will lead to less than substantial harm to the significance of a heritage asset. The harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Within the vicinity of the application site there are a number of locally listed heritage assets. These are located at the following locations.

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- 71 Wood Street C19 Excelsior works (J Banks and Co).
- 75 Wood Street C19 2 storey brick building, Gate piers to side with works buildings to side and rear.
- Municipal cemetery, mid/late C19. Gate piers to Cemetery Road dated 1904. Orange brick with inscribed slabs and stone finials. Wrought ironwork of further gate on corner with Wood Street. [Symmetrical cemetery layout. Many memorials of historic significance in connection with the leading local families.
- Froysell Street – Mid C19 Wesleyan Chapel now used as a store.

The Willenhall Conservation Area is located at its nearest point to the application site at the end of Wood Street behind the Morrison's Supermarket.

It is considered that the proposal would lead to "less than substantial harm" to the character and appearance of the Willenhall Conservation Area and also the Locally Listed Heritage Assets closest to the application site. Weight has been given as advised by Paragraph 201 of the NPPF when weighing the harm against the public benefits of the proposal by bringing and securing this derelict site back into its optimum viable use. The proposal is therefore considered to comply with Policy ENV2: Historic Character and Local Distinctiveness of the Black Country Core Strategy, and policies DW3 Character, DW9 High Quality Public Realm, and "saved" Unitary Development Plan policy ENV27 Buildings of Historic or Architectural Interest and the National Planning Policy Framework 2021.

Flood Risk / Drainage

The application site lies in Flood Zone 1 at the lowest risk of flooding as defined on the Environment Agency Flood Map for Planning. The development is considered subject to suitable conditions to secure means of sustainable drainage not be likely to increase flood risk or surface water flood risk to adjacent sites.

Severn Trent Water Authority has no objections but suggest conditions in relation to the disposal of foul and surface water, and that the approved details shall be implemented in accordance with the agreed details prior to the development being first brought into use.

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

Ground Conditions and Environment

The application is accompanied by a coal mining report and a Phase One Geo-environmental Desk Study. The Coal Authority has no objections subject to conditions to investigations being carried out in relation to the risks posed by past shallow coal mining activity.

The application site is a former industrial site and the Pollution Control Officer advises that a condition is required to investigate potential for ground contamination and ground gas, and remediate if necessary, implement a management plan to minimise environmental impact during the course of building works, and for the installation of an electric-vehicle charging point. The Public Health Officer has no objections to the proposal.

Subject to a condition to secure the above scheme of investigation for contamination potential the proposal is considered to accord with "Saved" Unitary Development Plan

Conclusions and Reasons for Decision

Given that there are no material planning considerations to not support the proposals it is concluded that taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested. In accordance with paragraph 38 of the National Planning Policy Framework 2021.

Recommendation

Delegate to Head of Planning and Building Control to Grant Planning Permission Subject to Conditions and the amendment and finalising of conditions.

Recommendation

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

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

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:
 - 20108 3000 Rev P2 Proposed site location plan. Received on the 7th January 2021
 - 20108 3001 Rev P1 Proposed Ground floor plan. Received on the 7th January 2021
 - 20108 3002 Rev P1 Proposed First floor plan. Received on the 7th January 2021
 - 20108 5002 Rev P1 Proposed East and West Elevations. Received on the 7th January 2021
 - 20108 5001 Rev P1 Proposed South and North elevations. Received on the 7th January 2021

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. The hereby permitted ancillary offices of Class E(g)(i), to carry out any operational or administrative functions, shall not be open other than between the hours of 08:00 hours to 18:00 hours Mondays to Saturdays Sundays, Bank and Public Holidays.

Reason: To protect the amenity of nearby residential occupiers in accordance

with saved UDP policies GP2 and ENV32.

4. Notwithstanding the provisions of the Town and Country Planning (Use Classes Order) 1987 (as amended) or any Order revising, revoking or succeeding that Order with or without modification, the hereby permitted development shall not be used for any purpose other than for Use Class B8 and E(c)(i) Financial services, E(c)(ii) Professional services (other than health or medical services), E(g)(i) Offices to carry out any operational or administrative functions.

Reason: To define the permission and ensure the proposals are compliant with Saved UDP Policies GP2 and ENV32.

4. The hereby permitted E(g)(i) **Offices** to carry out any operational or administrative functions uses, shall remain ancillary to the main use of the site for storage and distribution purposes and shall not exceed a total of 152.6sq.m floorspace for the lifetime of the development.

Reason: To define the permission and ensure the proposals are compliant with Saved UDP Policies UDP policies GP2 and ENV32.

5. Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

c. The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

6. a. Prior to commencement of the development hereby permitted a site survey to identify any potentially hazardous materials shall be carried out and a Method Statement detailing actions to be taken and timescales for the taking of such action to prevent localised contamination shall be submitted in writing to and approved in writing by the Local Planning Authority.

b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Method Statement.

c. Following demolition of the building hereby permitted and removal of the demolition material but prior to any building or engineering operations a validation report shall be submitted in writing to the Local Planning Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials and the building and to verify that the

approved Method Statement has been carried out.

Reason: To prevent potential contamination of the ground due to any potentially hazardous materials associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

7. a). Prior to the commencement of the development hereby permitted, details of the adoptable highway works and works within the existing public highway shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the footway widening along Lower Lichfield Street and Wood Street and the removal of the redundant access in Wood Street. The works shall be implemented in accordance with the approved details.

Reason: To improve pedestrian accessibility to the site and to the wider public, to ensure the safe and satisfactory operation of the development in accordance with UDP Policy GP2, T1, T5, T8 and in the interests of highway safety.

8. Prior to the development hereby permitted first coming into use, the parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain, together with the demarcation and retention of parking bays. These areas shall thereafter be retained and used for no other purpose for the lifetime of the development.

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

9. Prior to the commencement of the hereby permitted development details of the measures for tree protection and planting plans shall be submitted and agreed in writing with the Local Planning Authority. These details shall include;

- a) details of protective fencing and ground protection to be installed around all retained trees shall be submitted in writing to and approved in writing by the Local Planning Authority
- b) The approved protective fencing and ground protection shall be installed
- c) One month's written notice of the intention to commence development shall be given to the Local Planning Authority to allow the Council's Arboriculture Officer to fully inspect the installation of the protective fencing and ground protection.
- d) Species and number of additional hedge and tree planting (please note that native species should be included in the planting plans to secure the provision for appropriate planting and to enhance biodiversity within the site.

e). The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved details before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

f. Nothing shall be stored or placed nor any fires started, any tipping, refuelling, disposal of solvents or cement mixing carried out inside the protective fencing or on the ground protection referred to in part a to this condition. Ground levels within protective fencing and on ground protection areas shall not be altered nor shall

any excavation or vehicular access or drainage routes be made.

g). The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of the UDP and Conserving Walsall's Natural Environment SPD.

10. Prior to the development hereby permitted first coming into use, full details of the cycle shelter, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details and thereafter be retained and used for no other purpose for the lifetime of the development.

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

11.a. Prior to commencement of the development hereby permitted an air quality assessment shall be submitted in writing to and approved in writing by the Local Planning Authority. The assessment shall include details of recommendations for mitigation measures.

b. Prior to occupation the approved mitigation measures shall be carried out to the satisfaction of the Local Planning Authority.

c. The development hereby permitted shall not be carried out otherwise than in accordance with the agreed mitigation measures and such measures shall thereafter be retained for the lifetime of the development.

Reason: To reduce potential negative health impact upon future occupants in compliance with the saved policy ENV10 of Walsall's Unitary Development Plan.

Notes for Applicant

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 enter into an agreement under S38 and S278 of the Highways Act 1980 with the Highway Authority for all adoptable highway works and works within the existing public highway. For further advice please contact Highway Development Control Team at Stephen.Pittaway@Walsall.gov.uk
3. Severn Trent Water advise that there may be a public sewer located within the application site. Although statutory sewer records do not show any public sewers within the area specified, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact should be made with 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 that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-pay basis. Every approach to build near

to or divert assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. You should therefore contact Severn Trent Water at the earliest opportunity. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

END OF OFFICERS REPORT



Planning Committee

Report of Head of Planning and Building Control on 10 February 2022

Plans List Item Number: 4

Reason for bringing to committee

Major Application

Application Details

Location: GREAT BARR HALL & REGISTERED PARK, SUTTONS DRIVE, GREAT BARR, B43 7BB

Proposal: RESTORATION AND ALTERATIONS TO GREAT BARR HALL GRADE II LISTED BUILDING AND GRADE II REGISTERED PARK INCLUDING:- CREATION OF HOTEL/WEDDING CONFERENCE CENTRE/RESTAURANT - RESTORE LAWNS TO GREAT BARR HALL - 2 GATEHOUSE LODGES - MAINTENANCE BUILDING/STORE - 57 NEW DWELLINGS - ENHANCED OPEN SPACE AND NATURE CONSERVATION - ACOUSTIC BARRIER - BOAT HOUSE - SUMMER HOUSE - DEMOLITION OF FARM BUILDINGS AND INSTALLATION OF PHOTOVOLTAIC PANELS ALONGSIDE MOTORWAY. APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT.

Application Number: 13/1567/FL AND 13/1568/LB

Case Officer: Ann Scott

Applicant: BCG Lakes Limited

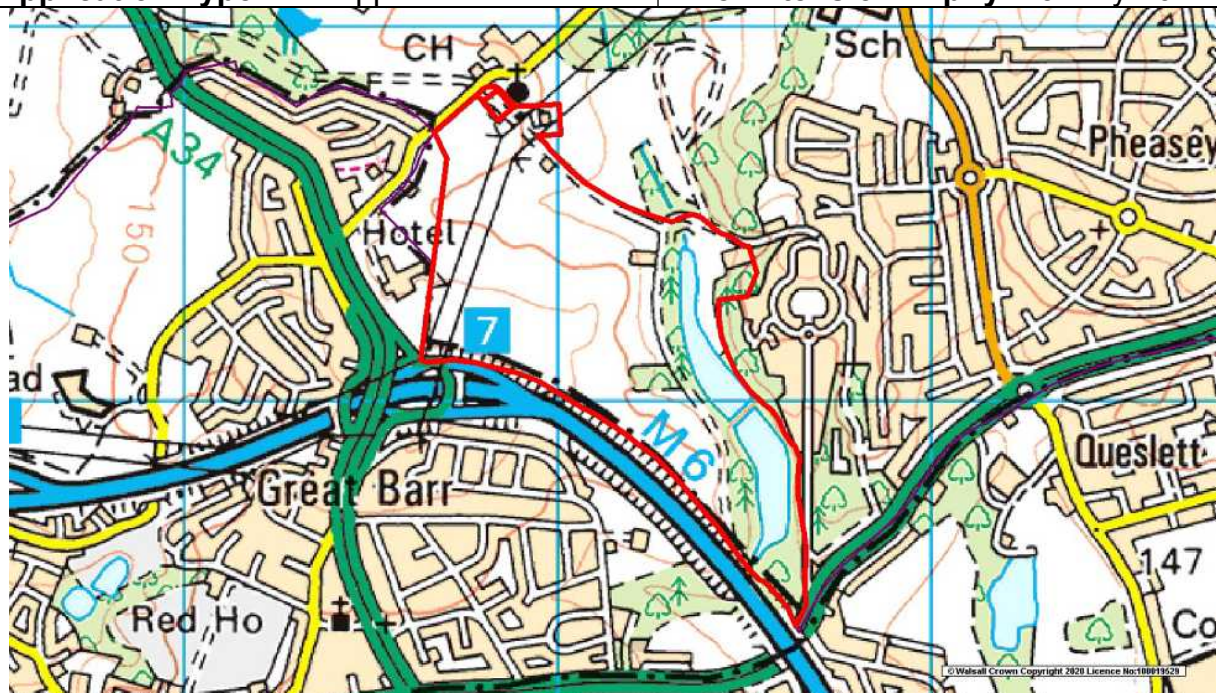
Ward: Pheasey Park Farm

Agent: MGL Design Associates

Expired Date: 12-Aug-2014

Application Type: Full Application

Time Extension Expiry: 13-May-2014



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Recommendation

Refuse Planning Permission

Proposal

Restoration and alterations to Great Barr Hall Grade II Listed Building and Grade II Registered Park including:

- Creation of Hotel/Wedding Conference Centre/Restaurant
- Restore lawns to Great Barr Hall
- 2 Gatehouse Lodges
- Maintenance Building/Store
- 57 new dwellings
- Enhanced open space and nature conservation
- Acoustic barrier
- Boat house
- Summer house
- Demolition of farm buildings and installation of photovoltaic panels alongside motorway

A submitted structural report provides an overview of the works needed to stabilise the superstructure. These include:

- Repair and replace all roof structures and covering.
- Repair masonry to all windows and door heads on the external wall and rebuild wall tops where damaged.
- Repair and replace all render including the various mouldings associated with the doors and windows.
- Replace all rainwater goods and down pipes.
- Install new windows and doors in external envelope.
- Construct new ground and first floors including stabilising the cellar vaulting with lime Crete infilling. The report mentions timber supports and the need to investigate why these were inserted. It may be the failure of these that has led to the collapse of vaulting.
- Consider the construction of a fully scaffolded enclosure with temporary roof to promote the preservation of the remaining fabric and facilitate the repair and construction works required.
- Consider temporary support for the principal flanking walls of the staircase hall
- The stabilisation of the hall is proposed in Phase 1 of the works and it is understood that the above would form the basis for this, however, it would need to be adapted as the circumstances surrounding the cellars has significantly changed.
- *Historical value:* The building has association with the original landowner, Joseph Scott was made a baronet in the late C18 and became MP for Worcester. The house was also known to be used for meetings of Lunar Society (its prominent inhabitants, visitors and the industrial growth of the nation) many of whom were Fellows of the Royal Society and who included Matthew Bolton, James Watt, Erasmus Darwin and Josiah Wedgwood. There is also association with prominent architects of national recognition with some attributions to elements such as the gate houses and chapel by Sir George Gilbert Scott and some influence from John Nash, although these attributions cannot be proved their involvement has a strong probability.

Site and Surroundings

The application site is situated within the grounds of the former St Margaret's hospital site, which has previously been partly developed to create a new residential estate consisting of 445 dwellings. This application is accompanied by an Environmental Statement.

The application site adjoins a wooded area and falls within the Grade II registered historic garden, Great Barr Hall estate, Great Barr Conservation Area the Green Belt, and within the Great Barr Hall Lakes open space and includes a SINC (Site of Importance for Nature Conservation) and number of SLINC's (Site of Local Importance for Nature Conservation). Tree Preservation Order 19 of 1995 protects all the trees on the site and on adjoining land.

The wider site contains a Site of Importance for Nature Conservation (SINC). St. Margaret's Hospital grounds, along with Great Barr Hall and Estate remain one of the most sensitive sites within the Borough.

The application site is partly situated in Flood Zone 3 as defined on the Environment Agency Flood Map for Planning. The site is also shown as being at risk from surface water flooding. These areas are generally centred on the lake areas but surface water flood risk areas extend closer to the Listed Hall building.

Relevant Planning History

02/2417/OL/E2 - An application for outline planning permission to redevelop the former St Margaret's Hospital for residential development, alterations to existing access at Queslett Road including repositioning of C20th gate posts and associated development. Refused 04/07/2003, won on appeal 13/09/2004.

15/0135/OL – (Land East of Netherhall Avenue) - Outline application (including details of access and scale) for erection of 14 detached family dwellings with associated external works. Withdrawn 08/12/2016.

10/1262/OL – (Former Queslett Centre, Lakeview Close) - Outline application for residential development (access, layout and scale to be determined). GSC 12/11/2010

13/1197/RM – Reserved Matters: Landscaping and External Appearance for outline residential scheme approved under Planning Application 10/1262/OL, together with details required by conditions 15, 16 and 17. Approved 25/10/2013

15/1364 – (Former Queslett Centre, Lakeview Close) - Redevelopment of former Queslett Centre for 7 detached houses and associated works including access road. GSC 06/11/2015

16/0516 – Construction of 5 dwellings and associated works – Holly Wood Nether Hall Avenue Great Barr. Refused August 2020.

21/0074 - Embankment repairs to the southern edge of the Upper Lake, reservoir dam wall repairs and removal of smaller trees, saplings and ground covering vegetation – Great Barr Hall Lakes – approved 6-1-22

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 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 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

Enabling Development and Heritage Assets – Historic England June 2020

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
- GP3: Planning Obligations
- 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
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis
- H4: Affordable Housing

- LC1: Urban open Spaces

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- 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, Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV8: Air Quality
- MIN1: Managing and Safeguarding Mineral Resources
- TRAN2: Managing Transport Impacts of New Development

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- HC3: Affordable Housing and Housing for People with Special Needs
- OS1: Open Space, Sport and Recreation
- GB1: Green Belt Boundary, Control of Development in the Green Belt
- EN1: Natural Environment Protection, Management and Enhancement
- EN2: Ancient Woodland
- EN3: Flood Risk
- EN5: Development in Conservation Areas
- EN7: Great Barr Hall and Estate and St Margaret's Hospital
- M1: Safeguarding of Mineral Resources

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
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places

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- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- 5.13 – Use of Conditions, Obligations and CIL

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
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

Affordable Housing

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH3: Abnormal Development Costs
- AH4: Provision Location
- AH5: Off Site Provision

Consultation Replies

Walsall Civic Society

The Hall is now in such a poor state of repair that it presently has little or no historic value. The Civic Society advice is that the remains of the hall could be left as a ruin or relic within the park land. The existing hall is not capable of repair but would need to be largely rebuilt and this would result in de listing the structure.

Whether or not the proposal results in a picturesque ruin, or an imitation of the Victorian building. The opportunity should not be lost to remind the public of the connections with the Lunar Society but consider whether a development of this scale with limited public access, in historic parkland and green belt is a way to make that connection.

Conservation Officer – comments have been received by the Councils Conservation Officer first in February 2014 and again to revisions in April 2016.

The main points raised were as follows;

February 2014

The original plans and information was considered insufficient and lacked information in relation to a number of key issues:

- Cultural Heritage;
- Visual impact;

- Justification of design options selected for the enabling development;
- Building survey undertaken separately to the structural survey;
- Structural report commented on the chapel being uneconomic to repair and suggested demolition was the only option;
- Unclear plans;
- Amount of proposed demolition unclear;
- No demolition method statement;
- No detail on proposed re-building of the Great Barr Hall and inappropriate materials proposed; and
- Enabling development would result in harm to the registered parkland, direct and indirect impact on the setting of the listed hall and enclosure of the openness of the green belt.

April 2016

The key issues raised:

- Overall balance on impact on heritage needs to be struck against National Planning Policy Framework paragraphs 201 - 202.

The following issues need clarification:

- Justification of the 10 owners dwellings which do not contribute to the enabling development;
- Not all alternative options have been considered. The conversion of the building into apartments, sheltered accommodation/ nursing home may negate the need for enabling development as would other uses;
- The viability of complete demolition and replacement of a building with exceptional architecture which would negate the need for enabling development;
- Confidential financial details pertaining to the actual purchase price paid for the land and the financial status of the owners to ensure there is the ability to bring all the phases of the site forward;
- The need to undertake an independent assessment of the figures;
- An investigation of ownership to see if a trust can get involved in order to utilise grant funding such as the enterprise grant;
- The demolition of the chapel and replacement with pastiche architecture, as well as the clock tower goes against conservation philosophy and honest interpretation of the structure;
- The use of block work and plasterboard is not supported and may cause future defects to historic building fabric; and
- The car park's crenulated entrance is also pastiche and not historically accurate.

Ecology Officer – objection on the grounds of out of date information

- Significant parts of the survey data underpinning both ecological and tree reports date from 2012 and are too out of date;
- The short ecological report based on survey work carried out in February 2016 is insufficient and an inappropriate time to carry out field work for most species and habitats; No landscape & visual impact assessment;
- No landscape scheme; and
- Tree survey needs to be amended and updated in order to assess the impact on trees.

This application should be refused **Page 92 of 194**

Historic England

The amount of development is very substantial and whilst the proposal has the potential to conserve some aspects of the heritage assets, stage one will cause very serious harm to the registered landscape and serious harm to the Grade II Listed Hall and stage two will cause further harm to the hall not in accordance with Section 12 of the National Planning Policy Framework which requires special regard to be given to the preservation of listed buildings and their setting. The NPPF refers to the need to avoid conflict between the conservation of heritage assets and achieving viable uses for them that are consistent with their conservation.

Recommend refusal based on the submitted information that fails to demonstrate that the amount of enabling development is the minimum necessary and fails to demonstrate that the proposal will secure the future of designated heritage assets or that it meets the tests of the National Planning Policy Framework.

Local Highways Authority

No objections to the proposed development subject to conditions:

- Highway improvements around the main access points off Chapel Road and closure to vehicular traffic to the Northern most access and improvements to pedestrian links and crossing facilities to Merrion's Wood, across Chapel Lane and Suttons Drive.
- The submission and agreement in writing of a Construction Methodology Statement.
- A restriction on the hours of operation for the wedding and conference facilities. To reduce the impact on the local highway network.
- Submission and Implementation of a Travel Plan to encourage sustainable travel to and from the site.
- Provision of parking and turning within the site prior to the Conference and Wedding facility coming into use.

Friends of the Earth - Walsall

Comments received on whether the enabling development will be used to support the proposed development and whether it can be justified in NPPF terms. Could it be built without any other development coming forward in future in the Green Belt.

Pollution Control – Concerns raised with regard to impacts from:

- Noise;
- Air quality;
- The potential for Odour from hot food preparation areas;
- Requirement for the control of dust and debris from the site during construction and demolition;
- Restrictive condition recommended with regard to the hours of operation for construction and engineering works;
- No development closer than 50m from the M6 hard shoulder; and
- Noise mitigation scheme to be submitted and agreed for the housing.

