



PLANNING COMMITTEE

Thursday 1 April 2021 at 5.30 p.m.

Digital Meeting to be held via: **Microsoft Teams**

Public access to meeting via: [Link to view YouTube](#)

MEMBERSHIP:

Councillor Bird (Chairman)
Councillor Perry (Vice Chairman)
Councillor P. Bott
Councillor Chattha
Councillor Craddock
Councillor Creaney
Councillor Harris
Councillor Harrison
Councillor Hicken
Councillor Jukes
Councillor Murray
Councillor Nawaz
Councillor M. Nazir
Councillor Rasab
Councillor Robertson
Councillor Samra
Councillor Sarohi
Councillor M. Statham
Councillor Underhill
Councillor Waters

QUORUM:

Seven Members

A G E N D A

PART I - PUBLIC SESSION

1. Apologies.
2. Minutes – 4 March, - copy **enclosed**.
3. Declarations of Interest.
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 to Remove Protected Trees at 13 Buchanan Road, Walsall, WS4 2EW – report of the Head of Building and Planning Control **enclosed**
7. Application to Remove 1 Protected Sycamore Tree at 33 Fernleigh Road, Walsall, WS4 2EZ – report of the Head of Planning and Building Control **enclosed**
8. 9 Pagoda Close, Streetly, Walsall – report of the Head of Planning and Building Control **enclosed**
9. 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**.

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 4 March, 2021 at 5.30pm

Digital Meeting via Microsoft Teams

Held in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulation 2020; and conducted according to the Council's Standing Orders for Remote Meetings and those set out in the Council's Constitution.

Present:

Councillor Bird (Chair)
Councillor Perry (Vice Chair)
Councillor P. Bott
Councillor Chattha
Councillor Craddock
Councillor Harris
Councillor Harrison
Councillor Hicken
Councillor Jukes
Councillor Murray
Councillor Nawaz
Councillor M. Nazir
Councillor Rasab
Councillor Robertson
Councillor Samra
Councillor Sarohi
Councillor M. Statham
Councillor Underhill
Councillor Waters

Officers:

Phillipa Venables – Director, Regeneration and Economy
Alison Ives – Head of Planning and Building Control
Michael Brereton – Group Manager – Planning
Leon Carroll – Senior Planning Officer
Sharon Bennett-Matthews - Solicitor, Planning & Environment
Kevin Gannon – Highways Development Control and Public Rights of Way
Cameron Gibson – Regeneration Officer, Trees
Beverley Mycock – Democratic Services Officer

Welcome

At this point in the meeting, the Chair welcomed everyone and explained the rules of procedure and legal context in which the meeting was being held. He also directed members of the public viewing the meeting to the papers, which could be found on the Council's Committee Management Information system (CMIS) webpage.

Members in attendance confirmed they could both see and hear the proceedings.

33/21 Apologies

No apologies had been submitted.

34/21 Minutes of 4 February, 2021

The Chair **moved** and it was duly **seconded** by Councillor Craddock that the minutes of the meeting held on 4 February, 2021, a copy having been previously circulated to each Member of the Committee, be approved and signed as a true record.

The Chair put the recommendation to the vote by way of a roll call of Committee Members.

Resolved (unanimous)

That the minutes of the meeting held on 4 February 2021, be approved and signed as a true record.

35/21 Declarations of Interest.

There were no declarations of interest.

36/21 Deputations and Petitions

There were no deputations introduced or petitions submitted.

37/21 Local Government (Access to Information) Act, 1985 (as amended)

There were no items to consider in private session.

38/21 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, the Chair advised them on the procedure whereby each speaker would have two minutes to speak.

The Chair reminded Members that should they be minded to go against officer's recommendations, planning reasons must be provided.

39/21 **PLANS LIST ITEM NO. 3 – 20/1003 – THE CAMBRIDGE, ARUNDEL STREET, WALSALL, WS1 4BY – RE-SUBMISSION OF (19/0949): PROPOSED CHANGE OF USE FROM A FORMER PUBLIC HOUSE (A4 USE CLASS) TO A DAY NURSERY (D1 USE CLASS) WITH THE CREATION OF 2 NEW OFF-STREET PARKING SPACES, A CYCLE STORAGE, AND RE-OPENING THE FORMER CENTRAL FRONT ACCESS, THE NURSERY WILL RUN BETWEEN 7:30 – 18:00 MONDAY – FRIDAY, FOR TODDLERS AND YOUNG CHILDREN.**

The report of the Head of Planning and Building Control was submitted

(see annexed)

The Presenting Officer advised Committee of the background to the report and highlighted the salient points therein.

The Committee then welcomed the first speaker on this item, Councillor Ditta, who wished to speak in objection to this application.

Councillor Ditta stated that she was speaking on behalf of local residents. The residents were not against the day nursery in principal only the unsuitability of its location. The immediate street was a very narrow, one-way street and not suitable for dropping off children at the nursery due to existing parking problems and heavy traffic within the location. Although the nursery was aiming to cater predominately for the local community who could walk there to drop off their children, this may not always be the case. The nursery would be situated in a one-way street and on the corner of a junction and therefore there were concerns what impact the development would have on traffic and traffic movement.

The Committee then welcomed the second speaker on this item, Mrs Kang, who wished to speak in support of this application.

Mrs Kang stated that she was the applicant and had been managing nurseries for 18 years and owned an established nursery in Walsall. The former public house had remained vacant for a number of years due to poor demand by locals. The disused property would be converted into a day nursery that would provide jobs for the local community and much needed nursery places for local 2, 3 and 4 year old children, some of whom may be vulnerable, disadvantaged and have English as an additional language. Mrs Kang assured Committee that nursery start and end time sessions would be staggered to reduce an influx of parents arriving at the same time to alleviate traffic issues and noise concerns although most parents would be from the local community and within walking distance. The previous use as a public house would have generated noise during the evenings and weekends whereas the nursery would operate Monday to Friday and close at 6pm. The day nursery would be registered and monitored by Ofsted.

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

Members queried the following:-

- Had residents experienced any problems with anti-social behaviour or traffic issues when the PH had been in operation? Councillor Ditta stated that the main objection from residents was in relation to any potential traffic generated by a day nursery. Parents would drop off children in cars and taxis whereas the PH did not generate much traffic.
- In what location was the applicant's other day nursery? Mrs Kang advised that her other day nursery was located on Lincoln Road in the Chuckery and had been operating for seven years.
- How would staff parking and parents dropping off their children be facilitated? Mrs Kang advised that she would target and recruit staff from the local community within walking distance. With regards to parents driving to drop off their children, Mrs Kang stated that child attendances would be tailored to meet parents' needs and there would therefore be staggered drop offs. She added that in her current nursery, she had worked with the local school in relation to start times to eliminate any potential influx of traffic and she stated that the proposed day nursery would be operated in a similar way. There was on-street parking available around the premises during the day, which would enable parents to park temporarily to drop off their children.
- Would the nursery be open on weekends? Mrs Kang confirmed that it would not operate during the weekend.
- Was there not a local need for a day nursery following the closure of Palfrey Day Nursery? Councillor Ditta stated that there was a demand and that her only concern was the location of the proposal on a junction.
- Would it be a private or supported nursery for local children only and would staff be from the local community also? Mrs Kang advised Committee it would be a private nursery and would also provide state funded places for families on low income and with English as an additional language. She stated that she could not guarantee that all children would be from the local area and ideally she would like the employees to be the local area but again that could not be guaranteed.

There then followed a period of questioning by Members to Officers in relation to:-

- Whether the street was one-way only and would that result in an impact on parking and congestion? The Presenting Officer confirmed that the street was one-way but that officers that not feel the proposal would create any additional impact on traffic or parking.

Following the conclusion of questions to Officers, Members considered the application.

Councillor Samra **moved** and it was duly **seconded** by Councillor Craddock:-

That planning application number **20/1003** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and subject to finalising of planning conditions, as contained within the report and supplementary paper.

The Motion was put to the vote by way of a roll call of Committee Members and was subsequently declared **carried**, with nineteen Members voting in favour and none against.

Resolved (unanimous)

That planning application number **20/1003** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and subject to finalising of planning conditions, as contained within the report and supplementary paper.

The Solicitor, Planning and Environment read out the resolution for the benefit of Members and the public

40/21 **PLANS LIST ITEM NO. 4 – 19/0846 – 4 FIELD MAPLE ROAD, STREETLY, SUTTON COLDFIELD, B74 2AD – CONSTRUCTION OF DETACHED 6 BEDROOM PROPERTY 2.5 STOREY HIGH ON LAND ADJANCE TO 4 FIELD MAPLE ROAD.**

The report of the Head of Planning and Building Control was submitted

(see annexed)

The Presenting Officer advised Committee of the background to the report and highlighted the salient points therein. 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. Wheeler, who wished to speak in objection to this application.

Mr. Wheeler stated that there were a number of terraced houses nearby and he lived in close vicinity to the proposed development, which would overshadow his property. He would want the trees to be kept because should they be removed from the side of the proposed plot, he would experience loss of privacy and his property would be affected by loss of sunlight behind the top of the proposed house as his property was on lower ground than that of the application site. Mr. Wheeler stated that his property would be impacted upon greatly by such a large building overshadowing his premises

The Committee then welcomed the second speaker on this item, Mr. Deffley, who wished to speak in support of this application.

Mr. Deffley stated that he was speaking on behalf of his client. The scheme was based on an approved house design within Field Maple Road, which shared similarities including situated next to the same zone of trees. The proposed house would be set into the ground on the one side and above the ground on the other side due to the cross section gradient. The original proposal was for 2.5 storeys with a gable roof and we were only asked to reduce the height and mass of the building in the last month. The design now

met amenity and spatial standards and reflected adjacent properties. The narrow line of protected trees along the side of the site were within a private garden and any trees lost would be replaced with new, superior specimens that would add to the local amenity. Mr. Deffley added that his client had been in dialogue with the Council's Tree Officer in relation to the narrow group of self-seeding trees within the application site and that this would be explained further by the next speaker. Mr. Deffley advised that the application had taken nineteen months with four different planning officers to reach the stage it was at currently and he did not feel the application had been given enough attention over that length of time. In concluding, he requested that Members approve the application.

The Committee then welcomed the third speaker on this item, Mr. Allen, who also wished to speak in support of this application.

Mr. Allen stated that he wished to speak in relation to the arboricultural issues within the site. Three trees been identified for removal due to their poor condition regardless of the planning application and five trees would be required to be removed as part of the application. This could be mitigated by the planting of alternative species of trees that would better add to the screening value to the adjoining property. The TPO was a woodland order. It included a number of trees on the opposite side of the public right of way which clearly represented a woodland setting but also included a linear belt of trees within the boundary of the applicant's property. The applicant had requested the removal of 5 trees to facilitate the development. Mr. Allen stated that whilst the removal of the trees may impact slightly on the remaining trees, the positioning of the building would act as a wind-block from prevailing winds thus protecting the 10 remaining trees. He further added that whilst he appreciated and respected the Authorities tree officer, the proposed replacement planting of more superior species of trees had not been taken into consideration.

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

Members queried the following:-

- How many trees would need to be removed in total Mr. Allen advised that 8 trees in total would need to be removed, 3 of which were in poor condition including a silver birch and a Scots pine. The applicant would replace the 8 trees with inter-planting of Holly under the existing retained trees to enhance the screening for the neighbouring property. A number of more superior, heavy standard trees would be planted along the rear boundary
- Had the applicant considered amending the dwelling design to prevent damage or removal of trees? Mr. Deffley advised that his client had already reduced the mass and height of the property. He stated that the trees required for removal were spindly and not in as good quality as other trees around the area and that the proposed dwelling would be of a similar size to other homes within the location.
- Where would the replacement trees be located and would they be of a similar height? Mr. Allen stated there would be replacement planting within the context of the existing gap to retain screening to either the front or the rear of the property for amenity value. The replacement trees could be of varying ages and heights to ensure their maturity at different times.

- Could the speakers comment on the Tree Officers concerns that the removal of the trees would put pressure on the remaining trees? Mr. Allen advised that trees in close proximity to each other do protect each other but that the building would act as a wind shield for the remaining trees.

There then followed a period of questioning my Members to Officers in relation to:-

- Could the Tree Officer clarify that what pressure would be put on the remaining trees should the indicated trees be removed? The Tree Officer stated that he was in agreement for the removal of 3 of the trees due to their poor condition but the removal of the other 5 trees would have a impact on the remaining trees. By way of explanation, the Tree Officer stated that the land was steeply graded downwards. The removal of trees from a group that provided collective shade and shelter from adverse weather conditions may increase the risk that the remaining trees may fail. The removal of 1 of the 2 large Scot pines would increase the failure of the remaining Scot pine due to the loss of its shelter and support which was compounded by the sloping ground. The other trees to the front whilst spindly, provided a cohesive group that provided shelter to each other and should they were split up, there would be a risk of their failure in adverse weather. He added that prevailing winds emanated from the southwest and therefore the building would unlikely provide shelter to the trees.
- Was the Scot pine to be removed diseased? The Tree Officer confirmed the Scot pine trees were both healthy.
- Was it likely a disease could pass between trees? The Tree Officer advised that one of the silver birch trees for removal was diseased but it would be unlikely the disease would spread as any disease would stay within its respective species.
- Were the trees not suppressed being planted so close together and were their roots entwined? The Tree Officer stated that some of the trees may have been self setters and the roots systems would be entwined. Some of the smaller trees may have been suppressed due to natural competition but there would be a risk to the remaining trees should the smaller trees be removed.
- Had the application been refused purely on the grounds of the protected trees and would it not be acceptable for the applicant to replace the 8 trees with healthier specimens than the current trees on site? The Tree Officer advised that the removal of the 5 protected trees would cause a considerable detrimental impact on the remaining trees and may result in tree failure to any of the remaining trees. This could then cause a hazard to the application house or to a neighbouring property.

Members considered the application and Councillor Hicken **moved** and it was duly **seconded** by Councillor Bott:-

That planning application number **19/0846** be refused, for the reasons contained within the report and supplementary paper.

The Motion was put to the vote by way of a roll call of Committee Members and was subsequently declared **carried**, with nineteen Members voting in favour and none against.

Resolved (unanimously)

That planning application number **19/0846** be refused for the reasons contained within the report and supplementary paper.

The Solicitor, Planning and Environment read out the resolution for the benefit of Members and the public

41/21 **PLANS LIST ITEM NO. 5 – 20/0559 – 61 MANOR ROAD, STREETLY, B74 3NF – ERECTION OF DETACHED DWELLING.**

The report of the Head of Planning and Building Control was submitted

(see annexed)

The Presenting Officer advised Committee of the background to the report and highlighted the salient points therein. In addition, the Presenting Officer drew the Committee's attention to the additional information and updated recommendation as set out within the supplementary paper.

The Committee then welcomed the only speaker on this item, Mr. Sugden, who wished to speak in support of this application.

Mr. Sugden stated that he was the applicant. He acknowledged there had been objections from neighbours around the application being a detached property. He stated there were numerous detached dwellings along Thorley Road and 19 detached properties within Manor Road and he believed an additional, detached property would be in keeping in the area. In relation to the outside of the building, he would render all sides of the dwelling in white as per the existing buildings within the street scene. The driveway to number 61 Manor Road allowed for up to 6 vehicles and driveway would be split and shared with the proposed new dwelling and each driveway would accommodate 3 vehicles. Mr. Sugden thanked officers for the planning advice provided.

There were no questions by Members for either the speaker or Officers..

Members considered the application and Councillor Craddock **moved** and it was duly **seconded** by Councillor Statham:-

That planning application number **20/0559** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and the amendment and finalising of planning conditions, as contained within the report and supplementary paper.

The Motion was put to the vote by way of a roll call of Committee Members and was subsequently declared **carried**, with nineteen Members voting in favour and none against.

Resolved (unanimously)

That planning application number **20/0559** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and the amendment and finalising of planning conditions, as contained within the report and supplementary paper.

The Solicitor, Planning and Environment read out the resolution for the benefit of Members and the public

42/21 PLANS LIST ITEM 7 – 20/1541 – 75 LINCOLN ROAD, WALSALL, WS1 2DW – FIRST FLOOR SIDE EXTENSION WITH FRONT DORMER AND ADDITION OF NEW PITCHED CANOPY OVER GROUND FLOOR BAY WINDOW

The report of the Head of Planning and Building Control was submitted

(see annexed)

The Presenting Officer advised Committee of the background to the report and highlighted the salient points therein. In addition, the Presenting Officer drew the Committee's attention to the additional information and updated recommendation as set out within the supplementary paper.

The Committee then welcomed the first speaker on this item, Mrs Padden, who wished to speak in objection to this application.

Mrs Padden stated that she lived in Princess Avenue, which was just round the corner from the proposal. The orientation and proximity of the houses makes the angles between them quite sharp and very close to one another. There was a significant difference in the ground levels between properties, with the application property already being 1.5m above her own. The extended roof on the extension would be overbearing and create shadowing which would impact on both her property and on her neighbour's property greatly by blocking the sky line and obscuring sunlight. Mrs Padden stated that neither her neighbours nor herself had been contacted by officers following a site visit to the applicant in order to view the situation from their view point. The roof of the existing single storey extension should have been designed to limit the impact on neighbours to the rear of the site. However the extended roof within the plans would have a significant impact on the existing situation and would take make her light amenity even worse than what it currently was. Mrs Padden concluded by stating that any additional update extension to the property in question would have further unacceptable and detrimental impact on her property and she asked that permission be refused.

The Committee then welcomed the second speaker on this item, Mrs Russell, who also wished to speak in objection to this application

Mrs Russell stated that she was speaking to support the first speaker, Mrs Padden's objections. Mrs Russell stated that the proposal did not affect her personally as her amenity had already been lost following previous extensions carried out under permitted development rights. She stated that she had not

been aware of any site visit by officers. The extension would appear dominating in Mrs Padden's garden and would be detrimental to her amenity. Mrs Russell said the property was already out of keeping within the area and that a site visit to Princess Avenue by officers would demonstrate the concerns of the neighbouring properties.

The Committee then welcomed the third speak on this item, Mrs Iqbal, who wished to speak in support of this application.

Mrs Iqbal stated that the extension was required as she had five children and her teenage son was currently sharing a bedroom with a younger sibling. Her elder son needed his own space in order to be able to study. She stated that she had worked with planning officers following a 2017 refusal and the plans had been amended accordingly with regard to reducing the height and width of the extension. Mrs Iqbal added that the previous reasons for refusal in relation to impact on neighbouring and surrounding properties had now been overcome.

There were no questions by Members for the speakers.

There then followed a period of questioning by Members to Officers in relation to:-

- Had officers made contact with Mrs Padden with regard to the site visit to check whether the proposal would be overbearing? The Presenting Officer advised that officers would always try to capture the surrounding environment and surrounding properties. In this instance, a photograph had been provided by Mrs Padden for consideration. He added that site ground levels would have been picked up and factored into their decision.
- Would the increase in the roof line impact on sunlight into the neighbouring properties? The Presenting Officer provided a visual diagram of the sunlight onto the nearby properties at varying times throughout the day. He advised that due to the orientation of the site, the impact in relation to loss of light already occurred from the existing two-storey dwelling and therefore there was no indication that the extension would create any additional loss of light. The previous reasons for refusal related to a much more substantial extension. The new application included a pitched room that would allow for more light to pass over and officers did not consider that a significant reason for refusal.
- Would the proposal have any detrimental impact to properties in Princess Avenue? The Presenting Officer advised that the proposal to the front of the property would be of a modest scale and would have no impact to Princess Avenue.

Following the conclusion of questions to Officers, Members considered the application.

Councillor Samra **moved** and it was duly **seconded** by Councillor Rasab:-

That planning application number **20/1541** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and the amendment and finalising of planning conditions as contained within the report and supplementary paper.

The Motion was put to the vote by way of a roll call of Committee Members and was subsequently declared **carried**, with 12 Members voting in favour, 6 Members voting against and 1 Member abstaining.

Resolved (12 in favour, 6 against and 1 abstained)

That planning application number **20/1541** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and the amendment and finalising of planning conditions, as contained within the report and supplementary paper.

The Solicitor, Planning and Environment read out the resolution for the benefit of Members and the public

43/21 PLANS LIT ITEM 10 – 20/0767 – 5 YARE GROVE, WILLENHALL, WV13 2SH – SINGLE STOREY REAR EXTENSION

The report of the Head of Planning and Building Control was submitted

(see annexed)

The Presenting Officer advised Committee of the background to the report and highlighted the salient points therein. In addition, the Presenting Officer drew the Committee's attention to the additional information and updated recommendation as set out within the supplementary paper.

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

Mr. Dhanoa stated that the proposed extension would come very close to his garden fence, which would result in a loss of privacy and the nearby gardens were already small and compact. The extension was too large and would bring the building another 8m closer to his home. Mr Dhanoa stated that he could already hear the neighbours from his living room without the dwelling being extended even closer. He raised concerns with regard to additional noise and smells emanating from the new kitchen area which would be closer to his adjoining fence and he hoped the application could either be reduced in size or that permission be refused.

The Committee then welcomed the second speaker on this item, Mr. Kalsi, who wished to speak in support of this application.

Mr. Kalsi stated that discussions had taken place between the applicant and Planning Officers and that the plans had been amended to reduce the size of the proposed side and rear extension. The current extension would have been approved under permitted development rights (PDR) had PDR not been removed for all properties within the estate. Mr. Kalsi alluded to extensions and conservatories in a number of already small, nearby gardens and that a number of properties within close proximity all had single extensions. In closing, Mr. Kalsi advised that all of the objections received had been considered by officers and that officers had no further concerns.

There were no questions by Members for either the speakers or Officers.

Members considered the application and Councillor Craddock **moved** and it was duly **seconded** by Councillor Statham:-

That planning application number **20/0767** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and the amendment and finalising of planning conditions as contained within the report and supplementary paper.

The Motion was put to the vote by way of a roll call of Committee Members and was subsequently declared **carried**, with nineteen Members voting in favour and none against.

Resolved (unanimously)

That planning application number **20/0767** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and the amendment and finalising of planning conditions as contained within the report and supplementary paper.

The Solicitor, Planning and Environment read out the resolution for the benefit of Members and the public

44/21 PLANS LIST ITEM 1 – 20/1151 – SHORT HEATH JUNIOR SCHOOL, PENNINE WAY AND ROSEDALE CHURCH OF ENGLAND INFANT SCHOOL, STROUD AVENUE, WILLENHALL

The Chair **moved** and it was duly **seconded** by Councillor Harris and:-

Resolved(unanimously by roll-call)

That planning application number **20/1151** be delegated to the Head of Planning and Building Control to grant planning permission subject to conditions and the amendment and finalising of planning conditions, as contained within the report and supplementary paper.

45/21 PLANS LIST ITEM 2 – 20/0365 – WATLING STREET PRIMARY SCHOOL, WATLING STREET, WALSALL, WS1 4BY – PROPOSED 9.0M X 7.2M MODULE BUILDING TO PROVIDE ADDITIONAL TEACHING SPACE, TOILETS AND ABLUTION AREA.

Councillor Craddock **moved** and it was duly **seconded** by Councillor Samra and:

Resolved (unanimously by roll-call)

That planning application number **20/0365** be delegated to the Head of Planning and Building Control to grant planning permission subject to conditions and the amendment and finalising of planning conditions, as contained within the report and supplementary paper.

- 46/21 **PLANS LIST ITEM 6 – 20/1526 – DARLASTON HEALTH CENTRE, PINFOLD STREET, DARLASTON, WEDNESBURY, WS10 8SY – ERECTION OF SECURE BIN STORE IN EXISTING CAR PARK AND WIDENING OF EXISTING RAMP TO MAIN ENTRANCE. PROPOSED BIN STORE TO CONTAIN CLINICAL AND NON-CLINICAL WASTE, INCLUDING COVID-19 RELATED WASTE**

Councillor Bott **moved** and it was duly **seconded** by the Chair and:

Resolved (unanimously by roll-call)

That planning application number **20/1526** be delegated to the Head of Planning and Building Control to grant planning permission subject to conditions and subject to the finalising of planning conditions, as contained within the report and supplementary paper.

- 47/21 **PLANS LIST ITEM 8 – 20/0927 – 95 PARK HALL ROAD, WALSALL, WS5 3HS – FIRST FLOOR REAR AND SIDE EXTENSION AND CONSERVATORY**

The Chair **moved** and it was duly **seconded** by Councillor Murray and:

Resolved (unanimously by roll-call))

That planning application number **20/0927** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and the amendment and finalising of planning conditions, as contained within the report and supplementary paper.

- 48/21 **PLANS LIST ITEM 9 – 20/1294 – 57 DICKINSON DRIVE, WALSALL, WS2 9DL – TWO STOREY AND SINGLE STOREY REAR EXTENSIONS.**

Councillor Sarohi **moved** and it was duly **seconded** by the Chair and:

Resolved (unanimously by roll-call)

That planning application number **20/1294** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and subject to finalising of conditions, as contained within the report.

- 49/21 **Termination of meeting**

There being no further business, the meeting terminated at 8.00 pm

Chair

Date



Walsall Council

PLANNING COMMITTEE

1st April 2021

REPORT OF THE HEAD OF PLANNING & BUILDING CONTROL – DEVELOPMENT MANAGEMENT

APPLICATION TO REMOVE PROTECTED TREES AT 13 BUCHANAN ROAD, WALSALL WS4 2EW.

1. PURPOSE OF REPORT

Reason for bringing to committee: Significant Community Interest.

2. RECOMMENDATIONS

Grant Consent

3. PROPOSAL

T1 Rowan Tree - Fell to ground level. G1 Ash Trees - Fell to ground level. G2 Elder and Prunus Tree - Fell to ground level. G3 x4 Ash trees and 1 Prunus tree - fell to ground level.

4. SITE AND SURROUNDING

The site is orientated in a northeast-southwest direction and is situated on the northeast side of Buchanan Road. The building is located towards the southern part of the site and faces southwest. The front garden area has an in-out driveway and is laid mainly to grass, the rear is laid to grass with substantial tree cover towards the rear section.

The surrounding area is predominantly residential.

5. RELEVANT PLANNING HISTORY

N/A

6. RELEVANT POLICIES

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

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

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

7. CONSULTATION REPLIES

N/A

8. REPRESENTATIONS

Five representations have been received from near neighbours objecting to the proposed works, citing the following concerns:

- Concerned that a larger Ash may be removed.
- The Elder and Prunus (G2) are part of a continuous run of trees and don't need removing.
- The applicant claims the trees have no long term future – this is because he plans to develop the site.
- The removal of a row of trees along the Cameron Road frontage will significantly change the character of the area.
- Removing the trees will be detrimental to the wildlife in the area.
- The gardens in this area have great visual beauty and form part of the amenity.
- Whilst recognising that trees and shrubs require maintenance, this should be done sympathetically.
- The natural aspect of the area is beneficial to the health and well-being of the local residents.
- The trees provide an element of privacy which I have a right to.

9. DETERMINING ISSUES

Whether the proposed works will be detrimental to the amenity, aesthetic and landscape value of the locality, and whether sufficient justification has been demonstrated for the removal of the trees.

10 ASSESSMENT OF THE PROPOSAL

Site Visit: 18/03/2021

Tree(s): Approximately 18 Ash, 2 Prunus, 1 Elder and 1 Rowan

The trees, the subject of this application, are located within A1 of Tree Preservation Order No. 13/2020. The TPO was made as a result of a change in ownership of the property, and reports that the site would be developed. A brief assessment of the site indicated some very fine trees that would be detrimentally affected by the reported development. The TPO has not been confirmed to date although this is forthcoming in the next few weeks.

The 18 Ash are young trees of poor shape and form, as is 1 of the Prunus. The other Prunus and the Elder are semi mature trees that have entwined themselves around each other and are of poor shape and form.

T1 Rowan – this is a young tree that appears dead. Consent has already been provided to remove this tree under Regulation 14 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012 as an exemption to normal planning controls.

G1 Ash – this is a group of young trees of poor shape and form, located adjacent to the boundary with 15 Buchanan Road. They measure approximately 3cm in diameter and appear to have previously been topped. They have no long term potential and would not be considered worthy of inclusion in a more specific Tree Preservation Order.

G2 Elder/Prunus – these trees have grown around each other and are located in the northernmost corner of the site. They are young to early mature and are approximately 5/6m in height. They would not be considered worthy of inclusion in a more specific TPO and their removal is therefore acceptable.

G3 Ash (4) and 1 Prunus – are all young trees located between the existing garage and the boundary between 13 and 15 Buchanan Road. The largest of the Ash trees (5cm diameter) has historically been partly severed at the base and is at risk of failure. It is of reasonable shape and form although it is not worthy of individual protection due to the structural issues at the base.

The remainder of the trees are less than 5cm in diameter and would not be worthy of inclusion in a more specific TPO.

I would also offer the following responses to the objectors' comments:

- The larger Ash is located within the rear garden of 15 Cameron Road and does not form part of the application. It therefore has no bearing on the assessment of the proposed works.
- The Elder and Prunus (G2) are standalone trees located in the north corner of the site. They are isolated from the remainder of the vegetation (row of Laurel) within the garden of 13 Cameron Road by a latticed gate. There is no vegetation (aside from a mature Sycamore) in the adjacent garden to the northeast. They therefore do not form part of a continuous run of trees.
- Regardless of any potential development, the trees have no long-term future due to their poor shape and form.
- The application does not pertain to the removal of a row of trees along the Cameron Road frontage. These 'trees' are Laurel bushes and not covered by the Tree Preservation Order.
- The trees that form part of this application are not considered worthy of long-term protection as they are of poor shape and form with no long-term potential.
- The removal of the trees that form part of this application will not have a detrimental impact on the amenity value of the area due to their current size and form.

- There are sufficient trees within the rear garden of the application site, and several other gardens in the immediate locality to retain a significant natural element that is beneficial to the health and well-being of the local residents.
- The trees do not provide a significant degree of screening to the residents of Cameron Road. Whilst this element can be a contributory factor in the TPO making process, it is not a consideration in this instance due to the small size and poor form of the trees.

11 CONCLUSIONS AND REASONS FOR DECISION

The proposed works are acceptable as the trees do not provide a significant contribution to amenity in the locality, and they would not be considered worthy of inclusion in a more specific TPO.

12 RECOMMENDATION

Grant Consent

13 CONDITIONS AND REASONS

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

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

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

Reason: To ensure a satisfactory standard of work.

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

Reason: To ensure a satisfactory standard of work.

4. The applicant shall give at least 5 working days notice prior to any works in order that a mutually convenient time can be arranged with the Borough Council to discuss the extent of the works and/or supervise the works with the contractor on site.

Reason: To ensure a satisfactory standard of work.

Notes for applicant

1. All 18 species of bat found in Britain are fully protected under the Wildlife and Countryside Act 1981 (as amended by National and European legislation). The applicant should inspect the trees for the presence of bat activity. If bats are discovered during inspection or subsequent work, all work must cease immediately and Natural England must be informed. They can be contacted on 0845 600 3078.

2. All wild birds, their nests and eggs are protected under the Wildlife and Countryside Act 1981. It is an offence to damage or destroy a nest of any wild bird. Birds are generally nesting between March and July, although exceptions to this do occur.
3. This consent to undertake work to the tree(s) does not give consent for any person to enter the land where the trees are situated for the purposes of undertaking the works without the formal consent of the landowner.
4. You may remove deadwood under Regulation 14(1)(b) of the Town and Country Planning (Tree Preservation)(England) Regulations 2012 as this operation is exempt from the need to obtain formal planning permission.

14 CONTACT OFFICER

Cameron Gibson - Extension: 4741

Alison Ives,
HEAD OF PLANNING & BUILDING CONTROL



Walsall Council

PLANNING COMMITTEE

1st April 2021

REPORT OF THE HEAD OF PLANNING & BUILDING CONTROL – DEVELOPMENT MANAGEMENT

APPLICATION TO REMOVE 1 PROTECTED SYCAMORE TREE AT 33 FERNLEIGH ROAD, WALSALL WS4 2EZ.

1. PURPOSE OF REPORT

Reason for bringing to committee: Councillor Call-in.

2. RECOMMENDATIONS

Refuse Consent

3. PROPOSAL

To fell 1 Sycamore to ground level.

4. SITE AND SURROUNDING

The site is orientated in a northwest-southeast direction and is situated on the southeast side of Fernleigh Road. The building is centrally located and faces northwest. The front garden area is laid mainly to hard landscaping, the rear laid mainly to grass.

The surrounding area is predominantly residential although open farmland is located immediately to the southeast and golf course further beyond.

5. RELEVANT PLANNING HISTORY

14/0451: Fell Sycamore – Part Approve/Refuse

6. RELEVANT POLICIES

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

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

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

7. CONSULTATION REPLIES

N/A

8. REPRESENTATIONS

No representations have been received.

9. DETERMINING ISSUES

Whether the proposed works will be detrimental to the amenity, aesthetic and landscape value of the locality, and whether sufficient justification has been demonstrated for the removal of the trees.

10 ASSESSMENT OF THE PROPOSAL

Site Visit: 19/02/2021

Tree(s): 1 x Sycamore

The tree, the subject of this application, is located within A2 of Tree Preservation Order No. 1/1962. It is a maturing tree of good shape and form. It is approximately 16m in height with a radial crown spread of 7m. The tree is visually prominent and provides a high level of amenity value to the locality, helping the transition between the built up area and the Green Belt and open countryside beyond.

It has a single stem to approximately 6m above ground level from where the crown breaks (the main limbs form). It appears in good condition with no visible faults or defects although minor deadwood is evident. However, deadwood is a normal function of a trees growth and is not an indicator of poor health. The crown appears slightly denser than normal although not excessively so, and the lowest branches hang at approximately 6m above ground level. The crown on the northwest side is approximately 1m from the apex of the roof and lapsed epicormic (trunk) growth is evident between 2m and 4m on the main stem.

The tree is located approximately 7.5m from the main rear elevation and approximately 6.5m from the nearest point of the single storey extension on the east side of the building. The flank boundary to 35 Fernleigh Road is 1m from the tree, as is the rear boundary. In addition, the tree is located approximately 3.5m from the single storey rear extension to 35 Fernleigh Road.

This application submits that the tree is a danger to property and life although no evidence has been submitted to support this. In addition, my inspection revealed the tree appears in good condition with no visible faults or defects.

Being a substantial deciduous tree, the Sycamore will cause a degree of seasonal inconvenience to the applicant and their neighbours in terms of the shedding of leaves and other debris, and honeydew deposition associated with aphids feeding on the leaves. However, such issues are an unavoidable consequence of owning a property close to a protected tree and do not justify the proposed works to fell a prominent healthy specimen such as this. The installation of proprietary leaf guards could help to reduce the build-up of leaves and other debris in the gutters and rainwater downpipes.

Having considered the information on the application form, my own observations on site, and the comments by the property owner at the time of my site visit, I do not consider that the reasons given are sufficient either individually or collectively to outweigh the public visual amenity afforded by the sycamore and hence warrant the proposed works.

11 CONCLUSIONS AND REASONS FOR DECISION

The government's on-line Planning Practice Guidance states that it must be demonstrable that the proposed work is a proportionate solution to the expressed concerns. The reasons given for the removal of the Sycamore do not outweigh the harm that would arise from its removal. It has demonstrable public visual amenity and is in good condition. Consequently, the recommendation is to refuse the application to fell the Sycamore tree, as the reasons given for the works applied for are not sufficient to justify its removal.

12 RECOMMENDATION

Part Approve/Part Refuse

13 CONDITIONS AND REASONS

Refuses Consent for the Following Work(s):

1. To fell 1 Sycamore to ground level.

For the Following Reason(s):

1. The tree is of good shape and form with no visible faults or defects indicating it is in good health.
2. The tree is prominent in the locality and makes a significant contribution to the amenity, aesthetic and landscape value of the area.
3. The reasons given in the application for the removal of the tree are not considered to outweigh the harm that would arise from the loss of what is a healthy tree with demonstrable public visual amenity.

Grant Consent For the Following Work(s):

1. T1 Sycamore:
 - a. Remove the trunk growth to 6m above ground level.
 - b. Prune back from the roof of the building to give 2m clearance.

Subject to the Following Condition(s):

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

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

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

Reason: To ensure a satisfactory standard of work.

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

Reason: To ensure a satisfactory standard of work.

4. Reduction shall be only as far as lateral growths or branches, so as to leave a flowing crown outline with no stubs.

Reason: To ensure a satisfactory standard of work.

Notes for applicant

1. All 18 species of bat found in Britain are fully protected under the Wildlife and Countryside Act 1981 (as amended by National and European legislation). The applicant should inspect the trees for the presence of bat activity. If bats are discovered during inspection or subsequent work, all work must cease immediately and Natural England must be informed. They can be contacted on 0845 600 3078.
2. All wild birds, their nests and eggs are protected under the Wildlife and Countryside Act 1981. It is an offence to damage or destroy a nest of any wild bird. Birds are generally nesting between March and July, although exceptions to this do occur.
3. This consent to undertake work to the tree(s) does not give consent for any person to enter the land where the trees are situated for the purposes of undertaking the works without the formal consent of the landowner.
4. You may remove deadwood under Regulation 14(1)(b) of the Town and Country Planning (Tree Preservation)(England) Regulations 2012 as this operation is exempt from the need to obtain formal planning permission.

14 CONTACT OFFICER

Cameron Gibson - Extension: 4741

Alison Ives,
HEAD OF PLANNING & BUILDING CONTROL



Walsall Council

PLANNING COMMITTEE.

Date: 1st April 2021.

**REPORT OF HEAD OF PLANNING
AND BUILDING CONTROL.**

Address: 9 PAGODA CLOSE, STREETLY, WALSALL.

Reference no. E19/0429.

1.0 PURPOSE OF REPORT

1.1 To advise Members of ongoing issues and to request authority to pursue planning enforcement action against:

- Unauthorised operational development in the form of a plastic clad brick built garden structure and concrete base at the rear of 9 Pagoda Close, Streetly, Sutton Coldfield, outlined in red on the attached plan.

2.0 RECOMMENDATIONS

2.1 **That authority is granted to the Head of Planning and Building Control, to issue an Enforcement Notice** under the Town and Country Planning Act 1990 (as amended) to require remedial actions to be undertaken as shown in 3.2.

2.2 **To authorise the Head of Planning and Building Control to institute prosecution proceedings** in the event of non-compliance with an Enforcement Notice.

2.3 **To authorise the Head of Planning and Building Control, to amend, add to, or delete from the wording** set out below stating the nature of the breaches, the reasons for taking enforcement action, the requirements of the Notice, or the boundaries of the site, in the interests of ensuring that accurate and up to date notices are served.

3.0: DETAILS OF THE ENFORCEMENT NOTICE

3.1 The Breach of Planning Control

Without the required planning permission, and within the last 4 years, unauthorised operational development has taken place in the form of an outbuilding erected within the rear garden of 9 Pagoda Close, Streetly, Walsall, outlined in green on the attached plan.

Thereby now referred to as “the unauthorised development”.

3.2 Steps required to remedy the breach:

- i. Permanently remove from the land the unauthorised development (garden building) outlined in green on the attached plan; or
- ii. Alter the unauthorised development to include appropriate ground gas protection/mitigation measures in a form to be agreed with the Local Planning Authority; and
- iii. Dispose of any waste materials generated from the above works to a suitable facility licensed to accept these items.

3.3 Period for compliance:

To undertake the works set out in paragraph 3.2, parts (i)-(iii) within **3 months** from when the notice takes effect.

3.4 Reasons for taking Enforcement Action.

- 3.41 It appears to the Council that the above breach of Planning control has occurred within the last 4 years.
- 3.42 No evidence has been provided, which demonstrates that the appropriate ground gas protection/mitigation measures have been incorporated within the unauthorised development, the absence of which gives rise to the potential for the ingress of harmful ground gases to the detriment of human health.
- 3.43 The development is contrary to the aims and objectives of NPPF 15, and saved policies GP2, ENV10 and ENV14 of the Walsall Unitary Development Plan policies.

FINANCIAL IMPLICATIONS

An appeal against an enforcement notice could be subject to an application for a full or partial award of the appellant's costs against the Council in making an appeal if it was considered that the Council had acted unreasonably.

5.0 POLICY IMPLICATIONS

The report recommends enforcement action in order to seek compliance with planning policies. The following planning policies are relevant in this case:

5.1 National Planning Policy Framework (NPPF) www.gov.uk

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

Key provisions of the NPPF relevant in this case:

- NPPF 15 – Ground Conditions and Pollution.

5.2 Local Policy

Black Country Core Strategy

- None applicable

'Saved Policies' Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution.
- ENV14. Development of derelict and previously developed sites.

Policies are available to view online:

https://go.walsall.gov.uk/planning_policy

6.0 LEGAL IMPLICATIONS

- 6.1 Pursuant to section 171A (1a) of the Town and Country Planning Act 1990 (as amended) the carrying out of development without the required planning permission.
- 6.2 Section 171B adds that where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years, beginning with the date on which the operations were substantially completed.
- 6.3 In respect of any other breach (such as change of use or breach of condition) no enforcement action may be taken after the end of the period of ten years from the date of the breach except where the breach of planning control consists of a change of use of any building to use as a single dwelling house, in which case a four-year period applies.
- 6.4 Officers consider that the breach of planning control occurring at this site is development commenced without the benefit of planning permission within the last year in connection with the unauthorised uses which is within the 4 years period, within which unauthorised material changes of use may be enforced against. Whilst the operational development in terms of the garden structure and fencing has occurred without the benefit of Planning Permission within the last 4 years, within which unauthorised operational development at residential premises may be enforced against.
- 6.5 Section 191 (2)
Lawfulness is defined in section 191(2) of the 1990 Act. In summary, lawful development is development against which no enforcement action may be taken

and where no enforcement notice is in force, or, for which planning permission is not required.

- 6.6 Section 172 of the Town and Country Planning Act 1990 (as amended) provides that the local planning authority may issue an Enforcement Notice where it appears to them:

- (a) that there has been a breach of planning control; and
- (b) that it is expedient to issue the notice, having regard to the development plan and to any other material considerations.

- 6.7 The breach of planning control is set out in this report. Members must decide whether it is expedient for the enforcement notice to be issued, taking into account the contents of this report.

- 6.8 Non-compliance with an Enforcement Notice constitutes an offence. In the event of non-compliance, the Council may instigate legal proceedings. The Council may also take direct action to carry out works and recover the costs of those works from the person on whom the Enforcement Notice was served. Any person on whom an Enforcement Notice is served has a right of appeal to the Secretary of State.

7.0 EQUAL OPPORTUNITY IMPLICATIONS

- 7.1 Article 8 and Article 1 of the first protocol to the Convention on Human Rights state that a person is entitled to the right to respect for private and family life, and the peaceful enjoyment of his/her property. However, these rights are qualified in that they must be set against the general interest and the protection of the rights and freedom of others. In this case, the wider impact of the development overrules the owner's right to the peaceful enjoyment of his property.
- 7.2 The Equality Act 2010. The Council has had regard to its duties under the Equality Act 2010 and considers that the issue of the notice will not affect the exercise of those duties under S149 to (a) eliminate discrimination, harassment,

victimisation and any other conduct that is prohibited by or under this Act; (b). Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c). foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.0 ENVIRONMENTAL IMPACT

Enforcement action will protect the environment and remedy the adverse environmental impacts.

9.0 WARD(S) AFFECTED

Streetly

10.0 CONSULTEES

None.

11.0 CONTACT OFFICERS

Rich Stokes - Enforcement Officer.

12.0 BACKGROUND PAPERS

Enforcement file E20/0429 not published.

Planning Application 21/0044 – pending.

Planning Permission 02/0069/FL/E2 – Permitted Development Rights withdrawn.

13.0 BACKGROUND AND REPORT DETAIL

Background

- 13.1 A plan showing the location of the site considered in breach of planning control is attached to this report.
- 13.2 Number 9 Pagoda Close is located at the end of a cul de sac, situated upon a former landfill site, which has been subjected to extensive remedial and engineering works to make it suitable for residential use. In achieving this situation, a comprehensive ground gas management system was installed across the whole of the development site and additional ground gas ingress prevention measures were incorporated into the foundations of buildings.
- 13.3 In order to prevent damage to the protection measures and, as a result, potential harm to residents, permitted development rights for certain works were removed from the entire residential estate under planning permission 02/0069/FL/E2, including that for Class E development, that being 'outbuildings'.
- 13.4 The rear garden at number 9 was tiered by the original developers of the site, the upper level being some 2.3 metres higher than the ground level upon which the main dwelling house is built.
- 13.5 On 22nd July 2019 a Case Officer visited 9 Pagoda Close, to find a garden building had been erected on the upper level of the rear garden. The Officer took measurements and created digital images of the site.
- 13.6 The garden structure measures approximately 5.2 metres long, 3.2 metres wide, and 2.37 metres high. The walls consist of concrete blocks, laid upon a concrete floor slab and subsequently clad with imitation wood/PVC type boards. The roof is corrugated plastic. Domestic items are stored within.

- 13.4 On 12th January 2021, communication with the occupier as part of this investigation resulted in retrospective Planning Application 21/0044 being submitted.
- 13.5 During the determination of this planning application the enforcement case continued, owing to the imminent limitation of proceedings or 'four year rule' time limit ending in June 2021.
- 13.6 The planning application is currently under assessment by the Local Planning Authority (LPA). Additional information and clarification has been sought to address concerns raised regarding the failure by the applicant to substantiate with reliable evidence that the existing garden building has been constructed with the correct ground gas protection measures in place to prevent methane gas ingress. The planning application remains to be determined at this time.
- 13.7 Therefore, at the present time, the LPA considers that the development presents a detrimental impact on the human health and living conditions of the current or future occupants of the house, owing to the potential for methane gas ingress together with pollution of the local environment.
- 13.8 Whilst enforcement cases are often held in abeyance to await the outcome of planning decisions and appeal decisions, this unauthorised development could potentially become immune from action prior to such a decision being made. Therefore, the LPA is seeking authorisation in this instance to serve a notice thus preserving the right to exercise its enforcement powers, in the event that the appeal is either not determined or dismissed before the period of immunity is invoked.
- 13.9 This development is contrary to NPPF policy 15, saved Unitary Development Plan policies GP2, ENV10 and ENV14.





Development Management Planning Committee

Report of Head of Planning and Building Control on 01/04/2021

CONTENTS

Item	Planning Application Number	Planning Application Site Address	Planning Application Proposal	Officer Recommendation
1	20/0490	348, WOLVERHAMPTON ROAD WEST, WILLENHALL, WV13 2RN Ward: Willenhall South	DEVELOPMENT OF 28 RESIDENTIAL UNITS (6 FLATS AND 22 HOUSES) WITH ASSOCIATED PARKING AND LANDSCAPING.	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING AND BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND A S106 AGREEMENT TO SECURE A CONTRIBUTION TOWARDS PROVISION FOR URBAN OPEN SPACE, ON-SITE LANDSCAPING MAINTENANCE; MONITORING; AND TO SECURE A VIABILITY REVIEW (UPLIFT CLAUSE), AND SUBJECT TO: • NO NEW MATERIAL CONSIDERATIONS BEING RECEIVED WITHIN THE RE-CONSULTATION PERIOD;

				<ul style="list-style-type: none"> • THE AMENDMENT AND FINALISING OF CONDITIONS; • NO FURTHER COMMENTS FROM A STATUTORY CONSULTEE RAISING MATERIAL PLANNING CONSIDERATIONS NOT PREVIOUSLY ADDRESSED; • AGREEMENT OF AN APPROPRIATE LOCATION FOR PUBLIC OPEN SPACE S106 CONTRIBUTION SPEND WITH CLEAN & GREEN AND WARD MEMBERS
2	20/1650	<p>UNIVERSITY OF WOLVERHAMPTON, WALSALL CAMPUS, GORWAY ROAD, WALSALL, WS1 3BD</p> <p>Ward: St Matthews</p>	ERECTION OF FLOODLIGHTS, ADDITIONAL FENCING AND SEATING AREA AT EXISTING TENNIS/NETBALL COURTS	<p>PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO:</p> <ul style="list-style-type: none"> • NO NEW MATERIAL CONSIDERATIONS BEING RECEIVED WITHIN THE CONSULTATION PERIOD; • NO OBJECTIONS FROM ENVIRONMENTAL HEALTH; AND • THE AMENDMENT AND

				FINALISING OF CONDITIONS.
3	20/0312	<p>25, SEEDS LANE, BROWNHILLS, WALSALL, WS8 6HU</p> <p>Ward: Brownhills</p>	DEMOLITION OF 25 SEEDS LANE AND ERECTION OF 5NO. 3 BED BUNGALOWS	<p>PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING AND BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS SUBJECT TO:</p> <ul style="list-style-type: none"> • NO NEW MATERIAL CONSIDERATIONS BEING RECEIVED WITHIN THE RE-CONSULTATION PERIOD; • THE AMENDMENT AND FINALISING OF CONDITIONS; • NO FURTHER COMMENTS FROM A STATUTORY CONSULTEE RAISING MATERIAL PLANNING CONSIDERATIONS NOT PREVIOUSLY ADDRESSED
4	20/0088	<p>Garages Rear Of, 2 Lime Avenue, Bentley, WS2 0JA</p> <p>Ward: Bentley And Darlaston North</p>	PROPOSED CONSTRUCTION OF 2 SEMI-DETACHED TWO STOREY 3 BEDROOM HOUSES WITH ASSOCIATED PARKING, LANDSCAPING AND GARDEN SHEDS	DELEGATE TO THE HEAD OF PLANNING AND BUILDING CONTROL TO GRANT PERMISSION SUBJECT TO CONDITIONS, AND THE FINALISING OF PLANNING CONDITIONS

5	20/1175	33 , Skip Lane, Walsall, WS5 3LL Ward: Paddock	REPLACEMENT 5 BED DWELLING	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO: <ul style="list-style-type: none"> • NO NEW MATERIAL CONSIDERATIONS BEING RECEIVED WITHIN THE CONSULTATION PERIOD; • THE AMENDMENT AND FINALISING OF CONDITIONS; AND • NO FURTHER COMMENTS FROM A STATUTORY CONSULTEE RAISING MATERIAL PLANNING CONSIDERATIONS NOT PREVIOUSLY ADDRESSED.
6	20/1644	WALSALL COUNCIL, THE COUNCIL HOUSE, LICHFIELD STREET, WALSALL, WS1 1UZ Ward: St Matthews	LISTED BUILDING CONSENT: REPLACEMENT OF EXISTING BOILERS AND HEATING SYSTEM, INCLUDING INTRODUCTION OF AIR CONDITIONING TO SECOND FLOOR CHAMBERS AND MAYOR'S PARLOUR.	DELEGATE TO THE HEAD OF PLANNING AND BUILDING CONTROL TO GRANT LISTED BUILDING CONSENT SUBJECT TO CONDITIONS, AND FINALISING OF PLANNING CONDITIONS

7	20/1282	44, MELLISH ROAD, WALSALL, WS4 2ED Ward: St Matthews	RETROSPECTIVE APPLICATION FOR THE RETENTION OF A DORMER WINDOW TO THE REAR	DELEGATE TO HEAD OF PLANNING AND BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND FINALISING OF PLANNING CONDITIONS
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Planning Committee

Report of Head of Planning and Building Control on 01 April 2021

Plans List Item Number: 1

Reason for bringing to committee

Major Application

Application Details

Location: 348, WOLVERHAMPTON ROAD WEST, WILLENHALL, WV13 2RN

Proposal: DEVELOPMENT OF 28 RESIDENTIAL UNITS (6 FLATS AND 22 HOUSES) WITH ASSOCIATED PARKING AND LANDSCAPING.