Sandwell MBC – Objection on the grounds that it allows for inappropriate development in the Green Belt. Concerns about enabling development along Chapel

Lane, the public gain does not outweigh the loss. Concerns the proposal will allow only limited access to the park and gardens to the public. Not sufficient public benefit from the development. Also not clear if more enabling development would be required if the repairs to the hall resulted in increased costs. More harm would result from further development of the site.

The strategic gap between Sandwell and Walsall would be to the detriment of the residents of Sandwell who would see no benefit from it.

Coal Authority - No objection.

Environment Agency - No objections to the proposed development subject to conditions in relation to provide a 10 metre buffer zone around the boundary of land East of Chapel Lane to prevent disturbance to the two ponds. A scheme to ensure that landscape within the site is managed to protect the ecological value of the site including watercourse, pond and wetland areas and a scheme to ensure the nature conservation value of the site is protected.

Environment Agency Sustainable Places Planning Specialist - The condition previously recommended regarding the assessment of the risks posed by the site to 'Controlled Waters' receptors (recommended in letter UT/2013/112360/01-L01, dated 14th January 2014) is considered sufficient to ensure the development of the site does not adversely impact the quality of water held within the aquifers underlying the site or the surface water bodies across the site.

Representations

Support

- 3 x letters of support for the application on the grounds that the proposal represents a final chance to preserve and improve the area and reduce anti-social behaviour.
- 1 x letter of support for the proposed wedding venue from local business who do weddings/conferences in West Bromwich.
- Application would add quality of life in the neighbouring area.
- Petition in support of the proposal for the enabling development and proposal with 385 signatures
- Petition in support of the proposal for the enabling development to save Great Barr Hall from the residents of the Nether Hall Estate with 95 signatures.
- Letter of support from third party hotel owner who comments that the proposal will bring the benefit of employment and visitors to the area.

Objections

- Vicar of Great Barr - objects to the housing proposals along Chapel Lane as unsuitable given the issues of the high voltages of the overhead cables over the site.
- St Margaret's Church – objection. We have legal rights over Suttons Drive from its junction with Chapel Lane to the point of access into the Churchyard.
- Beacon Action Group – objection – difficult to identify proposal due to volume of documents submitted. Applicants failed to address all concerns raised.
- 5 x Objections from nearby residents and third parties in relation to:
 - Inadequate services in Chapel Lane
 - Damage to wild life
 - Increased traffic problems particularly during rush hour

- Unacceptable development in Green Belt
- Need additional school places, GP services
- Great Barr Hall unlikely to be brought back to its former state
- Damage to the local environment
- Would change the character of the area from rural to urban
- Gated development with no proper access or public benefit

Determining Issues

- Impacts on Heritage Assets
- Principle of Use and Green Belt
- Habitat and Protected Species
- Protected Trees
- Landscape and visual impact
- Design and character
- Housing Need
- Open space
- Highways
- Amenity of Nearby and Intended Occupiers
- Flood risk
- Local Finance Considerations

Assessment of the Proposal

Impacts on Heritage Assets

The NPPF makes it clear at Paragraphs 194 and 195 that great weight should be given to safeguarding designated heritage assets, and that clear and convincing justification should be provided where harm arises. This approach is echoed within the Council's adopted Development Plan Policies, in particular Black Country Core Strategy Policy ENV2 which seeks to protect the historic environment, and Site Allocation Document Policy EN5 which makes it clear that development will not be permitted where it erodes the important character of a Conservation Area.

When considering a development proposal within a conservation area or within the setting of a listed building, sections 66 and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the asset and Paragraphs 199-202 of the NPPF 2021 states that when considering the impact of a proposed development on the significance or setting of a designated heritage asset, great weight should be given to the asset's conservation.

There are a number of components to the listed building and planning application which are dealt in turn.

The entire Great Barr Hall and gardens are within the Great Barr Conservation Area. Pursuant to the Planning (Listed Buildings and Conservation Areas) Act 1990, additional consideration needs to be given to the enhancement of the character and appearance of the conservation area.

The site also contains a number of listed buildings including the Grade II Great Barr Hall and Chapel, the grounds surrounding the Great Barr hall are a Registered Park and Garden and are also listed as Grade II. To the north-western edge of the park and garden is the Grade II listed Church of St. Margaret, and to the south of the park

and garden lies a former gatehouse called Handsworth House, a Grade II listed building. Both these buildings lie within the setting of the park and garden.

There is also the consideration of the Great Barr Hall and Chapel which have an 'at risk' status where the gardens and hall are both listed on the 2015 Historic England Heritage at Risk Register 2015, listed as 'very bad' condition with an at risk Category A, the highest and most vulnerable of the at risk categories. This at risk status and the need to reduce and reverse this deterioration needs to be considered as a material consideration in this application.

Loss of historic fabric and demolition:

The conservation officer advises that the applicant has attempted to interpret the structural report into plan form at the request of officers so as to indicate the full extent of demolition. The plans are still unclear when considering the demolition as these have been illustrated on the proposed plans rather than the existing plans and as such new structures are in place of areas of demolition. It is necessary when approving demolition works to a Grade II listed building to clearly identify lost areas of fabric (on existing plans). Whilst in some areas the demolition can be clearly gauged from the plans, in others, it is unclear what internal fabric would be lost.

The Great Barr Conservation area appraisal and management plan Draft 3 August 2021 refers to Policy EN7: the Great Barr Hall and Estate and St Margaret's Hospital site. Of the Walsall Site allocation Document 2019 which advises that

"Although most of the residential development here is now complete, there is potential for a small number of further homes to be provided through the redevelopment of the former sites of hospital buildings, the conversion and / or extension of the Hall, and the completing of enabling development to fund the restoration of the Hall and historic parkland."

Policy EN7 is focussed on the following areas:

- Safeguarding and where possible enhancing the relationship between Great Barr Hall and the surrounding landscape;
- A forward looking positive and pro-active approach to the future use and management of the Great Barr Hall Estate;
- Minimising impact to relevant built heritage assets and the conservation of the significance of the Great Barr Hall conservation area and RPG;
 - Resisting development where proposals are of an inadequate design quality, or where buildings are no longer extant or their use has been abandoned.
- Enabling development only justified when targeted at the restoration or maintenance of the built heritage assets
- A focus on potentially differing forms of ownership such as a trust for the RPG and Great Barr Hall and Chapel;
- Focus on the long term viability for the retention and restoration of the Hall and Chapel.

Character of the Great Barr Hall Site

The character of the immediate and nearby area has a rural feel which is not characterised as a built up area but is dominated by the existing mature woodland and soft vegetated appearance which results in the site having the perception of being isolated. It is considered that the addition of 57 dwellings, with the associated

residential paraphernalia and the other associated infrastructure and including the photovoltaic panels proposed adjacent to the M6 motorway would be detrimental to the character and appearance of the conservation area and result in a more urban appearance which does not reflect the historic character of the immediate area within the Green Belt.

The proposal for housing on this site is proposed mainly to facilitate and enable the redevelopment of the Great Barr Hall (formerly St Margaret's Hospital) the Grade II Listed Structure, to provide for the creation of a hotel/wedding/ and Conference Centre which also includes a restaurant.

In addition the proposal puts forward the restoration of the lawns to Great Barr Hall including the construction of 2 gatehouse lodges and an associated maintenance building/store, acoustic barrier, boat house, summer house and the demolition of existing farm building.

Whilst the proposal includes new housing as part of the enabling development the development must be weighed against the substantial harm to the existing Great Barr Hall Listed Structure. It may be in a poor state of repair and there may be an argument that the current proposal may result in an improvement to the site by reinstating the Listed Structure. However, any merit the building has is already lost and there are strong objections to the proposal from Historic England as a statutory consultee who consider that the proposal would result in substantial harm to the Great Barr Hall as a listed heritage asset and would also adversely impact on the historic parkland and green belt.

Consideration of harm to the setting of the Grade II Church of St. Margaret

Other than from an elevated location on the church tower, there is limited indivisibility between the development and this listed building. The dense trees and shrubs between the church and the new gates and lodge ensure that the impact on the church is very limited. As such the proposal satisfies Section 66(1) Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

Consideration of harm to the setting of Handsworth House

Handsworth House is a former lodge to the Great Barr Hall. It is currently set amongst residential development along the Crescent, and lies at the southernmost entrance to the Great Barr Hall Estate and severed by the M6 motorway. The proposed scheme which includes enabling development would not be considered to cause harm to the setting of this listed building. As such the proposal satisfies Section 66(1) Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

It is considered that the introduction of 57 new houses in an isolated location would not preserve or enhance the characteristics or appearance of the Conservation Area would not be sufficient to outweigh the harm the development would bring. It is considered the proposal would result in 'substantial harm' to the Conservation Area as a whole, and insufficient evidence has been put forward to justify the harm, which would make the proposed development acceptable or outweigh the identified 'substantial harm' to designated heritage assets.

The proposed development and works are not considered to preserve or enhance the historic interest and significance of the listed buildings, including their setting. The proposals are inappropriate in materials, and are lacking in appropriate architectural

details. Consequently the proposed development is not considered to either preserve or enhance the architectural and historic character of the designated heritage assets or their historical context and are therefore contrary to paragraphs 195-201 of the guidance within the National Planning Policy Framework and this therefore fails to comply with paragraph Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as special regard is required to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Paragraph 201 of the National Planning Policy Framework is clear that in such circumstances the application should be refused. Unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Policy ENV2 of the BCCS aims to protect and promote the special qualities, historic character and local distinctiveness. Proposals will be required to preserve and enhance local character and those aspects of the historic environment. The proposal fails to meet the tests of paragraph 201, and the proposal is therefore considered to be contrary to Policy ENV2: Historic Character and Local Distinctiveness of the Black Country Core Strategy. As the proposal fails to provide sufficient justification to overcome the policy concerns.

Paragraph 201 of the NPPF advises that where a proposed development will lead to substantial harm or total loss of significance a designated heritage asset, local planning authorities should refuse consent. Unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh the harm or loss subject to the following;

- a) The nature of the heritage asset prevents all reasonable uses of the site; and
- b) No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) Conservation by grant funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) The harm or loss is outweighed by bringing the site back into use.

Paragraph 201 of the NPPF seeks to ensure that where a development proposal will lead to less than substantial harm to the significance of a heritage asset. The harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

In relation to the proposed “enabling development” and heritage assets.

As defined in paragraph 201 of the NPPF, enabling development is development that would not be in compliance with local and/or national planning policies, and not normally be given planning permission, except for the fact that it would secure the future conservation of a heritage asset. However, paragraph 201 of the NPPF recognises that conflict with planning policies may be justified if the development proposed would secure the future conservation of the asset(s) and the wider benefits outweigh the disbenefits of not adhering to those policies. In such cases, enabling development is an entirely legitimate planning tool. Paragraph 79b of the NPPF also indicates that enabling development may be an acceptable exception to the restriction on isolated homes in the countryside. However, such circumstances may only transpire once all the relevant tests in the NPPF, including paragraph 201, have been addressed.

Enabling development is a planning mechanism which permits departure from

planning policies in appropriate cases (see NPPF paragraph 201), and so enables conservation of a relevant heritage asset in cases where otherwise the future of the asset would not be secured. It is not in the public interest to pursue enabling development if there are alternative means of delivering the same outcome for the heritage asset, such as other sources of public or private investment. It is an inherently inefficient way of raising money for the conservation of heritage assets, because it is likely that only a small percentage of the value of the new development is put towards the repairs and maintenance. The other percentage going on the costs of the enabling development

Even when it is clear that enabling development is the only way to secure the future conservation of a heritage asset, the LPA still need to assess whether the heritage and any other public benefit it would secure would outweigh any “substantial harm” as a departure from planning policy. In relation to the tests set out in paragraph 201 of the NPPF.

The Councils’ Conservation Officer has advised that there will be “substantial harm” to the significance of the heritage assets which would be completely lost as the proposal replicates the original and is proposed using historically inaccurate building materials, methods and craftsmanship. In visual terms the proposal fails to put forward clear and convincing justification for the alterations and extensions to the Listed Great Barr Hall and accompanying enabling development to overcome the policy concerns in relation to the visual impact of the proposal.

In relation to the proposed enabling development and in particular the proposed finance for the restoration of the Great Hall and the proposed enabling development. It is considered that the case put forward in relation to the likely costs of the development may not accurately reflect the actual costs for the restoration works and enabling development. Development costs may have increased since the application was submitted. In particular the conservation officer advised that the restoration costs of works and materials for the restoration of the Great Barr Hall may not adequately reflect the costs involved to properly restore the building using appropriate materials and construction methods. It is considered that the proposal does not put forward clear and convincing justification for the enabling development and associated works to restore the existing buildings to be converted in relation to estimates of the likely cost of works involved. In the long term the NPPF paragraph advises that development should achieve an economic objective by ensuring sufficient land of the right types is available in the right places and at the right time to support growth.

Principle of Use and Green Belt

The application site is within the Green Belt. National Planning Policy Framework Chapter 13, Paragraphs 147 and 148 state that it is only in ‘very special circumstances’ that inappropriate development should not be approved in the Green Belt and that ‘substantial weight’ should be given to any harm, unless it can be demonstrated that such harm is outweighed by other factors. This position is mirrored in Policy GB1 of the Council’s adopted Site Allocation Document. Policy EN7 Great Barr Hall Estate and St Margaret’s Hospital advises that there could be the potential for further homes to be provided through the redevelopment of the former hospital site. This could be achieved either through the redevelopment/conversion or extension to the Hall, and enabling development to fund the restoration of the Hall. On balance, this proposal does not meet the criteria set out in policy EN7 and paragraph 201 of the NPPF in relation to enabling development for the reasons set out in this report.

NPPF paragraphs 149 and 150 set out the exceptions to allowing development in the Green Belt and this includes extensions to, and re-development of buildings, providing they are not 'materially larger' than existing. As part of the original 2002 planning approval for the existing housing, the developer demonstrated the site to be landscaped with broad leaf trees as part of the restoration of the historic landscape. This current application proposes 57 additional dwellings which would further increase the built footprint within the Green Belt and is not regarded as an exception to the 'special circumstances'. When assessed against the tests in the National Planning Policy Framework it is considered that the current proposals represent inappropriate development in the Green Belt and is contrary to the NPPF 2021 chapter 13 Protecting Green Belt Land, and Policy GB1 and EN7 of the Site Allocation Document.

In relation to the proposals for the alterations and change of use of the existing Hall which is in a derelict state at present, substantial rebuilding and alterations would be required to facilitate the reuse of the building for the intended wedding venue. In relation to Green Belt Policies in the 'saved policies' of the Walsall Unitary Development Plan, and the NPPF paragraph 149 (g) it is considered that a partial or complete redevelopment of previously developed land, whether redundant or in continuing use would not have a greater impact on the openness of the Green Belt or would not cause substantial harm to the openness of the Green Belt. This however relates to proposals which would meet an identified housing need within the LPA area.

This development proposal does not propose the use of the footprint of the existing Hall for residential, instead it proposes a commercial use. In relation to the provision of housing the dwellings are proposed elsewhere on the site. These proposals for the redevelopment of the site and Hall does not constitute an exception to the 'special circumstances' for allowing development in the Green Belt. This application has failed to demonstrate any 'very special circumstances' to meet the National Planning Policy Framework tests for inappropriate development in the greenbelt.

Habitat and Protected Species

Much of the submitted information is out of date and surveys have not been carried out during the appropriate times and fail to properly evaluate the impacts on the basis of recent survey data and fail to demonstrate that the proposal would adequately safeguard and enhance important and protected habitats and species and that the development would not result in harm. In addition, the extra lighting has the potential to impact on foraging bats in the surrounding woods.

This application is therefore contrary to Saved Unitary Development Plan Policies GP2 (Environmental Protection), ENV18 (Existing Woodlands, Trees and Hedgerows), ENV23 (Nature Conservation and New Development) and ENV24 (Wildlife Corridors), Black Country Core Strategy Policy ENV1 (Nature Conservation), Site Allocation Document Policies EN1 (Natural Environment Protection, Management and Enhancement) and EN2 (Ancient Woodland), NE1 to NE10 of the Conserving Walsall's Natural Environment SPD and the National Planning Policy Framework.

Protected Trees

The surrounding woodland is protected by a woodland classification TPO title no. 19/1995 and the application site is also within a Conservation Area whereby all trees are automatically afforded protection. A Veteran Tree is also present along with ancient woodland which is afforded a further level of protection in Paragraph 175(c) of the NPPF. The submitted tree survey is out of date and fails to demonstrate the

impact of the proposal on the existing trees within the site.

The proposal is considered to be contrary to Policy EV18 Existing woodlands, trees and hedgerows, the Natural Environment SPD and NPPF.

Landscape and visual impact

The application is accompanied by a design and access statement. No landscape and visual impact assessment has been submitted with the proposal. In terms of the impact of the proposal from a visual point of view in relation to the green belt status of the site and in relation to the impact on heritage assets.

Views from beyond the site will be afforded from Church Lane. The western edge of the park and the Sutton Drive gate lodge, gate house and gates will be visible. Whilst the houses will affect the open rural character of this aspect of the conservation area, this is preferable to building the enabling development closer to the hall and in more significant areas of the registered park and garden. Notwithstanding this view it is considered that there has been insufficient information has been put forward in this submission to demonstrate that the openness of the landscape and justify that the likely visual impact of the development has been adequately considered to justify the "substantial harm" identified to the character and appearance of the locality which is presently "green belt" and is presently open in character. The proposed dwellings will have an impact on the wider site by eroding the sense of openness of the site and surrounding parkland. Contrary to Policy ENV2 Historic Character and local distinctiveness and GB1 of the Walsall site allocation document.

Design and Character

The design of the proposed dwellings are generally detached four to 5 bed dwellings or pairs of semi-detached dwellings with similar bedroom capacity. In terms of the details of fenestration and proposed visual appearance they are characterised by cottage style features, in terms of fenestration and detailing but are larger and more contemporary estate type dwellings in character most having garages either detached or attached to the dwellings. The layout of the proposed dwellings is in four groups, with an enclave of 5 dwellings to the East of the site nearest Great Barr Hall. A further three more linear type development of dwellings lies to the North West and South West Boundaries of the site.

Behind the South West boundary there is an acoustic wall and row of photovoltaic panels running alongside the embankment of the M6 motorway. The South Western Boundary is the closest to the M6 although it is separated by a bank of landscaping and the associated infrastructure mentioned above. The dwellings are interspersed with landscaping and the site is broken up by overhead power lines cutting through the site on the Western side of the application site. Access to the proposed dwellings is mainly facilitated from Sutton Drive to the North of the application site with estate roads proposed through the site to access the dwellings. The centre of the site is proposed to remain largely undeveloped other than existing landscaping.

In policy terms it is considered that the proposed design and layout of the housing would erode the present rural open character of the area by framing the Green Belt site with built development which is urban in form and uncharacteristic of the historic landscape setting, the conservation area and the green belt.

The proposal is therefore considered to be out of character in its design and layout and fails to reflect or enhance the character of the area and is contrary to Saved Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32

(Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality), Site Allocation Document Policies HC2 (Development of Other Land for Housing), EN5 (Development in Conservation Areas) and EN7 (Great Barr Hall and Estate and St Margaret's Hospital), DW2 to DW5 of the Designing Walsall SPD and the National Planning Policy Framework

Housing need

The Walsall SHLAA demonstrates slightly less than 5 years in terms of housing supply for the period 2020-25 this is the result of a low number of completions as a result of Covid. However with over a 1100 dwellings under construction combined with allocated sites in the Site Allocation Document that are expected to be completed by 2026 the five year period from 2021-2026 is 4827 dwellings and exceeds the five year requirement in the Black Country Core Strategy. The Council is therefore able to demonstrate a five year housing land supply. The current application is not considered a suitable "windfall" site as the site is within green belt and there are other sites identified within the SHLAA which would be more suitable for residential development. The proposal is considered to be contrary to BCCS Policy CSP2: Development outside the Growth Network.

In addition the adopted Walsall Council Supplementary Planning Document for affordable housing would require to provide a 25% affordable housing on-site. This application fails to provide the necessary Planning Obligation to secure this policy requirement.

Open space

The development does not directly provide or mention the provision of open space as the proposal is within the site for the Great Barr Hall. Open space provision for a development of this size would require the provision of open space in accordance with the Walsall Green Space Strategy 2018-2022 to be provided within the Borough and green belt land is included where it meets the definition of green space. This application fails to provide the necessary Planning Obligation to secure this policy requirement.

Highways

There are objections to the proposed development from third parties in relation to the adverse impact of the development from congestion and traffic generation.

In respect of the application the Highway Authority raises no objections to the proposed development subject to conditions in relation to highway improvements to around the main access points off Chapel Road and closure to vehicular traffic to the Northern most access and improvements to pedestrian links and crossing facilities to Merrion's Wood, across Chapel Lane and Suttons Drive. In accord with drawing number P677/01 Jan 2013. In addition highways require a Construction Method Statement, restricting on the hours of operation for the wedding/conference facilities, a travel plan to encourage sustainable travel to and from the site and the provision of parking and turning within the site prior to occupation or implementation of the use of the development.

Restricting the hours of operation for the wedding/conference facility may be unreasonable and difficult to enforce as it is likely that the hours of operation would require access to the site around the clock. Functions may run into the evenings and weekends and whilst the highway officer considers restricting the hours may reduce the potential for congestion at peak times. It is considered that the likelihood of traffic

generation from the site affecting the highway network at peak times on regular occasions is remote and is more likely to be staggered depending on bookings. Weddings occur at different times during the day and the conference facility business would need to be flexible in the ability to provide for bookings during the week and on weekends. It is considered that normal licencing hours for functions/Weddings from the Environmental Health Department/Registrar's Office, would be a more appropriate approach to dealing with the restrictions of the operation of the use

Since the application was first registered, the Council has adopted an Air Quality SPD which requires new residential development to provide electric vehicle charging points and installation of low NOx boilers. Whilst these can be secured by a safeguarding condition on any approval. Given there is an overall refusal, it is intended to include this as a refusal in this instance as no details have been provided. Contrary to Black Country Core Strategy Policy ENV8 (Air Quality), the Air Quality SPD and the National Planning Policy Framework.