Application Number: 20/0490

Case Officer: Gemma Meaton

Applicant: Mr Nick Laight

Ward: Willenhall South

Agent: Mr Daniel Hodson

Expired Date: 04-Aug-2020

Application Type: Full Application: Major Use Class E(e) (Medical or Health Services)

Time Extension Expiry: 08-Apr-2021

Recommendation

Planning Committee resolve to Delegate to the Head of Planning and Building Control to Grant Planning Permission Subject to Conditions and a S106 Agreement to secure a contribution towards provision for Urban Open Space, On-site Landscaping Maintenance; Monitoring; and to secure a viability review (uplift clause), and subject to:

- No new material considerations being received within the re-consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Agreement of an appropriate location for Public Open Space S106 contribution spend with Clean & Green and ward members



Proposal

The proposal is for the redevelopment of the former Johnson's VW Garage site for residential purposes and proposes 28 new dwellings with houses and apartments comprising as follows;

Apartment Block

- A two storey rectangular block with three ground floor and three first floor units making a total of 6 dwelling units, each with one double bedroom
- Pitched roof design with gable ends and a total height of 9.3m
- 20m in length and 9m in depth
- Constructed of red brick with a grey tiled roof, grey uPVC windows, rainwater goods and doors
- All dual aspect apartments with a north to south orientation
- Habitable room windows in all exterior elevations
- Separate entrances facing south onto Wolverhampton Road West, accessed by a single gated pedestrian access
- Secure private amenity space to the rear of the block of 147m² (24.5m² per apartment)
- Positioned fronting Wolverhampton Road West, set back by between 3m and 4m, with landscaped area and with 1.2m high railings enclosing building
- 2.1m close boarded feather edged fencing with an additional 30mm trellis top and concrete posts to the western boundary
- 6 allocated parking spaces and one visitor space, equalling 1.2 spaces per apartment
- Storage of cycles located to the rear of the building within the secure amenity area

Houses

- 20 semi-detached houses and two detached houses (10 no. 2 bed, 8 no. 3 bed and 4 no.4 bed) based around 4 house types
- All houses accessed from a new adoptable road off Wolverhampton Road West
- Houses to be faced with red brick in a mixture of plain red and multi red with grey tiles and 20mm projecting brick detailing
- 2.1m high close boarded feather edged fencing with an additional 30mm trellis top fencing surrounding the boundary of the site with a mixture of 2.1m and 1.2m close boarded boundary fencing and 1.2m black vertical bar railings provided for internal boundaries
- Provision for 44 car parking spaces, equalling 2 spaces per dwelling
- Private amenity space between 62m² and 125m² with an average of 81m²
- A minimum of 18m habitable room window to window separation distance with the critical point between plots 8 and 25 and plots 7 and 26 at the front across the adoptable access road.
- A minimum of 23m separation between habitable rooms and two storey blank walls with the critical point at the front of plots 19 and 20 and the blank wall on the flank of plot 23, and 19m separation between the rear facing windows of flat units 1-6 and the flank wall of plot 7, and no other significant internal

- interactions
- A 25m habitable room window to window separation distance between plot 11 and 70 Cumberland Road at an angle of approximately 40 degrees and 7m between plot 22 and the single storey outbuilding to the rear of 334 Wolverhampton Road West, and no other significant external interactions.
- Soft landscaping proposed throughout

The development would have a density of 44 dwellings per hectare.

The application is supported by the following documents:

Design and Access Statement

Describes the site and surroundings, site context and evolution of the proposed scheme. Pre-application advice has been received in relation to this scheme and the Design and Access Statement sets out how this advice has been incorporated into the proposed scheme.

Housing Statement

Provides a background to the site, proposed housing provider and applicant. Sets out the proposed housing mix and provides justification for the proposal. It is proposed that the scheme be 100% affordable housing, split between affordable rent and shared ownership.

Tree Survey

Confirms there are no protected trees within the Site. Indicates that there are some group of trees in the north east of the site bordering the infilled canal, and two other trees one on the north eastern boundary and one on the adjacent property on the south eastern boundary. The report indicates that the layout is compatible with the retention of the trees, and recommends a tree protection plan be prepared to ensure that trees are not damaged during construction.

Archaeological Desk Based Assessment

Confirms that there are no archaeological designated heritage assets on the site, and the proposed development will have no impact upon the significance of any archaeological designated heritage assets outside of the site. The report explains that the site lies within the undesignated heritage asset of County Bridge Farm a former farmstead first depicted on late 18th Century mapping. The 19th Century undesignated heritage asset of Bentley Canal forms the sites northeast boundary.

The assessment concludes that based on the available information and past impacts, it is considered here that there is 'low' potential for the survival of features and deposits pre-dating the Post-medieval (1540 AD – 1900 AD) period on site. 18th and 19th Century activity on the site is demonstrated and for that reason the potential for the survival of features and deposits of these dates must be considered to be 'moderate - high'.

Any potential archaeological interest can be appropriately safeguarded and provided for through an appropriately worded planning condition.

Preliminary Ecological Appraisal

Illustrates that the majority of the site is of 'low ecological value', prevention of disturbance to the adjacent protected species habitat and wildlife corridor is of most importance on this site.

There are no Statutory or Non-Statutory Designated Nature Conservation Sites within the site, within 1km from the site or at greater distances that will be impacted by this development, however the adjacent non designated wildlife corridor should be protected during development of this site.

The Biological Data Search revealed no protected species recorded within the site, although the site survey determined an active protected species habitat within 2m from the site boundary. Therefore it is recommended that the existing palisade fencing is maintained, close board fencing is erected along garden boundaries, and a minimum 10m no development buffer zone along the northern boundary of the site is established for the site.

Further recommendations are made to secure precautions to protect wildlife and ecology.

Coal Mining Risk Assessment

Advises that there are no known mine workings below the site and that although there are some coal seams present, intrusive investigation has shown no evidence of former mining. Accordingly no special precautions are considered warranted with respect to unrecorded shallow workings. There is a low potential for unrecorded mine entries on site but potential associated residual risk can be addressed by means of a discovery strategy during ground works. Gas exclusion measures should be provided for the new residential structures. The study shows no reason why the development should not go ahead safely subject to the imposition of the conditions described.

Noise Assessment

Concludes that although the most exposed parts of the site are exposed to significant levels of noise, this could be controlled and mitigated through the use of boundary treatments, acoustic glazing and ventilation. Subject to the imposition of a condition requiring details of mitigation measures to be submitted and approved, the proposed

development would be of negligible risk to adverse impact from noise and would be subject to satisfactory internal acoustic environments.

Transport Statement

The site has a good level of pedestrian and cycle infrastructure and is well connected to good public transport services. Safe and suitable access is available from Wolverhampton Road West, with no access through Cumberland Road, and the access junction can be provided in line with relevant design guidance.

The development proposal is forecast to generate 10 two-way vehicle movements during the morning peak period and 15 two-way vehicle movements during the evening peak period; whilst these vehicle movements are less than those generated by the previous land use of a car showroom, even if they were considered as entirely new, such a traffic flow is minimal.

The housing development will not have a material impact on the capacity or safety of the adjacent highway network and will not have an unacceptable impact on highway safety

Site and Surroundings

The site is 0.63Ha in extent and most recently used as a used car dealership until it was demolished and cleared in early 2020.

The site is located on the northern side of the Wolverhampton Road West (District Distributor – B4464), with houses across the road, flats directly to the rear along Cumberland Road where there are also houses in proximity, also along the rear boundary is the drained extent of the former Walsall canal. To the eastern boundary are additional houses accessed directly off Wolverhampton Road West, and the west is a recently redeveloped filling station and convenience store. Further to the west is the Key Master (former Red Lion) Public House.

Bentley Local Centre is 870m away, with Willenhall District Centre 1.2km away. Junction 10 of the M6 and access to the Black Country Route are 1.3km away.

The site is within a Coal Development High Risk Area.

Relevant Planning History

20/0297, Prior Notification: Demolition of Single Storey Garage, prior approval granted 09/04/2020.

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 5 – Delivering a sufficient supply of homes**
- **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 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

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- 3.11 Forestry and Trees
- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H4: Affordable Housing
- 7.4 Strategic Policy Statement
- T1 - Helping People to Get Around
- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- 8.3 Urban Open Space
- 8.7 to 8.9 Strategic Policy Statement
- LC3: Children's Play Areas

Black Country Core Strategy

- CSP1: The Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing

- 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

- RC1: The Regeneration Corridors
- HC1: Land allocated for New Housing Development
- HC3: Affordable Housing and Housing for People with Special Needs
- EN1: Natural Environment Protection, Management and Enhancement
- EN3: Flood Risk
- T2: Bus Services
- 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

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

Appendix D: Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. The requirement to design longer rear gardens to reflect an area's character is applicable and the guidelines should not mean to be the maximum achievable distances.

Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above (this standard will be applied more robustly at the rear than across roads at the front), 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20 sq. metres useable space per dwelling where communal provision is provided.

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

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

Archaeology

No objection subject to a condition relating to a programme of archaeological work to inform any further archaeological mitigation prior to or during development.

Coal Authority

No objection, in line with the Coal Mining Risk Assessment submitted.

Environment Agency

No objection

Highways England

No objection

Historic England

No objection

Housing Strategy

No objection, a 25% affordable housing contribution would be required in accordance with BCCS Policy HOU3. This would equate to 7 units. The preferred mix would be 2 x 4 bed, 2 x 3 bed, 3 x 2 bed house. The tenure mix would be either 5 social rent and 2 shared ownership, or all 7 social rent, dependent on applicant preference.

Lead Local Flood Authority

No objection subject to condition relating to surface water drainage.

Natural England

No objection

Network Rail

No comments to make

Pollution Control

No objections subject to conditions for contaminated land, Construction Environmental Management Plan, Electric Vehicle Charging, low emissions boilers, acoustic glazing and noise mitigation measures

Public Health

No objections, recognise the contribution this development will have to increasing the provision of good quality housing in Walsall plus the contribution it will make to supporting the local economy during the construction phase

RSPB

No objection

Severn Trent Water

No objection subject to condition relating to drainage

Sport England

No objection

Strategic Planning Policy

The site is allocated for housing as site reference HO321 under SAD Policy HC1. The proposal can therefore be supported subject to a S106 agreement to secure the provision of affordable housing and a contribution to off-site open space improvements.

Transportation

No objection subject, inclusion of planning conditions requiring surfacing of access and parking areas, engineering details of highway works, construction methodology statement and cycle shelter.

West Midlands Fire Service

No objection subject to compliance with approved document B of the building regulations.

West Midlands Police

No objection, Comments made relating to landscaping climbing aids, height of fencing, gates and access to the rear, surveillance for parking, cycle store materials, lighting, and alarms.

Representations

Three responses have been received objecting to the proposal on the following grounds;

- Overlooking onto properties on Cumberland Road
- Belief that members of the public will drive onto Cumberland Avenue when attempting to access the development thereby increasing traffic
- Objection to any access though Cumberland Road
- Highlight the agent of change principle in relation to the existing operations of

surrounding businesses and potential impact on prospective residents in relation to noise and disturbance.

Determining Issues

- Principle of Development
- Impact on the Character and Appearance of the area
- Security
- Archaeology
- Impact upon residential amenities
- Noise
- Ecology
- Access and Parking
- Planning Obligations
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

The site is allocated for residential development within the Walsall Site Allocation Document (2019) under Policy HC1 for an estimated 33 dwellings (Site HO321). The Policy requires the design of development on these sites to take account of their context and surroundings and help to create places where people choose to live. Each site should achieve a density of at least 35 dwellings per hectare, except where part of the site is needed to provide open space or other facilities in accordance with other policies. The Site achieves a density of approximately 44 dwellings per hectare which would meet this requirement.

Further to this, the National Planning Policy Framework seeks to make as much use as possible of previously-developed or 'brownfield' land. The site is within a sustainable location within an existing residential area with access to shops and services.

As such, and subject to full assessment of all material considerations, the principle of residential development in this location is considered acceptable and accords with the aims of local and national planning policies.

Impact on the Character and Appearance of the Area

The application proposes a two storey residential apartment block in the western corner, with houses spread around the rest of the site arranged around a single access road and turning head.

The low-rise apartment block is considered to respect the urban character of the area through its placement and use of red brick, and grey tile. The use of projecting bricks and canopies would add interest. The height and scale of the proposed buildings is compatible with the neighbouring buildings on Wolverhampton Rad West and on Cumberland Road. The development maintains an active frontage by providing direct pedestrian access to the block from the street.

The proposed apartment building would be visible from the west along Wolverhampton Road West due to the neighbouring convenience store being set back from the road meaning that the flank elevation of the building would be prominent on this side.

The bin store and cycle store has been provided within the amenity space with access to the bins easily available from the adoptable roadway area. The rear gated parking for the apartment block will ensure security. The details of these parking gates can be secured by condition to ensure they are appropriate.

Within the rest of the scheme, the dwellings would be arranged around the 'T' shaped access. The houses would follow the sweep of the road, to the right through the site, and would terminate with a view towards plot 15 and 16 which have purposely been constructed as taller and more prominent 4 bed dwellings in order to provide a sense of arrival within the street scene.

The density of the development would reflect the semi-detached nature of the surrounding urban area and make the best use of a brownfield site. It is considered, on balance, that the scheme would respond to the urban character of the area in this regard and a high quality urban form would be created. Two metre pedestrian footways are provided on both sides of the main access road through the site, and a single two metre footway is provided along the turning head, running along the eastern edge of plots 11 and 22 is considered to contribute to high quality public realm.

Elements of landscaping and the use of semi-detached dwellings break up the street scene, providing a sense of space and depth in the public realm to ensure a high quality character is created. The landscaping can be controlled by a suitably worded planning condition and a planning obligation can ensure its ongoing maintenance. This obligation would meet the tests set out in the NPPF given it is necessary to make the scheme acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind.

The dwellings would be built from a mix of red and multi brick with grey tile, with anthracite grey uPVC windows, doors and rainwater goods. 20mm projecting brick detailing would be used to add interest. A suitably worded planning condition can be included in respect of the provision of final details of the proposed facing materials along with details of the proposed finished floor levels of the buildings. These conditions would meet the tests as set out in the NPPF.

Security

The scheme is legible and permeable while avoiding the potential for crime. The boundary treatment surrounding the site would be constructed from a 1.8 metre close-boarded feather-edged fence with 0.3m trellis on top to minimise any potential for antisocial behaviour and an increase in crime. Ground floor side windows also improve natural surveillance and have been included where there is parking located adjacent to properties. A suitably worded planning condition can ensure that details relating to gates, windows, doors, boundary fencing, intercoms for flats and secure mailboxes are provided, where required, to ensure a safe and suitable scheme is created.

The revised scheme is therefore considered appropriate given the proposed is considered a high quality design that respects the character of the area.

Archaeology

The application includes a report relating to potential archaeological importance of the site. The report sets out that the archaeological interest is not of such value that it would preclude or constrain development of the site. Further works are recommended. The Council's Archaeological Consultant agrees with this conclusion. There are potential for archaeological remains relating to the undesignated heritage asset of County Bridge Farm a former farmstead first depicted on late 18th Century mapping on the site, but they would not for a major constraint on development.

As such, with an appropriate condition in place requiring a programme of archaeological work to be agreed and undertaken that would identify and preserve by record any archaeology that may be affected by the development, the scheme is considered acceptable in this regard.

Impact on Residential Amenities

The proposed scheme is considered to respect and protect the amenity of existing neighbouring properties, as the layout ensures that existing residents will not be overlooked, given the design of the proposed site, and their privacy would therefore be maintained. The design of the scheme would also ensure that there is no unacceptable shading caused by the proposed development. The height of the proposed apartment block would be 9.3 metres to the ridge. Its location would mean it would not adversely impact upon the existing dwellings.

Each of the 6 one bedroom apartments would be provided over a single storey and would accommodate two people. They would have a gross internal floor area of 50m² which is in line with guidance provided in the Nationally Described Space Standard for dwellings of this type. The apartments would be arranged as open plan living areas with separate bedroom, bathroom and built in storage. The apartments would be at least dual aspect, arranged on a north south axis meaning that there would be with good access to light from windows to each room. 137m² of private shared amenity space is provided for the apartment block to the rear, which is well in excess of the 120m² policy requirements.

It is noted that there will be an 18 metre separation distance between the habitable windows of the proposed apartment building and the side wall of number 7 which is generously over the 13m requirement set out by the Designing Walsall SPD. There is also a 24m separation between the front elevation of plots 17/18 and the side elevation of plot 23, Likewise the distance between the front elevation of plots 23/24 and the rear/side corner of No 66 Campbell Drive is between 20 and 24m.

Plot 11/12 would be adjacent to No 72 Campbell Drive but would be set further forward and with a separation distance of over 4m would be not cause any new overlooking to the rear amenity space of the adjacent property. Plots 21/22 would back onto the rear amenity space of the recently approved (19/1186) bungalow at 332 Wolverhampton Road West, however the orientation of the buildings and offset would mean that there would be no overlooking introduced as a result of the development.

First floor side windows would either be obscure glazed or more than 1.7m above the floor level to prevent overlooking, it is recommended that this aspect be secured by condition. There would be no overlooking directly into habitable rooms given the orientation of the proposed houses. Given the urban nature of the site, and the fact there would be no direct overlooking into habitable windows, it is considered that, on balance, this relationship is acceptable and future residents would have a suitable standard of private amenity.

The proposed houses would vary between two and four bedrooms and would have internal areas of 67-110m², which is considered to provide an adequate level of amenity for the occupants. Rooms are reasonably laid out with good access to light and a practical arrangement that minimises circulation space and maximises usable areas and storage.

The gardens to the houses adhere broadly to the policy requirements (either 12m in length or 68m²) to ensure sufficient private space for future residents. As many of these are close to the minimum requirement, should extensions be added to the proposed dwellings they risk creating inadequate amenity spaces. It is therefore recommended that a condition be attached to the decision to remove permitted development rights for extensions within the development such that each proposal can be considered on its own merits.

Given the above, it is considered that, on balance, the proposed scheme would have an acceptable impact on the amenity of existing and future residents.

Noise

The application includes a noise report from the applicant's consultants, and subsequent confirmation that the assessment conforms with *ProPG Planning and Noise*, which concludes that mitigation measures would be required to control the impact of surrounding noise on the proposed development. Noise is dominated by traffic from Wolverhampton Road West. During gaps in the local traffic, more distant traffic including the M6 was audible. The filling station was audible only in terms of vehicles using with no noise from pumps and other mechanical equipment. A suitability worded planning condition that meets the tests set out in the NPPF, would ensure that any required mitigation, is provided and implemented. This would suitably address any existing noise climate concerns and ensure a suitable standard of amenity for future residents.

Conditions are recommended to ensure that there will be no unacceptable adverse impacts in terms of noise or air quality, during the construction phase.

Air Quality

The Council has adopted the Black Country Air Quality Supplementary Planning Document (SPD), which means that for this type of application an Air Quality Low Emission Scheme should be prepared and implemented.

Pollution Control have requested that mitigations measures be put in place to prevent unacceptable impacts on air quality. Mitigation measures include the requirement for electric vehicle charging points, and the use of low-emissions boilers. A suitably worded planning condition, that meets the tests set out in the NPPF, can ensure this is addressed. In addition to this, Pollution Control have requested a Construction Environmental Management Plan is secured through a suitably worded planning condition to ensure any construction impacts are sufficiently mitigated.

In light of the above, and with the proposed mitigation/conditions in place, the proposed is considered acceptable in this regard.

Ecology

There are no Statutory or Non-Statutory Designated Nature Conservation Sites within the site, within 1km from the site or at greater distances that will be impacted by this development, however there is a non-designated wildlife corridor to the rear of the proposed development. In line with Paragraph 170 of the NPPF, it should be ensured that there is a net biodiversity gain as a result of any development.

A preliminary ecological appraisal was submitted with the planning application. The report concludes that the majority of the site is of 'low ecological value',

The report concludes that the prevention of disturbance to the adjacent protected species habitat and wildlife corridor is of most importance on this site. Therefore it is recommended that the existing palisade fencing is maintained, close board fencing is erected along garden boundaries, and a minimum 10m no development buffer zone along the northern boundary of the site is established for the site.

Japanese knotweed was identified on the site and within the wildlife corridor to the north. The Japanese knotweed should be either eradicated from the site in accordance with EA guidelines or entirely avoided and zones off with a 7m buffer zone from any earth moving works.

No bat roosts were found to be present at the site, but precautionary measures should be utilised. New landscaping would enhance the site for biodiversity and the provision of bat brick/boxes would provide alternative roosting opportunities. As bats are negatively affected by light, the lighting on the proposed development should be minimal, low lux, cowled (directed downwards to prevent light splay), and used on timers or motion sensors. The details of any lighting to be installed as part of the development should be agreed as part of a suitably worded planning condition, and thereafter any additional lighting should require the submission of a planning application so that its impacts can be carefully assessed.

The ecological assessment recommends that native hedges and trees are planted along roadways and within gardens on this site on site to create and maintain foraging opportunities for the birds and bats which use the adjacent wildlife corridor.

Any vegetation clearance should take place outside of the bird breeding season. Bird breeding season is between mid-March and mid-July, although certain species can breed outside these months and if breeding birds are found then work should cease and the advice of an ecologist sought. If clearance is undertaken within the bird breeding season then all site features should preferably be checked immediately prior to clearance by a suitably qualified ecologist.

A suitably worded planning condition could ensure that the recommendations within the ecological appraisal. This should also include requiring details of enhancement measures to ensure the scheme contributes to the natural and local environment in line with Paragraph 170 of the NPPF. A condition controlling the type of landscaping would ensure that suitable species are included.

The tree survey confirms there are no protected trees within the Site, and indicates that the layout is compatible with the retention of the trees around the periphery of the site. It is recommended that a tree protection plan be prepared to ensure that trees are not damaged during construction.

The Lead Local Flood Authority has reviewed the submitted information, is satisfied with the proposals outlined and have no objection to planning permission being granted. Severn Trent also have no objections to the scheme subject to a condition which ensures that suitable foul and surface drainage water flows can be achieved.

No detailed landscaping scheme has been submitted with the application. A suitably worded condition should be provided to ensure that the landscaping ensures a high quality design, contributes to the ecological value of the site and surroundings, and prevents anti-social behaviour. A management scheme, secured through a planning obligation, will also ensure that these spaces are suitably managed.

As such, with suitably worded conditions and a planning obligation in place, the proposed is considered acceptable in this regard.

Access and Parking

The NPPF explains that development should only be refused in transport grounds where the residual cumulative impacts of the development are severe. The submitted transport statement, confirms that the additional net increase in vehicle movements would not be severe, with the addition of 25 additional 2-way trips along Wolverhampton Road West.

The low level impact has been confirmed by the Highway Authority who have no objection to the scheme. The proposals would also bring benefits the surrounding area given a residential scheme will attract smaller and quieter vehicles than that associated with the historic use as a vehicle sales garage.

Parking has been provided at a rate of 1 per unit in the flatted portion of the development, and 2 per dwelling house, a total of 51 car parking spaces are provided. Taking into account the fact the site is considered to be within a highly sustainable location on the edge of the town centre with sustainable transport options within a reasonable walking distance, on balance the Highway Authority considers the level of parking acceptable. They have, however, requested a conditions requiring details of surfacing of access and parking areas, engineering details of highway works, construction methodology statement.

The proposed apartments would be served by a bin storage area fronting the new adoptable access road. The cycle storage area would be located to the west of the proposed apartment block within the secure amenity area. Bin and cycle storage for all the houses would be within their private amenity areas. A suitably worded planning condition can ensure the provision, and retention, of the bin and refuse storage and their design. This will ensure they are of a high quality design and will ensure their retention.

The Highway Authority considers the development overall 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 Paragraph 109 of the NPPF.

Planning Obligations

Given the scale and type of development, planning obligations relating to affordable housing; urban open space; on-site open space maintenance; monitoring; and a review of the viability of the site will be required.

Urban Open Space

Given the scale of the development it triggers the need to make provision for Open Space. For a development of this size, within this ward, a contribution (as defined by the Urban Open Space SPD) of £45,738.00 is required. Western Avenue is within 300 metres of the application site, considered a district level strategic park in the revised Green Space Strategy 2018-2022. The LPA would advise any open space contributions would be spent at Western Avenue as this is considered to be related to the proposed development given it is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development., which would meet the 3 tests for securing S106 contributions in this instance. The final location for contribution would need to be agreed with Clean and Green and subject to consultation with ward members at the site.

The applicant has provided a viability report that contends that, due to viability reasons, they are unable to provide the contribution specified by the Urban Open Space SPD. The submitted viability assessment has been assessed by Lambert Smith Hampton on behalf of the Local Planning Authority and further negotiations have concluded that half the Urban Open Space contribution could be secured as a S106 contribution, a provision of £22, 869. It is therefore recommended that this amount is secured in a S106 Agreement.

Affordable Housing

The development triggers the Council's policies regarding contributions towards 25% Affordable Housing. Saved Policy H4 (Affordable Housing) of the Walsall Unitary Development Plan sets out that developers must ensure that affordable housing will be reserved for those that need it and will remain available at low costs of initial and successive tenants.

Policy HOU3 (Delivering Affordable Housing) of the Black Country Core Strategy sets out that local planning authorities will seek to secure 25% of affordable housing on all sites of 15 or more dwellings where it is financially viable. The tenure and type of affordable housing will be determined on a site by site basis based on the best available information regarding housing need. On sites where 25% affordable housing is proven not to be viable, the maximum provision will be sought that will not undermine the viability of the scheme, subject to achieving optimum tenure mix and securing other planning obligations as necessary. Claw back and other flexible arrangements will be sought through planning agreements, wherever possible, to allow for changing market conditions.

Policy HC3 (Affordable Housing and Housing for People with Special Needs) requires affordable housing on all sites of 15 dwellings or more where it is financially viable in line with Policy HOU3 of the Black Country Core Strategy.

The Council's Affordable Housing SPD (April 2008) sets out guidance affordable housing. This includes guidance on the mix of sizes and spatial location within the site.

To comply with the Council's affordable housing policy, 25% of the dwellings (7 dwellings) should be affordable in nature with the required tenure split 75% social rent and 25% shared ownership. The affordable housing provision should also include a range of sizes including some 2-4 bed provision. Housing Strategy's preferred option would be 2 x 4 bed, 2 x 3 bed, 3 x 2 bed houses. The tenure mix would be either 5 social rent and 2 shared ownership, or all 7 social rent.

The applicant's submitted viability assessment sets out that the intention is to provide a 100% affordable housing scheme in partnership with a Registered Provider. However, as the planning application does not specify this use and because an end-user Provider would prefer there to be no S106 Agreement accompanying any planning consent (to maximise the potential for securing Homes England grant funding), the intention is to assess the viability of the project as if it were coming forward as a market/private led scheme.

The submitted viability assessment has been assessed by Lambert Smith Hampton on behalf of the Local Planning Authority, who conclude that "the scheme is unable to support any affordable housing", therefore it is recommended that the s106 obligation for affordable housing be waived in this instance.

On site landscaping

The provisions of an in perpetuity Management Strategy for the areas of un-adopted soft/hard landscaping within the site would be required this has been accepted by the applicant. This will help to ensure the scheme remains high quality in the future as areas of landscaping will be maintained.

Uplift Clause

Given that the scheme has been found to be unviable with the affordable housing and full open space contributions, it is recommended that planning committee secure a clause in the Section 106 to consider uplift in value to take account of time taken for the development to be built, reviewing the viability at 70% completion of the development.

Council's costs and monitoring

A contribution towards the Council's monitoring of the Section 106 will be secured within the agreement.

On balance, the proposed scheme is considered to be acceptable as appropriate measures can be secured with a planning obligation.

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 28 new homes.

The Government has indicated that, for 2020-21, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. 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 site is allocated in the SAD for residential development (Site HO321) and is required, by Policy HC1 to take account of its context and surroundings, and help to create places where people choose to live.

It is considered that the proposed development would be laid out to respect and reflect the urban character of the area. The proposed buildings would be varied and interesting in appearance but with a strong thematic character and cohesive use of materials. There would be elements of landscaping within the scheme which would break up the parking and provide interest. The apartment block respects the scale of the area and has been sensitively designed, with an active frontage along Wolverhampton Road West.

The proposed scheme would have an acceptable impact upon the amenity of existing neighbouring residents with the separation distances, as set out within the Designing Walsall largely respected. There would be no overlooking or overbearing impact created. Planning conditions could mitigate against any construction impact or ongoing impact after the scheme has been constructed with regards to air quality or noise. The submitted technical information has confirmed that the additional highway impact would be acceptable.

The amenity of future residents is considered, on balance, to be acceptable. The urban form provides for a positive high quality living environment, while internal spaces have been efficiently designed to provide good amenity. Each dwelling has access to an acceptable level of private amenity space in line with the requirements set out in Designing Walsall SPD.

Technical consultees have confirmed that with the application of suitably worded planning conditions that the scheme would be acceptable with regards to air quality, ground conditions/coal, ecology, and drainage and flood risk.

The access and parking arrangements for the site are considered appropriate. Sufficient parking has been proposed, and provision has been made to maximise sustainable transport opportunities for future residents.

With regards to planning obligations, a viability assessment has been submitted showing that only a part contribution to urban open space is feasible. Affordable housing would not be feasible for S106 contributions but that the entire scheme is proposed as an affordable development. The viability assessment has been assessed by Lambert Smith Hampton on behalf of the Local Planning Authority and the reasoning and recommendations found to be sound. An uplift clause is recommended within any S106 Agreement to review viability at a later stage.

As such, the development is considered to meet the aims and objectives of the National Planning Policy Framework, Policies CSP4, CSP5, HOU1, HOU2, HOU3, TRAN2, TRAN4, TRAN5, ENV1, ENV2, ENV3, ENV5, ENV7 and ENV8 of the Black Country Core Strategy and saved policies 3.6 to 3.9, 3.11, 3.13 – 3.15, GP2, GP3, GP5, GP6, ENV10, ENV11, ENV13, ENV14, ENV16, ENV17, ENV18, ENV23, ENV25, ENV26, ENV27, ENV32, ENV33, H4, T1, T6, T7, T8, T9, T10, T11 and T13 of Walsall Unitary Development Plan, policies and Supplementary Planning Documents Designing Walsall, Conserving Walsall's Natural Environment, Open Space, Sport and Recreation, Affordable Housing and Air Quality.

Taking the above factors into account 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 with the layout, parking and footway provision and additional information in relation to noise and archaeological impacts, amended plans and documents have been submitted which enable full support to be given to the scheme.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning and Building Control to Grant Planning Permission Subject to Conditions and a S106 Agreement to secure a contribution towards provision for Urban Open Space, On-site Landscaping Maintenance; Monitoring; and to secure a viability review (uplift clause), and subject to:

- No new material considerations being received within the re-consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Agreement of an appropriate location for Public Open Space S106 contribution spend with Clean & Green and ward members

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 other than in conformity with the following approved plans: -

- Site Location Plan, K969-001(-)
- Proposed Site Plan, drawing no. K969-005(I)
- Type B (Apartments) Plans and Elevations K969-020(A)
- Type C Plans and Elevations K969-030(A)
- Type D Plans and Elevations K969-040(A)
- Type F Plans and Elevations K969-050(A)
- Plots 21 & 22 Plans and Elevations K969-080(A)
- Plots 27 & 28 Plans and Elevations K969-085(B)
- Strategic Drainage Plan K837-102
- SuDs Maintenance Plan K837-105
- Street Scene Elevations K969-070(C)
- Coal Mining Risk Assessment by Sladen Associates, ref. 20 2029-2, dated Jul

2020

- Design & Access Statement by DJD Architects, ref. K969.80, dated 05-05-2020
- Historic Environment Desk Based Assessment by Benchmark Archaeology, received 03-02-2021
- Tree Survey Report by Red Kite Landscape Architecture, Ecology, Greenspace ref. 373.19 dated Feb 2020
- Preliminary Ecological Appraisal by S Bodnar ref. Willenhall0620_PEA dated Jun 2020
- Noise Assessment by ADC Consultants ref. ARR/C/2229.07, dated 28-08-2020
- Noise Assessment Confirmation by ADC Consultants ref. ARR/PPN/C/2229.07, dated 02-12-2020
- Transport Statement, by Hub Transport Planning Ltd. Ref. T20520 dated 05-05-2020

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 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 if 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 mitigation measures

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 and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

4. a Prior to the commencement of the development, full engineering details of the adoptable highway works, including the estate road, footways, drainage, lighting, together with works within the existing highway, the bellmouth, redundant access reinstatement, lining alterations, shall be submitted to the Local Planning Authority.

b The highway works above shall not be implemented otherwise than in accordance with the approved details.

Reason: To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T4 and in the interests of highway safety.

5: a Notwithstanding the information provided, prior to the commencement of the development hereby approved, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning Authority.

b The scheme shall not be implemented otherwise than in accordance with the approved details before the development is first brought into use.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

6: a) Prior to the commencement of any building or engineering operations of the development hereby approved details of the proposed finished floor levels, ridge and eaves heights of the buildings hereby approved shall be submitted 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.

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

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

7: a) Notwithstanding the information provided:

- i) Prior to built development commencing 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)
- ii) Prior to built development commencing 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 forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) Prior to built development commencing 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 agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- 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.
- 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.
- vi) A validation report setting out full confirming the 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 prior to the development being brought into use. (see Note for Applicant CL3)
- vii) The development shall not be carried out otherwise than in accordance with the approved Remediation Statement.

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.

8: a. Prior to commencement of the development hereby permitted details of acoustic mitigation measures that conform to the measures put forward in section 6 of the Noise Assessment provided by ADC Acoustics ref. ARR/C/2229.07 dated 28/08/20/20 shall be submitted in writing to and approved in writing by the Local Planning Authority.

b. Prior to the occupation of the each dwelling within the development hereby permitted, the approved acoustic mitigation measures for that dwelling as detailed in shall be implemented.. The mitigation measures shall then be retained for the life of the development.

Reason: To protect local amenity and to meet the requirements of saved UDP policies GP2 and ENV10.

9a. Prior to commencement of the development hereby permitted details of a programme of site investigations and archaeological work shall be submitted in writing to and approved in writing by the Local Planning Authority.

b. No development shall be carried out on site otherwise than in accordance with the approved details.

Reason: In order to secure an adequate record of the site's archaeology in accordance with saved policy ENV25 of Walsall's Unitary Development Plan.

10a. 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.

11: a Notwithstanding the information provided, prior to the commencement of the hereby approved development above damp-proof course, a schedule of facing materials to be used in the development shall be submitted to and agreed in writing by the Local Planning Authority.

b The development shall not be constructed otherwise than in accordance with the agreed details and thereafter retained for the life of the development.

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

12: a Prior to the commencement of the hereby approved development above damp-proof course, details of the proposed bin storage facilities and cycle storage facilities serving the apartments shall be submitted to and approved in writing by the Local Planning Authority.

b) No dwelling in the apartment building shall be occupied until the bin storage and cycle storage has been provided in accordance with the approved details. The bin storage facilities shall be available for future occupiers and thereafter retained.

Reason: To ensure the satisfactory appearance and operation of the development and encourage sustainable modes of travel to comply with saved policies GP2, ENV32 and T13 of the Walsall Unitary Development Plan and Black Country Core Strategy TRAN4.

13: a) Prior to occupation of the development hereby approved details of both hard and soft landscape works to include native plant species or species with known benefits to wildlife within the landscaping shall be submitted to and approved in writing by the Local Planning Authority.

b) The approved scheme shall not be carried out otherwise than in accordance with the agreed details during the first planting season following the completion any part of the development being brought into use.

c) Any trees shrubs or plants that die within a period of 5 years from the completion of each development phase or are removed and or become seriously damaged or diseased in that period shall be replaced and if necessary, continue to be replaced in the first available planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area and to enhance the wildlife habitat in accordance with saved policies ENV17, ENV23, ENV24 and ENV33 of Walsall's Unitary Development Plan and SPD Conserving Walsall's Natural Environment.

14: a) Prior to the first occupation of any dwelling on the development, all parking and vehicle manoeuvring areas serving that dwelling shall be consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

b) Prior to the first occupation of any apartment on the development, the access road and parking area shall be implemented, and the parking bays clearly demarcated on the ground.

c) The areas in a and b above shall thereafter be retained and used for no other purpose.

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

15: a Prior to their first occupation, all first floor side elevation that are below 1.7 metres above the floor level of the room are to be obscurely glazed to at least Pilkington privacy level 4 and any opening part of the window must be at least 1.7 metres above the floor level of the room. Once installed the frame and glazing are to be retained thereafter.

Reason: To safeguard the amenities of the occupiers of adjoining premises and the application house and to comply with policy GP2 of Walsall's Unitary Development Plan.

16. The development hereby permitted shall not be brought into use until the approved drainage scheme shown in the Strategic Drainage Plan, Drawing number K837-102, has been implemented. Thereafter the drainage scheme shall be retained and maintained in accordance with the SUDS Maintenance Plan, Drawing number K837-105.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

17: The development shall not be carried out otherwise than in accordance with the past coal mining mitigation measures detailed in the Coal Mining Risk Assessment prepared by Sladen Associates ref. 20 2129-2 dated July 2020.

Reason: To ensure the safety and stability of the development and to comply with NPPF Paragraphs 178 and 179 and saved policies GP2 and ENV14(c) (ii) of Walsall's Unitary Development Plan.

18: a No external lighting be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted 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.

19. Notwithstanding the information shown on submitted plans, the development hereby approved shall not be constructed otherwise than to meet the following minimum security measures and thereafter the security measures shall be retained;

- PAS24; 2016 doors for individual dwellings
- PAS24; 2016 windows where easily accessible
- Cycle storage to be secured to LPS1175 SR2 Cycle pods
- Refuse areas to be secured to LPS1175 SR2
- Main apartment ingress and egress LPS1175 SR2 with compatible UL293 access control panel
- Rear access alleyways should have walls/fencing, which is of a robust construction and at a height of 2.1m, with 2.1m gates into each garden served by the rear alleyway, the gates should be key lockable from both sides. The access point to the rear alleyway itself needs to be gated to the same specifications, with a self-closing mechanism incorporated to maintain the security of the gate; the gate should be sited as near to the front building line as possible
- All ground floor windows and any accessible windows should have at least one pane of 6.4mm laminated glass. This includes French doors and patio doors
- No Lead or metal should be used on the ground floor, where possible lead substitute products should be used
- All the buildings on this development should be suitably fitted with an intruder alarm
- Where thumb turn locks are to be installed these should be those that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks

Reason: To ensure the safety and security of the development and its occupiers in compliance with saved policy ENV32 of Walsall's Unitary Development Plan.

20: The development shall not be carried out otherwise than in accordance with the agreed ecological mitigation and enhancement measures as set out in section 4 of the Ecological Assessment, ref. Willenhall0620_PEA undertaken by Dr. Stefan Bodnar RSP dated June 2020 with the nesting bird check undertaken by a suitably qualified and experienced person. The ecological mitigation measures shall be retained for the life of the development.

Reason: To mitigate harm to the natural environment in accordance with saved UDP policies GP2 and ENV23.

21. 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 B (additions to the roof)
- 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.

Notes for Applicant

1. Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have 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 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. Please note it you wish to respond to this email please send it to Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. Alternately you can call the office on 01902 793851. If your query is regarding drainage proposals, please email to the aforementioned email address and mark for the attention of Rhiannon Thomas (Planning Liaison Technician).
2. 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 20). Turning facilities should be provided in any dead-end access route that is more than 20m long (ADB Vol 2, Diagram 50, designed on the basis of Table 20) Blocks of flats not fitted with fire mains should have vehicle access for a fire appliance not more than 45m from all points within each dwelling, measured on a route suitable for laying hose. The direct distance is reduced to two thirds to allow for internal layout. If this cannot be met a fire main should be provided (ADB Vol 2, 16.3; BS 9991:2015 50.1.2). Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 15 and "National Guidance Document on the Provision for Fire Fighting" published by Local Government Association and WaterUK:
<https://dl.dropboxusercontent.com/u/299993612/Publications/Guidance/Firefighting/national-guidance-document-on-water-for-ffg-final.pdf> For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net. The approval of Building Control will be required to Part B of the Building Regulations 2010

3. 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.
4. The applicant will be expected to enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927 Stephen.Pittaway@walsall.gov.uk.
5. No construction, demolition, or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall otherwise only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)
6. Where stabilisation/piling works are included in the agreed Construction Management Plan, the level of structure-borne vibration transmitted to occupied buildings from the stabilisation/piling works shall not exceed the specified criteria for 'low probability of adverse comment', as prescribed within British Standard BS6472-1:2008 'Guide to evaluation of human exposure to vibration in buildings – vibration sources other than blasting' as may be amended or replaced from time to time.
7. CL1: Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same

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

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

8. Residential Footways Highway Specification: Footways and footpaths in residential areas that are not expected to take Vehicle traffic. Construction: 30mm AC6 asphalt concrete dense surfacing 100/150 Cl. 909 50mm AC20 dense binder 100/150 Cl.906.100mm Sub base. If the sub-grade has a CBR of only 3%, then the sub-base should be thickened up to 350mm.
9. Vibration levels during ground stabilisation/piling works shall not exceed the Low Probability of Adverse Comment, as prescribed within British Standard BS6472-1:2008 'Guide to evaluation of human exposure to vibration in buildings – vibration sources other than blasting'.
10. The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

The electric vehicle charging point provision for residential premises is a charging point per residential premise or Units with unallocated parking e.g. apartments – 1 charging point per 10 spaces, complying with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw.

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

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

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

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

Ultra-low NOx boilers discharge NOx at or below 40mg/kWh. The latest models are futureproofed to the European Union's Energy-related Products Directive 2018 NOx levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NOx, and may be eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

11.Fire Officer - 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.

13.2 For flats, either of the following provisions should be made.

a. Provide access for a pumping appliance to within 45m of all points inside each flat of a block, measured along the route of the hose.

b. Provide fire mains in accordance with paragraphs 13.5 and 13.6.

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 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

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)

12. Police Architectural Design recommendations

Cycle stores, approved products, are recommended (SBD Homes 2019 page 68, 56).

These located in a clearly visible area. Lighting must be at the levels recommended by BS 5489-1:2013. External LED lights with daylight sensors to the external walls, particularly by entrances and lighting to the parking areas. This to provide security for residents entering and leaving. (SBD Homes 2019 page 63 49.1).

Alarm and cctv installers should be approved by NSI, SSAIB or both.

Please see <https://www.nsi.org.uk/> and <https://ssaib.org/>

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

The applicant may wish to consider crime prevention and home security advice contained within SBD New Homes.

Please see :

https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NEW_version_2.pdf

Dwelling houses / flats entrance door-sets (SBD Homes 2019 page 29, 21.1-8).

PAS 24: 2016 standard doors for houses and apartments.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 01 April 2021

Plans List Item Number: 2

Reason for bringing to committee

Significant Community Interest

Application Details

Location: UNIVERSITY OF WOLVERHAMPTON, WALSALL CAMPUS, GORWAY ROAD, WALSALL, WS1 3BD

Proposal: ERECTION OF FLOODLIGHTS, ADDITIONAL FENCING AND SEATING AREA AT EXISTING TENNIS/NETBALL COURTS

Application Number: 20/1650

Case Officer: Sally Wagstaff

Applicant: University of Wolverhampton

Ward: St Matthews

Agent: Stefan Stojisavljevic

Expired Date: 14-Mar-2021

Application Type: Full Application: Minor Use Class F1 (Learning and Non-residential institutions)

Time Extension Expiry:

Recommendation

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

- No new material considerations being received within the consultation period;
- No objections from Environmental Health; and
- The amendment and finalising of conditions.

Proposal

This application relates to the erection of floodlights, additional fencing and seating at existing tennis/netball courts at the University of Wolverhampton, Walsall Campus, Gorway Road.

The proposal includes the following:

- Installation of 10 no. 5 metre high galvanised lighting columns to provide a total of 16 luminaries around the perimeter of the sports surface.
- Construction of a 3 tiered spectator seating area at the eastern end of the court 10 metres in width, x 1.7 metres in height x 1.5 metres in depth.
- Extension of the existing 3.65m high ball stop perimeter fencing around the proposed seating area.

The courts will also be resurfaced as part of the development though this does not form part of the application as it is permitted development under Part 7 Class N of The General Permitted Development Order (2015) as amended.

This application is accompanied by the submission of the following documents:

Covering Letter

- The University of Wolverhampton has been the unofficial home of West Midlands Netball for past 5 years
- The campus is used for league netball, both indoor and outdoor, though the quality of the existing court is in very poor condition and under utilised
- Purpose is to provide an outdoor netball facility of a quality that can be used for netball at all standards in an aim to increase participation in netball both amongst students and the local community.
- There is a demand for flood lit netball courts, flood lit pitches will support increased participation as well as long term viability of the courts.

Lighting Proposal

- 16 luminaries 600 Watt, 4000 Kelvin LED light source luminaries providing an output of 850000 Lumens.
- Requirement is to illuminate 4 no. existing netball courts to an average illuminance of 450 lux to meet the standards for condition standard Netball as provided by Sport England and British Netball Association.
- Luminaries selected have full backlight control and average light spill at 10 metres from perimeter at 123 Lux average.
- Calculation report, luminaire details and Column details provided.

Bat Survey

- None of the trees around the perimeter of the courts contain any bat roost features.
- Site is within a residential area, the extra illumination from the floodlights is unlikely to raise the ambient light levels significantly, especially as the lamps will be cowled to reduce light spillage.
- Illumination reaching the open space beyond the campus boundary will be relatively low.
- Lighting curfew means long periods of darkness if bats are foraging in open space beyond campus boundary.
- Illumination may increase bat activity due to insects attracted to the light.

The planning agent and two officers from the University conducted an online meeting with local residents on Tuesday 9th March to listen to their concerns regarding the proposal. Subsequently the hours of use of the floodlights has been amended from 22:30 Monday to Saturday inclusive and 20.30 Bank holidays (which are the current planning controls for other facilities on site) to a reduction to 22:00 Monday to Thursday, 21.00 Friday and 18.00 Saturday and Sunday.

Due to the submission of the amended information on 15.03.21, neighbours and any interested parties will be notified of this amendment and given 14 days to make further representations. Any additional material planning matters raised as a result of this consultation will be set out in the supplementary paper.

Site and Surroundings

The Site is located on the Walsall Campus of the University of Wolverhampton. The campus occupies a large area of the south eastern area of Walsall, approximately 1.5 miles from the town centre. The campus is served by regular bus services, including public or University run services. There are three main entrances into the campus; from the east: vehicular and pedestrian access in via Gorway Road. From the south: vehicular and pedestrian access in via Broadway. From the west: vehicular and pedestrian access in via Delves Road.

Since 2002 the Campus has undergone a period of major redevelopment with new teaching, sport and student accommodation facilities replacing outdated buildings. The Walsall Campus is the University's 'hub' for sport, the campus currently provides a wide range of sport facilities for both students and the community.

The existing tennis/ netball courts at the northern end of the campus have been in situ since 2005. The block of 4 no. courts have a porous macadam surface marked for netball and tennis, fenced but currently unlit. The courts do not have dedicated car parking or vehicular access nevertheless there are a number of car parks throughout the campus.

To the east of the courts are student accommodation and pedestrian links into the campus.

Beyond the site is an area of public open space, residential properties are sited to the south and west of this space. Highgate Drive is characterised by detached and semi-detached properties facing onto public open space. The boundary with the nearest property is approximately 30 metres from the courts. Canute Close is a private road of low level flats, the nearest block is approximately 50 metres away. To the rear of Gorway Road is a property which adjoins the site boundary approximately 30 metres away.

Trees line the boundary of the open space with the back of the public highway with further tree screening around the southern, western and northern site boundaries.

Relevant Planning History

There have been a wide number of planning applications on the site, the most relevant being:

BC42574P - Erection of 10 no. floodlighting columns around tennis and netball courts. Refused (20th December, 1994) - allowed at appeal 28th July, 1995

BC41297P - Erection of 20 no. floodlighting columns around tennis and netball courts. Refused (28th September, 1994) - dismissed at appeal 28th July, 1995

(These were alternative schemes.)

BC46382P - Erection of double garage and 8 floodlighting columns around running track. Refused 3rd October, 1996

BC47720P - Erection of double garage for storage and 32 five metre high floodlighting columns around running track (amendment to BC46382P). Approved 5th March 1997.

02/1781/OL/W5 - Outline: Redevelopment of campus – Approved 20/1/2003

03/0918/RM/W5 - Reserved Matters: Design Details for Proposed Access

Road (From Broadway Park). Granted 4th July, 2003

05/0710/RM/W5 - Reserved Matters – Football Pitches. Grant Subject to Conditions

15/0165 - Creation of a new access/egress onto Broadway and a new 225 space car park. Granted subject to conditions and a S106 to provide sports pitch compensation on site 25th January, 2016

16/0153 Replacement of all-weather pitch with new 3G synthetic grass football pitch together with associated fencing and floodlights and the retention of the current running track (in part). Granted Permission Subject to Conditions 29/03/16

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 8 – Promoting healthy and safe communities**
- **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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

Saved Unitary Development Plan

- GP2: Environmental Protection

- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- LC6: Sports Pitches
- LC8: Local Community Facilities

Black Country Core Strategy

- CSP1: The Growth Network
- CSP4: Place Making
- ENV1 Nature Conservation
- ENV3: Design Quality

Walsall Site Allocation Document 2019

Policy UW1: University of Wolverhampton, Walsall Campus

a) The Council will encourage the continued use and development of the Walsall Campus of the University (as indicated on the Policies Map) as an important centre of Higher Education in the Borough.

b) Any proposals for additional development must be presented as part of a comprehensive scheme, taking into account the setting of the area. In particular, proposals will only be acceptable if:-

i. the uses proposed are of an educational, community, or leisure nature directly related to the use of the remainder of the Campus, and are not uses which should be located in an established centre;

ii. those that would adversely affect the open space, sport and recreation network are found to be acceptable having been assessed in accordance with SAD Policy OS1;

iii. it can be demonstrated that trees and woodlands protected by Tree Preservation Orders or meeting the criteria for such protection³¹ would be properly retained within any development. Where, in exceptional circumstances, small scale tree loss is unavoidable and outweighed by the benefits of the proposed development, appropriate replacement planting shall be provided;

v. there are satisfactory arrangements for vehicular, cycle and pedestrian access to the campus that are sensitive to the amenities of the surrounding residential areas. Depending on the scale of development proposed a Transport Assessment and / or Travel Plan may be required; and

vi. adequate provision is made for parking within the University Campus for staff, students and visitors to the University so as to minimise parking in surrounding residential roads.

vii. All development proposals should promote safe and inclusive environments, which reduce crime and the fear of crime.

c) In addition to the uses referred to in paragraph b) i. above, redevelopment for housing of the Gorway Conference Centre will also be acceptable, subject to the other requirements of paragraph b) being met.

This site is affected by the following Assets and Constraints (see Chapter 2):

MSA (part of site), OS, SLINC

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

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW6 Legibility
- DW10 Well Designed Sustainable Buildings

Consultation Replies (*Officer comments in italics*)

Environmental Health

No comments received at time of writing (*any comments received will be added into the supplementary paper*)

Fire Service – No comments to make

Local Highway Authority – Support application

Natural England – No comments to make

Pollution Control – Support application

Pollution Control have no adverse comments to make on this application.

In addition Pollution Control verbally added to previous comments made (11/03/21): Pollution Control have not received any complaints in relation to noise generated by usage of the existing courts. It is not considered necessary to provide noise mitigation measures in this instance.

Public Lighting – No objections

The levels of lighting when in use is in accordance with sports standards.

The site is well hidden behind trees, and lights are mounted below tree line.

.Conditions are recommended in relation to:

- Imposing a curfew for lighting to be switched off
- If any complaints are they are made in relation to light spill, these are investigated and rectified.
- Trees to the boundaries are to be maintained and preserved

In addition, Public Lighting verbally added to previous comments made (19/03/20): Public Lighting are satisfied sufficient details have been submitted as required, no further information is necessary. Luminaries will be pointed directly onto the courts, light pollution would be minimal, it will not be intrusive to local residents.

Sport England – Support Application

Proposal accords with the Government Guidance in NPPF, in relation to promoting healthy and safe communities. Proposal also accords with SAD policies OS1 which relates to open space, sport and recreation, setting out in part d) that development proposals that would increase the overall value of the network will be encouraged and UW1, that references the role of the campus for community and leisure uses.