Amenity of Nearby and Intended Occupiers

There are some third party neighbours have expressed some concerns that the development would increase traffic generation in the area has been assessed.

Some supporters of the application consider that there could be an improvement to antisocial behaviour from bringing the site back into use.

It is considered development of the site has the potential to provide a slight improvement of surveillance of the area arising from the usual comings and goings associated with a residential use. It is considered that the wedding/conference facilities are sufficient distance away from existing and proposed residences so as not to adversely impact on the amenities of the locality.

However, the isolated nature of the site is considered would result in a poor living environment for future occupiers of the proposed dwellings due to potential issues of crime, and a sense of fear of crime which is likely to lead to occupiers installing extra external lighting and other boundary security measures which would add to further harm to the visual appearance of the Green Belt and heritage assets. Whilst there are no objections in principle to the spacing of the dwelling in relation to the amenities of the occupiers from overlooking/shadowing/loss of light, notwithstanding this there are other "material" amenity considerations which are not supported in this application.

NPPF Paragraph 79 makes it clear that isolated homes in the countryside should be avoided; unless they are for rural workers, living permanently or near their place of work, optimal viable use of a heritage asset or secure the future of a heritage asset, re-use redundant or disused buildings and enhance its setting, or sub-division of an existing dwelling or be of truly outstanding or innovative reflecting the highest standards of architecture, to help raise standards of design in a rural area, or significantly enhance its setting whilst being sensitive to defining character of the area. The proposed development does not meet any of the listed exceptions to overcome the harm the development would bring.

Overall, the proposal is considered to have the potential to result in harm to the amenity of existing nearby occupiers, and would fail to provide a satisfactory level of amenity to intended occupiers of the development itself due to the resulting poor living environment and potential issues of crime / sense of fear of crime in this isolated location. This application is contrary to Saved Unitary Development Plan Policy GP2 (Environmental Protection), Site Allocation Document Policy HC2 (Development of

Other Land for Housing), the aims of Appendix D (Numerical Guidelines for Residential Development) of the Designing Walsall SPD and the National Planning Policy Framework 2021.

Flood Risk

BCCS Policy ENV5 Flood Risk, sustainable drainage systems and urban heat island seeks to ensure that the probability and consequences of flood risk will steer new development towards areas with a low probability of flooding through first the application of the sequential test. The exception test will then be required for certain vulnerable uses in medium and high probability areas. The application site is partly situated in Flood Zone 3 as defined on the Environment Agency Flood Map for Planning. The site is also shown as being at risk from surface water flooding. These areas are generally centred on the lake areas but surface water flood risk areas extend closer to the Listed Hall building. The application is accompanied by a flood risk assessment which concludes that if the development is approved a SUDs scheme is proposed and the scheme would be safe and designed to be resilient to flooding and would not increase flood risk elsewhere as a result of the proposed development through the loss of flood plain storage, impedence of flood flows or increase in surface water run-off.

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

Other Issues

The application site incorporates lakes within its red edge boundary. These are defined by the statutory definition is provided in Section 104 (1) of the Water Resources Act 1991 and Section 30A (d) of the Control of Pollution Act 1974. 'Controlled waters: Controlled waters are defined as virtually all freshwater including relevant territorial waters (extending 3 miles seawards from baseline), coastal waters (water inland of baseline), inland waters, surface water, public supply reservoirs and groundwater. It is understood that the land owner(s) when purchasing the land also the owner bought the land and the liability which requires the lakes to be surveyed every 10 years to check if there is a need for maintenance/upgrade etc. for safety reasons. The Environment Agency have had previous involvement with the lakes on the site and did previously serve an enforcement notice relating to maintenance, repairs and upgrades. A recent application was approved 21/0074 for works to the lakes. The proposal to upgrade and improve the lakes on the site is a statutory requirement and cannot be used as part of any enabling development to justify the development of the site for housing in the green belt.

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 57 new homes.

The Government has indicated that, for 2019-20, it will award approximately £1,000 per dwelling per year, plus £350 for each affordable dwelling, for each net additional dwelling provided. This is an estimate of the payments likely as they are calculated using a formula based on which Council Tax band the property may be in. 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 approximately £47738.

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

Officers have worked with the applicant and their agents over a number of years to provide an opportunity to address the concerns raised by the Council and by consultees and interested parties. However, insufficient additional information or evidence has been submitted to address the issues raised and the Local Planning Authority are therefore unable to support the proposal in this instance.

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

Positive and Proactive Working with the Applicant

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern and allowing opportunities for the proposals to be amended. However, it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Recommendation

Refuse Planning Permission

Reasons for Refusal

1. This proposal is of poor design and layout which fails to reflect or enhance the character of the Great Barr Conservation Area, and fails to demonstrate that the development would not result in harm to the immediate and wider historic landscape, including the Grade II Registered Park and Garden. The proposal would therefore result in substantial harm to designated heritage assets through inappropriate repairs and rebuilding, resulting in the erosion of important characteristics, and there are no substantial public benefits arising which would outweigh the identified harm. 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 Allocation Document Policies HC2 (Development of Other Land for Housing), EN5 (Development in Conservation Areas) and EN7 (Great Barr Hall and Estate and St Margaret's Hospital), DW3 (Character) of the Designing Walsall SPD and the National Planning Policy Framework.
2. The proposed development and works are not considered to preserve or enhance the historic interest and significance of the listed buildings, including

their setting. The proposals are inappropriate in materials, and are lacking in appropriate architectural details. Consequently the proposed development is not considered to either preserve or enhance the architectural and historic character of the designated heritage assets or their historical context and therefore contrary to paragraphs 195-201 of the guidance within the National Planning Policy Framework and therefore fails to comply with paragraph Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as special regard is required to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The proposal is therefore considered to be contrary to Policy ENV2: Historic Character and Local Distinctiveness of the Black Country Core Strategy. As the proposal fails to provide sufficient justification to overcome the policy concerns.

- 3 This proposal represents inappropriate development in the Green Belt for which no 'very special circumstances' are considered to exist and would result in harm to the character and openness of the Green Belt. This application is contrary to Site Allocation Document Policies GB1 (Green, Belt Boundary and Control of Development in the Green Belt) and EN7 (Great Barr Hall and Estate and St Margaret's Hospital) and the National Planning Policy Framework.
- 4 This application fails to provide sufficient information to assess the impacts to protected trees including those that may be affected and fails to provide sufficient information on mitigation or compensatory measures, and is therefore contrary to Saved Unitary Development Plan Policies GP2 (Environmental Protection) and ENV18 (Existing Woodlands, Trees and Hedgerows), NE1 to NE10 of the Conserving Walsall's Natural Environment SPD and the National Planning Policy Framework.
- 5 This proposed development in its design and layout fails to reflect or enhance the character of the area and the resulting development opens up the potential for crime and anti-social behaviour, and or sense of fear of crime to future occupiers due to the isolated location of the site. Contrary to "saved" Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality), Site Allocation Document Policies HC2 (Development of Other Land for Housing), EN5 (Development in Conservation Areas) and EN7 (Great Barr Hall and Estate and St Margaret's Hospital), DW2 to DW5 of the Designing Walsall SPD and the National Planning Policy Framework
- 6 This application has failed to make an assessment of air quality, and has failed to provide details of any necessary mitigation measures and is therefore contrary to Black Country Core Strategy Policy ENV8 (Air Quality), the Air Quality SPD and the National Planning Policy Framework.
- 7 The application has failed to demonstrate that the proposal would adequately safeguard and enhance important and protected habitats and species and that the development would not result in harm. In addition, the extra lighting has the potential to impact on foraging bats in the surrounding woods. The application is therefore contrary to Saved Unitary Development Plan Policies GP2 (Environmental Protection), ENV18 (Existing Woodlands, Trees and

Hedgerows), ENV23 (Nature Conservation and New Development) and ENV24 (Wildlife Corridors), Black Country Core Strategy Policy ENV1 (Nature Conservation), Site Allocation Document Policies EN1 (Natural Environment Protection, Management and Enhancement) and EN2 (Ancient Woodland), NE1 to NE10 of the Conserving Walsall's Natural Environment SPD and the National Planning Policy Framework.

- 8 The application has failed to demonstrate how a policy compliant level of on-site affordable housing and off-site public open space would be provided contrary to Saved Unitary Development Plan Policies H4 (Affordable Housing), LC1 (Urban open Spaces) and GP3 (Planning Obligations), Black Country Core Strategy Policies HOU3 (Delivering Affordable Housing) and ENV6 (Open Space, Sport and Recreation), Site Allocation Document Policies HC3 (Affordable Housing and Housing for People with Special Needs) and OS1 (Open Space, Sport and Recreation), OS1 to OS8 of the Open Space, Sport and Recreation Supplementary Planning Document, AH1 to AH5 of the Affordable Housing Supplementary Planning Document and the National Planning Policy Framework.

Front Page of Petition:

SAVE GREAT BARR HALL

Please take my signature herewith as confirmation of my support for the below enabling development application.

Site address: GREAT BARR HALL & REGISTERED PARK, SUTTONS DRIVE, GREAT BARR, B43 7BB, Application on. 13/1567/FL & 13/1568/LB

Proposal: Restoration and alterations to Great Barr Hall Grade II* Listed Building and Grade II Registered Park including:- Creation of Hotel/Wedding Conference Centre/Restaurant - restore lawns to Great Barr Hall - 2 Gatehouse Lodges - Maintenance Building/Store - 57 new dwellings - enhanced open space and nature conservation - acoustic barrier - boat house - summer house - demolition of farm buildings and installation of photovoltaic panels (alongside motorway).

NAME	ADDRESS	SIGNATURE
	3 DUCKERY WOOD WALK	
	9 DUCKERY WOOD WALK	
	11 " "	
	177 HILLSIDE ROAD GREAT BARR	

LAPWORTHARCHITECTS

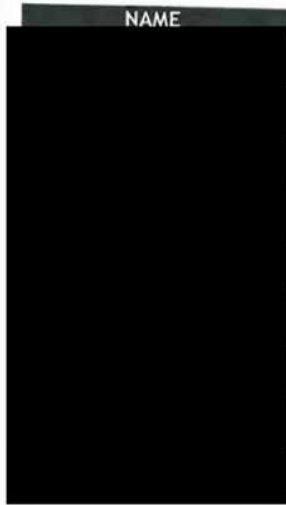

Resolution in support for Great Barr Hall Planning Application 13/1567/FL & 13/1568/LB

To Alison Ives,

Please take my signature herewith as confirmation of my support for the below enabling development application.

Site address: GREAT BARR HALL & REGISTERED PARK, SUTTONS DRIVE, GREAT BARR, B43 7BB

Proposal: Restoration and alterations to Great Barr Hall Grade II* Listed Building and Grade II Registered Park including:- Creation of Hotel/Wedding Conference Centre/Restaurant - restore lawns to Great Barr Hall - 2 Gatehouse Lodges - Maintenance Building/Store - 57 new dwellings - enhanced open space and nature conservation - acoustic barrier - boat house - summer house - demolition of farm buildings and installation of photovoltaic panels (alongside motorway).

NAME	ADDRESS	SIGNATURE
	18 HELLSTON ROAD PARK HALL	
	9, Penny Close	
	9 " "	

LAPWORTH

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 10 February 2022

Plans List Item Number: 5

Reason for bringing to committee

Major Application

Application Details

Location: BRITISH LION WORKS, FOREST LANE, WALSALL, WS2 7AX

Proposal: CONSTRUCTION OF 15 DWELLINGS (2X2 BED AND 13X3 BED) AND ASSOCIATED ACCESS ROAD AND PARKING (DEMOLITION CARRIED OUT UNDER PREVIOUS APPROVAL 17/1240)

Application Number: 21/0322

Case Officer: Sally Wagstaff

Applicant: Alba Construction (midlands) Ltd

Ward: Blakenall

Agent: Peter Hunt Architects

Expired Date: 02-Jun-2021

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

Time Extension Expiry:



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Recommendation

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

- The amendment and finalising of conditions;
- Overcoming the outstanding objection[s] raised by Highway Authority. Amended site plan required to remove garage spaces and revise parking layout

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Proposal

The application is for 15 houses at a former industrial site.

The application proposes to use the existing access off Forest Lane to create a mix of no. 14 semi-detached houses and no. 1 detached house with a mix of driveway parking and shared parking areas.

There are 7 house types proposed as follows:

House type A is a 2.5 storey 2 bedroom house with a ground floor kitchen, living room and toilet, 2 bedrooms, bathroom and study on the first floor, study and bathroom in the loft with velux window.

House type B is a 2.5 storey 3 bedroom house with a ground floor kitchen, living room and toilet, 2 bedrooms on the first floor, study and another bedroom and the bathroom in the loft with velux windows.

House type C is a 2.5 storey 3 bedroom house with a ground floor living room and toilet, 2 bedrooms on the first floor, study and another bedroom and the bathroom in the loft with velux windows. The rear of the property is narrower at the rear than at the front due to the boundary line constraint.

House type D is a 2 bedroom house with a ground floor kitchen, living room and toilet, 2 bedrooms, bathroom and study on the first floor.

House type E is a 2.5 storey 3 bedroom house with a ground floor living room and toilet, 2 bedrooms on the first floor, study and another bedroom and the bathroom in the loft with velux windows. The property also has an attached garage

House type F is a 2.5 bedroom house with a ground floor kitchen, dining room/living room and toilet, 2 bedrooms, a bathroom and study on the first floor and bedroom within the loft space with velux windows.

House type G House type F is a 2.5 bedroom house with a ground floor kitchen, dining room/living room and toilet, 2 bedrooms, study and a bathroom on the first floor and bedroom within the loft space with velux windows.

A bin store is proposed near to the junction to the proposed access.

The total development has a net area of 1834.1sqm.

This application follows 17/1240- Demolition of existing buildings, construction of 16 dwellings (2x2 bed and 14x3 Bed) with associated access road and parking which was granted permission subject to conditions on 04/12/2019. The Design and Access Statement advises this application is a reworking of the previous which included 4 storey properties which the applicant considered was not commercially viable.

Site and Surroundings

The site is located on the western side of Forest Lane. This part of Forest Lane is approached from a narrow bridge over the railway which has weight restrictions imposed (11 tonnes). There is alternative access available from Dartmouth Avenue.

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The highway splits in two as it surrounds a large landscaped central reservation which has several mature trees on it. There is also a turning head outside 48/50 Forest Lane on the opposite side of the highway. The Wyrley & Essington Canal and towpath are at the rear of the site and there is a footbridge over the canal to the north of the site. The southern boundary of the site adjoins the boundary of semi-detached houses and a transport haulage yard. There are semi-detached houses opposite the site.

The Definitive map of Public Rights of Way show the site affected by the line of a public footpath (WAL33), between Forest Lane and Hawbush Road over the canal.

Relevant Planning History

06/0314/FL/E4 – Demolition of industrial units and erection of 24 apartments with new access driveway and landscaping and relocation of existing footpath linking up to the canal towpath – Granted subject to conditions and a S106 Agreement 20/6/06. The S106 Agreement was to secure contributions towards Education provision (£45K) and refurbishment of the footbridge over the canal (£10K). Both obligations were to be paid on or before occupation of 50% of the dwellings. The proposed building is four storeys high.

10/1090/OL - Outline application for the demolition of existing buildings and construction of new 60 bed extra care accommodation, access and layout only for consideration. GSC 20/11/13

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 14 – Meeting the challenge of climate change, flooding and coastal change**

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

GP2: Environmental Protection

- GP3: Planning Obligations
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H5: Housing for People with Special Needs
- H6: Nursing Homes and Rest Homes for the Elderly
- H7: Hostels and Houses in Multiple Occupation
- Policy JP7: Use of Land and Buildings in Other Employment Areas
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces

- CSP2: Development Outside the Growth Network
- 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
- HOU3: Delivering Affordable Housing
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality

• **Black Country Core Strategy**

- CSP2: Development Outside the Growth Network
- 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
- HOU3: Delivering Affordable Housing
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy

- ENV8: Air Quality

Walsall Site Allocation Document 2019

NOTE for case officer: *The SAD policies do not apply in respect of any proposals in the five district centres or Walsall Town Centre.*

- HC2: Development of Other Land for Housing
- HC3: Affordable Housing and Housing for People with Special Needs
- EN3: Flood Risk
- EN4: Canals
- T4: The Highway Network
- T5: Highway Improvements

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

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
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

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
- 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 submitted to conditions in relation to a construction method statement and management regime in relation to the retaining wall.

Coal Authority

No objection subject to conditions in relation to intrusive ground investigations

Fire Officer

No objections. Note to applicant recommend in relation to access and facilities for fire service.

Housing Strategy - 25% on site affordable housing would be required on this site.

Local Highways Authority - Concerns raised regarding the layout in relation to parking orientation, garages and pedestrian accessibility. Amended site plan required before decision is issued to provide satisfactory parking spaces.

Pollution Control

No comments received at the time of writing. Comments to follow within the supplementary paper.

Severn Trent Water

Concerns raised regarding connection to a public sewer, condition necessary for further details to be submitted to evidence soakaways have been considered

Strategic Planning Policy

No comments received. The principle of residential development has been established with the previous permission.

Representations

None

Determining Issues

- Principle of Development
- Design, Layout and Character
- Amenity of neighbours and amenity of future occupiers
- Highways
- Public Rights of Way
- Canal
- Ecology
- Ground Conditions and Environment
- Local Finance Considerations
- Section 106 Contributions

Assessment of the Proposal

Principle of Development

Planning permission was previously gained for 16 properties. This application proposes 15 properties. The principle of a residential use is established and the loss of the employment site accepted. It is also considered that redevelopment of this vacant industrial site will improve the environment for surrounding residents. On this basis residential development is considered acceptable in principle.

Design, Layout and Character

The design of the properties and layout of the site is similar to the previously approved scheme. The design of the properties are traditional in keeping with the wider character of the area. The height of the 2.5 storey properties has been reduced from 9.5 metres to 9 metres which better reflects the height of the existing properties within the area.

It is considered the proposed scheme would be a betterment to the character of the area.

Amenity of neighbours and amenity of future occupiers

The separation between houses ensures there would be no significant overbearing impact or loss of light.

The current location of the parking spaces serving house types is on balance acceptable and will not result in any significant noise or disturbance impacts due to their distances to houses. There would be visual surveillance of these spaces from adjacent proposed houses.

All houses have private amenity space, some meet the Council's minimum standards Plots 1-9 are less at 37 m². The amenity space provided is reflective of the previously approved scheme in which the amenity space provided was considered to be sufficient for the enjoyment of future occupiers.

Highways

The scheme of residential development consists of 15 x two and three bedroom dwellings. 30 parking spaces by way of a mix of open car parking spaces and garages are proposed which is 8 more spaces than the previously approved scheme. UDP T13 parking policy for 1/2/3 bedroom dwellings is 30 spaces. The proposal is compliant with the policy requirements.

The current layout has four garages for plots 1, 8, 9 and 12. Usually residents would expect to be able to leave their car outside the garage when not in use. Under the current layout this will not be possible as it would obstruct access to other plots. As far as the Highway Authority is concerned it would be more practical if the garages were replaced with simple parking bays and then conditioned to remain as parking spaces.

Drivers emerging from the parking space to Plot 11 will be blind to any pedestrians or vehicles entering the main access and accessing plots 9 and 10 as visibility is obscured by the house, creating a highway safety impact. At least a 2.4m x 3.4m pedestrian visibility splay should be provided at this space with the building repositioned outside the visibility envelope. It is suggested that the parking space is rotated parallel to its northern boundary. A revised plan is requested to change the position of the car parking space to overcome this concern.

House type E on Plot 12 has a projecting garage. The orientation of the dwelling and garage at an angle would make it awkward to drive into the garage in a forward gear. The garage also obscures drivers emerging from the adjacent parking spaces to approaching pedestrians and vehicles, creating a highway safety impact. A revised plan is requested to remove the projecting garage to overcome the concerns.

The site includes shared surfaces between pedestrians and vehicles. Whilst the government are moving away from site layouts which include shared surfaces between pedestrians and vehicles given there is an extant permission which could be implemented with shared surfaces, on balance, it is considered it does not warrant refusal of the application for this reason.

An amended layout is requested to address the concerns above before a decision is issued to ensure satisfactory car vehicular parking and accessibility.

Public Rights of Way

There are concerns about the proposed layout with rear amenity space backing on to the public footpath and canal towpath/ green way. The proposed development, fencing and landscaping may impact upon these pedestrian and cycle links and will require careful design to ensure safety and security of both proposed residents and path users. Secure by Design Principles should be applied.

In particular, the rear gardens to plots 9-11 could suffer overlooking due to the height of the footbridge, and may be particularly vulnerable to crime and ASB due to the footbridge level in relation to the proposed dwellings and window heights, in an area where there are reported ASB issues. Based upon the current proposed layout, additional details for the proposed boundary treatments, to include details of the proposal for retention or replacement of the high brick wall and mesh panel which forms the original factory boundary could provide mitigation.

It is considered that the scheme provides some visual surveillance of these public spaces than the existing situation and that the layout follows the existing character of the adjoining estate.

The Public Rights of Way Officer states that there have been reports of ASB at the junction of the footpath, footbridge and greenway. The re-use of this site combined with the additional visual surveillance represents a positive solution to these existing issues.

Additional details are required to ensure that the potential impacts on the adjoining public footpath 33 Walsall, greenway and link path are addressed. Measures to secure boundary treatments adjacent to the public right of way can be secured by condition. The applicant has submitted details as per a request, an updated response from PROW will follow within the supplementary paper, where necessary conditions can be revised accordingly.

Canal

The site was previously occupied by the British Lion Works and the site boundary of the application site has been drawn to exclude infrastructure installed by the works into the canal embankment. A concrete retaining wall was erected as shown in blue on the Site Layout Plan to the rear of plots 1-8. The Section Boundaries Plan No. 20-886-204 provided with the agents email dated 12th October 2021 illustrates the stepped nature of this wall, proposed ground levels within the site in relation to the wall and the proposed location of the boundary fencing. Some of this retaining structure lies within the site and some outside the site. The structure retains the embankment slope, and the development is reliant on the structural integrity of this retaining structure for the long-term stability of the canal embankment. At the eastern side of the site plot 9 and the garage block adjacent to plot 8 are located in close proximity to a brick wall that was erected after the canal was constructed as part of the British Lion Works complex. The Section Boundaries Plan also provides an existing and proposed section through this retaining wall to illustrate the existing and proposed height in relation to Plot 9. Land stability and the consideration of the suitability of development with regard to ground conditions are material planning considerations as set out in paragraphs 170 & 178 of the National Planning Policy Framework (NPPF) and is the subject of more detailed discussion in the National Planning Practice Guidance (NPPG: Land Stability). Paragraph 179 states that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer. The failure of the canal embankment in this location would be detrimental to the safe operation of the navigation and the wellbeing of residents, and for this reason the conditions are requested which would be consistent with paragraphs 170 and 179 of the NPPF. The documents submitted with the agents email dated 12th October 2021 provide evidentially sufficient information to show that the existing concrete retaining structure will retain the embankment in the long term and details are starting to come together with regards to the long-term maintenance and management of the retaining structures.

The level of detail required by condition is reduced to the following:

- How will the retaining structures be accessed for inspection and who will be responsible for their maintenance/management?
- How will water be prevented from pooling at the base of the embankment, which has the potential to cause structural instability?
- During construction works how will the structural integrity of the embankment and its retaining structures be assured

In order to ensure that the development is not detrimental to the structural integrity of the canal embankment as required by the NPPF, NPPG: Land Stability, the Black Country Core Strategy (BCCS) Policy ENV4 the. Detailed information for the

proposed retaining structure and methodology for the demolition/ construction is required which can be secured by condition.

The Canal and Rivers trust have asked that the applicant provides a heritage statement because the site is opposite a grade 2 listed aqueduct. The site is actually 20 metres away which combined with the level difference between the canal and application site would mean there would be little impact on the setting of the aqueduct to justify a heritage statement.

Ecology

The Ecology statement provided on the previous application concluded that the site has very limited Ecology value but that improvement works could take place as part of the scheme.

The site has now been demolished and cleared. A safeguarding condition to use fencing to protect the canal corridor and a landscaping scheme can be requested to ensure that native plant species can be planted in the rear gardens, although it is recognised, that the condition will only secure the landscaping for 5 years post implementation.

Ground Conditions and Environment

Comments from Pollution Control will be provided as part of the supplementary paper.

As there is going to be substantial demolition and construction works, a Working Plan will be required, to minimise disruption to local residents and infrastructure, roads and footpaths from noise, dust, debris, waste etc.

Walsall Council has adopted the Black Country Air Quality Supplementary Planning Document (SPD). The application falls under the Type 1 category, therefore the Applicant needs to install electric vehicle charging points and low NOx boilers. Details can be secured by condition.

Severn Trent Water have reviewed the submitted drainage plans. The submitted drainage plan shows all foul sewage is proposed to discharge to the public combined sewer, and all surface water is proposed to discharge to the public combined sewer. Severn Trent advice before considering a connection to the public sewer for surface water discharge, it is requested that soakaways are investigated. If these are proven to not be feasible on site (with satisfactory evidence) a connection to the public surface water sewer with flows restricted to the proposed discharge rate of 3 litres/second could be considered. A condition is considered necessary for further drainage plans to be submitted and agreed prior to commencement of development.

Intrusive ground investigations in order to investigate ground conditions, to inform any necessary remedial measures are required. The Coal Authority have recommended conditions in order to secure these details prior to commencement of development.

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 15 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.

Section 106 Contributions

The proposal relates to 15 new homes which triggers the requirement for 25% affordable housing on site and an offsite Urban Open Space contribution. A viability assessment was submitted as part of the previous application. The District Valuer confirmed that the scheme is not viable to provide contributions for affordable housing or open space. The proposal is for one less dwelling. It considered that in this instance due to the scheme being similar in nature and the rising costs in materials, in this instance the Local Planning Authority do not consider necessary to ask for Section 106 Obligations in relation to Affordable Housing and Urban Open Space.

Conclusions and Reasons for Decision

Conditions requiring construction methodology and boundary treatment detail in relation to the canal and public rights of way and be conditioned and mitigated for and would accord with UDP policy ENV32.

The size, design and height of the properties are acceptable and compatible with the area in accordance with UDP Policy GP2 and Designing Walsall SPD.

The distance to neighbouring houses, it's siting and location is considered acceptable and would not result in any significant loss of amenity to neighbouring residents by way of loss of light or overlooking and accords with UDP policy GP2 and Designing Walsall SPD.

Concerns relating to the parking areas can be addressed through amendments to the layout plan. Without acceptable amendments to the layout the current scheme cannot be supported and would be contrary to policies GP2 and ENV32 in particular.

To ensure that the development is acceptable in accordance with UDP policies ENV23 conditions recommended by Canal & Rivers Trust can be attached to planning permission.

In accordance with the Air Quality SPD the proposed requirement for electric car charging points by Pollution Control Officers is considered acceptable and can be attached as a condition. This requirement complies with UDP policies GP2 and ENV10

To ensure the development is in accordance with 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.

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

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised regarding the relationship between parking areas plans have been submitted, further amendments are requested in order to satisfy highway concerns.

Recommendation

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

- The amendment and finalising of conditions;
- Overcoming the outstanding objection[s] raised by Highway Authority. Amended site plan required to remove garage spaces

Conditions

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

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

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

House Type A, plan no. 211 submitted 03/03/21
House Type B, plan no. 212 submitted 03/03/21
House Type C, plan no. 213 submitted 03/03/21
House Type D, plan no. 214 submitted 03/03/21
House Type E, plan no. 215 submitted 03/03/21
House Type F, plan no. 216 submitted 03/03/21
House Type G, plan no. 217 submitted 03/03/21
Section Boundaries Plan No. 20-886-204 submitted 12/10/21
Site Plan with Levels Plan No. 20-886-205 submitted 12/10/21

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

3a. Prior to commencement of the development hereby permitted, a Method Statement to demonstrate that any construction operations within 10m of the boundary with the canal will not adversely affect its stability or structural integrity shall be submitted in writing to and approved in writing by the Local Planning Authority. The statement shall include arrangements for undertaking any monitoring regimes or mitigation measures as may be necessary to ensure that the risk of damage to the

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canal structure is adequately minimised (for example, vibration monitoring if piled foundations are proposed, drainage measures associated with these retaining structures, works to the embankment itself and construction of any retaining walls or structures) .

3b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: In the interests of minimising the risk of creating land instability arising from earthmoving, excavations or any other construction works which would adversely affect the structural integrity of the adjacent Wyrley & Essington Canal embankment in accordance with the advice and guidance on land stability contained in paragraphs 174, 183 and 184 of the National Planning Policy Framework 2021 and in the National Planning Practice Guidance.

4a. Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water at no more than 3 litres per second and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

5a. Prior to commencement of the development hereby permitted:

i. Details of intrusive site investigations for past coal mining activity shall be submitted in writing to and approved in writing by the Local Planning Authority

ii. the approved details of intrusive site investigations shall be undertaken and a report of findings arising from the intrusive site investigations including the results of any monitoring, plus details of remedial works shall be submitted in writing to and approved in writing by the Local Planning Authority

5b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: To ensure the safety and stability of the development, to safeguard the amenities of occupants and to comply with NPPF Paragraph 109 and saved policies GP2 and ENV14 of Walsall's Unitary Development Plan

6a. Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal

site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

6b. The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan

7. Prior to commencement of building operations above damp course of the development permitted details of landscaping including both hard and soft landscape works and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority. The soft landscaping scheme should be of native species listing the species to be used

7b. Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

7c. If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: In the interests of the visual amenities of the area in accordance with saved policies ENV17 and ENV33 of Walsall's Unitary Development Plan.

8a. Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

8b. The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

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

9a. Prior to first occupation of the development hereby permitted details of electric vehicle charging points for the development shall be submitted in writing to and agreed in writing by the Local Planning Authority.

9b. Prior to first occupation of the development the approved electric vehicle charging points shall be installed in accordance with the approved details and shall be retained and maintained for the lifetime of the development.

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

and DEL1 of the Black Country Core Strategy.

X. Prior to occupation of the development hereby permitted shall not be implemented otherwise than with the off road vehicular parking spaces each measuring a minimum of 2.4m by 4.8m including any garage spaces. The parking spaces, driveways and manoeuvring spaces shall be consolidated hard surfaced and drained to prevent surface water from the driveway running on to the public highway or into any public highway drain. The off road vehicular parking spaces shall thereafter be retained for the purposes of parking vehicles and for no other purpose for the lifetime of the development.

Reason: In accordance with the requirements of saved Unitary Development Plan policies GP2, T7, T13 and ENV40 and in the interest of highway safety.

10. Prior to the occupation of Plots 1 to 9 (inclusive) of the hereby permitted further details of the access arrangements for the inspection of the retaining structures including the future maintenance of the retaining structures of the Wyrley & Essington Canal embankment identified on Section Boundaries Plan No. 20-886-204 and the Site Plan with Levels Plan No. 20-886-205 shall be submitted in writing to and agreed in writing by the Local Planning Authority.

Reason: In the interests of minimising the risk of land instability that would adversely affect the structural integrity of the adjacent Wyrley & Essington Canal embankment in accordance with the paragraphs 174, 183 and 184 of the National Planning Policy Framework 2021 and in the National Planning Practice Guidance.

3a. Prior to the commencement of development, including any site clearance or site preparation of the development hereby permitted details of how the corridor of the adjacent Wyrley and Essington Canal corridor adjacent to the development shall be secured throughout the construction phase of the development to prevent any incursion of machinery, equipment or personnel onto the corridor shall be submitted in writing to and agreed in writing by the Local Planning Authority.

3b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall be implemented prior to site clearance and site preparation and thereafter maintained throughout the construction period.

Reason: In order to safeguard the visual amenity of the area and maintain the integrity of the wildlife corridor in accordance with saved UDP policies GP2 and ENV23.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no extensions or additions as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house:

- Class A (enlargement, improvement or other alterations)
 - Class AA - enlargement of a dwellinghouse by construction of additional storeys
 - Class B (additions to the roof)
 - Class C (other alterations to the roof)
 - Class D (porches)
 - Class E (building incidental to the enjoyment of a dwelling house)
- shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to

comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no solar equipment as defined by Schedule 2, Part 14 the installation, alteration or replacement of microgeneration solar PV or solar thermal equipment on :

- a) a dwellinghouse; or
- (b) a building situated within the curtilage of a dwellinghouse

Shall be installed in any part of this development

Reason: In the interests of protecting the structural integrity of the Wyrley & Essington Canal retaining structures in accordance with the requirements of Policy ENV4 of the Black Country Core Strategy

14a. No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

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

Reason: In the interests of the visual amenities of the area in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan.

15. Notwithstanding the information shown on submitted plans, the development hereby permitted shall not be carried out otherwise than to meet the following minimum security measures and thereafter the security measures shall be retained;

- All external doors to individual dwellings to be PAS24; 2016
- All ground floor windows and over accessible roofs to be PAS24; 2016
- All ground floor windows and over accessible roofs including French doors and patio doors to have not less than one pane of 6.4mm laminated glass.
- Dusk until dawn lights (white light source) to be installed adjacent to each door including either side of garage doors
- All garden access gates shall be of the same construction of the perimeter fencing, self-closing, facing the street, lockable with a key front and rear, designed to not create any climbing aids
- No Lead or metal shall be used on the ground floor.
- All the dwellings shall be suitably with an intruder alarm by a registered SSAIB or NSI engineer to British Standard (BS EN 50131 Grade 2)
- All energy meters shall be placed at the front of the dwellings

Reason: To ensure the safety and security of the development and its occupiers, given the isolated nature of the development in compliance with NPPF 12 and saved policy ENV32 of Walsall's Unitary Development Plan.

Notes for Applicant

Canal

1. The applicant/developer is advised to contact the Canal & River Trust in order to ensure that all necessary instance on Shomsur.Khan@canalrivertrust.org.uk or by telephone 0303 040 4040.

2. the necessary commercial agreement with the Trust. Please contact Jeff Peake, Estates Surveyor, at Jeff.Peake@canalrivertrust.org.uk or by telephone 0303 040

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4040.

Fire Officer

Approved Document B, Volume 1, Dwellings, 2019 edition incorporating 2020 amendments – for use in England

Requirement B5: Access and facilities for the fire service

These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

Requirement

Limits on application Access and facilities for the fire service B5.

(1) The building shall be designed and constructed so as to provide reasonable facilities to assist fire fighters in the protection of life.

(2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.

Intention

Provisions covering access and facilities for the fire service are to safeguard the health and safety of people in and around the building. Their extent depends on the size and use of the building. Most firefighting is carried out within the building. In the Secretary of State's view, requirement B5 is met by achieving all of the following.

- a. External access enabling fire appliances to be used near the building.
- b. Access into and within the building for firefighting personnel to both:
 - i. search for and rescue people
 - ii. fight fire.
- c. Provision for internal fire facilities for firefighters to complete their tasks.
- d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required. Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult)

Section 13: Vehicle access

Provision and design of access routes and hard-standings

13.1 For dwelling-houses, access for a pumping appliance should be provided to within 45m of all points inside the dwelling-house.

13.3 Access routes and hard-standings should comply with the guidance in Table 13.1.

13.4 Dead-end access routes longer than 20m require turning facilities, as in Diagram 13.1. Turning facilities should comply with the guidance in Table 13.1.

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 1, Table 13.1).

Dead Ends including cul-de sacs

Dead ends including cul-de sacs should be avoided but where not possible the following should be applied.

The main problem with dead ends and cul-de sacs is access in an emergency and the issue of obstructions such as parking. In these circumstances fire service personnel are committed to approach on foot carrying equipment to deal with the situation. 225

to 250 metres carrying equipment is considered a maximum for efficient fire-fighting operations.

Dead ends/cul-de sacs roadways should be a minimum of 5.5 metres in width.

Vehicle Access

Dead end/cul de sac access routes must not exceed 180 metres in length unless.

- a) an emergency vehicle access is provided which complies with item 3.8.2, or
- b) the carriageway width is increased to 7.3 metres and complies with the requirements of item 3.8.3. The provision of an emergency vehicle access is preferred to the alternative of increasing the carriage width to 7.3 metres.

3.8.2 Emergency Vehicle Access

- a) A suitable means of preventing the use by other vehicles must be provided at the time of construction.
- b) The height of 4.1 metres minimum, width 3.7 metres minimum and the construction of the access road are sufficient to allow the free passage of fire appliances.
- c) Neither end is obstructed by parked cars.
- d) The emergency vehicle access may incorporate a pedestrian route but must not be used by statutory undertakers to accommodate underground services or public sewers.

3.8.3 Increased Carriageway Widths

- a) The carriageway width is increased to 7.3 metres from the entrance to the dead-end route to the point where it is 180 metres to the end of the dead end in accordance with 3.8.3b immediately below.
- b) The subsequent reduction in the width from 7.3 to 5.5 metres must occur at a road junction, at which point parking for the fire appliance at the end of the dead end must be within vision and a fire hydrant is on the pavement or ground alongside the parking space.

3.8.4 General

- a) There is no maximum length to a dead end/cul-de sac access route, however, it should accommodate no more than 150 dwellings.
- b) A turning circle or hammer head should be provided in any dead end greater than 20 metres in length. It should be provided either at the end or within 25 metres of the end please see Approved Document B – Volume 2.
- c) When inspecting plans with regard to access it may be necessary to accept a temporary situation or phased approach until the matter can best be resolved.

Water Supplies Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 16 and “National Guidance Document on the Provision for Fire Fighting” published by Local Government Association and WaterUK:

<https://www.water.org.uk/wp-content/uploads/2018/11/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

Sprinklers

Where sprinklers in accordance with BS 9251:2014 or BS EN 12845:2015 are fitted throughout a house or block of flats:

- a) the distance between a fire appliance and any point within the house (in houses having no floor more than 4.5m above ground level) may be up to 90m;
- b) the distance between the fire and rescue service pumping appliance and any point within the house or flat may be up to 75m (in houses or flats having one floor more than 4.5m above ground level) (BS 9991:2015 50.1.2).

The approval of Building Control will be required to Part B of the Building Regulations

2010

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 1, Section 7)

The external access provisions for a building should be planned to complement the internal access requirements for a fire attack plan. (CIBSE Guide E, Fire Safety Engineering 2010, p. 13-14)

END OF OFFICERS REPORT



Planning Committee

Report of Head of Planning and Building Control on 10 February 2022

Plans List Item Number: 6

Reason for bringing to committee

Called in by a Councillor Pardeep Kaur on the grounds that the application needs delicate judgement.

Application Details

Location: 1, BARR COMMON ROAD, ALDRIDGE, WALSALL, WS9 0SY

Proposal: ERECTION OF 4 BEDROOM REPLACEMENT DWELLING WITH GARAGE.

Application Number: 21/0811

Case Officer: Leah Wright

Applicant: Harjinder Sandhu

Ward: Aldridge Central And South

Agent: Ms Tumi Jegede

Expired Date: 19-Aug-2021

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

Time Extension Expiry: 08-Nov-2021



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Recommendation

Refuse Permission

Proposal

This application proposes the erection of a four bedroom replacement dwelling with a garage.

The replacement dwelling measures 6.92m in maximum height with a dual pitch roof with eaves of 2.5m. The dwelling would measure 21.56m in maximum width and 19.34m in maximum depth.

To the front elevation there would be a large gable feature with glazing at ground and first floor, 2no dormers at first floor and 2no windows at ground floor. To the east elevation there are various windows and a door proposed and to the west elevation a single window. To the rear elevation there are 2no rooflights proposed, a central glazed gable feature, 1no dormer and three sets of bi-fold doors to ground floor.

Internally at ground floor there is an entrance hall, formal lounge, boot room, bedroom with en-suite and walk in wardrobe, family room, living area, kitchen, spice kitchen and double garage proposed. At first floor there will be 2no bedrooms with an en-suite, 1no bedroom, a family bathroom and a landing.

Site and Surroundings

The subject site comprises a detached dwelling sited to the south-western side of Barr Common Road. The dwelling has a hipped roof with multiple gables and is constructed from brick and render. The property benefits from an In/Out driveway and a large garden to the rear.

The street scene is characterised by a mix of residential properties which differ in style size and are constructed from a variety of materials. There are residential apartments sited off of Barr Common Road, located on Winchester Mews opposite the site. To the north-west of the site is open field with a large amount of trees protected by Tree Protection Orders.

The site is within the West Midlands Green Belt. It is not within a Conservation Area, nor does it comprise a listed building.

Relevant Planning History

1A Barr Common Road

06/1513/FL/H4- First floor side extension- **GSC 23.10.2006.**

Land adjacent, 1 Barr Common Road

12/0534/FL- Erection of 60m x 20m all weather surface menage.- **GSC 02.08.2012.**

1 Barr Common Road

Tree Preservation Order 1/1997.

BC46003P- Extension to Form Bedroom & W.C/Shower Room- **GSC 06.03.1996.**

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 6 – Building a strong, competitive economy**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

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

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

Reducing Inequalities

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

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

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

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing

or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV7: Countryside Character
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13- Parking provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design 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
T4: The Highway Network

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

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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

Highways- Support subject to condition.

Trees- No Arboricultural objections to the application as long as the recommendations and guidelines as detailed in the BS 5837: 2021 tree report by Apex Environmental (and the Protection Plan AEL-18384-TPP) are implemented and adhered to throughout the construction phase from start to completion.

Severn Trent- As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied. Notes to applicant provided.

West Midlands Fire Service- No objection. Notes to applicant regarding approved Document B, Volume 1, Dwelling-houses, 2019, Requirement B5: Access and facilities for the fire service.

Representations

None received

Determining Issues

- Principle of Development and Green Belt
- Design, Layout and Character
- Amenity of Neighbours
- Amenity of Future Occupiers
- Highways
- Trees and Ecology
- Ground Conditions and Environment
- Flood Risk and Drainage
- Local Finance Considerations

Assessment of the Proposal

Principle of Development and Green Belt

The proposal would add to the supply of housing so could potentially be supported by paragraph 60 of the National Planning Policy Framework subject to the scheme representing appropriate development in the Green Belt and other material planning considerations.

The site is within the West Midlands Green Belt.

NPPF paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Paragraph 149 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. One exception to this is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. As such, the current proposal should be assessed against the existing dwelling based on its size at present.

The replacement dwelling is a C3 use, the same use as the existing dwelling and therefore would be acceptable in terms of the use.

It is considered that the replacement dwelling is located on the same footprint as the existing dwelling. The below table summarises the key parameter differences between the two dwellings. It should be noted that footprint and volume calculations were supplied in an email dated 26th November by the agent to support this application.

Parameter	Existing Dwelling (m)	Proposed Dwelling (m/sqm)	Difference (m/sqm)	Percentage difference (%)
Height	5.76m	6.92m	+1.16m	+20.14%
Width	21.67m	21.56m	-0.11m	-0.50%
Depth	11.33m	19.34m	+8.01m	+70.7%
Footprint	148sqm	428sqm	+280sqm	+189.19%
Volume	454sqm	1430sqm	+976sqm	+214.98%

As above, the replacement dwelling is materially larger than the dwelling it is to replace, being 189.19% larger in footprint and 214.98% larger in volume.

By reason of design, the dwelling would be larger in height and depth and would raise the ridge of the dwelling. The existing vehicular access would not be enlarged and the curtilage would remain the same.