Representations

14 Objections have been received from 9 addresses. Residents' concerns relate to (*Officer's comments in italics*):

- Application is misleading, in terms of understanding the distance between proposed scheme and properties on Highgate Drive (*Submitted plans are to a recognised scale and can be measured from*)
- Questions within application not answered properly in relation to trees on site (*An assessment has been made using all available information and evidence, including Council records and observations during a site visit*)
- Residents affected go beyond those notified of the planning application including Gorway Close, Gorway Road, Canute Close and Highgate Road (*The Local Planning Authority has met its statutory duty to consult, and the application has been published on the Council's website. Representations can be made by others*)
- Application is misleading as trees do not give light barrier all year

- Lighting being a distraction to drivers travelling on Highgate Drive
- Light spillage from flood lights will impact on the quality of life for occupiers of properties on Highgate Drive
- Floodlights will be seen from habitable rooms – bedrooms/living rooms
- Illumination of the courts will disrupt to students within residential accommodation adjacent to the courts
- Flood lights will cause light pollution impacting on wildlife and human health
- High levels of usage proposed including from organisations outside of the University
- Hours of usage inappropriate for residential area in terms of noise generated and use of lighting
- Current noise levels created on site by students, users of the current facilities including PA sound systems and whistles causes regular disturbance
- Application doesn't address or estimate of noise generation at the site
- Proposed usage will increase level and therefore frequency of noise
- Users of courts will possibly loiter and cause nuisance after events have finished
- Location of courts will result in amplified sounds due sounds being direct and reflecting of rear wall of student accommodation.
- Campus has more appropriate location for courts within area of consolidated floodlighting
- Levels of crime will increase
- Applicants unable to provide evidence scheme is compliant with the Clean Neighbourhoods and Environment Act 2005 (*This Act gives Local Authorities and the Environment Agency powers to deal with artificial light as a statutory nuisance, it is not planning legislation and is not therefore a material planning consideration*).

Requests have been made by some local residents for changes be made to the proposed scheme/ additional information submitted in order to mitigate the potential impact upon their amenity/ assess potential impacts, these include:

- Proposed scheme to be relocated in campus to an area of existing floodlighting, away from residential properties and closer to other facilities on campus
- Attaching a shield to floodlights close to Highgate Drive to physically limit pollution and spillage
- Submission of calculations of vertical light trespass (*The Public Lighting Team is satisfied with the submitted lighting details*)
- Submission of modelling of the effect of vertical light trespass and lighting column height on glare at road level (*The Public Lighting Team is satisfied with the submitted lighting details*)
- Submission of the lighting report from Walsall Council Public Lighting colleague (*The Local Authority are not required to produce a report, the role of the Public Lighting team is to provide comments in response to the information submitted within the application*)
- Erection of a 2 metre solid fence to north and east boundaries of the site to reduce light and noise levels (*The Pollution Control Officer considers this level of noise mitigation is not necessary*)
- Reduction in hours of usage of the courts from 9 am – 8 pm weekdays and

from 10am to 7pm at weekends

- Restrictions in the hours at which the lights can be operated.

13 letters of support have been received from 10 organisations:

- England Netball
- West Midlands Netball Association
- Barr Beacon Netball Club
- British Universities and Colleges Sport
- South Staffordshire County Netball
- Willenhall Town Wanderers Netball Club
- Walsall Cricket Club
- Yendys Netball Club
- Active Black Country
- Walsall Rugby Football Club

The comments are summarised below:

- University of Wolverhampton serves as a regions base and home to the West Midlands Regional central venue league
- Current outdoor surface has deteriorated and dangerous for play
Under Covid restrictions there is a lack of independent (not school sites) outdoor court spaces – development is much needed
- Grass roots netball has facility challenges particularly in the West Midlands – Pandemic has put further strain on network of clubs and leagues - provision of floodlit outdoor netball facilities at the site is critical to recovery of the game
- Facility will allow England Netball and to work in partnership with the Uni and Sport England to develop programmes that target those most impacted by pandemic
- Protecting, maintaining and securing access to outdoor floodlit netball courts is a priority for England Netball Development Plans
- There is a shortage of quality outdoor Netball courts in West Midlands
- Redevelopment will enable courts to be used by local clubs and leagues for training and competition
- Proposal will have a positive and wide ranging impact on university students and local community
- Improves the sporting Infrastructure of the Black Country and potential further investment into the town
- It is a much needed development for the community, netball clubs and women's sport in general.
- Provision for spectators is to be welcomed
- Floodlit courts necessary due to the natural light fading dramatically until the end of March and again the end of September.

Determining Issues

- Principle of the development
- Design and Character of the Area
- Impact upon the amenity of neighbouring residents
- Impact of Floodlighting on wildlife including Protected Species

Assessment of the Proposal

Principle of the Development

The application relates to the re-development of the existing netball/tennis courts to provide an outdoor facility of a high quality for Netball at all standards and to increase participation of the sport amongst the students and local community.

Sport England considers the proposal complies with the NPPF, 'To enhance opportunities through better use of existing provision'. The proposal will promote healthy and safe communities.

It is considered the principle of development is acceptable and the proposal accords with Walsall Council's SAD policy UW1(b), (i) as it relates to an educational and community facility.

Design and Character of the Area

The proposal will introduce floodlighting and spectator seating to the existing netball/tennis courts where previously these facilities did not exist.

The courts are located in a secluded part of the campus, away from the nearest street scene off Highgate Drive. The tree screening to both the edge of the courts and the open space between the campus and Highgate Drive further limits views of the facilities from the nearest public vantage points along the highway. The tree screening coupled with the distance also results in a very limited view of the site from Canute Close. It is understood that the trees are located within the Highgate Drive Open Space and are therefore likely to be maintained by Walsall Council. Confirmation of this is being sought and will be updated in the supplementary paper.

It is acknowledged that the proposed physical structures would alter the visual appearance of immediate area of the campus, nevertheless it is considered the impact would be limited mostly to inside the campus boundary which is an existing built up campus. Thus seen against this context, the proposed additions are considered would not result in any significant additional harm to the character of the area, or to visual amenity of nearby residents.

The design of the floodlighting and seating is considered appropriate for its use and the height and design of the lighting columns would not be unduly intrusive within the streetscene.

Impact upon the amenity of neighbouring residents

It is considered there are two parts in the assessment of impact upon residential amenity:

Flood Lighting

The proposed floodlighting is to allow for outdoor sport and exercise in the evening, at times in the year when the lack of daylight means play is not possible. It has been expressed in a number of letters of support that floodlit courts are in short supply within the West Midlands and the positive impact the proposal would have on the Netball community. This has to be considered against the need to protect residential amenity.

The proposed lighting scheme will incorporate 10 no. 5 metre high galvanised lighting columns to provide a total of 16 luminaries around the perimeter of the sports surface. The scheme will also incorporate 4 no switching circuits so lighting can be switched on a court-by-court basis. Microwave presence/detection fitted to each individual court and Luminaries to be fitted with DALI (Digital Addressable Lighting Interface) control gear to provide the ability for full luminaire dimming.

The Public Lighting team advises the proposed site is well hidden with lighting mounted below the existing tree line and that the lighting scheme is appropriate for the site and the proposed sports usage whilst taking into consideration residential amenity. In response to concerns raised by local residents in relation to the impact the floodlighting will have on their quality of life, the Public Lighting team is satisfied that the proposal would not result in a level of light pollution that would have an undue impact upon their amenity and health as to warrant refusal of the application.

It is acknowledged that during the winter months leaf coverage to tree screening to the boundaries will be limited nevertheless it is considered the design of the proposed lighting scheme coupled with the distance to residential properties around the site means during the winter season the proposal would not result in levels in of light spill as to harm the amenity of neighbouring residents. A condition is recommended to maintain and preserve the tree line boundary of the site to

Notwithstanding the comments of the Pollution control team, a condition requiring the lighting to meet the specification of the applicant's submission can be imposed including a restriction of hours of illumination as proposed by the applicant. Should it be later found not to meet the specification as set out, it would be a breach of condition that can be progressed through any necessary enforcement action.

Noise and disturbance

It is acknowledged that the proposal would result in additional noise and disturbance due to the introduction of spectator seating during the evening along with the Universities aspiration for the courts to be used on a regular basis by students and the local community.

The courts can currently only accommodate matches during daylight hours therefore noise and disturbance is currently limited to these hours. Whilst the introduction of Flood Lighting would allow play for longer this is limited to 22:00 Monday to Thursday, 21.00 Friday and 18.00 Saturday and Sunday. It is considered that the proposed hours of use would not result in significant additional levels of disturbance.

It is recognised that the use of starter pistols, PA, amplification and music is of a concern to local residents. In order to mitigate these concerns the applicant has agreed to conditions relating to the restriction of the usage of such equipment which would be attached to any permission. The use of referee whistles are not included as they are required for safety purposes.

Pollution Control have not raised concerns relating to noise generation at the site and are satisfied the proposal would not result in an adverse impact providing the hours of usage are controlled as per the applicants submission. In the event the applicant wishes to operate outside of the conditioned hours of use, further consent would be required which would be assessed on its own merits at that time.

In regards to residents' concerns in relation to the levels of usage, it is recognised that the facility is likely to increase demand nevertheless the Local Authority are supportive of the facility to being used by students, netball community, and local people to promote sport, health and wellbeing and in line with the safeguarding conditions recommended in this report.

Impact of Floodlighting on wildlife including Protected Species

Local Authorities have a duty to ensure impacts on legally protected species are avoided. In addition planning proposals are assessed against their potential impact upon flora and fauna.

Due to the proposal including floodlighting a Bat assessment was undertaken by Andy Warren, Cotswold Wildlife Surveys on 02/02/21 to assess the area for bat roosting and/ or bat foraging potential.

The assessment recognises Floodlighting will be designed to meet current ILE guidance and is designed to ensure there is not adverse light spill beyond the courts themselves nevertheless an evaluation on the potential impacts on bats is required.

The findings conclude none one of the trees around the perimeter of the courts contains any bat roost features due to them being young and smooth barked. It is considered that any bats within the vicinity will be roosting in the residential area to the west, beyond Highgate Drive.

The area of open space surrounded by tall trees will provide an ideal place to forage if bats are present in the locality due to the tall trees (10-15 m in height).

The Ecologist is satisfied that as there is already street lighting along Highgate Drive and illumination from the residential area the extra illumination from the floodlights is unlikely to raise ambient light levels significantly especially as the lamps will be cowled to reduce light spillage. In addition the dense tree belt during spring, summer and early autumn means the amount of illumination reaching the open space will be relatively low.

It is therefore considered the proposal would not result in harm to protected species.

In relation to other wildlife which have the potential to be affected, the application does not include the removal of trees to the boundary of the site. It recognised that trees to the perimeter of the courts will continue to be maintained nevertheless it is considered the proposal would have a limited impact upon nesting birds and other wildlife.

It is noted within the Bat Assessment that the proposal could increase bat activity around the courts when illuminated as insects are attracted to the light filtering through the vegetation.

Other matters

A number of local resident's consider that the courts would be better positioned within alternative locations, specifically adjacent to the running track. The Local Planning Authority are required to assess the application as submitted, and an alternative location has not therefore been considered. It is however considered in this instance that it would be onerous to ask the applicant to consider an alternative location given the site is already occupied by existing courts which is considered to be an acceptable location for a continued use.

With regards to comments relating to the potential for Floodlighting to have an impact upon highway safety, the Highway Authority has not raised any concerns in this regard.

Conclusions and Reasons for Decision

The proposed erection of floodlights, additional fencing and seating at existing tennis/netball courts would not lead to an undue impact upon the surrounding residential amenity whilst providing a facility that will benefit the university students and the wider community.

It is considered the proposal complies with saved policies GP2, ENV32 of Walsall's UDP and Designing Walsall SPD DW3 Character whilst providing a facility that will benefit the university students and the wider general community as such it is considered to be in accordance with Para. 92 of the NPPF and Walsall Council's SAD policy UW1.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent to neighbouring residents' concerns and in response to concerns raised amended details in relation to the hours of use of courts have been submitted which enable full support to be given to the scheme.

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:
 - No new material considerations being received within the consultation period;
 - No objections from Environmental Health; and
 - 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:

- Additional Information Letter by Stefan Stojsavljevic - submitted 15.03.31
- Covering Letter by Stefan Stojsavljevic – submitted 17.12.20
- Lighting Proposal for the illumination of Netball court facility, Walsall Campus,

dated 16.11.20-submitted 17.12.20

- Proposed Outdoor Netball Courts. Drawing no. EM445-01 Rev D - submitted 18.01.21
- Seating Area Image Sheet, submitted 17.12.20

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. Floodlighting shall be installed as advised within the Lighting Proposal for the illumination of Netball court facility, Walsall Campus, dated 16.11.20, submitted 17.12.20 to comply with The Institution of Lighting Professionals: Guidance Note for The Reduction of Obtrusive Light GN01:2020 and thereafter retained.

Reason: In order to protect the amenities of nearby residents and to comply with saved policy GP2 of the Walsall Unitary Development Plan.

4. The floodlit courts shall not be used for sporting activity outside the hours of 08.30 to 22.00 Monday to Thursday, 08.30 to 21.00 Friday and 09.00 to 18:00 Saturday, Sunday, Bank or Public Holidays.

Reason: In order to protect the amenities of nearby residents and to comply with saved policy GP2 of the Walsall Unitary Development Plan.

5. No starter pistols shall be used before 0900 hours and after 1800 hours on any day.

Reason: In order to protect the amenities of nearby residents and to comply with saved policy GP2 of the Walsall Unitary Development Plan.

6. No amplification equipment shall be used before 0900 hours and after 1800 hours on any day.

Reason: In order to protect the amenities of nearby residents and to comply with saved policy GP2 of the Walsall Unitary Development Plan.

7. No permanent external Public Address or music equipment shall be installed or used in connection with the hereby approved development.

Reason: In order to protect the amenities of nearby residents and to comply with saved policy GP2 of the Walsall Unitary Development Plan.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 01 April 2021

Plans List Item Number: 3

Reason for bringing to committee

Significant community interest

Application Details

Location: 25, SEEDS LANE, BROWNHILLS, WALSALL, WS8 6HU

Proposal: DEMOLITION OF 25 SEEDS LANE AND ERECTION OF 5NO. 3 BED BUNGALOWS

Application Number: 20/0312

Case Officer: Gemma Meaton

Applicant: J Hadley

Ward: Brownhills

Agent: J Mason Associates Ltd

Expired Date: 04-Jun-2020

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

Time Extension Expiry: 27-Aug-2020

Recommendation

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

- No new material considerations being received within the re-consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed

Proposal

The application proposes the demolition of the existing dwelling and the construction of 5no three-bedroom detached bungalows (Use Class C3) making use of the existing main access while providing driveways, parking and landscaping. The existing access is 5.2m wide and would be provided with a pedestrian footway of 1.2m in width and would have a widened area to accommodate a rubbish bin collection point not further than 25m from the highway.

The houses would be set away from the rear garden boundaries of existing properties on Seeds Lane by at least 3.5m. The proposed houses would be set around a new cul-de-sac, and each provided with driveway parking and garages to accommodate at least three vehicles. The bungalows would have a maximum height of 5.5m and would range in footprint from 129m² to 158m² including integrated garage space. Each dwelling would be set within its own amenity area ranging between 144 and 295m² per property. A design and access statement and planning statement accompany the application.

Site and Surroundings

The site is an existing residential property and garden area set behind residential dwellings on Seeds Lane, measuring 0.36hectares. The existing access road to the proposal is 5.2m wide with a footpath on the south side and is located between No 23 and No 27 Seeds Lane.

Seeds Lane is a residential cul-de-sac located within walking distance (250m) of the facilities and services on Brownhills High Street, which is recognised as a district centre. The site is within the regeneration corridor provided by the Black Country Core Strategy (BCCS Policy RC1).

Dwellings in the area are a mix of one and two storey and are mostly semi-detached with some detached dwellings in a mix of modern styles. The urban form provides for generous amenity spaces with long gardens in excess of 25m where they back onto the application site. The site is surrounded by residential development to the north south and east off Seeds Lane and Lichfield Road (B4155, and is bounded by McClean Way a former railway line, and Holland Park beyond.

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 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 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
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- T7 - Car Parking
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing

T4: The Highway Network

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows

- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

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

Arboricultural Officer

No objection subject to the tree protection measures and a full landscape plan being submitted.

Strategic Policy – No objection. The proposal will make more effective use of land to increase the supply of housing, so is supported in principle by the NPPF, in particular paragraphs 59 and 117.

Clean and Green (Waste Management)

No objection - from a waste collection perspective this is acceptable. Staff will fetch the bins from the presentation point and subsequently return them following collection.

Fire Officer

No objection but makes comments on water supplies for firefighting and vehicle access for a pump appliance within 45m of all points of each dwelling.

Housing Standards

No comments to make

Local Highway Authority

No objection to amended plans, conditions to be provided

Pollution Control

No objection subject to the applicant agreeing measures to be implemented to comply with the Black Country Air Quality SPD and construction management plan.

Severn Trent

No objection subject to a drainage condition being applied to any decision notice

West Midlands Police

No objection but makes general comments on security in accordance with Secure by Design, including fencing adjacent to McClean Way, external LED sensor lighting, placing gates to the rear of properties on the front building line, door standards and CCTV.

Representations

18 neighbouring properties objected to the proposal, issues highlighted can be summarised below. Officer comments are provided in *italics* where appropriate

Highways

- Narrow width of the access road insufficient for two cars to pass, turn on the site
- Increase in volume of traffic creating noise and disturbance
- Impact on safety due to increased traffic
- Access for emergency vehicles also refuse collections, recycling its impact on more bins etc. on the pavements.
- Increase in parking along Seeds Lane
- Need for tracking plans to be provided *vehicle tracking was provided with amended plans and was part of a re-consultation*
- Upkeep of the access road after the completion of the development

Utilities

- Impact on the surrounding sewer system
- Lack of detail as to proposed drainage arrangements *Severn Trent has requested the inclusion of a drainage condition which is included*

Urban form

- Overdevelopment of the site / dominate and subsume the area
- Minimal separation of access road to surrounding properties
- The proposal fails to respect the surrounding linear pattern of development.
- Development would result in a cramped form of back land development that is not in keeping with the surrounding linear pattern of development.
- Single-storey development is at odds with the surrounding dwellings
- The development would harden a Greenfield site

Noise / Light / Air pollution

- The intensification in use through increased vehicle movements including cars and delivery vehicles serving five dwellings will lead to an increase in noise and disturbance that will have a detrimental impact surrounding properties
- The current surfacing of gravel would also compound this matter
- Displeasing streetlights which will be situated in the new development and these impacting the current residential amenity
- Lights from vehicles coming out of the access would shine into the opposite property
- Air pollution with the potential of 15 additional vehicles

- The proposal will impact on light levels to surrounding gardens

Visual amenity

- Impact on view from gardens and bedrooms
- Unsightly development
- Close proximity of the buildings to gardens.

Privacy / overlooking

- The proposal would result in the introduction of windows at ground floor level from properties that would directly overlook the private amenity space and habitable room windows surrounding properties.
- The development would harm the enjoyment of the dwellinghouse and private garden area, as they would have the feeling of being constantly overlooked.
- Residents would be able to see directly into rear of existing properties
- Request a high fence is erected along rear gardens to protect privacy.
- We are concerned regarding the close proximity of the buildings to our boundary fence.

Character of the Area

- Impact on the ambience of the lane
- This part of Seeds Lane is primarily characterised by a linear form of development with two-storey dwellings conforming to an established building line set back off the highway. Intensive back land development is not characteristic of this area.
- Out of place in its surroundings and unacceptably harmful to the street scene and the character and appearance of the area. It would appear as an incongruous development, poorly related to the surrounding development, as well as a cramped form of development.
- Seeds Lane is known for being a quiet lane, with limited traffic on it. If the number of dwellings is increased to accommodate another 15 cars moving back and forth, the lane will stop having the charm and character it currently has and it will become a noisier, less pleasant place to live.

Ecology / Trees

- The demolition of dwelling order to redevelop the site is inappropriate and environmentally irresponsible.
- Potential impact on trees surrounding the property as a result of development
- Impact on wildlife in the area
- There were trees on the site that were removed by the current occupants
- No comprehensive landscaping plan detailing soft and hard landscaping measures, or a maintenance and management plan for the landscaping at the site has been provided.
- Limited space available for soft landscaping.
- No Tree Survey has been provided in support of the application. No ecological assessment of the site and building to be demolished has been provided. *The submitted information has been considered sufficient to determine the application*

Boundary Treatment

- Who will be responsible for replacing the fence panels at the bottom of our garden which so frequently blow out due to bad weather? *This issue would be a civil matter upon operation of the development*
- The 'existing close board fence' that is to 'be retained' between our property and the proposed new property does not currently exist.

- How will they arrange to replace the existing fence which we have colour matched to our panels and the effect on my climbing plants already in situ.

Security

- The access surrounding properties will increase from the new roadside. This is a concern for potential increased burglary risks.

Refuse Bins

- As there would be an additional four properties joining this road where will the refuse bin be placed?
- Residents should not be required to carry waste more than 30m to the storage point.

Principle / Legal

- The site is not 'underutilised' as suggested in the application – there is a dwelling on the property.
- Impact on value of residential properties *not a material planning consideration*
- There is a large volume of national policy and legal precedent which states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise, the proposal is not in accordance with the plan.
- Certificate A was submitted within the Application Form, the visibility splay at the access would be outside the owner's property therefore Certificate B should have been provided and notice served accordingly. *The development boundary has been deemed acceptable, the application form and attendant certificate are appropriate and the application is valid.*
- The proposal is contrary to both local and national planning policies and does not comprise sustainable development. Allowing this development could set a dangerous precedent.

Existing Business Use

- The premises has been running a garage door business from the residential premises. This has caused widespread disruption and would not be compatible with the proposal. *The LPA has an ongoing enforcement case with regard to the alleged business operations on the property. This application does not include a business element in the proposal therefore regardless of the outcome of the application a business use would continue to be investigated.*

Issues during construction

- The operation of a construction site will cause extra traffic, some of which will be parked in the lane itself.
- The additional problems of vehicle pollution, dust & dirt, noise pollution & invasion of our privacy by the construction workers.
- Asbestos removal needed for demolition
- Request assurance that any damage to rear fence is rectified by developers

Determining Issues

- Principle of development
- Design and character of the area
- Impact upon neighbouring occupiers
- Amenity of future occupiers
- Air Quality
- Trees and Landscaping

- Access and parking
- Local finance considerations

Assessment of the Proposal

Principle of development

The site is a developed area that is currently used as garden land, although this is excluded from the definition of 'previously developed land' included within the National Planning Policy Framework, the NPPF paragraph 118 d) states that planning policies and decisions should promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively. The application site accommodates a single dwelling on 3,600m², which is a clear under-use of the property where surrounding properties are between 350 and 1000m².

The proposal is also supported by paragraph 59 and 117 of the NPPF which relate to land to allow the sufficient supply of homes, highlighting that : "to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed" and that "decisions should promote an effective use of land".

SAD Policy HC2 also states that the provision of housing on other previously developed sites not listed in Table HC1 will be encouraged provided a satisfactory residential environment can be achieved and provided the proposed use would not constrain the use or development of any adjacent land. These considerations will be considered as part of the discussion below.

The site is considered a sustainable location. The Brownhills district centre is accessible 250m from the site, where there are shops, leisure, employment, and transport opportunities available.

Planning policy supports the development subject to it being acceptable in other respects. It is therefore considered that the principle of development can be supported.

Design and character of the area

The houses along Seeds Lane vary in design and style. Although most houses on the northern side of the road are two storey, those to the south are smaller bungalows and there are a mix of detached and semi-detached dwelling types. The proposal for bungalows is therefore considered consistent with the character of the area.

The area is also characterised by a suburban grain, Seeds Lane is a residential cul-de-sac with dwellings arranged traditionally with rectangular rear gardens around the access road. Surrounding streets are similarly orientated which creates a linear north south pattern of development with streets off Lichfield Road, terminating in cul-de-sacs where they meet the former railway line (now McClean Way), notably Narrow Lane and Barnetts Lane . This pattern is punctuated by short east-west orientated cul-de-sacs branching from these, from the western side of these streets – Sandy Grove, Everside Close and Park Close. The proposed development is therefore strongly representative of this design character, and while back land development can sometimes be at odds

with the local street pattern the proposed scheme in this instance is particularly indicative of it.

The proposed development would create a new cul-de-sac to the rear of the existing development on Seeds Lane. As such, although it is important that the development respects the surrounding character the introduction of a localised design scheme in terms of colours, form and materials would not impact on the surrounding street scene or character of the area. That said, the proposed development would mirror the surrounding area by making use of locally prevalent materials in red-brick and grey roofing tiles with a clean modern design. Design elements include large windows, hipped roofs that minimise their bulk and small brick gables over canopied porches, which are repeated throughout the development and give a sense of identity to the scheme while integrating well into the surrounding character. It is considered that the proposed dwellings would create a high quality public realm.

Some objectors have raised concerns with regard to security. The boundary treatment surrounding the site would be constructed from a 1.8 metre close-boarded fence and it is recommended that an additional 0.3m trellis on top would minimise any potential increased access and an increase in crime. The proposed properties are single storey and as such create improved passive surveillance on the site through ground floor windows. West Midlands Police have provided inputs regarding improved security. A suitably worded planning condition can ensure that details are provided to ensure a safe and suitable scheme is created.

The design of the proposed houses would be reflective of the character of the area and as such can be supported in this respect.

Impact upon neighbouring occupiers

The side elevation of proposed dwellings 2 and 3 would be set at least 3.7m from the rear boundary fences of the surrounding properties on Seeds Lane. Gardens on this part of Seeds Lane are particularly long meaning that the proposed bungalows would be at least 35m from the rear elevation of the closest properties at 7, 9 and 17 Seeds Lane. The rear elevation of proposed dwellings 3, 4, and 5 would be at least 9m from the boundary to Lichfield Road, and 50m from their rear elevation.

Since the proposed development would comprise single storey bungalows there is no specific separation distance required by policy, however the proposal would continue to be well in excess of the 24m guideline requirements that would apply to two storey development with first floor windows capable of overlooking. No overlooking would be created as a result of the proposal since there would be no windows above the ground floor and boundary treatments would be maintained or provided surrounding the properties. Some objectors have expressed concern with regard to the construction of boundary fences, their replacement and potential damage to existing landscaping on surrounding properties, it is therefore recommended that details be submitted showing how the boundary treatment is to be installed and the proposed design of any new boundary treatments. It is considered that 1.8m minimum heights are required with additional trellis toppers to rear gardens in order to prevent overlooking and maintain

security to the existing and proposed dwellings. Concerns with regard to privacy have also prompted the amendment to proposed landscaping details providing an additional hedgerow planting screen along the boundary with the rear gardens along Seeds Lane, with a density of 4 plants per linear metre provided. The proposed landscaping would contribute by providing an additional sound buffer and also by creating an additional stand off for activity within the rear amenity spaces within the proposed properties.