Further, it is considered that the dwelling would be considerably larger in bulk and extends further in depth than the existing dwelling where there is currently no built form, thus impacting on visual amenity, the character of the existing area and the Green Belt.

It is therefore considered that the replacement dwelling is materially larger than the one it is to replace and would have a significant detrimental impact on the openness of the Green Belt.

The bin stores have been indicated to the side of the dwelling, however no boundary treatments have been proposed for the replacement dwelling. It should be noted that these too could have an impact on the openness on the Green Belt, however if this was proposed to be hedges, these could be planted without the need for planning permission and as such, the impact of proposed boundary treatments cannot be ascertained. A condition to secure the details of the above would be implemented on any approval. Further, if the application were to be approved permitted development rights would be removed which would be particularly significant regarding outbuildings which would further exacerbate built form within the Green Belt, particularly given there is open fields surrounding the dwelling.

Summary of Green Belt assessment

Where a proposal is considered to have a greater impact on the openness of the Green Belt it would represent “inappropriate” development in the Green Belt and will only be supported where there are ‘very special circumstances’ which outweigh the harm to the Green Belt, however in this instance this would not be necessary.

It is considered that the proposed dwelling replacement dwelling would fail to preserve the openness of the Green Belt. The proposal does not meet the exceptions test of the NPPF and would be inappropriate development in the Green Belt. For all of these reasons, the proposal would be significantly harmful to this part of the Green Belt. In this instance the delivery of an additional house would not overcome the harm it would bring and should not be approved except in very special circumstances, which for this application there is none including when considering the delivery a further house of this scale to meet national targets.

Design, Layout and Character

The existing dwelling comprises a detached dwelling with a hipped roof with multiple pitches, a gable to the front elevation and a flat roof and lean to elements to the side elevations. There is a bay window to the front elevation and a single garage door. As set out in the above sections of this report, the dwelling is constructed from a variety of materials. It should be noted that the surrounding area does not have a distinct style and there are dwellings of multiple styles, sizes and constructed of various materials.

The proposed dwelling is a detached dual pitch dwelling with dormers to the front and rear elevation, a Juliet balcony and extensive glazing. The dwelling would be approximately 1.16m taller in maximum height than it currently stands. In terms of width and depth, the increase in depth is considerable, adding approximately 8m in depth. There is a reduction in width by 0.11m.

It is considered that raising the ridge of the dwelling, in addition to adding to the bulk and mass of the dwelling considerably is unacceptable. Whilst it has been indicated that the dwelling would be constructed of materials to match the existing dwelling it is considered that the replacement dwelling does not reflect the design cues of the existing dwelling it is to replace, nor does it respect the character of the surrounding area which is also defined as greenbelt. The dwelling is considered to be incongruous in appearance being a modern and overly stretched house which would appear at odds to in the street scene. It is considered that the glazed dormers to the front and rear elevation is not typical of the housing in this area and views would be allowed from the wider Green Belt that are not reflective of the local character.

As such, overall the dwelling is unacceptable in design and appearance.

Amenity of Neighbours

There are no neighbours sited immediately to the north of the site, however there are neighbouring properties to the south-east of the site and opposite the site. The nearest residential property is 1a Barr Common Road sited at a distance of 2.6m.

The proposed dwelling would not extend any deeper than 1a Barr Common Road, thus meeting the 45 degree rule to the rear and would therefore not have a detrimental impact upon light to the neighbouring property, nor would it be considered to be overbearing.

In terms of separation distances, Appendix D of the Designing Walsall SPD states that there should be 24m separation between habitable windows in two storeys (and above) developments and 13m separation between habitable windows and blank walls exceeding 3m in height. There are no neighbours sited to the rear of the property so the distances would not apply in this direction. There is approximately 43m from the front windows of the replacement dwelling to the residential apartments sited on Winchester Mews which would meet the separation distances, however it should be noted that the windows to the front of the replacement dwelling would not serve habitable rooms and as such the separation distances would not apply.

In terms of overlooking there is a bathroom sited to the south-east elevation, this will be conditioned to be obscure glazed and non-opening above 1.7m. To the north elevation there is an en-suite and a bathroom proposed; as there are no neighbouring

properties sited adjacent to this elevation it is considered that these windows are acceptable and would not result in any detriment

It is considered that the proposal would not be overbearing, nor would it result in overlooking to neighbours. As such, the proposal is acceptable in terms of protecting neighbouring amenity.

Amenity of Future Occupiers

Appendix D of the Designing Walsall SPD states that garden dimensions should be 12m in length or a minimum area of 68sqm for dwellings. The proposed dwelling would be served by ample amenity space meeting the Designing Walsall SPD standards.

The bedrooms would all be single aspect and whilst it would be preferred for them to be dual aspect it is considered that they would still allow for an adequate amount of daylight into the bedrooms. Further, all habitable rooms of the development would have a large window allowing for daylight.

In terms of outlook, the bedrooms would have unobstructed views. The National Space Standards state that for a two storey, four bedroom, 8 person dwelling (taking into account that all bedrooms are served by a double bed) the minimum GIA should be 124sqm and therefore at 428 sqm the dwelling overachieves on internal space. The bedrooms are all of an adequate size and it is considered a good internal amenity could be achieved.

Highways

The site benefits from a double In/Out access and parking for multiple cars is provided at site.

The Local Highways Authority support the proposal subject to a condition regarding that prior to any future changes to the frontage boundary treatment being implemented, full details are submitted to be approved by the LPA to ensure adequate visibility is retained at the access/egress points in the interests of highway safety.

It is considered that the application would not impact on the highway network and would be in accordance with policies T7 and T13 of the Saved Unitary Development Plan and T4 of the Site Allocation Document.

Trees and Ecology

3 Leyland Cypress trees will need to be removed to accommodate the development, however, they are of low Arboricultural value and their loss will have little or no impact outside of the site. Additionally, the BS 5837: 2012 tree report by Apex Environmental submitted with the application recommends the removal of 7 other Leyland Cypress trees, not to accommodate the development but due to their poor condition, these 7 trees are also of low Arboricultural value. The remaining trees on site are to be retained and as demonstrated in the BS 5837:2012 tree report and can be adequately protected throughout the construction phase and will not be detrimentally affected. It should be noted that none of the trees on site are protected by a TPO.

Consequently, there are no Arboricultural objections to the application as long as the

recommendations and guidelines as detailed in the BS 5837: 2021 tree report by Apex Environmental dated 28/06/2021 (and the Protection Plan drawing no. AEL-18384-TPP) are implemented and adhered to throughout the construction phase from start to completion.

In terms of ecology, the site is not within a bat buffer zone and the building is not known to have bats present.

Ground Conditions and Environment

The applicant would be required to agree an Air Quality Low Emission Scheme in writing and a Construction Management Plan, both of which would be secured by planning condition.

Flood Risk and Drainage

The site, which is in Flood Zone 1, is not in an area known for flooding and there are no watercourses nearby. It is therefore considered that the development would be acceptable in terms of flood risk if accompanied by an appropriate foul and surface water drainage scheme which would be secured by condition on any permission.

Local Finance Considerations

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

This application proposes 1 new home.

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 proposal represents inappropriate development in the Green Belt, which there are no very special circumstances for including the delivery of a further house to meet national targets. Further, the dwelling fails to preserve the existing features of the dwelling and respect the character of the neighbouring dwellings and surrounding area.

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

Positive and Proactive Working with the Applicant Refuse

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

support the proposal.

Recommendation

Refuse Permission

Reasons for Refusal

1. The proposal for the erection of a replacement dwelling in the Green Belt would represent a 189% footprint increase and a 214% increase in volume and is therefore considered to be inappropriate development for which there are no very special circumstances to outweigh Green Belt Policy including the delivery of another house to meet national/local housing targets. The proposal is contrary to The National Planning Policy Framework, 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 replacement dwelling introduces an incongruous form of built development, which does not follow the design cues of the existing dwelling and would be a modern and overly stretched dwelling with extensive glazing, appearing prominent within the Green Belt. The proposal would therefore result in significant detrimental harm to the character of the area and to visual amenity, would erode the spatial characteristics of the existing site and would be poorly related to its surroundings and contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) and HOU2 (Housing Density, Type and Accessibility) of the Black Country Core Strategy, SAD Policy HC2 (Development of Other Land for Housing), DW3 (Character), DW4 (continuity) and DW6 (Legibility) of the Designing Walsall Supplementary Planning Document and section 12 of the National Planning Policy Framework (Achieving well-designed places).

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 10 February 2022

Plans List Item Number: 7

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 38, NORMAN ROAD, WALSALL, WS5 3QL

Proposal: PROPOSED REPLACEMENT SIX BEDROOM 2.5 STOREY DETACHED DWELLINGHOUSE WITH FRONT AND REAR FACING DORMER WINDOWS TO ACCOMMODATE HABITABLE SECOND FLOOR WITH DOUBLE STOREY GALLERY PORCH. (AFFECTING PUBLIC RIGHT OF WAY WAL104)

Application Number: 21/0053

Case Officer: Fiona Fuller

Applicant: Sofikur Rahman

Ward: Paddock

Agent: Kabir Bansal

Expired Date: 26-Apr-2021

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

Time Extension Expiry: 25-Jan-2022



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Recommendation

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

- The amendment and finalising of conditions; and
- No new material considerations being raised by consultees

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Proposal

The applicant seeks full planning permission for a replacement dwelling for a 2.5 storey detached six-bedroom dwelling at 38, Norman Road.

The proposal will consist of an utility room, kitchen and lounge on the ground floor. On the first floor would be four bedrooms with two en-suites. On the second floor there will be two bedrooms and an en-suite.

The house design will include a mansard style roof, a ground floor central porch with main access and main habitable room windows to the front and rear elevations. There will three small pitched roof dormers to the rear which were added to the amended plans.

The key measurements are:

Replacement Dwelling

- 8.1 metres height to the roof ridge
- 5.0 metres height to the eaves
- 15.4 metres length
- 12 metres wide

Boundary Treatment remains the same.

Site and Surroundings

The application site is located on Norman Road. The surrounding area is characterised by mainly residential development with a mixture of detached single and two storey properties.

The building is not listed or located within a conservation area but there are protected species in the site surrounding.

The following document were submitted to support the application:

- Preliminary Roost Assessment

Relevant Planning History

None found

Relevant Policies

The 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". [Page 141 of 194](#)

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 9 – Promoting sustainable transport
- NPPF 11 – Making effective use of land
- NPPF 12 – Achieving well-designed places

On planning conditions the NPPF (para 55) says:

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

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

Reducing Inequalities

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

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

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

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

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon

those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

Supplementary Planning Documents

- . Designing Walsall
- . Design Principle – Homes:
- . DW3 – Character
- . DW4 – Continuity
- . DW6 – Legibility
- . DW9 – High Quality Public Realm
- . DW10 – Well Designed Sustainable Buildings

Appendix D

Conserving Walsall's Natural Environment

Air Quality SPD

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

Consultation Replies

- ECOLOGY BBC Wildlife – No response
- DRAINAGE – No response
- CANAL AND RIVER TRUST – No objection subject to canal boundary, external lighting, construction management conditions and informative being imposed.
- PARK HALL RESIDENTS ASSOCIATION – No response
- INLAND WATERWAYS ASSOCIATION LICHFIELD – No objection
- TRANSPORTATION (Local Highway Authority) – No objection subject to an access, a parking layout and a boundary conditions and informative being imposed.
- WEST MIDLANDS FIRE SERVICE – No response
- PUBLIC RIGHTS OF WAY – No objection
- RAMBLERS ASSOCIATION – No response
- STRUCTURES – No response
- STRATEGIC PLANNING POLICY – No response
- Inland Waterways Association (Lichfield) – No objections
- West Midlands Fire Service – No response
- Local Access Forum – Support - Unlikely that the footpath will be impacted
- Pollution Control – No objection subject to a Method Statement, Air Quality Assessment, Construction Working Plan, Electric Vehicle Charging Point conditions and informative being imposed

Representations

12 Neighbours were notified via letter about the proposed development. Objections from occupiers of neighbouring properties (*Officers comments in italics*). These are as follow:

- Impact on the aesthetic
- Detrimental impact on No 36A
- Loss of light
- Impact on light to No.38A which is on a lower level
- Overshadowing on 36A to the north
- The proposed building will be imposing/higher than the neighbouring property.
- It is not in keeping
- There is no garage will there be a garage in the future. (*The application has been assessed on its merits. The LPA can't ascertain what an applicant*

proposes to do in the future. Permitted development rights will be restricted to allow the LPA to assess future impacts on neighbours)

- Concerns about noise, dust safety during the construction phase/ would like a construction management plan condition to be imposed if planning permission is granted. *(A Construction Management Condition is included)*
- Drawing doesn't show fence boundary treatment *(A boundary condition is included)*
- A majority of the neighbours are elderly *(This is a non- material planning consideration)*
- There is an issue with the towpath. Has the Canal and River Trust been consulted? *(The LPA consulted the Canal and River Trust. They have no objection subject to conditions and an informative to be added to the decision notice).*

Determining Issues

- Principle of Development
- Design and Character of the Area
- Neighbouring Amenity
- Drainage
- Access and Parking
- Protect Species
- Fire safety

Assessment of the Proposal

Principle of Development

The site is situated within a well- established residential area within a location served by public transportation into Walsall and Birmingham. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP.

The proposal will not cause harm to the local area, will not adversely impact on the character and identity of the local area and will be consistent with the advice in the NPPF and that the house is within a residential location. An appropriate level of private amenity will be retained and the proposal would continue the residential street frontage Norman Road.

The principle of a replacement residential property fronting Norman Road is considered appropriate in this location.

Design and Character of the Area

Concerns the proposal would have an impact on the aesthetic on the site surrounding, detrimental impact on No 36 and effect the light/ overshadowing/ loss of light to No.38A. These concerns form part of the assessment, leading to revised plans being submitted.

The revised proposed house design reflects the evolving local character with similar characteristics including roof design and similar scale and proportion, on balance limiting the impact on the local character of the area.

Neighbouring Amenity

Neighbours concerns the proposed dwelling would have an impact on their privacy, overshadowing and detrimental impact on the neighbouring properties have been considered in the overall assessment of the planning application. Based on the revised proposed design, site meeting with the local residents and a site visit, it was noted there are neighbouring secondary side facing openings. Also, there was sufficient separation between the application property and the neighbouring properties. Therefore, the relationship between the proposed house and those on Norman Road would reflect the local character. It is considered that on balance in this instance, the proposal would not have an overbearing impact on adjacent houses or result in unacceptable levels of overlooking. A safeguarding condition restricting the additional windows and doors.

To ensure the satisfactory amenity of neighbouring occupiers is retained, it is considered permitted development rights for extensions and outbuildings.

Drainage

The proposed development would appear to have minimal impact on the existing sewage system and no condition is necessary. From this perspective, the proposal is considered acceptable.

Access and parking

Parking for 3 vehicles is provided at the new dwelling in the form of a driveway parking. The proposal accords with the Councils parking standards. Highways consider the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF. Conditions and informative were imposed to planning permission.

Protected species

Whilst the Black Country Wildlife Trust didn't respond to the consultation, knowing the local area and previous decisions in the locality, in this instance, it is considered a precautionary bat condition is included.

Fire Safety

In the interests of fire safety as recommended by the West Midlands Fire Officer and in accordance with UDP policy ENV32 the development can be suggested to meet fire safety standards.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed extension would reflect the design of the existing dwelling and other properties around the area. The proposal is considered would have a limited impact on the character of the wider area and the amenity for neighbouring occupiers. The use of safeguarding conditions in respect of the materials to maintain its appearance will further ensure that the neighbours amenity is protected and 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.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

Positive and Proactive Working with the Applicant

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

Recommendation

Conditions and Reasons

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

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

2) The development shall be carried out in accordance with the following plans unless otherwise superseded by condition:

- Drawing Title: Existing and Proposed GF Plans – Drawing No D100 (Revision B) – Dated 11/01/2021
- Drawing Title: Existing Elevations – Drawing No D103 – Dated 11/01/2021
- Drawing Title: Block and Location Plan – Drawing No D100 (Revision A) – Dated 11/01/2021
- Drawing Title: Proposed Elevations – Drawing No D104 (Revision B)– Dated 11/01/2021
- Drawing Title: Proposed Second Floor and Roof Plans – Drawing No D102 – Dated 11/01/2021
- Drawing Title: Existing and Proposed First Floor Plans – Drawing No D101 – Dated 11/02/2021
- Preliminary Roost Assessment - – Dated 14/01/2021

Reason: To define the permission.

3a. Prior to commencement of the development hereby permitted, including any demolition or site clearance a site survey to identify any potentially hazardous materials shall be carried out and a Method Statement detailing actions to be taken and timescales for the taking of such action to prevent localised contamination shall be submitted in writing to and approved in writing by the Local Planning Authority.

3b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Method Statement

3c. Prior to commencement of any built form or engineering operations of the development here by permitted and post demolition and removal of the demolition material a validation report written by a competent person who was overseeing the works shall be submitted in writing to and approved in writing by the Local Planning Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials and the building and to verify that the approved

Method Statement has been carried out.

Reason: To prevent potential contamination of the ground due to any potentially hazardous materials associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

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

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

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

5) Prior to the commencement of development hereby permitted, including demolition shall take place until a Construction Working Plan has been submitted in writing to and approval in writing by the Local Planning Authority. The plan shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

5b. The approved Construction Working Plan shall be implemented upon commencement of works and shall be maintained until the site is completed.

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

6a. Prior to first occupation of the development hereby permitted details of electric vehicle charging points, to be provided for the development shall be submitted in writing to and agreed in writing by the Local Planning Authority.

6b. Prior to first occupation of the development the approved electric vehicle charging

points shall be installed in accordance with the approved details and shall be retained and maintained for the lifetime of the development.

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 and DEL1 of the Black Country Core Strategy

7a. Prior to occupation of the development hereby permitted a minimum of 3 off road parking spaces each measuring a minimum of 2.4m by 4.8m shall be provided on the drive within the curtilage of the application property. The parking spaces shall be consolidated hard surfaced and drained to prevent surface water from the driveway running on to the public highway or into any highway drain.

7b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the parking spaces shall thereafter be retained for the purposes of parking vehicles and for no other purpose for the lifetime of the development.

Reason: In accordance with the requirements of saved Unitary Development Plan policies GP2, T7, T13 and ENV40 and in the interest of highway safety.

8a. Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

8b. The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

8c. The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved schedule.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no extensions or additions as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house;

- Class A (enlargement, improvement or other alterations),
 - Class AA - enlargement of a dwellinghouse by construction of additional storeys
 - Class B (additions to the roof),
 - Class C (other alterations to the roof),
 - Class D (porches),
 - Class E (building incidental to the enjoyment of a dwelling house),
 - Class F (hard surfaces incidental to the enjoyment of a dwelling house),
- shall be installed in any part of this development.

Reason: To protect future occupiers from potential gas ingress and to safeguard the amenities of the occupiers of adjoining premises and to comply with saved policies GP2, ENV32 and ENV10 of the Walsall Unitary Development Plan.

10). No boilers shall be installed in any of the units hereby permitted, save for

- Gas and liquefied petroleum gas (LPG) boilers with maximum NO_x emissions no greater than 56 mg/kWh
- Oil-fired boilers with maximum NO_x emissions no greater than 120 mg/kWh.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

11) No solid fuel stove, fire or heating appliance or associated chimney or flue shall be installed in the approved development.

Reason: To ensure safeguarding of local air quality and to protect local residential amenity.

11a. Notwithstanding the bat survey carried out by Preliminary Roost Assessment – Dated 14/01/2021 all workers on the site shall be made aware that bats may be present and shall not undertake demolition works including the dismantling of roofs, soffits, gables or in the vicinity of cracks and crevices otherwise than with the use of hand tools. All roof tiles, flashing and ridge tiles shall be listed carefully (and not dragged or slid) and the undersides examined for bats or bat droppings.

11b. If during the construction period bats or evidence of bats or their roosts are found:

- i. bats shall not be handled or touched
- ii. the vicinity of the roost shall be immediately reinstated.
- iii. no further destructive works shall be carried out until the need for Natural England licence has been established.
- iv. Within one week of finding bats or evidence of bats or their roosts, a written report by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy shall be submitted in writing to and approved in writing by the Local Planning Authority. The report shall record what was found, and propose appropriate mitigation measures, including a timetable for their implementation
- v. Work shall not continue otherwise than in accordance with the approved mitigation measures and the approved timetable

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

12: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no side facing windows, doors, or other openings other than those shown on the approved 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 saved policy GP2 of the Walsall's Unitary Development Plan.

Notes for Applicant

Canal and River Trust – Notes

Public Rights of Way Notes

There are no public rights of way requirements but I have included a note to applicants in case of any impacts on Footpath 104 Walsall during construction.

West Midlands Fire Service Notes

Approved Document B, Volume 1, Dwelling-houses, 2019.

Requirement B5: Access and facilities for the fire service

Section 13: Vehicle access

Provision and design of access routes and hard-standings

13.1 For dwelling-houses, access for a pumping appliance should be provided to within 45m of all points inside the dwelling-house.

13.3 Access routes and hard-standings should comply with the guidance in Table 13.1.

13.4 Dead-end access routes longer than 20m require turning facilities, as in Diagram 13.1. Turning facilities should comply with the guidance in Table 13.1.

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 1, Table 13.1).

Water

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 16 and “National Guidance Document on the Provision for Fire Fighting” published by Local Government Association and WaterUK:

<https://www.water.org.uk/wp-content/uploads/2018/11/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

Sprinklers

Where sprinklers in accordance with BS 9251:2014 or BS EN 12845:2015 are fitted throughout a house or block of flats:

a) the distance between a fire appliance and any point within the house (in houses having no floor more than 4.5m above ground level) may be up to 90m:

b) the distance between the fire and rescue service pumping appliance and any point within the house or flat may be up to 75m (in houses or flats having one floor more than 4.5m above ground level) (BS 9991:2015 50.1.2).

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

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 1, Section 7)

The external access provisions for a building should be planned to complement the internal access requirements for a fire attack plan. (CIBSE Guide E, Fire Safety Engineering 2010, p. 13-14)

Severn Trent Water notes

There may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close

to, directly over or be diverted without consent and contact must be made with 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.

Pollution control notes

The development hereby permitted shall not be carried out otherwise than between the hours of 0800 hours to 18.00 hours Mondays to Fridays and Saturday, Sundays, Bank and Public Holidays no work should be carried out *see Notes for Applicant .

END OF OFFICERS REPORT



Planning Committee

Report of Head of Planning and Building Control on 10 February 2022

Plans List Item Number: 8

Reason for bringing to committee

Called in by Councillor Nasreen on the grounds that the application requires delicate judgement.

Application Details

Location: 48, MELLISH ROAD, WALSALL, WS4 2EB

Proposal: RESUBMISSION OF 20/1268 FOR PART TWO STOREY AND PART SINGLE STOREY REAR EXTENSION PLUS GARAGE CONVERSION.

Application Number: 21/0971

Case Officer: Rebecca Rowley

Applicant: N Sander

Ward: St Matthews

Agent: Manraj Michael Singh

Expired Date: 02-Sep-2021

Application Type: Full Application:
Householder

Time Extension Expiry: 31-Dec-2021



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Recommendation

Refuse Planning Permission

Proposal

Two Storey and Single Storey Rear Extensions

- Width: 10.2m
- Depth: 5.6m on the ground floor, 3.8m deep at the first floor
- Height to eaves: 2.6m ground floor, 5.1m first floor
- Ridge Height: 3.3m ground floor, 7.0m first floor

Conversion of the existing detached rear garage to a playroom

- No extensions or alterations are proposed to the garage other than replacement of the garage door and a small window with an entrance door and bi-folding doors facing onto the applicant's garden.

Site and Surroundings

The application site is a detached dwelling, situated within a street scene (Mellish Road) comprising detached and semi-detached houses of varied size and mixed design with differing facing materials.

This property is situated on the corner of Mellish Road and Rushwood Close and is built in the same style as all others on Rushwood Close with the dormer windows projecting from the front and rear.

The property sits forward of the building line along Mellish Road, meaning the neighbour at No.50 projects further to the rear than No.48. Consequently there are side facing windows that would look out onto any rear extension, however these are obscure glazed.

There are a number of protected trees on the front of 48 & 50 Mellish Road, and 9 protected Lime trees along the boundary between No.48 & 50 Mellish Road and 1 Rushwood Close.

Planning History

- 19/0529 - T1 Lime - Crown reduce to a height of 7.0m. T2 Lime - Fell to ground level. T3 Lime - Fell to ground level. T4 Lime - Fell to ground level. – refused permission for works as requested on the grounds that no evidence had been submitted to implicate the trees in the cause of current or future damage to the building and the detrimental impact of the proposed work to the amenity, aesthetic and landscape value of the area. Granted permission to reduce T1, T2, T3 and T4 to 12m height and 2/3m radial spread – 24/06/2019
- Appeal AA/TPO/V4630/7512 of the decision for application 19/0529 – dismissed 27/02/2020 on the grounds that given the positive contribution that the trees make to the character and appearance of the area and the harm identified, none of the factors submitted by the appellant, taken either singly or cumulatively, provide sufficient justification for the works proposed.
- 19/1220 – Part Two Storey and Part Single Storey Rear Extension with internal Changes and Garage Conversion – GSC on 20/08/2020
- 20/1245 - prior approval for a larger home extension for a single storey rear

extension, 8.00 metres deep from the original rear elevation, 4.00 metres maximum height measured externally from the natural ground level, 3.00 metres high at the eaves measured externally from the natural ground level – GSC 18/11/2020

- 20/1268 - Two Storey and Single Storey Rear Extensions plus Garage Conversion – Refused permission 10/02/2021 on the following grounds:
 1. The proposed two storey rear extension presents unacceptable detrimental harm to the character of the original dwelling and to the surrounding Rushwood Close street scene. The large projecting twin gable design with accentuated eaves detailing, together with the overall size and mass of the extension, is not reflective of the character of the original dwelling and does not appear subservient in relation to the host property. At a prominent corner location, the overbearing design would be an incongruous addition to the Rushwood Close street scene, which would be visible from numerous public vantage points. The visually obtrusive extension would disrupt the consistency and continuity of the existing street scene to the detriment of the character of the local area. Therefore, the application does not comply with Saved Policies GP2 and ENV32 of Walsall's Unitary Development Plan, CSP4, ENV2 & ENV3 of the BCCS, and the NPPF.
 2. The proposed development would adversely affect the privacy of No.2 Rushwood Close. The two side facing bedroom windows in the proposed extension and the additional side facing study window in the main dwellinghouse, would facilitate direct overlooking into the neighbouring property's ground and first floor habitable room windows. The separation distance of these windows would be below the required 24m minimum separation distance stated in the Designing Walsall SPD. Considering that there is currently no facing habitable room windows in the existing side elevation of No.48, the proposed development would introduce a new harm that is not proportional to the character of the area, and would consequently detrimentally impact their privacy. Therefore, the application does not comply with Saved Policy GP2 of Walsall's Unitary Development Plan, the Designing Walsall SPD and the NPPF.
 3. This application fails to demonstrate the potential impacts to the protected Lime trees in the rear garden. Without any satisfactory evidence supporting the application, the proposed development presents a potential harm to the overall health and longevity of the protected trees within the site and result in harm to the visual amenity of the area. Therefore, the proposal is not in accordance with Saved Policies ENV18 & GP2 of Walsall's Unitary Development Plan, NE7 & NE8 of Walsall's Natural Environment SPD and the NPPF.

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 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Walsall Site Allocation Document 2019

EN1: Natural Environment Protection, Management and Enhancement

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T13: Parking Provision for Cars, Cycles and Taxis

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

- DW3 Character
- Appendix D

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

Consultee Comments

Local Highway Authority

Support

Pollution Control

Pollution Control requires the applicant to:

- (i) Address any installation of a solid fuel appliance
- (ii) Agree a Construction Management Plan

Tree Preservation Officer

Concerns raised - The proposed extension is likely to be detrimental to the existing protected trees and lead to their removal due to the proximity of the proposed extension/assumed hard standing and the issues surrounding shading, the proximity of the crown and honeydew deposition.

Neighbour and Interested Parties Comments

2 representations were received from 2 neighbouring occupants raising the following concerns:

- Negative impact on privacy
- Potential loss of natural light to our property. Our property has a large window in the wall facing the property at 48. This window provides a lot of natural light to our hallway, staircases and both the first and second floor landings. It appears that the second floor extension could block or reduce this light.

Determining Issues

- Has this application overcome the previous reasons for refusal?
- Other material planning matters

Assessment of the Proposal

Has this application overcome the previous reasons for refusal?

Specifically:

1. *Unacceptable detrimental harm to the character of the original dwelling and to the surrounding Rushwood Close street scene (summarised).*

As no significant amendments have been made to the design of the proposed extensions compared to the previous application 20/1268, reason no. 1 for refusal remains. It is also noted that the current proposal is a very similar design to drawing 3 of 7a, submitted on 22/10/2019, which was the first of six design amendments that were submitted for application 19/1220 before the LPA could support that particular application.

The rear garden boundary wall is 2.1m in height. The entire of the existing rear of the property above the eaves height is visible above this wall from the public vantage point, even with some limited screening provided by boundary trees and foliage. Whilst this wall and foliage may screen the lower parts of the proposed extension it is considered that the majority of the first floor rear, as well as the additional depth of the side elevation of the first floor extension would be of sufficient visibility within the street scene to create an impact. Therefore, the submitted unilateral undertaking which proposes the ongoing retention of an existing boundary wall and vegetation does not address this refusal reason.

Accentuated eaves detailing was referred to in the previous refusal reason and this application demonstrates an effort to simplify this detail. This particular point can be removed from the reason for refusal, however there are no changes to the height of the eaves or the roof ridge of the two storey rear extension and therefore, regardless of a minor change to the eaves detail, the harmful impact would remain.

The applicant's agent has been advised that amendments are required to reduce the size and mass of the proposed two storey extension at the rear of the property but no amendments have been received to date.

Therefore this application fails to overcome the previous first refusal reason.

2. The proposed development would adversely affect the privacy of No.2 Rushwood Close (summarised).

The side facing first floor bedroom window has been removed. It is acknowledged that the side facing first floor office room window was permitted by the approval of application 19/1220.

The second reason for refusal has therefore been overcome.

3. This application fails to demonstrate the potential impacts to the protected Lime trees in the rear garden (summarised).

Whilst an arboricultural report has been submitted in an effort to demonstrate the potential impacts to the protected Lime trees in the rear garden, the Council's Tree Officer has raised concerns over the likely future pressure of removal of these trees from a result of this proposed development.

The 3 protected Lime trees in the rear garden provide a high degree of amenity value to the locality, and form an integral part of a linear group feature when combined with 3 x other protected trees on the adjacent property. A recent application to fell these 3 trees (19/0529) was dismissed at Appeal. An Arboricultural Impact Assessment (AIA) has been submitted in support of the application which states, "The trees are protected by a Tree Preservation Order, however ... it is not seen how it is possible to construct the extension without significant harm to the trees to the rear."

The AIA has categorised the trees, in accordance with British Standard 5837:2012 Trees in Relation to Design Demolition and Construction, as being in the B1 category (good trees). The Council's Tree Officer considers these trees have been downgraded on the basis of past management and should instead be categorised as A2 being "Trees, groups or woodlands of particular visual importance as arboricultural and/or landscape features".

The proposed single storey element of the extension would be located approximately 6m from the base of the nearest tree, which has a root protection distance of 7.4m. No details have been submitted of any potential patio area leading off the proposed bi-fold doors at ground floor. Given the ground level in this area rises gently, a greater amount of excavation would be required to achieve any such hard standing area which has the potential to result in damage to the trees root system and overall longevity. Whilst conditions could be attached to any permission to restrict permitted development rights regarding external areas of hardstanding, this alone would not address the Council's concerns and would fail to overcome the original refusal reason.

The proposed second storey element of the extension would be located approximately 7m from the crown of the tree. The crown of the tree extends to 7m from the base indicating there would be a conflict in this area and that significant pruning works would be required to allow the construction of the extension and to maintain a reasonable clearance between the edge of the canopy and the building fabric. In addition, the southern elevation of the second storey element is shown as a gable end which means that any pruning of the crown in this area would have to be undertaken to a height of 2m over and above the height of the proposed ridge (i.e. 9m above ground level), which would not be considered in line with best practice and would have a detrimental impact on the shape, form and visual amenity value of the tree. The remaining crown would overhang the roof of the property and is likely to lead to the future pressure of severe pruning or removal of the tree(s) due to the deposition of tree debris onto the building, fears in adverse weather condition and the dripping of honeydew onto various parts of the building, and any future patio area.

The trees are located on the south side of the building, slightly to the east. An assessment of the shade indicates the building would almost be completely shaded in the morning to around early afternoon which is also likely to lead to the Council being placed under pressure to allow severe (cyclical or repeated) pruning or removal of the tree(s).

Therefore, construction of the proposed extensions and likely future associated amenity issues are considered would have a detrimental effect on these protected trees which would likely result in pressure for their future severe pruning or removal resulting in an unacceptable harmful impact on the visual amenity of the locality.

Impacts to these protected trees remain, and the third refusal reason is maintained and updated to reflect this position.

Other material planning matters

Air Quality

Environmental Protection require conditions to prevent the installation of any solid fuel burning appliance in the premises and that a construction management plan be submitted and approved prior to commencement of development at this site. The reasons for this are to protect air quality and neighbouring amenity. Should members be minded to approve this application, it is recommended that conditions to address these matters be included in the decision.

Impact on Neighbouring Amenity

A representation received raised concerns regarding privacy. The refused application was considered only to impact on the privacy of no. 2 Rushwood Close to a level that would be significant enough to warrant refusal on this ground. As this previous reason

for refusal has been overcome and no additional doors or windows are proposed compared to the refused scheme, it is considered that the proposal poses no significant further risk of harm to the privacy of neighbouring occupants to warrant refusal in this instance.

In terms of the objection made regarding loss of light to a neighbour's hallway and staircase, hallways, staircases and landings are not considered to be habitable rooms that occupants of a dwelling would spend any significant amount of time in and therefore do not hold the same weight as a habitable room when considering the impact of a development on light to these rooms and would not warrant a refusal reason.

However, the proposal includes a first floor side facing bathroom window looking towards no. 50 Mellish Road. Should members be minded to support this proposal, a condition should be included to ensure that this window is obscurely glazed to protect the privacy of occupants of the application site and neighbouring occupants.

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 whilst the principle of the proposed extensions would be acceptable and the design would not cause any significant harm to the amenity of neighbouring occupants when using their homes or gardens, nor harm to highway safety subject to the use of planning conditions, the proposed development would not integrate well with the local area and would adversely impact on the character, appearance and identity of the site and the area contrary to the aims and objectives of the National Planning Policy Framework, BCCS policies CSP4, ENV2 and ENV3, saved UDP policies GP2 and ENV32 and the SPD Designing Walsall Policy DW3.

Taking into account the above factors, it is considered that the application should be recommended for refusal

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent regarding the amendments that would be required to overcome the previous reasons for refusal. No amendments have been made to the design to date, and in this instance, officers are unable to support the proposal.

Decision Recommendation

Refuse Permission

Reasons for Refusal

1. The proposed two storey rear extension presents unacceptable detrimental harm to the character of the original dwelling and to the surrounding Rushwood Close street scene. The large projecting twin gable design together with the overall size and mass of the extension, is not reflective of the character of the original dwelling and does not appear subservient in relation to the host property. At a prominent corner location, the overbearing design would be an incongruous addition to the Rushwood Close street scene, which would be visible from numerous public vantage points. The visually obtrusive extension

would disrupt the consistency and continuity of the existing street scene to the detriment of the character of the local area. Therefore, the application does not comply with Saved Policies GP2 and ENV32 of Walsall's Unitary Development Plan, CSP4, ENV2 & ENV3 of the Black Country Core Strategy, and the National Planning Policy Framework.

2. Notwithstanding the submitted details, the proposed two storey rear extension has the potential to result in detrimental impacts to, and future pressure for severe pruning or removal of, the existing 3 x protected Lime trees due to the proximity of the proposed extension to the trees and encroachment of their Root Protection Areas. Such harm to these trees of high amenity value would result in unacceptable impacts to the visual amenity of the locality and contrary to the requirements of the National Planning Policy Framework, Walsall's Saved Unitary Development Plan policies GP2 and ENV18, Walsall's Site Allocation Document EN1 and the Supplementary Planning Document Conserving Walsall's Natural Environment.

Notes for Applicant

None

END OF OFFICERS REPORT



Planning Committee

Report of Head of Planning and Building Control on 10 February 2022

Plans List Item Number: 9

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 27, ST AUSTELL ROAD, WALSALL WS5 3EF

Proposal: TWO STOREY SIDE EXTENSIONS TO BOTH SIDES OF THE DWELLING, SINGLE STOREY REAR EXTENSION PLUS A DETACHED FRONT OUTBUILDING TO CREATE ADDITIONAL HABITABLE SPACE.

Application Number: 21/0553

Case Officer: Rebecca Rowley

Applicant: Jas Dhaliwal

Ward: Paddock

Agent: Pritpal Chana

Expired Date: 22-Jun-2021

Application Type: Full Application:
Householder

Time Extension Expiry: 18-Feb-2022



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Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to the amendment and finalising of conditions.

Proposal

This application requests permission for the following extensions to a 3 bedroom detached house:

Two Storey Side Extension with Side Gable Roof

To create a relocated bedroom and a new 4th bedroom

- Depth: 8.5m
- Width: 2.5m
- Set back from front elevation: 0.5m
- Separation to side boundary: 1.5m
- Height to Eaves: 5.2m (to match existing)
- Height: 6.7m (0.3m below main roof ridge)

Windows: One first floor front and rear bedroom window, ground floor side facing wc and study room window facing towards no. 25 St Austell Road

Ground Floor Front Extension with Flat Roof

To extend the front of the existing garage which is to be converted into a study, w.c and storage area

- Depth: max 1.2m
- Width: 2.5m
- Height: 2.6m (as existing)

A new garage door would be installed in the same position as existing

Ground Floor Rear and Side Extension with Flat Roof and Rear Flat Roof Trellis

To create an open plan kitchen dining area and bar, plus a pantry and utility.

- Depth from existing rear adjacent to no. 25: 4.4m extension plus 1.5m white trellis
- Depth from existing rear nearest boundary with the rear of no.s 4 and 6 Bude Road: 3.5m
- Width: 11.8m
- Height: 3.3m at the rear adjacent to the boundary with houses on Bude Road, reducing to 3.1m at the side boundary with no. 25 St Austell Road and the front due to natural ground level changes

Windows: One front utility room window, a rear family area window, a rear bar room window and rear bifolding doors leading out from the kitchen.

Site and Surroundings

The application dwelling is a 3 bedroom detached house of simple design with a front to rear gable roof and attached side garage. Facing materials are brickwork and clay roof tiles. There is a driveway in front of the dwelling with sufficient space to park 3 vehicles. The property is located at the end of a cul-de-sac, set back from the highway with a relatively large area in front of the house compared to the remainder of the street.

Houses in the street are detached properties of the same original design. Many houses in the area have single storey rear extensions or conservatories and first floor side extensions above attached garages are an emerging character on this estate. The estate was constructed with rear separation distances between houses of around 20m. Street scenes are open plan with low or no front boundary treatments or boundaries defined by shrubs and foliage.

The adjacent dwelling to the east side is no. 25 St Austell Road with a separation distance of 1.5m between the ground floor of the houses and 4m between the first floors above the attached garage at the application site. The principal and rear elevations are in alignment with the application house.

The west side boundary of the application dwelling borders the rear gardens of no.s 2 to 8 Bude Road. The rear of no. 2 faces the rear garden of the application site, no.s 4 and 6 face the west side elevation of the application dwelling and no. 8 faces the driveway at the front of the application site. There is a separation distance from the west side elevation of the application house of around 15m to the rear elevation of no. 4 and 16m to the rear elevation of no. 6.

Opposite the dwelling is the south side elevation and rear garden of no. 29 St Austell Road. The separation distance between the buildings is 15m and there are no facing habitable room windows in this elevation.

To the rear of the dwelling is a 10.5m long garden with a separation distance of 22.5m to the rear of no. 17 Penryn Road and 20m to the rear of no. 19 Penryn Road, which are located to the south of the application site. A closed boarded fence defines the rear boundary and there are some trees which partially obscure mutual views.

Relevant Planning History

None

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 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**

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

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

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

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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

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

Black Country Core Strategy

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

Supplementary Planning Document

Designing Walsall

- DW3 Character
- DW10 Well Designed Sustainable Buildings
- Appendix D

Consultation Replies

(Case Officer's comments in italics)

Local Highways Authority

08/06/2021

Concerns raised regarding parking. The application has failed to provide any details of on-site parking. Taking into account the loss of the existing garage space and the addition of a 4th bedroom the parking requirement in policy terms is 3 spaces plus at least 1 additional space for the 'outbuilding'. It has not been demonstrated how 4 standard workable parking spaces can be accommodated within the site curtilage.

The Highway Authority is mindful that the site is located at the end of a cul de sac and would not want any parking demand displaced into the turning area.

10/08/2021 – following reductions to the proposed outbuilding and inclusion of a parking plan

Support subject to a condition to ensure that the outbuilding shall remain ancillary to the main dwelling house and shall not operate as an independent dwelling or commercial use.

(The proposed detached outbuilding has since been omitted from the plans)

Park Hall Residents' Association

No response

Representations

(Case Officer's comments in italics)

In response to the original consultation, 11 representations were received from 11 separate neighbouring occupants raising the following concerns:

- Overdevelopment of the plot / It is a 'new-build' and not an extension
(Reductions have been made to the scheme since this comment was submitted, including omission of the detached front outbuilding)
- Ground level is higher than surrounding houses - will create exaggerated height

- Proximity to the boundary fence
- Design and materials out of keeping with the area
- Visual impact
- Breach of 45-degree code
- Impact on light, sunlight and shading
- Window separation distances
- Overlooking/ Impact on privacy
- Loss of enjoyment of our garden
- Trees should be planted to soften the impact (*The application can only be assessed based on the plans that have been submitted*)
- Proximity and height of the outbuilding
- The detached outbuilding appears to be a detached single storey house.
- That land [where the outbuilding is proposed] appears to be outside their boundary
(*The outbuilding has been omitted from the scheme*)
- Insufficient parking for increased occupants and highways impact
- Some of the rooms identified as closet/office could become bedrooms (*The application can only be assessed based on the plans that have been submitted*)
- Any vehicle parked in front of our property would obstruct the access to number 27 (*This is not a material planning consideration for the purpose of this assessment. There are other authorities responsible for dealing with this circumstance*)

(The following concerns that were raised do not form material planning considerations in the assessment of this application)

- Impact on the value of our property
- Claustrophobia
- Loss of grass creating flooding
- Disturbance from construction and construction traffic
- I will not allow any access to my garden or temporary removal of my boundary fence to facilitate building work.
- Can existing utilities (water, effluent, communication) support an additional dwelling and significant increase in the existing dwelling

Determining Issues

- Design and Layout of the Extension and the Character of the Area
- Amenity of Neighbours and Amenity of Future Occupiers
- Parking and Highway Safety

Assessment of the Proposal

Design and Layout of the Extension and the Character of the Area

The original proposal included a detached one-bedroom outbuilding on the front driveway of the site, intended to accommodate a member of the household. Concerns were raised regarding the impact of this building to neighbouring sites. Despite amendments that were made to reduce the scale of this building, it was considered that it would be an incongruous addition to the site that would be out of character for the street-scene and could not be supported in this instance. The

outbuilding was subsequently removed from the scheme.