The maximum height of the proposed buildings is 5.5m to the apex of the roof. Hipped roof designs are proposed that would decrease the perceived bulk and minimise visibility from surrounding gardens. The height to the eaves would be 2.5m. The separation distances and heights are such there would be no impact from overshadowing on surrounding properties. The orientation of the development is such that the proposed dwellings would be to the west of those on Seeds Lane and to the north of those on Lichfield Road. The area to the south and west of any land is generally considered the critical orientation in terms of potential overshadowing as the majority of insolation occurs from this direction. There could be some minimal new shadowing to the ends of gardens on Seeds Lane at number 19, 17, 9 and 7 but this would be confined to the end of these gardens and would not be present for the entire day. Existing trees in the ends of these gardens are likely to have a far more significant impact on shadowing to these gardens, while it is accepted that many are deciduous and that the owners may choose to remove them at their discretion since there are no tree protection orders in place.

It is recommended that permitted development rights be removed from the proposed dwellings to prevent the possibility of the addition of additional storeys or loft conversions that could create additional overshadowing or overlooking into the surrounding properties.

The introduction of new development to the rear of existing dwellings is often finely balanced. Backland development can cause the introduction of residential use with its accompanying noise, disturbance and the general goings on of a residential property close to rear amenity areas that are protected for the peaceful, private environment they generally afford to residents. The proposed scheme is on a site which is already occupied by a residential property, meaning that residential use has been established in the area, together with the kind of activities that are associated with a dwelling house. These activities include arriving and leaving the property, the entry and exit of vehicles from the property, the use of external amenity spaces and other normal activities that could reasonably be expected within the home. The proposal would increase the intensity of this existing use, by adding 4 additional dwellings to the property.

Number 21 and 27 Seeds Lane are currently separated by the existing driveway access to No. 25. This driveway is currently in use and would likewise be subject to intensification as a result of additional comings and goings to the proposed additional properties. The driveway and turning area is currently surfaced in small gravel stones which are characterised by additional noise and potential for drag-out onto the highway. In line with the recommendations from Highways it is recommended that a condition be

attached to any decision to require that the driveway and new accesses be hard surfaced in order to prevent drag out and mitigate against some of the increased noise that would be created as a result of the added use of the property.

While the intensification would have some negative impact on the surrounding properties it is considered that it would ultimately be minimal and would not be significant enough to justify the refusal of the application in this case.

Amenity of future occupiers

The proposed bungalows would provide three bedroom accommodation and 90 and 110m² gross internal floor area. This is in excess of the requirements of the nationally described space standard that recommends 74-95m² for single storey three bedroomed dwellings dependant on their intended level of occupancy. Rooms are reasonably laid out with good access to light and a practical arrangement that minimises circulation space and maximises usable areas and storage.

The gardens to the houses adhere to the policy requirements (either 12m in length or 68m²) to ensure sufficient private space for future residents, providing well in excess of this at between 144 and 295m² per property. The design of the development minimises overlooking and overshadowing with hipped roofs and single storey development and established regular building line contributing to the low impact between the dwellings.

Given the above, it is considered that the proposed scheme would have a positive impact on the amenity of future residents and is supported from this perspective.

Air Quality

The Council has adopted the Black Country Air Quality Supplementary Planning Document (SPD), which means that for this type of application an Air Quality Low Emission Scheme should be prepared and implemented. Objectors have raised concerns regarding the impact on air quality as a result of demolition, construction and additional vehicles in the area that could be caused during operation of the development.

Pollution Control have requested that mitigations measures be put in place to prevent unacceptable impacts on air quality. Mitigation measures include the requirement for electric vehicle charging points, and the use of low-emissions boilers, a scheme for which could be required by condition.

In addition to this, Pollution Control have requested a Construction Environmental Management Plan is secured through a suitably worded planning condition to ensure any construction impacts are sufficiently mitigated.

In light of the above, and with the proposed mitigation/conditions in place, the proposed is considered acceptable in this regard.

Trees and Landscaping

There are few trees on the application site but there are significant numbers of trees on surrounding properties. Historic aerial photography shows that there were more trees on the site in the in the south western area and in the centre of the property previously but these have been removed between 2016 and 2020, this has been highlighted by objectors. There are no Tree Protection Orders on any of these trees. Although the past loss of unprotected trees is in general considered unfortunate, it is not a material consideration in the assessment of the current planning application. Conversely, the treatment of existing trees is material to planning and neighbouring occupiers have also expressed concern as to the protection of trees on and around the site.

The tree officer has assessed the application documentation and visited the site, noting that due to the distance of the proposed houses from the boundaries, the size and proximity of the trees both on and off site the proposed layout is unlikely to have any long term detrimental impact on their health and stability provided some precautions are taken in the form of tree protection fencing. It is therefore recommended that a suitably worded condition be applied to ensure that tree protection measures are undertaken.

Additional planting in the form of hedge screening and new trees as shown on the site plan is welcomed and would be beneficial to the scheme in providing additional privacy, amenity value and in raising ecological value of the scheme. No specification is provided for the proposed planting. It is recommended that a detailed landscaping plan be submitted to provide clarity on the tree and shrub planting including location, quantity, size and species intended for the site. A suitably worded landscaping condition is therefore recommended.

In order to provide a net ecological gain it is recommended that bird and bat boxes, the use of native planting and small mammal permeable boundary treatments are incorporated into the scheme and a condition requiring their inclusion is attached to secure this as part of the development. It is also recommended that a lighting scheme be required to ensure that the impacts on the surrounding areas including any Wildlife in McClean Way are not adversely impacted, this could also be secured by condition.

With the application of conditions to protect existing trees and a landscaping condition to provide further detail on new planting it is considered that the application is acceptable from this perspective.

Access and parking

Under the terms of UDP policy T13, 2 off road car parking spaces are required per dwelling and the proposal seeks to provide driveways and garaging that would exceed this requirement.

Surrounding occupiers have objected based on the potential increased use of the access road and impact on parking in the area. The level of increased traffic is considered not to have a significant impact on the use of the lane. There are currently 37 properties that have access off Seeds Lane, an increase of 4 properties constitutes relatively small increase in the usage of the road. Objectors have commented that the access road is not wide enough to accommodate the development. The road is an existing access and is currently in use, although the proposal would intensify this use and create a situation where multiple road users may need to enter and leave the site at one time. The access road is straight and has a length of approximately 70m and a width of 5.3m. It is proposed that a footway of 1.2m is provided. The remaining width of 4.1m would be sufficient for two vehicles of 2m width each to pass each other. The Manual for Streets provides several scenarios for street width without providing a minimum, other than to highlight that the minimum width for Fire access is a kerb to kerb width of 3.7m, and that decreased width is a useful tool for traffic calming.

Vehicle tracking has been provided that shows that a fire service vehicle and refuse truck could access the site. Access by emergency services and service vehicles had been raised by objectors. The amended proposal includes an area where refuse bins can be presented on collection day which would mean that a refuse truck would not need to access the site. The area would not compromise the use of the access during this time. The Waste Management has commented that they would find this arrangement acceptable. The Fire Officer has no objection to the proposal but makes comments on adequate water supplies and fire appliance access. These issues are matters to be dealt with under Building Regulations.

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 four new homes.

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

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

Conclusions and Reasons for Decision

The proposal is compliant with the NPPF and the Development Plan, the proposal would made good use of a site in an accessible location. The design of the proposed dwellings is considered acceptable, and in line with the character of the area. The proposal would not unduly harm the amenities of neighbouring occupiers, on Seeds Lane and on Lichfield Road. The proposal provides sufficient off road parking spaces and will not cause significant harm to highway safety.

The proposal complies with the NPPF, policies GP2, ENV10, ENV11, ENV14, ENV17, ENV18, ENV32, ENV33, ENV40, T7, T10 and T13 of the UDP, Policies DEL1, HOU1, HOU2, ENV2, ENV3, ENV5 and ENV8 of the BCCS, policies HC2 and T4 of the SAD, policies NE1 to NE10 of Conserving Walsall's Natural Environment SPD, Policies DW1 to DW10 of Designing Walsall SPD and the Air Quality SPD.

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

After the submission of amended plans to decrease building heights, separation distances and refuse set-off point. Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

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

- No new material considerations being received within the re-consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed

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 shall not be carried out otherwise than in accordance with the following approved plans:

- Location and Block Plan, 2427-01 Rev. H, submitted 11-03-2021

- Type A Plans and Elevations, 2427-10 Rev. D submitted 11-06-20
- Type B Plans and Elevations, 2427-11 Rev. C submitted 11-06-20
- Type C Plans and Elevations, 2427-12 Rev. D submitted 22-06-20
- Type D Plans and Elevations, 2427-14 Rev. - submitted 02-10-20
- Design and Access Statement, by J Mason Associates, submitted 09-04-2020
- Planning Statement, submitted 11-03-2021
- Swept Path Analysis Sheet 1 of 2, submitted 29-05-2020
- Swept Path Analysis Sheet 2 of 2, submitted 29-05-2020

Reason: To ensure 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 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 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
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration mitigation measures

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 and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

4. a Prior to the commencement of the development hereby approved, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning Authority.

b The scheme shall not be implemented otherwise than in accordance with the approved details before the development is first brought into use.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

5a. 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.

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.

c. 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.

6a. Prior to the commencement of the built development above damp proof course level of any building, a scheme showing how bird and bat boxes, the use of native planting and small mammal permeable boundary treatments will be incorporated into the development 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 scheme and shall be retained thereafter.

Reason: To ensure proper regard is taken to the impact of development on protected species and to comply with BCCS policy ENV1 and UDP policy ENV23.

7a. Prior to commencement of any building or engineering operations above the damp proof course of the development hereby approved, full details of the buildings facing materials, including bricks, render, roof tiles, windows, door, rainwater products and soffits, illustrating the colour, size, texture and specification to be used within the development hereby approved shall be submitted to and approved by the local planning authority.

b. The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

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

8a. Prior to commencement of any building or engineering operations above the damp proof course of the development hereby approved, the applicant shall agree an Air Quality Low Emission Scheme in writing with the Local Planning Authority, to install electric-vehicle charging points and ultra-low NOx boilers.

b. The agreed scheme shall be fully implemented, in accordance with the approved details in part a of this condition, before the development is first brought into use.

c. Prior to occupancy, the Applicant shall provide a written Low Emission Scheme Validation Statement to the Local Planning Authority that demonstrates scheme has been installed as agreed.

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

9a. Prior to the commencement of development above damp proof level details of any external lighting to be installed around or within the development shall be submitted to and approved in writing by the Local Planning Authority.

b. The development shall be not be carried out otherwise than in accordance with the approved details and retained and maintained at all times.

Reason: Necessary to prevent light pollution and to protect the amenity of surrounding residential occupiers in accordance with Policy ENV11 of the UDP.

10a. Prior to the commencement of development above damp proof course, a landscape plan showing details of replacement tree and shrub planting (including quantity, species, size and location) shall be submitted to and approved in writing by the Local Planning Authority.

b. The approved scheme shall be implemented within 12 months of any part of the development being brought into use.

c. Any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed within the first 5 years shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted.

Reason: In the visual amenities of the area, to ensure the site is secured with appropriate landscaping and to provide adequate mitigation and screening for proposed occupiers in accordance with Saved UDP Policies GP2, ENV17 and ENV33 and Conserving Walsall's Natural Environment SPD.

11a Prior to the first occupation of any dwelling on the development, all parking and vehicle manoeuvring areas serving that dwelling shall be consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

b Prior to the first occupation of any apartment on the development, the access road and parking area shall be implemented, and the parking bays clearly demarcated on the ground.

c The areas in a and b above shall thereafter be retained and used for no other purpose.

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

12a. Prior to the commencement of development:

1. 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
2. The approved protective fencing and ground protection shall be installed
3. One month's written notice of the intention to commence development shall be given to the Local Planning Authority to allow the Council's Arboricultural Officer to fully inspect the installation of the protective fencing and ground protection

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

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

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

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

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 extensions or additions as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house:

- Class AA (enlargement of a dwellinghouse by construction of additional storeys)
- Class B (additions to the roof)
- Class G (chimneys, flues)

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.

Notes for Applicant: Highways

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

2. Measures must be implemented by the Applicant to ensure that, so far as is reasonably practicable, surface water from the private land flowing on to, or over, the footway of the highway is prevented.

3. The Applicant will be expected to either enter into an agreement under Section 278 of the Highways Act 1980 with the Local Highway Authority or obtain a Road Opening Permit from the Local Highway Authority for all works within the existing public highway. For further advice please contact the Highway Development Control Team on 01922 655 927.

4. The Applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information please contact the Traffic Management Team on 01922 654675.

Notes for Applicant: Police

The area backs onto McClean Way a dismantled railway. The rear of properties bordering this area will be more vulnerable. Consider trellis to the top of this fencing as an additional security measure.

Any gates to the rear of properties should be as close to the front building line as possible.

The applicant to refer to crime prevention and home security advice contained within SBD New Homes. Please see :
https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NEW_version_2.pdf

External LED lights with daylight sensors to the external walls, by entrances and parking.

This to provide security for people entering and leaving. (SBD Homes 2019 page 63 49.1).

Alarm and cctv installers should be approved by NSI, SSAIB or both please see <https://www.nsi.org.uk/> and <https://ssaib.org/>

Dwelling entrance door-sets (SBD Homes 2019 page 29, 21.1-8). PAS 24: 2016 standard doors for houses and apartments. Please see: <https://www.securedbydesign.com/guidance/standards-explained>

Note to Applicant Fire

Approved Document B Volume 1, 2019 edition

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.

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 dwellinghouse.

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**

Turning facilities should be provided in any dead-end access route that is more than 20m long (ADB Vol 2, Diagram 13.1, designed on the basis of Table 13.1)

Provision of private hydrants

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

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

14.9 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. 14.10 Each fire hydrant should be clearly indicated by a plate, fixed nearby in a conspicuous position, in accordance with BS 3251.

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

14.11 Guidance on aspects of the provision and siting of private fire hydrants is given in BS 9990.

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

and/or

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access.

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)

Note to Applicant Air Quality SPD

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points: The electric vehicle charging point provision for residential premises is a charging point per residential premise or Units with unallocated parking e.g. apartments – 1 charging point per 10 spaces, complying with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw. Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded. The charging unit is to be supplied by its own independent radial circuit. Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

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

Ultra-low NOx boilers discharge NOx at or below 40mg/kWh. The latest models are future-proofed to the European Union's Energy-related Products Directive 2018 NOx levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NOx, and may be eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

Note for Applicant Severn Trent

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have 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 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.

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 isn't 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

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 01 April 2021

Plans List Item Number: 4

Reason for bringing to committee

Significant Community Interest

Application Details

Location: Garages Rear Of, 2 Lime Avenue, Bentley, WS2 0JA

Proposal: PROPOSED CONSTRUCTION OF 2 SEMI-DETACHED TWO STOREY 3 BEDROOM HOUSES WITH ASSOCIATED PARKING, LANDSCAPING AND GARDEN SHEDS

Application Number: 20/0088

Case Officer: Helen Smith

Applicant: Mr Paul Nicol

Ward: Bentley And Darlaston North

Agent: Ms Izzy Kendrick-Jones

Expired Date: 19-Mar-2020

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

Time Extension Expiry:

Recommendation

Delegate to the Head of Planning and Building Control to Grant permission subject to conditions, and the finalising of planning conditions



Proposal

This application proposes the erection of a pair of 3 bedroom affordable semi-detached houses with associated parking, bin storage and garden sheds on the site to replace existing dilapidated garages that are no longer in use.

The houses would be located at the end of a cul de sac and would face south with unit no. 1 positioned 2.6 metres further back than unit no. 2.

The existing access to this site off Lime Avenue would be utilised for this development. There is a small landscaped area proposed to the side of the properties and communal parking for four cars in a side by side arrangement next to the rear garden boundary of 7 Laburnum Grove.

The proposed rear and side private gardens for Unit 1 is 119m² and 71m² for Unit 2. Bin storage, patio areas and rotary driers would be provided in each rear garden. Rear gardens would be secured with a lockable side gate.

A separate secure bin storage area would be provided adjacent to a secure gate located between 6 and 7 Laburnum Grove. There would be a second secure gate to the bin storage area adjacent to 7 Laburnum Grove. Bins are proposed to be collected from Laburnum Grove and the additional bin area has been provided for this reason.

The Planning Agent has advised that boundary treatments include low and high-level closed panel timber fencing. Photovoltaics would be installed on the roof.

This site forms part of a large project by the applicant (Walsall Housing Group) to redevelop former garage courts to provide new homes, utilising the efficiencies and benefits of AMC (Advanced Methods of Construction). This means that the majority of house construction takes place in a factory using a hybrid of pods and panels. The central pods containing the kitchen and bathrooms are structurally formed from LSF (lightweight steel frame) to which a series of LSF panels wrapped in insulating material with the uPVC windows and composite doors inserted in the factory. The entire unit would be wrapped in brick slips, render or cladding, which can be varied to be site specific. On site the central pods would be placed on the foundations and the panels then fixed to the pods to provide the finished house, ready to move in to. The pitched, tiled roofs (with solar panels) would also be brought to site in panels and put together on site.

The submitted drawings show that unit 1 would have a footprint of 5.95m x 9.66m and Unit 2 a footprint of 5.51 x 9.66m with a maximum height of 8.1m and would have no side facing windows. At this site the external brick finish would be multi red with grey concrete roof tiles.

The application is supported by the following documents;

Design and Access Statement by Northmill Associates Ltd received 23/1/20 which states in summary:

- The proposal is compliant with surrounding uses and relevant local and national planning policy
- Present and appropriate development density
- Helps to meet the demand for 3 bedroom affordable family homes identified in the area
- Fit within the existing built context, without detrimental impact on the amenity enjoyed by neighbouring properties
- Transform an under-utilised brownfield site and improve the appearance of the area

Coal Mining Risk Assessment by The Coal Authority dated 10/2/20 which states:

- Site subject to past coal mining activity
- Site can be made safe with recommended site investigations and remedial measures being completed
- Recorded coal mining legacy issues do not pose any particular implications for the layout of the proposed development
- Gas risk assessment recommended

Supporting Technical Information by Northmill Associates Ltd deposited 23/01/20

Site and Surroundings

This site is located to the east of Lime Avenue and comprises a former garage court which is bounded by the rear gardens of adjacent terraced and semi-detached house fronting Lime Avenue, Edinburgh Avenue and Laburnum Grove. The site measures 0.069 hectares and is owned by WHG. The garages remain in situ pending demolition and access to the site is adjacent to 2 Lime Avenue and along the rear garden boundaries of no's 81 to 87 Edinburgh Avenue.

Vehicle access to the site would remain as existing located to the side of 2 Lime Avenue and along the rear garden boundaries of 81 to 87 Edinburgh Avenue.

Houses adjoining this site have ground and first floor rear facing habitable room windows and the existing garages form the rear garden boundaries with neighbouring houses.

The site sits in a long established residential area comprising a mix of property styles in both WHG and private ownership.

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 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**

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.

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
- ENV32: Design and Development Proposals
- ENV40: Conservation, Protection and Use of Water Resources

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- 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
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- T4: The Highway Network
- T5: Highway Improvements

Supplementary Planning Documents

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- 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

Clean and Green – No comments received

Coal Authority – No objections subject to planning conditions in respect of the requirement for intrusive site investigations and remediation works.

Fire Officer – No objections subject to the inclusion of an informative note including their requirements

Housing Standards – No objections

Pollution Control – No objections subject to the inclusion of planning conditions in respect of ground contamination, ground gas, ground conditions, construction management plan, and air quality along with related informative notes

Severn Trent - No objections subject to the inclusion of an informative note in respect of a potential public sewer located within the application site

Transportation – No objections subject to a planning condition in respect of surfacing and sustainable drainage along with informative highway notes.

Representations

Objections and comments have been received from 4 residents on the following grounds (*officer comments in italics*);

- Details of boundary treatment required
- Invasion of privacy and overlooking of gardens
- Devalue property (*not a material planning consideration*)
- Two storey building only 3ft from the boundary line
- Historic anti-social behaviour

Determining Issues

- Principle of the Proposed Use
- Design of the Proposal and Impact on the Character of the Area
- Impact on the Amenities of the Surrounding Occupiers
- Ground Conditions
- Access and Parking
- Local Finance Considerations

Assessment of the Proposal

Principle of the Proposed Use

The site comprises previously developed land situated in a well-established residential area, within walking distance of local shops on Churchill Road which is less than 150 metres from the site (as the crow flies). Regular bus services are situated within walking distance of the site and the site is considered to be in a sustainable location.

This proposal is supported by paragraphs 117 and 118 of the NPPF which state that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, and should promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure).

The principle of the provision of two new residential properties at the site is considered appropriate and accords with the aims of both national and local policies.

Design of the Proposal and Impact on the Character of the Area

Neighbouring properties consist of pairs of 1950's/60's semi-detached and terraced dwelling houses with a plain and simple design and gable roof designs.

The proposed houses with a brickwork face and gable roofs would pick up on the characteristics of the properties in the immediate vicinity however the proposed new window design would have a contemporary appearance to the properties however in this location this is considered appropriate in this stand-alone site. The plot sizes are smaller than those of neighbouring houses, however they are considered to be appropriate for this location and would have a limited impact on the existing character of the area whilst making efficient use of brownfield land.

The proposed layout means that the two new houses would be visible from first floor rear windows in houses fronting Lime Avenue and Laburnum Grove which would provide passive surveillance and improves security for these two dwellings and the immediate surroundings.

The advanced method of construction proposed along with use of photovoltaics would provide modern, efficient, high standard, affordable housing with a short on-site construction period.

The houses would have with parking to the front and rear private gardens. Both private amenity spaces would exceed the recommended minimum garden area of 68m² as referred to in Appendix D of Designing Walsall SPD and the overall provision is considered acceptable whilst making efficient use of brownfield land.

There were officer concerns regarding the bin access routes to the rear and side of Unit 1 and whether this would provide an area that would encourage anti-social behaviour. To address these concerns the planning agents have added 4 secure gates to the plans to protect these areas by restricting access. A planning condition can be included to require the bins to be taken out for collection on bin days, and returned to secure area after collection

The amended design and layout of the development is considered appropriate and in compliance with policy.

Details of the proposed sheds have not been provided, and the agent has confirmed that a 600mm dwarf wall is not proposed despite being included in the drawing key. Further details of boundary treatment are therefore required. Planning conditions requiring further information can be included to meet the 6 tests and to define the planning application, if approved.

The proposal demonstrates the re-use of brownfield land and saved UDP Policy ENV14 encourages the reclamation and development of derelict and previously developed land wherever this is technically feasible. In this instance it is considered that the re-use of this site for residential purposes would be a positive re-cycling of derelict land within an existing predominantly residential area.

Impact on the Amenities of the Surrounding Occupiers

The proposed layout means that the new houses and gardens would back on to the ends and sides of rear gardens of houses on Lime Avenue and Laburnum Grove however the houses themselves would be no closer to the existing properties than the original garages.

The habitable room window to window separation distances between the proposed development and houses fronting Edinburgh Avenue of 27 metres would exceed the recommended minimum separation distance of 24 metres referred to in Appendix D of Designing Walsall SPD.

The proposed front and rear facing habitable room windows would be positioned at right angles to existing habitable room windows in 6 Laburnum Grove and no's 2, 6 and 8 Lime Avenue and it is considered that this angled relationship would protect residents' privacy.

There would be some additional overlooking of neighbours' rear gardens however the existing relationship between rear facing windows in houses on Lime Avenue and Laburnum Road are similar and it is considered the impacts on privacy would not significantly worsen.

There would be a 14.8 metre separation distance between rear facing habitable room windows in 4 Lime Avenue and the blank two storey side elevation of unit 2. This would exceed the recommended separation distance of 13 metres between ground floor habitable room windows and blank walls in excess of 3 metres high by 1.8 metres, as referred to in Appendix D of Designing Walsall SPD.

The separation distance between the side facing window in 7 Laburnum Grove and the blank side elevation of unit 1 would be 10.8 metres however as the ground floor window already faces the garage block and the other window is at first floor level the additional impacts are considered would be limited.

The stepped relationship between units 1 and 2 addresses the Council's 45 degree code in relation to rear facing habitable room windows in 6 and 7 Laburnum Grove. The 45 degree code is the Council's tool to assess impacts on neighbours' light and amenity.

No side facing windows are proposed for the new dwellings and a planning condition can be included to safeguard neighbours' amenity.

A planning condition requiring the submission of a Construction Management Plan prior to the commencement of any development, if approved, can be included to control disturbance to neighbours during the construction period to meet the 6 tests.

Whilst the 20 garage court is currently not in use, it is considered that the reduced number of vehicle movements expected for two houses would be less than those associated with a garage court if this was brought back into its original use.

To protect resident's amenity a planning condition would be included to remove householder permitted development allowances for extensions, roof alterations and enlargements and outbuildings not included as part of this proposal because of the constraints of the site and proposed limited separation distances.

Ground Conditions

The application site falls within the defined Development High Risk Area. The Coal Authority has advised that records indicate that the potential zone of influence of an off-site mine entry encroaches into the main part of the application site. The zones of influence of two further off-site mine entries encroach across the western end of the access route to the new dwellings. They hold no details of any past treatment of these mine entries.

The recommendation for the undertaking of intrusive site investigations referred to in the Coal Mining Risk Assessment is agreed by The Coal Authority and they advise that these should be designed by a competent person to properly assess ground conditions and to establish the exact situation regarding coal mining legacy which could pose a risk to the proposed development.

The findings of the investigations should be interpreted by a competent person and should be used to inform any mitigation measures which may be required in order to remediate mining legacy affecting the site and to ensure the safety and stability of the proposed development.

Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb Coal Authority property, i.e. coal seams and associated workings. An informative note can be included for the applicants, if approved.

The submitted report concludes that the risk to ground stability at the site from recorded mine entries is low. However, it identifies the potential for the presence of unrecorded mine entries within the site and recommends a watching brief be maintained during site works. A safeguarding planning condition that meets the 6 tests can be included, if approved.

The development site has historically been utilised for the mining of coal and lignite with subsequent infilling and domestic garages. No information has been supplied regarding ground contamination, ground gas or ground conditions with the application. Pollution Control Team require the inclusion of planning conditions to address the potential impact from land contamination to meet the 6 tests and to ensure the safe development of the site.

Access and Parking

The proposals would provide 2 off street parking spaces for each house in compliance with UDP saved policy T13. Each house would have two spaces on a communal parking area to the front of the garden serving unit 1 and these spaces would be close to and visible from both houses, providing natural surveillance of this area.

Access from Lime Avenue would be via the existing former parking court entrance.

Whilst the loss of the former garages has reduced the level of parking available for the existing residents, the site is overgrown and secured and has not been available for use for some time. Several of the existing properties within the vicinity have their own off-street parking facilities, and for the remainder there are communal parking areas and no parking restrictions within the local streets so on-street parking is available which is considered acceptable in this instance.

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 two new homes.

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

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

Conclusions and Reasons for Decision

This is a previously developed site is situated in a residential area in a sustainable location. The principle of residential development of the site is therefore considered appropriate and complies with Policies HOU2 and CSP4 of the BCCS, Policy HC2 of the SAD and H3 and ENV14 of the UDP.

The layout is considered acceptable and in compliance with policies GP2, ENV32 and T13 of the UDP and Appendix D of Designing Walsall.

The design of the new properties is considered appropriate and includes key characteristics of the surrounding properties and would comfortably fit within the street scene, in compliance with policy ENV32 of the UDP. The advanced method of construction proposed would provide modern, efficient, high standard, affordable housing with a short on site construction period.

Access and parking arrangements would comply with policies GP2 and T13 of the UDP.

It is considered that the development would have a limited impact on the amenities of surrounding occupiers in compliance with policies GP2 and ENV32 of the UDP and Appendix D of Designing Walsall.

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

Recommendation

Delegate to the Head of Planning and Building Control to Grant permission subject to conditions, and the finalising of planning 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: This development shall not be carried out other than in conformity with the following approved plans: -

- Site Location Plan, drawing no. L(00)001 Revision P1, deposited 23/01/20
- Existing Site Plan, drawing no. L(00)002 Revision P1, deposited 23/01/20
- Proposed Site Plan, drawing no. L(00)101 Revision P2, deposited 12/01/21
- Units 1 and 2 - Proposed Elevation A, drawing no. L(02)001 Revision P1, deposited 23/01/20
- Unit 1 and 2 – Proposed Elevation B, drawing no. L(02)002 Revision P1, deposited 23/01/20

- Unit 1 and 2 – Proposed Elevation C, drawing no. L(02)003 Revision P1, deposited 23/01/20
- Unit 1 and 2 – Proposed First Floor Plan, drawing no. L(01)002 Revision P1, deposited 23/01/20
- Unit 1 and 2 – Proposed Ground Floor Plan, drawing no. L(01)001 Revision P1, deposited 23/01/20
- Unit 1 and 2 – Proposed Roof Plan, drawing no. L(01)003 Revision P2, deposited 11/2/20
- Design and Access Statement, deposited 23/01/20
- Coal Mining Risk Assessment, deposited 9/11/20

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 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 shall be submitted in writing to the Local Planning Authority;
- III. details of remedial works shall be submitted to and approved in writing by the Local Planning Authority;

3: b) Prior to the carrying out of building operations of the development hereby permitted the approved details of remedial works shall be carried out

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

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.

4: a) Prior to built development commencing 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)

4: b) Prior to built development commencing 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 forwarded to the Local Planning Authority. (see Note for Applicant CL2)

4: c) Prior to built development commencing a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

4: d) The remedial measures as set out in the 'Remediation Statement' required by part (c) of this condition shall be implemented in accordance with the agreed timetable.

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

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

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan

5: 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 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

5: 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 and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

6: a) Notwithstanding the details as submitted and prior to the commencement of the hereby approved development above damp-proof course a plan shall be submitted to and agreed in writing with the Local Planning Authority including elevations, floor plans, siting and materials of the proposed garden sheds.

6: b) The development shall not be carried out otherwise than in accordance with the approved details, to be available prior to the first occupation of the houses hereby approved and 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.

7: a) 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.

7: 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.

7: c) 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.

8: 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.

8: 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.

9. Prior to the first occupation of the development, or it first being taken into use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safety and stability of the development and to comply with NPPF Paragraph 178 and 179 and saved policies GP2 and ENV14(c) (ii) of Walsall's Unitary Development Plan.

10: a) Prior to the first occupation of any dwelling on the development, the approved driveways and parking areas shall be 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.

10: b) The parking spaces 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.

11: a) Prior to first occupation of the development hereby permitted details of electric vehicle charging points, to be provided for each dwelling shall be submitted in writing to and agreed in writing by the Local Planning Authority.

11: b) 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

12: No boilers shall be installed in any of the units hereby permitted, save for

- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh
- Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

13: Notwithstanding the details submitted of the development hereby permitted the occupiers of the development shall be required to present their refuse bins for collection on bin days to Laburnum Grove and shall immediately return the refuse bins to the secure bin storage area shown on 'Proposed Site Plan, drawing no. L(00)101 Revision P2', deposited 12/01/21, following their collection.

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

14: 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.

15: 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 B (additions to the roof),
- Class C (other alterations to the roof),
- Class E (building incidental to the enjoyment of a dwelling house), shall be installed in any part of this hereby approved 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.

Notes for Applicant

Highways

The Applicant must ensure that no soil or other debris is washed or placed within the highway. Failure to prevent this incident could result in an offence and a notice being served on the Applicant under Section 151 of the Highways Act 1980.

Severn Trent Water

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have 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 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.

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 isn't 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 Authority

The required signed statement/declaration 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.

Fire Officer

Approved Document B, Volume 1, Dwelling-houses, 2019

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 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).

Access

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.

13.2 For flats, either of the following provisions should be made.

- a. Provide access for a pumping appliance to within 45m of all points inside each flat of a block, measured along the route of the hose.
- b. Provide fire mains in accordance with paragraphs 13.5 and 13.6.

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)

Coal Authority

The applicant is requested to note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb Coal Authority property, i.e. coal seams and associated workings.

Pollution Control

Ground Contamination Notes

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); 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.

Air Quality SPD Notes

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

The electric vehicle charging point provision for residential premises is a charging point per residential premise or Units with unallocated parking e.g. apartments – 1 charging point per 10 spaces, complying with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw. Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

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

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

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality

Planning Guidance,

- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle

Supply Equipment Association (April 2015),

- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

Ultra-low NOx boilers discharge NOx at or below 40mg/kWh. The latest models are futureproofed to the European Union's Energy-related Products Directive 2018 NOx levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NOx, and may be eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 01 April 2021

Plans List Item Number: 5

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 33 , Skip Lane, Walsall, WS5 3LL

Proposal: REPLACEMENT 5 BED DWELLING

Application Number: 20/1175

Case Officer: Rebecca Rowley

Applicant: S Anees

Ward: Paddock

Agent: Daljit Bharya

Expired Date: 16-Dec-2020

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

Time Extension Expiry: 09-Apr-2021

Recommendation

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

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions; and
- No further comments from a statutory consultee raising material planning considerations not previously addressed.



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Proposal

This application seeks permission to replace the existing 3 bed detached dwelling at 33 Skip Lane with a 5 bedroom detached dwelling with a main gable roof, 2 front gables and 3 rear gable dormers.

The ground floor of the rear elevation would project 3.2m deeper than the first floor and have a rooftop balcony in the central section serving the first floor master bedroom and a roof lantern either side of the balcony.

The proposed house will provide; at ground floor a gallery hallway, w.c and cloak room, living room, dining room, utility room, lounge and large open plan kitchen and living area plus a garage. On the first floor there will be a gallery landing, four bedrooms (one master with ensuite, two double bedrooms each with an ensuite and a double bedroom) and a family bathroom. The master bedroom would have a rooftop balcony above the central section of the first floor flat roof.

On the second floor in the roof space there will be a fifth bedroom and a study and cinema room (which could both potentially be used as bedrooms in future) and a bathroom.

3 rear dormers are proposed with rooflights in each roof slope, plus 2 rooflights above the principal elevation.

The proposed replacement house measurements are:

- 8.8m to the main roof ridge with a gable elevation on each side
- 5.7m to the eaves on the principal and rear elevation
- 8m to the roof ridge of the two front gable elevations
- 8.5m to the rear gable dormer roof ridges
- No chimneys are proposed
- 3m to the flat roof of the ground floor rear elevation
- 11.1 m wide at the front
- 11.98m wide at the rear
- 17.3m deep at the ground floor
- 14m deep at the first floor
- a gap of 1.2m on either side of the dwelling to the side elevations of no. 35 and no. 31 Skip Lane

Proposed facing materials are brickwork and clay roof tiles to match the existing building.

Site and Surroundings

The existing site/house

The application house (No.33 Skip Lane) is a 3 bedroom detached dwelling with an attached side garage. It has a main gable roof and a front gable elevation with an "Arts and Craft" design. Facing materials are brown brickwork and clay roof tiles.

This existing main dwelling comprises of three bedrooms and a bathroom at first floor, with ground floor lounge, living room, kitchen, hall, w.c and single garage. It has a single access/egress point on to Skip Lane. It is of a traditional design incorporating a ground floor bay window and cat slide roof adjacent to the front gable.

The existing house measurements are:

- 8.5m high to the roof ridge
- 5.7m high to the eaves
- 3m to the eaves of the cat slide roof above part of the ground floor
- 7.4m high to front gable ridge
- 11 metres wide at the ground floor front (including the garage)
- 11.9m wide at the widest section at the rear
- 7.7m deep behind the garage
- 9.2m deep the main part of the house at ground and first floor
- 7m wide at the first floor
- 1.7m separation distance to no. 31 (to the west)
- 0.5m separation distance to no. 35 (to the east)

It is set back from Skip Lane highway edge by 14 metres with sufficient space on the hard surfaced driveway to park 2 vehicles and a large monkey puzzle tree on a grassed lawn. The public footpath between the front boundaries of houses to the east of the application site and the vehicle carriageway ends in front of no. 35 Skip Lane adjacent to the application site so the front boundary of the site immediately borders the highway with no public footpath in this location. The entrance to the driveway is open with no boundary treatment. There is a low hedge across the remainder of the front boundary. A low picket fence borders the shared boundaries in front of the houses between no. 35 and no. 37 Skip Lane with some low foliage and trees.

The application plot measures 14.5m wide at the front tapering to 12m wide at the rear, 83.5m long (23.5m rear garden). The rear boundary borders Merrions Wood which is a SINC and a nature reserve. Merrions Wood forms part of the Great Barr Hall Registered Park and Gardens which is located within the Great Barr Conservation Area.

The adjacent dwelling to the eastern side of the application site is no. 35 Skip Lane – is a two storey detached ‘Arts and Crafts’ style design dwelling incorporating a main front gable elevation, a side catslide roof and attached garage. The front of no. 35 and the two storey rear elevation is approximately aligned with the no. 33. There is a single storey rear extension and conservatory extension which is 7.5m deeper than the rear of the existing dwelling adjacent to the boundary.

The adjacent dwelling to the western side of the application site is no. 31 Skip Lane, a dwelling of similar original design to the application house. No 31 has been extended at first floor level above the attached side garage and features some white rendering on the principal elevation in addition to the brickwork. It also has a two storey rear extension plus a ground floor and conservatory extension which is 4.5m deeper than the rear of no. 33 adjacent to the boundary.

The area/street scene

The application site is at the edge of the large suburban Park Hall Estate and borders woodland and the Green Belt at the rear of the site, known as Merrions Wood local nature reserve (LNR), part of the Great Barr Conservation Area, Great Barr Hall Park, a grade II Registered Park and Garden and further to the south east is the Great Barr golf club.

The immediate area benefits from a mixed character of individually designed detached houses and bungalows many with individual features, with gaps between the houses to create a spacious character.

Skip Lane and nearby streets are generally characterised by large, two-storey detached dwellings, many of which occupy significant proportions of their plot widths, with gaps between their two-storey building frontages.

The houses along this section of Skip Lane from no. 27 to 35 and continuing onto Woodlands Avenue to the eastern side of no. 35 are set in deep plots. They are set along a similar building line with mature front gardens that either have no front boundary treatment or a low boundary treatment consisting of foliage. These houses are fairly regularly aligned. Further onto Woodlands Avenue and on the opposite side of Skip Lane travelling to the western side of the application house, the plots become wider and the separation distances between the houses increases. A number of houses on the opposite side of Skip Lane have been extended or rebuilt as replacement dwellings as outlined in the planning history.

Relevant Planning History

At 31 Skip Lane (adjacent dwelling to western side)

05/0622/FL/E5 - First floor extension over garage and two storey rear extension – granted permission – 09/08/2005

At 35 Skip Lane (adjacent dwelling to eastern side)

BC24233P - Extensions & Alterations to Form Conservatory & Breakfast Area with new Pitched Roof Over Garage and Side Dormer Window – granted permission – 20/10/1988

At 8 Skip Lane

07/0277/FL/E11 - Erection of a replacement detached dwelling. (Revised application from 06/1019/FL/E11 showing revised siting) – granted permission – 25/04/2007

At 12 Skip Lane

18/1288 – replacement dwelling – granted permission – 12/11/2019

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 13 – Protecting Green Belt land**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic 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.

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 Hedgerows
- ENV23: Nature Conservation and New Development
- ENV30: Registered Parks and Gardens
- ENV32: Design and Development Proposals
- T1: Helping People Get Around
- T8: Pedestrians
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- GB1: Green Belt Boundary and Control of Development in the Green Belt
- EN1: Natural Environment Protection, Management and Enhancement
- EN2: Ancient Woodland
- EN5: Development in Conservation Areas
- EN7: Great Barr Hall and Estate and St Margaret's Hospital

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting

- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW3 Character
- DW4 Continuity
- 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

Consultation Replies

Archaeology

Awaiting response, to be added to supplementary paper.

BBC Wildlife

Awaiting response, to be added to supplementary paper.

Conservation Officer

- The proposed dwelling would neither harm the character, appearance or setting of Great Barr Conservation Area nor unduly harm the setting or significance of the registered park and garden buffer zone.
- No undue harm the setting or significance of Walsall (or Merrion's) Lodge which is a Grade II listed building.
- No objections subject to planning conditions to secure facing materials, roofing tiles, rainwater goods etc. It would also be preferable if any windows and doors were constructed out of timber.

The Gardens Trust

- Extensive development within a site in the immediate setting of an RPG and the Gt Barr Conservation Area.
- There will be a considerable increase in light emission towards the RPG.
- No Heritage Statement (HS) or Visual Impact Assessment (VIA) submitted.
- No reference is made to the possible impact of the proposed development on the Great Barr Conservation Area.
- It is unclear whether the Grade II Listed Walsall Lodge (or Merrion's Lodge) is visible from the application site.
- There is no explanation of what public benefit, if any, this application may have.
- It is also not clear where in the garden the proposed large detached rear outbuilding will sit.

In the absence of such documentation, the Gardens Trust would like to lodge a holding objection.

11/03/2021 – In response to amended plans and further supporting information:

This enormous project is over-development of the site and we remain unconvinced that the application is appropriate immediately within the setting of Great Barr RPG and conservation area.

If this application were permitted other houses elsewhere along Skip Lane, perhaps without the mitigating woodland cover, will follow suit and will be difficult to resist. We would then anticipate subsequent similar over-development of properties in the vicinity which will gradually erode the character and setting of both the RPG and the Conservation Area.

Local Highways Authority

Support subject to conditions to ensure that any front boundary treatment would protect highway safety.

Natural England

No comments

Pollution Control

No objections subject to conditions to address the use of low NOx boilers and electric vehicle charging points, address the installation of solid fuel burners and a construction management plan.

Tree Preservation Officer

Awaiting response, to be added to supplementary paper

West Midlands Fire Service

Recommendations included in advisory notes.

Clean and Green – no comments received

Strategic Planning Policy – no comments received

Park Hall Residents' Association – no comments received

Representations

5 representations were received from neighbours at 5 separate addresses raising the following concerns in relation to the original proposal (*Officer comments in italics*):

- Excessively large for the size of the plot

- Increase in depth at the rear
- Excessive height compared to other houses in the street
- The large glass feature entrance is completely out of character with the designs of surrounding buildings in the area.
- The plans appear to show the 3 storey side wall is to be built on the border of the 2 plots and not the statutory one metre away.
- Multiple rear windows, some at higher levels than existing windows causing overlooking and severe impact on privacy on homes and rear gardens
- The extensions would cause overshadowing and loss of light.
- It will block natural daylight into my property – especially my conservatory
- Insufficient parking space for the number of bedrooms
- It has a small frontage with no footpath directly onto a narrow part of Skip Lane and is situated by a busy junction.
- It will cause chaos with car parking at the junction with Woodlands Av and Skip Lane.
- Future rear outbuilding proposed at rear of the property 11m x 6.5m (36' x 21') with water, sewerage and electricity, could be used as a second dwelling this would not be acceptable as we back onto a nature reserve which is a site of importance to nature conservation and would not be in keeping with the surroundings. *(The outbuilding has been removed from this proposal. An outbuilding could however be constructed in the rear garden using permitted development rights.)*
- The property neighbours a Registered Park and Garden and Conservation Area. *(Noted)*
- I noticed the Merrions Wood Trustees or Friends of Merrions wood have not been asked to comment. They might like to comment as the property directly borders the ancient woodland and field cared for by the Trustees and Friends Group. *(The Gardens Trust, Ecology Officer and Conservation Officer have been consulted and will provide the relevant guidance in relation to any impact on Merrions Wood. Comments can also be made by others via the publication of the planning application on the Council's website).*

Determining Issues

- Principle of Development
- Conservation Area and Heritage Assets
- Green Belt
- Design, Character and appearance of the Area and Street scene
- Impact on Neighbouring Amenity
- Protected species / ecology
- Impact on Trees
- Parking

Principle of Development

The site is situated within an established residential area within easy walking distance of shops and regular bus services along Birmingham Road. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and Saved Policies of the UDP.

The principle of a replacement dwelling is considered appropriate in this location, subject to the other material planning considerations set out in this report.

Conservation Area and Heritage Assets

The rear of the application site borders the Great Barr Hall Park (the Registered Parks and Gardens - RPG) is an 18th century landscape park which is associated with the listed Great Barr Hall. The Great Barr Conservation Area includes the RPG, and both draw their character and significance principally from the open parkland landscape, which is distinct from the residential estates and other developed areas surrounding it.

The Gardens Trust have expressed that the proposal is over-development of the site and that they remain unconvinced that the application is appropriate immediately within the setting of Great Barr RPG and conservation area. However, they have not expressly objected to the latest revised plans. The Council's Conservation Officer has advised that the proposed dwelling would neither harm the character, appearance or setting of Great Barr Conservation Area nor unduly harm the setting or significance of the registered park and garden buffer zone. The Conservation Officer has no objections subject to planning conditions to secure facing materials, roofing tiles, rainwater goods which would be added to any approval.

A nearby planning appeal at no. 14 Skip Lane on the opposite side of the road, facing the RPG, the Planning Inspectorate made the following observations:

"...the appeal site and other houses on Skip Lane are visible from nearby public footpaths within the RPG and the LNR. However, the stretch of Skip Lane which includes the appeal site forms a very small part of the extensive boundary of the RPG and CA, and the proposed development would only be seen from a limited range of vantage points within those wider landscapes.

Even from the parts of the CA, RPG, Green Belt and LNR closest to Skip Lane, the site is separated from nearby public vantage points to some degree.... public views towards Skip Lane from those points are screened to some degree by trees and hedges within the RPG, even when many of those trees are not in leaf... From those nearby public vantage points, the site is viewed within the context of other suburban houses on Skip Lane, which is one of a number of areas of housing which surround the boundaries of this large, open parkland landscape."

Whilst the Planning Inspector found that the proposed replacement house at no 14 would harm its immediate surroundings and generally the Skip Lane street scene, the Inspector also concluded that it would not encroach into the adjacent open land, or beyond the existing residential frontage of which it would have formed part of.

In this instance the currently proposed dwelling is considered to be of less visibility from the RPG than no. 14 Skip Lane as only the rear elevation would be visible and seen against the existing context of the linear pattern of development along Skip Lane. There is also limited access to the RPG at the rear of the house and there would be mature trees partially interrupting any views towards the rear of the proposed new dwelling.

Based on the council's assessment, responses from statutory consultees and the material planning comments of the planning inspectorate, views of the proposed building from the wider RPG and Conservation Area would be limited, the proposed development would not detract from the way in which the RPG parkland landscape or the CA would be experienced as a whole.

As such, and on balance, it is concluded that the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG. Nor, for the same reasons, would it harm the character and appearance of the LNR.

Green Belt

The site is not within the Green Belt and would not result in harm to the openness of the Green Belt or harm the character of the adjacent open land. This is a replacement house that would utilise the existing footprint of the house with further extensions. The replacement dwelling would be seen within the overall context of a linear development pattern of development towards Skip Lane itself. Weighing the material planning considerations of the Green Belt it is considered the proposal can be supported for the reasons set out above.

Design, Character and Appearance of the Area and Street Scene

Concerns have been raised regarding the depth of the extension at the rear and the large size of this proposal for the plot. A common characteristic of the houses on Skip Lane is that they are traditionally styled with feature gables and other architectural elements. The proposed design of the replacement house includes 2 front gables, would be constructed using matching facing materials and reflects the traditional styled houses on this part of Skip Lane whilst internally providing an accommodation to support modern living.

The original proposal for this replacement dwelling included a significant increase in height above the roof ridge of the neighbouring dwellings, the use of 3 front gables and excessive glazing on the principal elevation as well as having an unbalanced design within the gable elevations. A number of amendments have resulted in the current proposed design and it is considered, the current proposal would better complement and reflect the Arts and Crafts character and design of other nearby houses along Skip Lane. The applicant's interpretation of the "arts and craft" design is considered reflects the character of the existing street scene and provides an opportunity to reinforce the overall quality of the street scene.

Although the principal elevation of the building would have a different appearance to the existing dwelling, the location of the front building line would be retained. The overall height to the roof ridge, whilst being 0.3m higher than the ridge of the existing dwelling, will be consistent with the prevailing roof line along this side of Skip Lane and would not rise above the adjacent roof ridge heights of neighbouring properties.

A concern was raised regarding the construction of this dwelling on the border of the plot. The existing separation distance to each adjacent neighbouring dwelling will be retained or increased for the ground floors of the buildings so would reflect the existing situation. The first floor separation distance to each adjacent dwelling will be 1.2m on either side of the replacement dwelling which is considered sufficient to limit a terracing effect and would retain the distinct appearance of separate detached dwellings.

Whilst it is acknowledged that the rear of the proposed replacement dwelling would be distinctively different to the existing dwelling and would create a large building in comparison to the existing dwelling, the additional bulk and rear elevation would not be visible from the street scene and would not therefore result in any significant additional harm to the character of the area. As the conservation officer has confirmed that it would not cause harm to the character of the adjacent Great Barr Conservation Area, it is considered that the design of the rear of the proposed dwelling would not cause sufficient harm to warrant refusal of the scheme.

The applicant has suggested the use of brickwork and clay roof tiles to match the existing building, which is considered will reduce the impact of the replacement dwelling within the street scene. Whilst the proposed schedule of materials is to be supported, details of materials and colours will be required by way of a safeguarding condition.

In weighing the material planning considerations, for the above reasons the proposal is considered would not result in significant harm to the character of the area, street scene or local area and as such is considered to be acceptable and in accordance with local and national policy and guidance.

Given the negotiations to reduce the scale of the original proposal, and the overall scale of the replacement house, it is considered reasonable to include a condition to remove permitted development rights for extensions and alterations to the new dwelling to protect the character of the locality and also to protect the amenity of neighbouring occupants.

Impact on Neighbouring Amenity

The ground floor of the rear of the proposed house extends 8m beyond the existing rear elevation of the dwelling adjacent to the boundary with no. 31. This part of no. 31 consists of a conservatory with a solid brick elevation facing the boundary with the application site. The conservatory has a corner section facing towards the application site and when measured from the midpoint of the rear elevation of the conservatory, the proposed dwelling would comply with the Council's adopted 45 degree code as outlined in the SPD Designing Walsall Appendix D. The ground floor extends 9.4m beyond the existing rear elevation of the dwelling adjacent to the boundary with no. 35. This part of no. 35 consists of a ground floor rear extension and a conservatory that is glazed on all elevations. The proposed ground floor would also comply with the Council's 45 degree guidance in relation to this conservatory.

The first floor of the rear of the proposed house extends 4.8m beyond the existing rear elevation of the site dwelling adjacent to the boundary with no. 31. When measured from the quarter point of the nearest first floor rear habitable room window at no. 31 there would be a slight breach of the 45-degree code of around 0.5m. The first floor of the proposed dwelling would be 4.1m closer to the boundary with no. 35 than the existing building and would extend 4.8m beyond the existing rear elevation at this point. It would be sited 4.4m deeper than the first floor of the rear elevation of no. 35 and would breach the 45-degree code when measured from the quarter point of the nearest first floor rear habitable room window at no. 35 by a distance of around 1.5m.

In response to concerns raised regarding this breach of the 45-degree code and potential impacts on the amenity of neighbouring occupants by the first floor of the extension, a daylight and sunlight assessment has been submitted which to demonstrate the impacts of the proposed dwelling on daylight and sunlight availability to the rear of neighbouring dwellings no. 35 and no. 31 at varying times of the day throughout the year. Whilst it is acknowledged that the proposal does not fully comply with the Council's 45-degree code, the above submitted report has concluded that any impact on light availability to the rear of the adjacent dwellings would comply with BRE guidance in relation to sunlight. The BRE Report, *Site layout planning for daylight and sunlight: a guide to good practice (BR209)*, advises on planning developments for good access to daylight and sunlight, and is widely used by local authorities during planning permission to help determine the impacts of new developments. Therefore notwithstanding the breach of the 45-degree code which is one tool used by the Local Planning Authority to assess the impact of proposed development on the amenity of neighbouring occupants, on this occasion it is

considered that the impact on daylight and sunlight to neighbouring properties would not be sufficient to warrant refusal. This addresses representations received regarding concerns about the impact of this proposal on sunlight availability.