The design of the first floor side gable extension above the existing garage reflects a number of similar extensions in the locality, specific examples being nos. 13 and 20 Bude Road and nos 30 and 34 Penryn Road and is considered would reflect the evolving character of the area. It would have a 0.5m step back from the front elevation and a 0.3m step down at the roof ridge creating a subservient extension in accordance with the requirements of the SPD Designing Walsall Appendix D. There would be a separation distance of 1.1m to the side boundary with no. 25 St Austell Road with no potential for future development on this side of no. 25 which is already constructed up to the boundary. This meets the requirements of the SPD Designing Walsall to limit terracing effect between detached buildings.

The original proposal also included a two storey side extension on the opposite side of the dwelling, adjacent to the rear boundary of nos 2 to 6 Bude Road. In conjunction with the first floor side extension above the garage, this was considered an overbearing addition to the existing house. With a height greater than 3m and a separation distance of less than 13m from the rear windows of nos 2 to 6 Bude Road the extension would not comply with the separation distance requirements of the SPD Designing Walsall Appendix D. The applicant chose to reduce this part of the scheme to a single storey extension.

The site is located at the far end of a cul-de sac, set back behind the building line of the row of houses on the approach to the head of the cul-de-sac. Therefore the proposed ground floor side extension adjacent to the rear boundary of houses on Bude Road would be of limited visibility from the public vantage point and is considered would not significantly alter the character of the existing dwelling. The proposed ground floor rear extension and trellis would be obscured from view by the remainder of the dwelling and would have limited impact on the character of the house or the locality. The ground floor front extension would infill an area of the front of the house beneath the existing flat roof front canopy. The sloping flat roof canopy that is characteristic of the majority of houses on this estate and a garage door would be retained and is considered would not create any significant alteration to the appearance of this part of the house.

Proposed facing materials are white rendering, part timber cladding, black fascia board and guttering, grey window frames and roof tiles to match the existing main roof. Concerns raised that the facing materials would be out of keeping with the street scene. The applicant could lawfully render the elevations of the house and change the colour of the fascia boards, guttering and window frames without the requirement for planning permission, plus white rendering reflects the appearance of a number of rendered properties in the locality. The proposed timber cladding is considered a modern take on the existing white wooden cladding that is characteristic of the first floors of the front elevations of dwellings in the area and would not cause significant harm to the character of the locality to warrant refusal in this instance.

It is considered that this proposal according to the amended plans submitted would not cause significant harm to the character of the application dwelling or the locality in accordance with the requirements of BCCS policies CSP4 and ENV2, saved UDP policies GP2 and ENV32 and the SPD Designing Walsall policy DW3 and Appendix D.

Amenity of Neighbours and Amenity of Future Occupiers

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The first floor side extension would not project beyond the existing front or rear elevations of the dwelling and is considered would have limited impact on outlook or light availability for neighbouring occupants. The ground floor rear extension would project around 2m beyond the rear of no. 25 St Austell Road and meets the requirements of the Council's adopted 45 degree code as outlined in the SPD Designing Walsall Appendix D. The only part of the rear extension that would breach the 45 degree line of view from the nearest habitable room rear window at no. 25 is the proposed trellis which projects a further 1.5m beyond the rear extension. At a total depth of 3.5m from the rear neighbouring window, it would be compliant with the 45-degree code. Furthermore, there is a significant ground level decrease from the rear of no. 25 to the application site so the resultant height of the trellis when viewed from no. 25 would be around 2.2m. The trellis would be painted white and adjacent to the shared boundary would comprise very thin panels that would allow light to pass through. In any case there is a solid board wooden fence on the boundary in this position and as the top of the trellis would not rise significantly above the height of this fence when viewed from no. 25 is considered would not cause sufficient additional harm to outlook or light availability for the occupants of no. 25 above and beyond the existing situation to warrant refusal in this instance.

Concerns raised regarding proximity to the boundary fence and the fact that ground level is higher than surrounding houses which will create exaggerated height. The minimum separation distance from the proposed ground floor side extension to the rear of houses on Bude Road would be 12.5m to no. 6 Bude Road, 11.7m to no. 4 Bude Road and 11.3m for no 2 Bude Road. In the case of no.s 4 and 6 Bude Road, the extension at a height of 3.1m would be just 0.1m higher than the 3m limit that would comply with the separation distance requirement of the SPD Designing Walsall Appendix D and being viewed against the backdrop of the existing side elevation of the house is considered would cause limited additional harm to their amenity in terms of outlook or light availability. Whilst it is acknowledged that ground level is higher at the application site than these neighbouring sites, this exaggerates the height of the existing two storey side elevation when viewed from these sites. Therefore the resultant exaggerated impact of the view of the ground floor side extension is consistent with the impact that would be created if ground level were the same. The rear section of the side extension that has the shortest separation distance to no. 2 Bude Road would only project in front of 2.5m of their 9m wide rear boundary and is considered would not have any significant additional harmful impact on outlook for occupants of this house.

Concerns raised regarding impact on light availability. The rear garden of the application site and no. 25 St Austell Road have a slight south westerly orientation. Due to the ground level difference between the site and the fact that only single storey extensions would project beyond the existing elevations of the house, it is considered there would be limited impact on sunlight availability for the occupants of no. 25. The greatest potential for impact on light would be to occupants of houses on Bude Road. However, for the occupants of no.s 4 and 6, the single storey extension would be against the backdrop of the existing two storey house, so no additional light would be obscured above and beyond the existing situation. For the occupants of no. 2 Bude Road, the rear section of the single storey side extension would project approximately 2.5m across their 9m rear boundary. Any additional impact on sunlight availability to their garden would be limited to an area of the north eastern rear corner of the garden and would not cause sufficient impact on light availability to cause significant harm to their amenity.

Concerns raised regarding window separation distances and potential for overlooking. The proposed first floor rear bedroom window would have a separation distance of 22.5m to the nearest first floor window at no. 19 Penryn Road, which falls short of the required separation distance of 24m between first floor habitable room windows as outlined in the SPD Designing Walsall Appendix D. This distance reflects that of the existing first floor rear windows and is characteristic of the relatively short separation distances between the rear elevations of houses in this area. The proposed front first floor window would have an outlook onto the side of no 29 St Austell Road which has no habitable room windows and again reflects the situation for existing first floor front windows at the site.

Views from front and rear ground floor windows towards neighbouring sites would be interrupted by boundary fences. Two side facing windows proposed with an outlook across the side access from the front to the rear of the application site, towards the side elevation of no. 25. There are no openings in the side elevation of no. 25 so the privacy of these occupants would be unaffected. One of these windows would serve a W.C and a condition will be included to ensure that this window is obscurely glazed to protect the privacy of occupants from users of the side entry. The other window would serve a study room. It is acknowledged that outlook and light availability for this room would be poor and would not normally be supported. However, in this instance, this room would be created from a garage conversion that could have been carried out using permitted development rights without the requirement for planning permission and the resultant impact on amenity would have been the same, so this alone would not cause sufficient harm to warrant refusal of the entire scheme.

It is considered that this proposal sufficiently meets the amenity requirements of saved UDP policy GP2.

Parking and Highway Safety

In accordance with the requirements of saved UDP policy T13, a 4 bedroom dwelling requires a minimum of 3 off road vehicular parking spaces. Now that the outbuilding has been removed from the proposal, there is sufficient space to accommodate this number of vehicles on the existing front driveway. With the outbuilding removed this addresses neighbour concerns regarding parking availability for the extended dwelling.

Conclusions and Reasons for Decision

When assessing the material planning considerations and taking into account the local and national planning guidance and representations received, it is considered that the proposal, according to the plans submitted, would not cause harm to the character of the house or the local area and would not harm the amenity of neighbouring occupants nor cause harm to highway safety in accordance with the requirements of the NPPF, policies CSP4 and ENV2 of the Black Country Core Strategy and saved policies GP2, ENV32 and T13 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall policy DW3 and Appendix D.

The use of safeguarding conditions in respect of the materials and plans to maintain its appearance and obscured glazing to maintain privacy will further ensure that the neighbours amenity is protected and 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 spoken with the applicant's agent and in response to concerns raised regarding the scale and massing of the original proposal and the impact of the detached outbuilding, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to the amendment and finalising of conditions.

Conditions and Reasons

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

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

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

- Location and Site Plan, drawing no. 282-00-099 Rev D, submitted 24/01/2022
- Proposed Ground Floor Plan, drawing no. 282-00-102 Rev C, submitted 15/04/2021
- Proposed First Floor Plan, drawing no. 208-00-103 Rev C, submitted 30/06/2021
- Proposed Front and Rear Elevations, drawing no. 282-00-104 Rev C, submitted 30/06/2021
- Proposed Side Elevations, drawing no. 282-00-105 Rev C, submitted 30/06/2021

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: The walls and roof of the development hereby permitted shall comprise facing materials that match, in size, colour and texture, those specified in Proposed Front and Rear Elevations, drawing no. 282-00-104 Rev C and Proposed Side Elevations, drawing no. 282-00-105 Rev C, and the roof tiles shall match in size, colour and texture those which are used in the existing building and the facing materials shall thereafter be retained for the lifetime of the development.

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

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no side facing windows, doors, or other openings other than those shown on the approved 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 saved policy GP2 of the Walsall's Unitary Development Plan.

5: Notwithstanding the details as submitted, the development shall not be carried out otherwise than in accordance with the ground floor side facing W.C window with an outlook towards no. 25 St Austell Road hereby permitted, shall be non-opening below 1.7m and obscurely glazed to meet Pilkington level 4 or equivalent and shall thereafter be retained for the lifetime of the development.

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

Notes for Applicant

None

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 10 February 2022

Plans List Item Number: 10

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 123, LEIGHWOOD AVENUE, ALDRIDGE, WALSALL, WS9 8BB

Proposal: PROPOSED FIRST FLOOR SIDE EXTENSION, LOFT CONVERSION AND ROOF REPLACEMENT AND GARAGE ALTERATIONS

Application Number: 21/1458

Case Officer: Sheila Denison

Applicant: Whyman

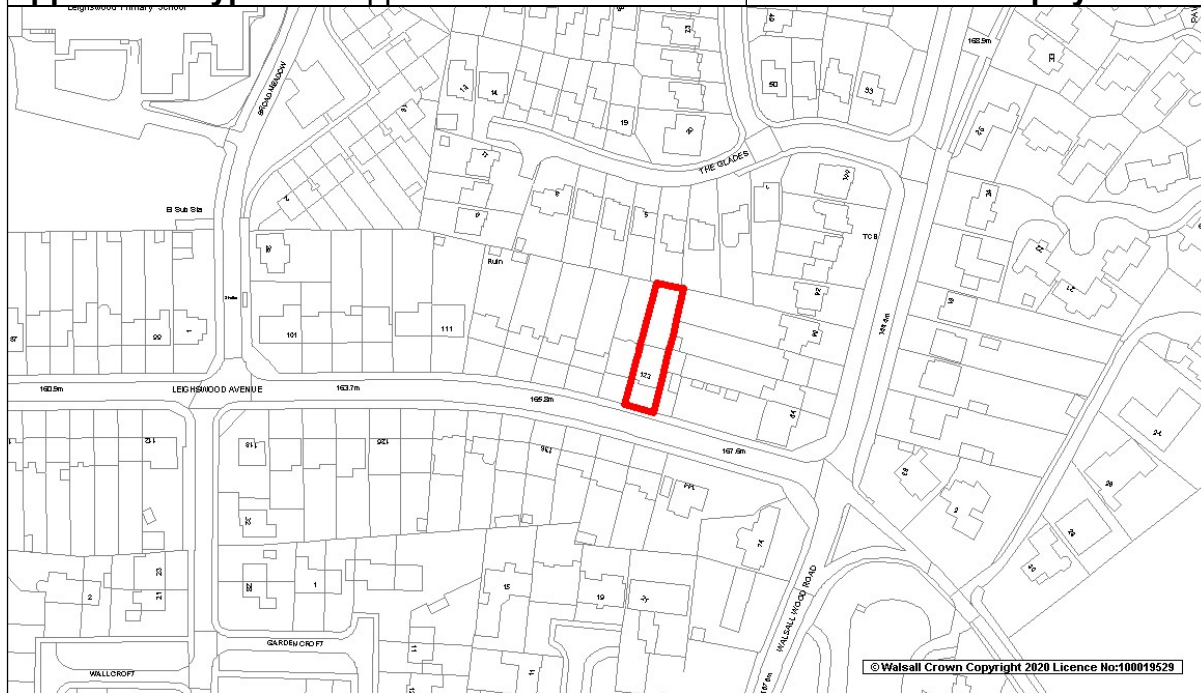
Ward: Aldridge Central And South

Agent: Alexander James Associates Limited

Expired Date: 26-Nov-2021

Application Type: Full Application: Householder

Time Extension Expiry: 18-Feb-2022



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Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to the amendment and finalising of conditions.

Proposal

This application seeks approval for a proposed first floor side extension, loft conversion and roof replacement and alterations to the existing garage.

Proposed first floor side extension and garage alterations

Set in 0.2m

Set down 0.2m

Set back from front elevation 0.9m

2m wide

7m deep

5.1m to the eaves

Render and brick

Loft conversion and roof replacement

Having two gable roof rear facing dormer windows 1.3m wide and 1.9m high overall.

A 0.7m wide east facing Velux bedroom window set 0.5m down from the original roof ridge.

A 0.2m wide west facing Velux bathroom window set 0.3m down from the proposed roof ridge.

Site and Surroundings

The application dwelling is a 3 bedroomed detached house. It has ground and first floor front bay windows with a gable above and a tiled hipped roof. A single storey side garage is present along with a single storey rear extension. The site includes a large rear garden and the front is paved for parking with a dwarf wall.

The street scene is a mix of styles and types of houses. A garage and converted single storey building exists to the right of the application house.

To the left is a detached house with front bay windows with a first floor extension over the garage that is built to the boundary and has a tiled hipped roof; at the rear is a large conservatory and rear extension.

Opposite are double fronted semi-detached houses with hipped roofs and a detached house with a hipped roof. A number of nearby properties have extended to the side with varying styles and gaps to the boundary.

Relevant Planning History

03/0795/FL/H1 121, LEIGHSWOOD AVENUE, WALSALL, WS9 8BB - Side extension over garage and dormer to rear - Grant Permission Subject to Conditions 2003-06-11

BC64727P 121 Leighswood Avenue, Aldridge WS9 8BB First floor side extension above garage, and dormer window to rear - Refuse Permission 2001-11-21

BC51179P - 121 Leighswood Road, Aldridge, Walsall.- Rear extension and Conservatory Grant Permission Subject to Conditions 1997-11-17

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 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**

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
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- pregnancy and maternity
- race
- religion or belief
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- 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

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

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

Supplementary Planning Document

Designing Walsall

- DW3 Character

Consultation Replies

Local Highway Authority: No objection. The proposed garage and 2 car parking spaces on the front drive meets the Council’s parking standards for a five-bedroomed house.

Representations

There have been several representations from neighbours and interested parties further afield:

Material Planning Considerations [Page 177 of 194](#)

- The raised roof height will cause light and aesthetic issues to rear gardens.
- It is out of character in size and shape and over imposing.
- The extension of the bedroom and oversized roof will cause a constant shadow to be cast over the conservatory, patio, plants and garden.
- Overlooking the neighbouring property.
- Terracing effect.
- Traffic Obstructions to Street, the construction of this proposed build will cause considerable parking and exacerbate an already over congested Avenue.
- Leighswood Avenue is a School Road, and traffic is chaotic at school times without the danger and obstruction caused by building work vehicles
- Additional bedroom being added could cause noise problems, which at the moment do not exist because of the current upper space between the 2 houses.

Non- Material planning matters *(officer comments in italics)*

- Would restrict ability to maintain or repair side walls, gutters and roof.
- The rear dining room of 121 still retains an open fire and chimney, we had the top of the chimney closed when a new roof was replaced with a view to open the chimney to have a real fire.
- The proposal builds the extension on top of this and has to step in the brick work to avoid hitting the roof eaves of 121 Leighswood Avenue. This step in would cause the planned rooms to be even smaller and as such completely impractical to be used as a bedroom, how will a bed and wardrobes fit in there? *(room sizes and internal arrangements are the owner/ occupiers choice - national space standards is not a statutory regulation neither has it been adopted by the local planning authority)*.
- the current garage at 123 Leighswood Avenue is very small
- Building on this, the angle of the roof looks like it will cause rain water to pass onto the neighbouring house during heavy rain. This will lead to roof and property damage *(this is a matter for Building Regulations and would be a private matter)*.
- Damp may become a problem in both properties as there will be blocked sunlight and little to no airflow in the gap between the buildings. Twigs, leaves and other debris could get stuck in the inaccessible gap and will end up rotting.
- There are two chimney breasts in 121 Leighswood Avenue that are currently closed.
- The roof contains a small window above the loft bathroom. There could be health and safety concerns with smoke from these chimneys if they are ever opened for use in the future.
- Additional bedroom being added and this could cause noise problems, which at the moment do not exist because of the current upper space between the 2 houses.
- Given the proposed size of the bedroom/bathroom it seems like this extension is only to give the opportunity to label the property as a “5 bedroom” to help with selling and maximising returns
- The planning proposal shows that the extension will be built on a garage which is already touching the two chimney breasts at the side of our house, which needs to be moved away as our deeds state it is detached. *(covenants on deeds are a private matter)*
- The plans show the existing garage wall is being used as part of the extension. This garage wall is actually touching our house side wall and is also positioned directly underneath our roof eaves, so is already encroaching on our property. *(this is a private matter)*

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Assessment of the Proposal

Design of Extension and Character of Area

The design of the proposed side extension is considered to be in keeping with the design of the original dwelling and reflects the mixed character of the area. Given the application is for extensions, and due to the mixed character of the area, the proposals are considered acceptable there is a set back at the front elevation and the roof has been amended to give the appearance of a subservient extension reflecting similar nearby extensions. It retains a hipped roof of a similar design to number 144 which is considered acceptable.

The proposed external materials, including external render, is considered reflects the mixed character of the area and the existing house.

The proposal is considered appropriate within the street scene and does not harm the visual amenities of the area and accords with the requirements of BCCS policies CSP4 and ENV2, saved UDP policies GP2 and ENV32 and DW3 and Appendix D of the Designing Walsall SPD.

Amenity of Nearby Residents

The proposed two storey side extension is set back from the front elevation. The plans have also been amended so that it is set in from the shared boundary at first floor with number 121.

An objection has been raised on the impacts on privacy from the loft conversion. The neighbour's property is located at the rear, at an angle, and some 34m away. The house directly opposite at the rear is some 33.5m away. No significant impacts are therefore considered would arise to these neighbours and a refusal on these grounds would not be warranted.

Objections have been raised:

Regarding the proposed side extension creating terracing it is considered that the proposed extension is set in from the shared boundary at first floor the existing garage is built to the boundary. The first-floor plans have been amended to reduce the first floor side extension in 0.2m from the boundary to allow for a traditional gutter. The reduced set in reflects the mixed gaps in the street scene and due to the single storey garage to the right it is considered that the reduced gap does not cause terracing and a refusal on these grounds would not be warranted.

Maintenance of the side elevations etc. is not a material planning matter and so is not a consideration in determining this application.

Loss of light to the rear conservatory and the rear garden of number 121. Number 121 is east of the application house and it is considered that the application house as existing may already compromise light to this conservatory in the morning however the dwelling house 121 compromises the conservatory and garden in the afternoon and early evening. The rear elevation of the side extension is level with the existing rear elevation and there is no breach of the 45-degree code to this neighbour so causes no additional harm to the neighbour's rear windows. Taking into consideration the rear gardens of the application

house and number 121 are both north facing the conservatory and rear garden is already compromised by the application house and the neighbours own house and a refusal on these grounds would not be warranted.

An objection raised that an additional bedroom would cause noise problems. Any additional noise from residential occupation would not be harmful over and above what is expected in this residential location. Noise nuisance is covered by separate legislation.

The chimneys on the side elevation have been taken down to eaves level this can be seen as far back as 2004 on the LPA's historic mapping photos and any future use is not material to this application.

Objections have been raised regarding traffic obstructions in the street during construction by delivery wagons and construction workers especially during school times although this would not be conditioned a note can be added for the applicant that delivery of materials should take place outside school drop off and pick up times where possible as it is acknowledged the road can get congested and is also a bus route. Whilst the neighbours have these concerns obstructions in the street are matters for the police and the Highway Authority to deal with and outside the scope of the planning legislation to deal with in this instance.

The proposal has been assessed in relation to material planning considerations to the neighbours' amenity, and is considered would not result in any significant additional impacts on neighbours amenity and meets the guidelines of national and local planning policy specifically Appendix D of the Designing Walsall SPD and saved UDP Policy GP2 and the NPPF.

Highways and Parking

The site is located on an unclassified road and the proposal is for extensions and internal alterations to convert an existing 3-bedroomed house to a five-bedroomed house.

Under the terms of saved UDP policy T13 a total of 3 off-street parking spaces. There is space within the front curtilage to accommodate three vehicles.

The proposals comply with Saved UDP Policies T7 and T13 and the NPPF.

Conclusions and Reasons for Decision

The key material planning considerations and neighbour comments have been weighed in the assessment of this planning application and it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, BCCS policies CSP4, ENV2, and ENV3, Saved Unitary Development Plan policies GP2, ENV32, ENV33, T7 and T13 and the Designing Walsall SPD and on balance is considered to be acceptable.

The design is acceptable in relation to the original dwelling and is considered appropriate within the street scene and does not harm the visual amenities of the area and accords with saved UDP policies GP2 and ENV32 and Designing Walsall SPD.