Concerns have been raised regarding the impact of proposed windows on neighbouring amenity in terms of overlooking and loss of privacy. As both the ground and first floors of the replacement dwelling would extend beyond the rear elevations of the neighbouring houses, the natural outlook from proposed windows would be onto deeper areas of the rear garden of the adjacent houses than the existing outlook. At the ground floor the outlook would be primarily onto the applicant's own rear garden with no rear neighbouring occupants that could be impacted. There would be obscurely glazed panels on either side of the rooftop balcony, which would restrict views from the central rear patio doors at the first floor onto the applicant's own rear garden and limit views towards the neighbouring gardens by users of this balcony. A condition will be included to secure obscured glazing in this location to protect the privacy of neighbouring occupants. 3 second floor dormer windows are proposed to serve the rear bedrooms in the roof space. The central window of the three has been indicated as a potential bathroom and a condition will be included to secure obscured glazing for this window. The other two dormer windows and outer two first floor windows face the applicants own garden and views from these windows over neighbouring gardens, whilst in different locations to the existing building are considered would reflect the relationship that could be expected between rear windows and neighbouring gardens.

The principal elevation of the replacement dwelling would not extend forward of the principal elevation of the existing dwelling. Proposed gables above the first floor at the front would be above the line of sight from the first floor windows at the neighbouring dwellings and are considered would be of limited visibility for these occupants. The front of the dwelling would comply with the Council's 45 degree code and is considered would have limited impact on neighbouring amenity. All proposed windows in the principal elevation facing onto Skip Lane are considered would reflect the existing relationship between the site dwelling and any opposite habitable room windows and their position in relation to the highway and therefore there are no concerns regarding front windows.

Bathroom and en-suite windows are proposed on the side elevations of the dwelling and a condition will be included to ensure that these are obscurely glazed to protect the amenity of occupants. A second floor landing window serves a non-habitable room and the applicant has indicated on the plans that this would be obscurely glazed. A ground floor side facing opening is proposed to serve a dining room. This opening would consist of patio doors with additional glazed panels on either side. It is acknowledged that the outlook from these doors would be onto the two storey side elevation of no. 31 with a separation distance of 1.2m, which falls short of the requirement outlined in the SPD Designing Walsall. However, it is considered that this is a large glazed area with a separation distance that would allow some light ingress to the dining room and whilst it would not create a preferred outlook from this

habitable room, it would cause no harm to the amenity of neighbouring occupants and in this case can be accepted.

Protected Species / Ecology

The site falls within multiple bat buffer zones, borders the Merrion's Wood SINC and nature reserve and there are neighbouring lines of mature gardens, which raises the risk of bat presence. In this case, as the application proposes demolition of the existing dwelling, if bats are present disturbance and destruction to their roost would occur.

Consequently, in accordance with NPPF 15 and Conserving Walsall's Natural Environment SPD, a bat survey report in support of this proposal was requested and has been provided. The report identified no evidence of bats using the buildings as a place of shelter or of birds nesting in the building and no roosting opportunities in the property. The felling of the trees or removal of the shrubs between the beginning of March and the end of August in any year must be preceded by a check for nesting birds. If birds are nesting then no felling or removal can proceed until the young have fledged. A method of working must be put in place with contractors to ensure that in the event of bats being found they will not be injured and new roosting opportunities for bats can be created to meet the requirements of the National Planning Policy Framework by installing a brick built bat box.

Impact on Trees

There are no protected trees within the boundary of the application site. Mature trees at the rear of the site would either be a sufficient distance from the proposed dwelling not to be harmed by construction or in the case of some conifers on the rear lawn would not cause significant harm to the character of the area or amenity of neighbours if they were removed. However, there is a mature Monkey Puzzle Tree in the front garden that the Tree Officer has assessed to be in good condition and this tree is considered to add amenity value to the street scene. Whilst the applicant has not indicated any intention to remove this tree at this current time, the Tree Officer has indicated that the tree should be retained due to its amenity value. Further comments and recommended conditions from the Tree Officer will be added to the supplementary paper when and will be formulated in line with the recommendation to delegate the finalising of conditions to the Head of Planning and Building Control.

Access and Parking

Representations were received regarding the impact of this proposal on parking requirements, availability and highway safety. Saved UDP policy T13 requires three off-street parking spaces for a 5+ bedroom dwelling. The proposals will provide a garage space and there is ample space at the front of the house to accommodate this level of off road parking. The Local Highway Authority have expressed their support for this scheme subject to a condition to ensure that any front boundary treatment would protect highway safety in terms of the separation distance from the front

boundary and height.

Conclusions and Reasons for Decision

The key material planning considerations, neighbour comments and consultee responses have been weighed in assessing the planning application and it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, BCCS policies CSP4, ENV1, ENV2, ENV3, ENV7 and ENV8 Saved Unitary Development Plan policies GP2, ENV8, ENV10 ENV18, ENV23, ENV30, ENV32, ENV33, T13 and the Air Quality SPD, Conserving Walsall's Natural Environment SPD and Designing Walsall SPD and on balance is considered to be acceptable.

It is considered that the proposals will not cause harm or adversely impact on the character, appearance and identity of the local area, adjacent CA, or the setting of the RPG or LNR. The site is not within the Green Belt and consequently it is also concluded that the proposal would not result in harm to the openness of the Green Belt or character of the adjacent open land. The proposal is considered to be consistent with advice in the NPPF. An appropriate level of private amenity will be retained for all neighbouring occupiers, and will continue the character of the street frontage along Skip Lane.

The use of safeguarding conditions in respect of the materials, protected species, air quality, glazing and boundary treatments will ensure that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

Taking into account the above factors, the objections from consultees and the community, 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 original height and design and the requirement for further information in relation to impact on daylight and sunlight to neighbouring occupants and the impact on the adjoining registered Park and Gardens, amended plans and information 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:

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions; and
- No further comments from a statutory consultee raising material planning considerations not previously addressed.

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:

- Existing Floor Plans and Photographs (including site and location plan), drawing no. BDBC/20/95 – 01B, submitted 18/01/2021
- Proposed Floor Plans, drawing no. BDBC/20/95 – 03C, submitted 11/03/2021
- Proposed Elevations, drawing no BDBC/95 – 04C, submitted 11/03/2021
- Daylight and Sunlight Assessment for Planning, carried out by T16 design, dated March 2021
- Bat and Bird Survey, carried out by S. Christopher Smith, dated 02/12/2020
- Heritage Statement, submitted 24/02/2021

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).

3a. 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 that match the existing materials 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.

3b. 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.

4a: Prior to the commencement of development hereby permitted an Air Quality Low Emission Scheme for the installation of electric-vehicle charging points and Ultra-Low NOx boilers shall be submitted to and agreed in writing, with the Local Planning Authority.

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

4c: . Prior to the first occupation of the development hereby approved an independent validation report shall be submitted to and agreed in writing, with the Local Planning Authority that demonstrates the approved mitigation measures have been carried out in accordance with the approved details.

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

5a) Prior to the commencement of development including any engineering, site clearance/preparation, and/or construction works a Construction Environmental Management Plan 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. Site security arrangements including hoardings
- vii. Measures to prevent site drag-out and measures to prevent mud or other material emanating from the application site reaching the public highway
- viii. Measures to prevent flying debris
- ix. Dust mitigation measures
- x. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

5b) 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 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 the development first being brought into use, details of any solid fuel stove, fire and heating appliance and associated chimney and flue arrangements and their proposed installations shall be submitted in writing to, and approved in writing by, the Local Planning Authority.

6b: No solid fuel stove, fire or heating appliance or associated chimney or flue shall be installed otherwise than in accordance with the approved details.

6c: The approved measures shall thereafter be retained throughout the life of the development.

Reason: To ensure safeguarding of local air quality and to conserve and enhance the natural environment and to comply with BCCS policy ENV8, saved UDP policy ENV10 and the Air Quality SPD

7: 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.

8: Notwithstanding the details as submitted, the development shall not be carried out otherwise than in accordance with

- the first floor and second floor bathroom, en-suite bathroom and landing windows facing no. 31 and no. 35 Skip Lane, and the central rear facing dormer window serving a possible bathroom hereby permitted shall be non-opening below 1.7m and obscurely glazed to meet Pilkington level 4 or equivalent, and
- The glazed privacy screens on either side of the first floor rear balcony hereby permitted facing No.31 and No.35 Skip Lane, shall be 2m high 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.

9. The development hereby permitted shall not be carried out otherwise than in accordance with the approved recommendations of the Preliminary Bat Roost Assessment, carried out by S. Christopher Smith dated 02/12/2020 and the approved details shall thereafter be retained for the lifetime of the development.

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.

10a. Notwithstanding the bat survey carried out by S. Christopher Smith dated 02/12/2020 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.

10b. 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.

11: 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 B (additions to the roof)

-Class C (other alterations to the roof)

-Class D (porches)

-Class G (chimneys, flues)

shall be installed in any part of this development, unless with the prior consent of the Local Planning Authority.

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.

12. Any frontage boundary treatment shall be set back 450mm from the carriageway kerb edge and shall not be any higher than 600mm above carriageway level at any time.

Reason: To ensure adequate inter-visibility in a southerly at the access point along Skip Lane taking into account the property immediately abuts the carriageway and in the interests of highway safety and pedestrian safety to comply with saved UDP policies T1 and T8.

Notes for Applicant

1. The Applicant must ensure that no soil or other debris is washed or placed within the highway. Failure to prevent this incident could result in an offence and a notice being served on the Applicant under Section 151 of the Highways Act 1980.
2. The Applicant must ensure that no water is discharged onto the highway. Failure to prevent this discharge could result in an offence and a notice being served on the Applicant under Section 163 of the Highways Act 1980.
3. Electric Vehicle Charging Points and Ultra-low NOx Boilers
The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points and Ultra-low NOx boilers:

The electric vehicle charging point provision for residential premises is a charging point per residential premise or Units with unallocated parking e.g. apartments – 1 charging point per 10 spaces, complying with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw.

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

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

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

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

Ultra-low NOx boilers discharge NOx at or below 40mg/kWh. The latest models are futureproofed to the European Union's Energy-related Products Directive 2018 NOx levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NOx, and may be eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

Construction Management Plan

Where stabilisation/piling works are included in the agreed Construction Management Plan, the level of structure-borne vibration transmitted to occupied buildings within the site and within a 5 metre radius of the site from the stabilisation/piling works shall not exceed the specified criteria for 'low probability of adverse comment', as prescribed within British Standard BS6472-1:2008 'Guide to evaluation of human exposure to vibration in buildings – vibration sources other than blasting' as may be amended or replaced from time to time.

Demolition, construction and engineering works (including land reclamation, stabilisation, preparation, remediation or investigation), shall not take place outside the hours of 08:00 to 18.00 weekdays and 08.00 to 14.00 Saturdays and no such works shall take place on Sundays, Bank Holidays or Public Holidays*. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

(* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

Approved Document B, Volume 1, Dwelling-houses, 2019.

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)

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).

Blocks of flats with a floor more than 30m above ground level should be fitted with a sprinkler system, throughout the building (ADB Vol 1, Section 7)

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 01 April 2021

Plans List Item Number: 6

Reason for bringing to committee

Council owned land/building

Application Details

Location: WALSALL COUNCIL, THE COUNCIL HOUSE, LICHFIELD STREET, WALSALL, WS1 1UZ

Proposal: LISTED BUILDING CONSENT: REPLACEMENT OF EXISTING BOILERS AND HEATING SYSTEM, INCLUDING INTRODUCTION OF AIR CONDITIONING TO SECOND FLOOR CHAMBERS AND MAYOR'S PARLOUR.

Application Number: 20/1644

Case Officer: Helen Smith

Applicant: Walsall MBC

Ward: St Matthews

Agent: Baart Harries Newall Architects

Expired Date: 22-Feb-2021

Application Type: Listed Building Consent:
Alter / Extend

Time Extension Expiry: 07-Apr-2021

Recommendation

Delegate to the Head of Planning and Building Control to Grant Listed Building Consent Subject to Conditions, and finalising of planning conditions



Proposal

This application for Listed Building Consent is for the following alterations and additions to Walsall Council House;

1. Replacement of heating plant in the basement boiler room.
2. Replacement of heating pipes throughout the building, using existing pipe run locations wherever possible.
3. Replacement of modern panel radiators in offices with new radiators of higher performance.
4. Renovation, cleaning and reuse of existing cast iron radiators
5. Any radiators that prove impossible to renovate will be replaced with replica radiators to match existing
6. Introduction of air conditioning to the front upper floor chambers

The planning agent clarified on 18/3/21 that the external condenser would be located within an internal sunken yard below the roof and cannot be seen from any public area. Furthermore where the new air conditioning unit is mounted on a chimney breast, the pipes will be drilled through into the chimney behind the unit, and taken up the redundant flue to the roof space above. Where the new air conditioning unit is not mounted on a chimney breast, the pipes will be surface mounted and tucked behind the cornice, running into the roof void at the western (internal) end of the wall.

The application is supported by a Heritage Statement of 9/3/21 Rev. A which states that the proposed air conditioning units have been chosen to avoid unsightly pipe runs, with pipes being run into accessible roof voids behind cornices or via redundant chimney flues.

Site and Surroundings

Walsall Council House dates from the first decade of the 20th Century and is a stone facade Grade II Listed Civic Building located within the Lichfield Street Conservation Area.

At the corner of Darwall Street and Leicester Street there is Varsity public house. To the southern side of the site is Leicester Street and at the corner of Leicester Street and Lichfield Street is St Matthews Hall public house, which is also a grade II listed building. Numbers 1 to 15 are grade II listed buildings. To the northern side of the Council House is Tower Street housing the Gala baths. Opposite Lichfield Street are numbers 144a to 147a which are also grade II listed buildings.

The site is within Lichfield Street Conservation Area and Walsall Town Centre.

Relevant Planning History

20/0014 - Listed Building Consent: Provision of new timber and glazed doors with surrounds to foyer of Council House and alterations to existing reception desk to enable it to be moved to a position of 90 degrees of existing (when required) – currently under assessment and not yet determined

19/1344 - Listed Building Consent for re-upholstery of leather covered seating in the Council Chamber – Granted Listed Building Consent 10/12/19

19/0406 - Provision of new glazed (electrically operated) security gate to the internal ground floor of the Council House - Granted Listed Building Consent 1/5/19

18/0831 - Provision of new glazed (electrically operated) security gate to the internal ground floor reception area of the Council House – Listed Building Consent granted 13/08/18

17/1187 - Replace 2 no. windows in Council House and Town Hall and carry out repairs to 2 no. other windows. Work to be done in the same corridor area of the 2nd floor of the Council House – Granted Listed Building Consent 1/12/17

14/0347/FL - Erection of 8m high flagpole on the forecourt of The Council House, Lichfield Street. Granted Subject to Conditions 08/05/2014.

12/0988/LB - 12/0987/AD, Non Illuminated advert 1m by 0.7m. Consent granted

12/1284/LB - Replacements, repairs and cleaning of forecourt balustrading and walls of Council House. Consent granted.

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 16 – Conserving and enhancing the historic 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.

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

- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- ENV27: Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals

Black Country Core Strategy

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

Walsall Town Centre Area Action Plan 2019

AAPLV5: Protecting and Enhancing Historic Character and Local Distinctiveness

AAPLV6: Securing Good Design

Supplementary Planning Documents

Designing Walsall

- DW3 Character

Other Legislation and Policy:

- Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 Section 16(2) Decision on application: In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- Conservation Principles Policies and Guidance for the Sustainable Management of the Historic Environment: English Heritage (2008)
- Historic environment Good Practice Advice Notes 2, and 3
- Heritage at Risk Study 2015, Historic England 2015

Consultation Replies

Conservation Officer – No objections subject to a planning condition concerning the proposed colour of the air conditioning units and any exposed pipework

Fire Officer – No adverse comments

Historic England – No objections

Representations

None received

Determining Issues

- Listed building and its Setting
- Planning Balance regarding works to the Listed Building
- Conservation Area

Assessment of the Proposal

Listed Building and its Setting

In determining any planning application, special attention shall be paid to the desirability of preserving listed buildings as set out in sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Regard should also be given to the relevant parts of the National Planning Policy Framework, in particular paragraphs 189 to 198.

The proposed works would be carried out to the interior of the building and within an internal sunken yard area not visible from the public realm. Subsequently it is considered that this proposal would have a minor impact on a mostly concealed part of the exterior of the Listed Council House, and would not change the character and appearance of the Lichfield Street Conservation Area, or affect any other near-by heritage assets.

The Council's Conservation Consultant has advised that the clarification that the air conditioning units will be located within the sunken yard is considered to be an improvement and satisfies their initial heritage concerns. Furthermore the Consultant has confirmed that the clarification of the various internal pipe routes is also now acceptable.

The remaining concern is that the proposed Mitsubishi air conditioning units appear to be available only in white and it would be preferred if the casings + any exposed pipework were coloured to match the wall colours behind because white would be particularly stark against the cream or the pink as shown on submitted details. This aspect could be addressed by a planning condition in line with the conservation recommendation.

Subject to a safeguarding condition, as mentioned above, to meet the 6 tests it is considered that the proposal will serve to preserve and enhance the significance of the asset in accordance with conservation principles, policies and guidance developed by Historic England. The principle of the proposed development is therefore supported and the works are considered appropriate.

Planning Balance regarding works to the Listed Building

As a listed building is defined as a 'heritage asset' it is necessary to determine if the harm is 'substantial harm' (paragraph 193) or 'less than substantial harm' (paragraph 196). The assessment must balance the scale of the harm against the significance of the heritage assets.

In this case it is considered that the harm would be less than substantial. The application, therefore should be determined against paragraph 196 which states that 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use'.

The proposed upgrade of the heating system, and introduction of air conditioning, is seen as a positive improvement helping to secure the future use of this heritage asset and subsequently the ongoing protection of this listed building to the benefit of the public. The addition of air conditioning to the Mayor's Parlour is considered can be undertaken in a way that would be sympathetic to the historic fabric of this heritage asset and on balance is therefore considered acceptable in this instance.

Conservation Area

The proposals are considered would have a minimal impact on the external appearance of the application site, the character and appearance of the Lichfield Street Conservation Area would be negligible. It is assessed that the proposed development could comply with the requirement to preserve or enhance the character and appearance of conservation areas as outlined in national legislation.

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 upgrade of the existing heating system and introduction of air conditioning provision is seen as a positive improvement to the maintenance, and future use, of the building. The proposed works would be carried out to the interior of the building only and would have no impact on the exterior of the Listed Council House, and would not change the character and appearance of the Lichfield Street Conservation Area, or affect any other near-by heritage assets. The proposed air conditioning units and associated works have been carefully considered and on balance it is considered that as these units will be located within a sunken yard area, not visible from the public realm satisfies the concerns of the Council's heritage consultant subject to the inclusion of safeguarding conditions regarding colour of the units and exterior pipework.

The use of safeguarding conditions to define the consent if approved can be included to meet 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 196), policies, ENV2 and ENV3 of the Black Country Core Strategy, policy AAPLV5 AND AAPLV6 of Walsall Town Centre Area Action Plan and saved policies GP2, ENV27 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Policy DW3 of Designing Walsall.

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 confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Delegate to the Head of Planning and Building Control to Grant Listed Building Consent Subject to Conditions, and finalising of planning 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: This development shall not be carried out other than in conformity with the following approved plans: -

- Location Plan, drawing no. 2743-D-01, deposited 29/12/2020
- Radiator Schedule, deposited 29/12/2020
- Schedule of Boilers, reference BD1226/SCH/002 deposited 29/12/2020
- Schedule of Pumps, reference BD1226/SCH/001 deposited 29/12/2020
- Specification, reference BD1226 February 2020 deposited 29/12/2020
- Basement Floor Existing Heating Layout, drawing no. M1, deposited 25/01/21
- Basement Floor Existing Heating Layout, drawing no. M6, deposited 25/01/21
- Existing Plant Room Layout, drawing no. M11, deposited 25/01/21
- First Floor Existing Heating Layout, drawing no. M3, deposited 25/01/21
- First Floor Proposed Heating Layout, drawing no. M8, deposited 25/01/21
- Ground Floor Existing Heating Layout, drawing no. M2, deposited 25/01/21
- Ground Floor Proposed Heating Layout, drawing no. M7, deposited 25/01/21
- Proposed Boiler House Schematic, drawing no. M12, deposited 25/01/21
- Proposed Plant Room Layout, drawing no. M13, deposited 25/01/21
- Second Floor Existing Heating Layout, drawing no. M4, deposited 25/01/21
- Second Floor Proposed Heating Layout, drawing no. M9, deposited 25/01/21
- Second Floor VRF-AC Layout, drawing no. M14, deposited 25/01/21
- Third Floor Existing Heating Layout, drawing no. M5, deposited 25/01/21
- Third Floor Proposed Heating Layout, drawing no. M10 deposited 25/01/21
- Heritage Statement of 9/3/21 Rev. A deposited on 10/3/21

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 air conditioning units and exposed pipework of the development hereby permitted shall be finished in a colour to match the existing wall located directly behind these additions and shall thereafter be retained and maintained as such for the lifetime of the development.

Reason: To preserve the appearance and character of heritage assets, to ensure the satisfactory appearance of the development and to comply with saved policies GP2, ENV27 and ENV32 of the Walsall Unitary Development Plan, Policies env2 and ENV3 of the BCCS and SAD policy AAPLV5

END OF OFFICERS REPORT



Planning Committee

Report of Head of Planning and Building Control on 01 April 2021

Plans List Item Number: 7

Reason for bringing to committee

Councillor Application

Application Details

Location: 44, MELLISH ROAD, WALSALL, WS4 2ED

Proposal: RETROSPECTIVE APPLICATION FOR THE RETENTION OF A DORMER WINDOW TO THE REAR

Application Number: 20/1282

Case Officer: Leon Carroll

Applicant: Mr Suky Samra

Ward: St Matthews

Agent: Mr James Brookes

Expired Date: 28-Dec-2020

Application Type: Full Application:
Householder

Time Extension Expiry:

Recommendation

Delegate to Head of Planning and Building Control to Grant Planning Permission Subject to Conditions and finalising of planning conditions



Proposal

This proposal is retrospective and relates to the retention of a dormer window to the rear. The dormer is located facing sideways on a recently constructed two storey rear extension.

The new dormer measures:

2.3m wide

2m high

3m deep

Site and Surroundings

The application site is an extended two storey detached dwelling which is located on Mellish Road, whilst the side of the property adjoins Rushwood Close. The area is characterised by detached dwellings with a mix of large and small plots which come together to form an area of established residential character.

Relevant Planning History

07/1523/FL/H1: First floor side and rear extension and lean-to roof over single storey rear extension: Permission Refused 5 October 2007. Appeal dismissed.

08/1440/FL: Proposed first floor side extension over garage and retention of ground floor extension to rear: Permission Refused 9 December 2008

09/0011/FL: Proposed first floor side extension over garage: Permission Refused 8 April 2009

19/0277: First floor side extension including new front gable feature and altering to main roof, first floor rear extension, plus loft conversion. GSC 06/08/20

20/1119: Variation of condition 2 for application 19/0277 - first floor side extension including new front gable feature and altering to main roof, first floor rear extension, plus loft conversion. GSC 15/12/20

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 8 – Promoting healthy and safe communities**
- **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.

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

Black Country Core Strategy

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

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

Consultation Replies

Pollution Control – No specific requirements.

Representations

One letter of objection from a nearby neighbour was received on the following grounds (*Officer comments in italics*):

- The dormer window has already been constructed (*the officer's site visit confirmed that the dormer has already been constructed. However retrospective planning applications must be considered by the LPA on their own merits*).
- Other unauthorised works have taken place (*the LPA has a duty to consider the proposed works as set out in this current application. Any unauthorised works or deviations from previously approved plans are a separate matter for planning enforcement to consider*).

Determining Issues

- Design and appearance
- Impact on residential amenity

Assessment of the Proposal

Design and Appearance

The proposed dormer window is located to the rear of the existing dwelling and is screened to a large extent by the two rearward projecting extensions which have recently been constructed. The dormer is not considered to be excessively large, and will not be overly prominent from public vantage points. On balance, the proposal is considered would not result in any significant additional harm to the character or appearance of the application house or to the surrounding area and a refusal would not be warranted in this instance.

A condition would be included to secure the use of appropriate external materials to ensure satisfactory appearance.

Impact on Residential Amenity

Whilst the proposed dormer window will be side facing, it is considered that the proposal would not result in overlooking of Nos 2 and 4 Rushwood Close due to the existing two storey rear projecting extension at the application house which has been constructed following recent planning approvals. There is potential for some degree of overlooking of No 6 Rushwood Close, albeit at a 45 degree angle. However as the proposed dormer window is only to serve a non-habitable store room, it is considered

reasonable to impose a planning condition requiring the window to be obscure glazed and non-opening unless the parts of the window which can be opened are more than 1.7m above internal floor level. This would help to minimise any perceived overlooking or loss of privacy to neighbours and is considered acceptable on these grounds.

The proposed dormer window will not result in any additional loss of outlook for neighbours or cause any overshadowing. Overall, and subject to the above planning condition, the proposal is considered acceptable and would not result in any adverse impacts on the living conditions of the occupants of neighbouring dwellings.

Conclusions and Reasons for Decision

The proposed dormer window extension would not have any significantly adverse impacts on the character and appearance of the existing dwelling or the wider street scene, and would not harm the living conditions of the occupants of neighbouring dwellings. Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. The National Planning Policy Framework encourages pre-application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

Recommendation

Delegate to Head of Planning and Building Control to Grant Planning Permission
Subject to Conditions and finalising of planning 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:

- Block and Location Plan Dwg No 51 received 2nd November 2020
- Proposed Floor Plans and Elevations Dwg No 53 Revision B received on 15th March 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 development hereby permitted shall not be constructed other than using the materials as described on approved plan 'Proposed Floor Plans and Elevations Dwg No 53 Revision B' received on 15th March 2021 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 details submitted, the dormer window hereby permitted shall not be constructed other than as obscure glazed to Pilkington (or equivalent) privacy level 4 and there shall be no opening parts lower than 1.7metres from the floor level of the room they serve and the window shall thereafter be retained as such for the lifetime of the development.

Reason: To safeguard the amenities of the neighbours and to comply with saved policy GP2 of the Walsall Unitary Development Plan.

END OF OFFICERS REPORT