The proposals comply with 45 degree code guidelines in respect of both neighbours and will therefore not significantly harm the outlook, daylight or privacy to habitable rooms of these neighbours and protects residential amenities in accordance with saved UDP policies GP2 and ENV32 and SPD Designing Walsall.

There is adequate off-street parking to accommodate 3 vehicles on the frontage in compliance with saved UDP policies T7 and T13.

Taking into account the above factors it is considered that the application should be

recommended for approval.

Positive and Proactive Working with the Applicant

Following discussions with the applicant's agent which resulted in plans being amended, the submitted details are now considered to be acceptable and no further changes have been requested.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to the amendment and finalising of conditions.

Conditions and Reasons

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

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

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

- Proposed 3D Views (Drawing No P331 Rev B) submitted 22/12/21
- Proposed Elevations (Drawing No P330 Rev B) submitted 22/12/21
- Proposed Floor Plans (Drawing No P230 Rev B) submitted 22/12/21
- Proposed Roof Plans (Drawing No P231 Rev B) submitted 22/12/21
- Proposed Street Scene (Drawing No P332 Rev B) submitted 22/12/21
- Site Location and Existing Block Plan (Drawing No P02) submitted 01/10/21
- Site Location and Proposed Block Plan (Drawing No P01) submitted 01/10/21
- Existing 3D Views (Drawing No P031) submitted 22/12/21
- Existing Elevations (Drawing No P030) submitted 22/12/21
- Existing Floor Plans (Drawing No P020) submitted 22/12/21
- Existing Street Scene (Drawing No P032) submitted 22/12/21

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

3. The walls and roof of the development hereby permitted shall comprise facing materials that match, in size, colour and texture, those which are used in the existing building and the facing materials shall thereafter be retained for the lifetime of the development.

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

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no side facing windows, doors, or other openings other than those shown on the approved 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 saved policy GP2 of the Walsall's Unitary Development Plan.

Notes for Applicant

The Local Planning Authority recommends that the delivery of construction materials is outside of normal school drop off and collection times where possible.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 10 February 2022

Plans List Item Number: 11

Reason for bringing to committee

Significant Community Interest and a major application

Application Details

Location: 42, SLANEY ROAD, WALSALL, WS2 9AF

Proposal: PROPOSED CHANGE OF USE FROM NURSING HOME (USE CLASS C2) TO PROVIDING HOUSING OF MULTIPLE OCCUPANCY (HMO (SUI GENERIS)) FOR THE VULNERABLE HOMELESS PEOPLE WITH ASSOCIATED AMENITY, RECREATION, TRAINING AND SIGNPOSTING.

Application Number: 20/0550

Case Officer: Fiona Fuller

Applicant: Mr Ayyaz Ahmed

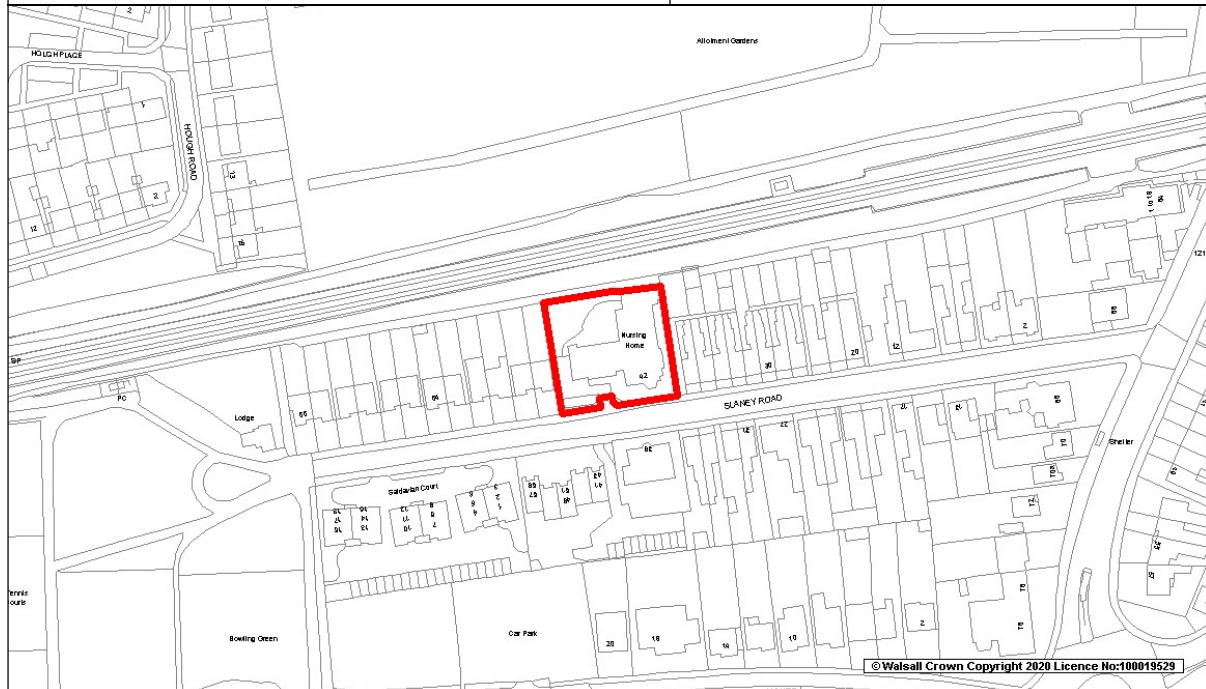
Ward: Pleck

Agent: Mr Gagan Mohindru

Expired Date: 19-Aug-2020

Application Type: Full Application: Major Use Class Sui Generis

Time Extension Expiry: 11-Nov-2020



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Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to refuse permission

Proposal

Proposed Change of Use from Nursing Home (Use Class C2) to providing housing of multiple occupancy (HMO (sui generis)) for the vulnerable homeless people with associated amenity, recreation, training and signposting.

The applicant has provided the following documents to support the application:

- Design and Access Statement
- Planning Statement
- GP Circle Support Letter
- NHS Support Letter
- Nottingham University Hospital Letter

Site and Surroundings

Slaney Road is a cul-de-sac predominately in use for residential purposes. It is understood from residents, that there are a number of properties that are now Houses in Multiple Occupations (HMO).

The western part of the street is two storey terraced houses, with semi-detached houses and three storey blocks of flats to the western part of the street. At the western end of the street is Pleck Park.

There is no vehicle turning facility at the end of the road. The application property part two storey and part three storey. The road is heavily reliant for on-street parking.

There is a group Tree Preservation Order for the site.

Relevant Planning History

18/0941/ Change of Use from Nursing Home (C2 use) to a 41 x bedroom hostel (sui generis use) with associated amenity, recreation, training and sign-posting facilities – Withdrawn – 20/06/2019

13/1329/FL - Change of use of care home (Use Class C2) to house of multiple occupation (Sui Generis). Refused 23/1/14 for the following summarised reasons:

1. Have an adverse impact on the amenity of residents and the character of the area due to the increase in comings and goings from the premises and potential noise and disturbance from the premises.
2. Result in a loss of amenity to residents by virtue of the perception and fear of crime and anti-social behaviour
3. Significant increase on the parking demand and the proposed layout would not be achievable taking into account existing structures and relationship to existing structure. The proposals would result in adding to the limited existing on street parking requirements for the existing residents of Slaney Road

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- NPPF 2 – Achieving sustainable development
- NPPF 4 – Decision Making
- NPPF 5 – Delivering a sufficient supply of homes
- NPPF 8 – Promoting healthy and safe communities
- NPPF 11 – Making effective use of land
- NPPF 12 – Achieving well-designed places
- NPPF 15 – Conserving and enhancing the natural environment

On planning conditions the NPPF (para 55) says:

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

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

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

- GP2: Environmental Protection
- ENV10: Pollution
- ENV18: Existing Woodlands, Trees and Woodlands
- ENV32: Design and Development Proposals
- H7: Hostels and Houses in Multiple Occupation
- T7 - Car Parking
- T9 – Cycling
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis
- 8.3 Urban Open Space

Black Country Core Strategy

- CSP3: Environmental Infrastructure
- CSP4: Place Making
- DEL1: Infrastructure Provision
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV3: Design Quality
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

EN1: Natural Environment Protection, Management and Enhancement

HC2: Development of Other Land for Housing

HC3: Affordable Housing and Housing for People with Special Needs

T2: Bus Services

T4: The Highway Network

T5: Highway Improvements

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW8 Adaptability

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

Housing Standards

Objection on the grounds of the internal arrangements doesn't meet amenity standards for a HMO.

Public Health

No objection

Coal Authority

No objection and offered an informative

Community Safety Team

No response

HMO, Supported Housing or Hostels

No response

Learning disabilities and disability services

No response

West Midlands Fire Service

No objection and offered informative

Transportation (Local Highways Authority)

The Highway Authority has no objections in principle but there are concerns about the suitability of the proposed parking arrangement.

Pollution Control

Support

West Midlands Police Service

Objection on the grounds of an intensification of HMOs, concerns regarding increased demand on police, public services, including the council and anti-social behaviour. If

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granted, improved higher security through Secure by Design measures.

Strategic Planning Policy

The proposal will be subject to saved UDP policy H7 and Walsall SAD policy HC3

Tree Preservation Officer

No response

Waste Management (Clean and Green)

No response

Representations

84 neighbours were notified via letter, press advert and site notice. Letters of objection were received on the grounds of:

- Limited parking/ Valerie Vaz MP already looked in the parking crisis in the area
- Impact on parking, access for emergency services and visitors
- Increase in littering
- Objectors have lived in Slaney Road for a significant number of years
There have been numerous applications on the site
- There is an anti- social behaviour in the area
- An issue with the clientele released from prison
- It is not the right location for a HMO
- The objector would like a meeting with the council to discuss the issue of anti-social behaviour in the area. (*This is a matter for Local Councillors and the Community Protection Team*)
- Wasting money on graffiti and not tackling anti- social behaviour
- The proposed development will increase noise issues in the area
- Increase fear of crime
- Objector concurs with the West Midlands Police Officer's recommendation to refuse the application.
- There is a risk of students getting involved in drugs if the development is granted.
- An over intensification of HMOs in the area/ additional HMO will cause distress
- Create problems for the local community a HMO close to the school/ vulnerable people and families.
- Objectors citing their status (widower, taxi driver) (*Not a material planning consideration*)
- The objector is scared to leave their home (*Not a material planning consideration*)
- Fear for safety and security
- Over populated area
- Application site has historic and new issues
- West Midlands Police Service raised issue regarding Midshire Supporting Trust's Management of the HMO run in Birmingham
- HMO negative impact on a family orientated area
- Letters of support appears to be a forgery
- The NHS refuse to support the proposed development
- GP recommendation comes from Private Company based in Sutton Coldfield not Walsall.
- It is important to support the homeless

- 'Hotel' may become my new back garden
- Proposal will spoil the genuine residency/ park user who enjoy Pleck area
- The area is getting worse
- Planning permission was refused on the site
- Pleck needs investment
- The ward has the highest crime rate and HMOs
- 42, Slaney is a large house/ dominates the road
- Increase in noise
- Applicant's proposed vetting system and code of conduct is no reassurance
- The Trust are happy to support should the council wishes to launch an investigate
- The impact of Covid-19 on the elderly people who need to use the park. The proposed development will have an impact on their lives
- The objector mentions 78 Bradford planning application. The applicant owns lots of properties in Bradford. *(Not a material planning consideration to determine this application in Walsall)*
- Hostel benefitting from money from the applicant
- There are other HMOs best suited to facilitate the homeless
- Impact on privacy
- The HMO management can't control what happens outside the building *(Not a material planning consideration)*
- The Human Rights Act states – live in a decent home and home life should not be interfered.
- The objector makes reference to the HMO in 320 Witton Road.
- The application should be deferred whilst looking into the history of the site and the suitability to run the HMO.
- The noise levels at the weekend are excessive *(No evidence provided to substantiate the noise is from the current application site)*
- There will littering/ hazardous material/ rubbish
- There is already a care home that is causing drug and parking issued *(No evidence provided to substantiate the claim or how it is linked to the current planning application)*
- The objector has attached a refusal notice – 13/1329FL
- Objector has attached a copy of an article questioning the authenticity of the NHS letters/ and other press cuttings.

Five separate petitions with 149, 55, 28, 55 and 48 a total of 335 signatures were received objecting to the application on the following grounds:

- An application (13/1329/FL) was submitted to convert HMO on the 24/10/13
- Attached reasons for refusal
- Residents perception and fears still apply
- Applicant has already built the extension
- The application was withdrawn
- Amended application for 37 bedsits accommodate vulnerable people
- Similar project in Perry Barr
- Slaney Road is a cul-de-sac
- Parking is limited
- The proposal will have a detrimental impact on the area
- Third attempt by Midshire Trust to get planning permission

Determining Issues

- Principle of development
- Crime and disorder/fear of crime
- Design and character of the area.
- Neighbouring and occupiers amenity
- Parking and access

Assessment of the Proposal

Principle of development

The site is within the development boundary and is unallocated on the Walsall Site Allocations Document, whilst its last known use was as a nursing home falling under Use Class C2. The site is sustainably located in an established residential area, with various local amenities such as doctor's surgeries/medical centres, dental practices, school and supermarkets

It is in a sustainable location. There are 3 train stations within 2 miles of the site, bus service to Walsall Town Centre and car routes to and from the Walsall Town Centre and an easy commute to Walsall, Birmingham and beyond.

The proposal is a proposed change of use from a nursing Home (Use Class C2) providing housing of multiple occupancy (Sui Generis) for the vulnerable homeless people with associated amenity, recreation, training and signposting.

Neighbours complained that there are existing HMOs in the area. Housing Standards object on the grounds that there are poor internal arrangements. Whilst West Midlands Police Service cite there is an over intensification of HMOs in the area. Concerns expressed by residents were noted. However there are no planning policies, limiting the number of hostels, HMOs or other residential uses in the borough. In addition, the Government, through its national planning legislation, does allow single houses to be converted to HMO's for up to 6 people without the need for planning approval from the Council. The Council recognises the role well managed and appropriately located temporary accommodation play in providing valuable accommodation. The Equality Act places a duty on public bodies to minimise disadvantages by taking steps to meet needs and encouraging participation in public life. On balance the Council is unable to object on planning policy grounds to the principle of use.

Crime and disorder/fear of crime

There was a previous planning application for a 40 bedroom HMO which was refused on the grounds that it would result in a loss of amenity to residents by virtue of the perception and fear of crime and anti-social behaviour with concerns from Police and the Council's Housing Standards with regards to the management of the premises which essentially support the LPA's concerns and those of the community. Neighbours make reference to this previous planning refusal specially BCCS policy CSP4. This policy explains the Black Country will be a safe and secure place through organising the urban environment in ways that encourage people to act in a civil and responsible manner. Also, the applicant submitted an application for 43 bedroom multiple occupation proposal, which they withdrew.

Whilst the current application included a planning statement which explains the vetting process for potential occupiers, including how the site would be managed by specialists and that a code of conduct would be used, West Midland Police and the Housing Standards Team have objected to the current proposal.

The current proposal requires a mandatory licence from the Council's Housing Standards Team, in addition to securing planning permission. This is a separate process for the licence holder to pass a test. The landlords are expected to work with the Council's housing team and other agencies, subject to first securing planning approval.

Objectors have expressed concerns regarding the future crime and anti-social behaviour. The fear of crime is a material consideration in planning decisions. The weight that can be attributed in the planning assessment, is often limited unless there is significant evidence to show that the increased fear of crime would actually occur. The West Midlands Police have forwarded evidence that crime is evident in the area and object there is an intensification of HMOs in the locality, raising concerns regarding increased demand on police, public services including the council and anti-social behaviour.

The applicant explains future residents are 'vetted' prior to being accepted and they will accept low / medium risk users. The applicant has ensured that provisions would be put in place to minimise any anti- social behaviour in the local setting. The community are challenging the credentials of the applicant and the validity of the applicant's supporting letters from the NHS, as reported in the press.

Furthermore, West Midlands Police have provided statistical evidence to suggest as a result of the development, the fear of crime or anti-social behaviour by the occupiers of nearby dwellings is likely.

Whilst West Midlands Police have concerns about potential ex-offenders living together there is no direct evidence that this would result in crime. Who lives in the property is outside of the control of the planning legislation.

Neighbours have objected on the grounds of littering, drugs and other forms of anti-social behaviour. Furthermore, the objectors have explained that there is open access in the area which could be used by the proposed end users to engage in drug use, other forms of anti- social behaviour which may influence students. All these points were noted however there is little evidence these comments would be as a result of future end users of the application property.

The application proposes security measures including lighting measures around the building, CCTV covering internal and external areas and external lighting. The measures are considered to provide some security to the building and assist in reducing the perception of crime for neighbours. However, the West Midlands Police Service feels that improved higher security through Secure by Design measures. Some of these measures may require amendments to the proposal and some could be secured by condition

The applicant has failed to provide sufficient management plans/ details to minimise the fear of crime. Some of these measures may be enforced through the housing standards licence. In this instance, it is considered the proposal would have a materially harmful effect on the fear of crime in the locality and warrant refusal of the application on these grounds.

Whilst an objector cited their Human Rights being affected by the proposal. The planning application considers the land use and potential impacts upon the amenity of residents from the land use in the area. Residents have not provided sufficient evidence to demonstrate the potential future occupiers will impact on their human rights to sustain a reason for refusal.

Design and character of the area.

The comments of residents with regard to the number of HMOs and the character for the area have been considered in the assessment of this application. The current care home although the lack of car parking and servicing would mean that there may be conflict at certain times with the servicing of the care home and visitors may be park on the street. A large multiple occupation property is likely to increase movement and visitors to and from the premises, during the day and into the evening and whilst there are no external alterations the inclusion of a different type of accommodation would have an alteration to the character of the area. Although it is recognised the demands on other services such as police and emergency services may also increase.

The size of the facility too may cause its own problems of management. The building is developed up to the boundaries of the site and no separation to neighbouring residential properties.

The number of HMOs in the area raised by residents is noted but the care home is the only large building of this type. It is accepted that the Governments Permitted Development rights allow changes of use between The Town and Country Planning (Use Classes) Order planning use classes C3(dwelling house) and C4(house in multiple occupation) without planning approval from the LPA, subject to some restrictions in the planning legislation. Consequently, the number of HMO's could only be controlled in the future if an Article 4 Direction removing permitted development rights to form HMO's is created if it can be demonstrated the locality has a detrimental saturation. It is considered the proposals by reason of intensification and size of proposal would have an adverse impact on the character of the area.

Neighbouring and occupiers amenity

A previous application was refused on the grounds that the multiple occupation proposal would be to the detriment of the amenities of residents by reason of noise and disturbance.

The previous application did not include details on how the building would be managed. In this case the applicant confirms there would be 24/7 staff on site and the code of conduct which includes no loitering or causing nuisance to the public. However, the applicant has failed to provide a management plan which offers further reassurance how the site will be managed.

Concerns raised in regard to loud music during anti-social hours. Due to the 24/7 staffing on the site and the code of conduct any potential disturbance could be prevented and form part of the housing standards licence.

There is an existing rear amenity area that would be available for future occupiers. This amenity area is directly next to the garden of 44 Slaney Road whose ground level is lower than the 42 Slaney Road. Also, the existing is high boundary fence is measured from 44 Slaney Road lower ground level. There is a likelihood of an impact on privacy and security between the properties. A planning condition could be

imposed to install a fence with a trellis prior to first occupation of the hostel. To meet secure by design principles and add an additional level of privacy.

The use of the building would not give rise to any material increase in overlooking or further loss of privacy to neighbours from the existing habitable room windows.

Parking and Access

The application site care has limited parking. There would be a significant increase on the parking demand which would result in adding to the limited existing on street parking requirements for the existing residents of Slaney Road. The applicant has failed to demonstrate that the level of parking provided is sufficient to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

However, the Highways Team have not objected although were concerned about the suitability of the proposed parking arrangement. They have suggested an 'alternative option may be to relocate the access point and arrange the spaces either side of a 6m wide aisle' In the absence of a suitable parking arrangements/ details, the proposal is further contrary to UDP policy T13.

Conclusions and Reasons for Decision

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with The National Planning Framework.

The applicant has failed to address issues raised and the Local Planning Authority questions the validity of the information presented, impacts on amenities, fear of crime/ anti-social behaviour and the potential parking issues of the scheme. In this instance the council has been unable to support the proposed development for the reasons detailed in the planning report.

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.

Recommendation

Refuse

Reasons for Refusal

1. The potential increase in residents proposed would have an adverse impact on the amenity of residents and the character of the area due to the increase in comings and goings from the premises and potential noise and disturbance from the premises. The proposals would be contrary to Policy CSP4 of the Black Country Core Strategy; saved Policies GP2, ENV10, ENV32, and H7 of the Unitary Development Plan as supplemented by Policies DW2 and DW3 of Designing Walsall SPD.

2. The size of the building is predominate in the street scene and is important feature in the character of the area. The conversion of the building and its proposed use would have a continued perception and result in a loss of amenity to residents by virtue of the perception and fear of crime and anti-social behaviour. The objections and concerns of the Police with regard to the management of premises add to concerns with regard to the management of the premises. The proposals would be contrary to Policy CSP4 of the Black Country Core Strategy; saved Policies GP2, ENV10, ENV32, and H7 of the Unitary Development Plan as supplemented by Policies DW2 and DW3 of Designing Walsall SPD.
3. The proposals would result in significant increase on the parking demand and the lack of a proposed layout fails to demonstrate the existing structures and relationship to existing structure. The proposals would result in adding to the limited existing on street parking requirements for the existing residents of Slaney Road. The applicant has failed to demonstrate that the level of parking provided is sufficient to meet its own needs does not include provision of disabled spaces and cycle parking provision. The proposals would have a severe adverse effect on highway safety and the environment. The proposals are contrary to saved policies GP2, GP5, GP6, H7, T1, T7, T9, T11 and T13 of the Unitary Development Plan.

END OF OFFICERS REPORT