



Contents Sheet

Item No	Page No	Application Number	Site Address	Proposal	Recommendation
1	1	16/0465	HIGHFIELDS SOUTH QUARRY, WALSALL ROAD, WALSALL WOOD, WALSALL, WS9 9AH	Variation of condition 4 of planning permission 07/0046/WA/E1 to allow additional 9.2 years, until 31/12/2025 to complete the existing approved scheme for the phased filling and restoration of Highfields South Quarry to create open space.	Grant permission subject to conditions
2	21	14/1754/FL	FORMER MILLFIELDS NURSERY SCHOOL SITE, STONE LANE/ LICHFIELD ROAD, BLOXWICH, WS3 3LU	Erection of 14 x 2 bedroom flats.	Grant permission subject to conditions and completion of a S111 Agreement to require completion of a S106 Agreement to secure provision for urban open space contributions and replacement tree planting.

3	35	16/0659	Former St. Margaret's Hospital, off Queslett Road, Great Barr, Walsall	Amendment of condition 33C of planning permission 02/2417/OL/E2 to include "or any other use approved by the Local Planning Authority"	Grant permission subject to conditions and subject to a Deed of Variation to the original Section 229A Agreement (equivalent to a Section 106 Agreement) to secure the outstanding provisions within the Agreement.
4	47	16/0433	175, WEDNESBURY ROAD, WALSALL, WS2 9QL	Change of use to A5 (Hot Food Takeaway) with ancillary seating and new ventilation duct.	Grant Permission Subject to Conditions
5	57	16/0057	17, GREAVES CLOSE, WALSALL, WS5 3QT	First floor front extension at 3.8m long (additional 1.8m above that approved under 07/1217/FL/NB), replacement pitched roof, internal layout alterations and amended associated external window and door positions and rooflight to front (re-submission of 15/1433).	Grant Permission Subject to Conditions
6	67	16/0416	44, ANSON ROAD, BENTLEY, WALSALL, WS2 0DH	Retrospective: Single storey 6.2 metres deep rear extension.	Grant Permission Subject to Conditions
7	77	16/0622	2, BLUE CEDAR DRIVE, ALDRIDGE, WALSALL, B74 2AF	First floor front gable extension over garage and single storey side extension.	Refuse

8	85	16/0737	35, NORTHGATE, ALDRIDGE, WALSALL, WS9 8QF	Retention of an existing fence and shed with alterations	Grant Permission Subject to Conditions
9	91	16/0578	39A, INGLEWOOD GROVE, STREETLY, SUTTON COLDFIELD, B74 3LL	Two storey side/rear extension and single storey rear extension.	Grant Permission Subject to Conditions



Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Sep-2016

Plans List Item Number: 1.

Reason for bringing to committee: Major Application

Location: HIGHFIELDS SOUTH QUARRY, WALSALL ROAD, WALSALL WOOD, WALSALL, WS9 9AH

Proposal: VARIATION OF CONDITION 4 OF PLANNING PERMISSION 07/0046/WA/E1 TO ALLOW ADDITIONAL 9.2 YEARS, UNTIL 31/12/2025 TO COMPLETE THE EXISTING APPROVED SCHEME FOR THE PHASED FILLING AND RESTORATION OF HIGHFIELDS SOUTH QUARRY TO CREATE OPEN SPACE.

Application Number: 16/0465

Applicant: Gerald Owen

Agent:

Application Type: County Matters Application

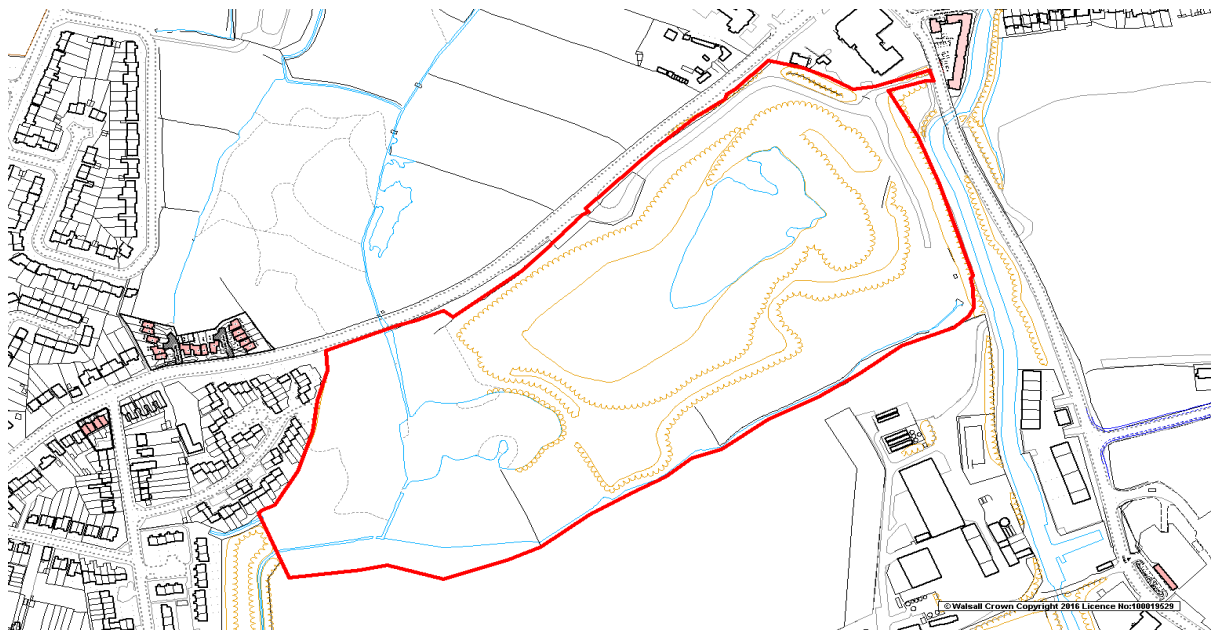
Case Officer: Paul Hinton

Ward: Rushall-Shelfield, Aldridge North And Walsall Wood

Expired Date: 19-Jun-2016

Time Extension Expiry: 06-Sep-2016

Recommendation Summary: Grant permission subject to conditions



Current status

The application was due to be presented to the Planning Committee on 7th July but was deferred at the request of both the applicant and a resident who was due to speak against the application to enable discussions to be had to understand and seek to address the neighbour's concerns in regard to rodents, dust and odour.

Since the meeting, the applicant and resident have met with the applicant advising:

- In relation to rodents, Cory Environmental's Rodent Control contractor has inspected the western end of the site, notably the boundary adjacent to Woodbridge Close and found no evidence of any rat runs or burrows within the site. A saucepan full of food on the floor of the alleyway outside but adjoining the site was identified; fly tipping over the fence onto the site, and fly tipping of garden refuse on the Woodbridge Close side of the fence – all of which could attract rodents. Cory will seek to remove the fly-tipped material within their land and would look to send out an advisor leaflet to nearby residents in regard to fly tipping issues.
- In relation to dust, Cory explains they are continuing to be vigilant in dampening down the haul roads to minimise the potential for airborne dust. We are also ensuring that any load delivered to site that has the potential to generate airborne dust is deposited directly at the base of the working face and rapidly covered. Cory have since spoken to the local resident who informs him that dust has not been the issue it previously was.
- In relation to odour, Cory have double-checked to ensure that all the landfill gas wells are fully sealed and provided the resident with their Area Manager's mobile phone number so that he can be contacted, including out of hours, should an odour be detected. This will enable them to quickly investigate the source of any odour at the time rather than trying to identify it, for example, the following day.
- Cory also explain that in speaking with the resident the resident has confirmed that there have not been any odours in the last few months and acknowledged that the diversion of household and food waste to other forms of waste management (e.g. Anaerobic Digestion and Energy from Waste) will mean future operations at the site will have much less potential to generate odour.
- Cory advise that the resident has commented to them that he appreciates that they have followed up on his concerns and will contact them should there be any matters that arise in the future. Cory will also keep in touch with the resident to ensure that if there are any concerns arising they can investigate and address them.

Officers have contacted the resident who confirms that Cory Environmental have been sympathetic to the concerns, the company has made enquiries and reported back. The resident no longer holds an objection to the application.

One further letter of representation has been received and that is considered within the largely unaltered report below. The relevant conditions from the previous planning permissions have been updated where necessary and are recommended to be included.

Application and Site Details

Highfields South Quarry has planning permission to be restored through the infilling of non-hazardous waste. The quarry is being restored in a series of phases which have previously been approved. Under the terms of the current planning permission landfilling should be completed by October 2016.

This application seeks to vary condition 4 of planning permission 07/0046/WA/E1 to read: The deposit of wastes shall be carried out in accordance with the submitted progressive infilling and restoration phasing and shall cease no later than 31 December 2025 unless otherwise approved in writing by the Local Planning Authority.

Highfields South Quarry covers approximately 12 hectares of land located south of the A461 Lichfield Road, approximately 40 metres north of Sheffield and part of the West Midlands Green Belt. The surrounding uses are mixed with residential property to the west and open land to the north. Immediately north east is the Barons Court Hotel beyond which is an apartment block. To the south is the former landfill site owned by Veolia Environmental Services. In the wider area there are residential properties close by on Queen Street, Walsall Wood. The now completed Vigo Utopia Landfill site (currently awaiting final landscaping) lies to the east beyond Boatmans Lane.

In reviewing ongoing site operations and the limited success of the management of Bithynian Vetch, the application also seeks to amend section 4.4 of the management plan for this rare flower plant. The amended management plan proposes to change the location and the preparation method for establishment.

Supporting Statement:

- Envisaged that the site would be completed by the end of 2016, however recycling, waste minimisation and landfill tax initiatives have been successful in diverting large quantities of waste away from landfill resulting in it taking longer to fill the site and in addition the recession that started in 2008.
- Walsall Council has now diverted its collected household waste from the site to the new Energy from Waste Plant near Wolverhampton
- With less waste delivered to the site there is a need for additional time to continue the operations to fill and restore the former quarry.
- During the 2007 planning application it was anticipated that the site would have an input rate of approximately 300,000 tonnes per year. During the period the site has been fully operational (13/8/2010) the annual average rate of inputs has been 120,000 tonnes per year.
- Additional time period will enable the full restoration of the quarry and delivery of the approved site restoration scheme, so creating areas of open spaces, woodland, wetland and species rich grassland with public access.
- Without the additional time to finish the approved operations, it will be impracticable to complete the filling of the site. An unrestored deep mining void, with steep sidewalls will remain, with water accumulating in the base. This would pose a clear safety hazard and will not deliver the lasting benefits of restoring the former quarry.
- The continued filling and completion of the site will enable the progressive implementation and delivery of the approved restoration and landscaping scheme to re-instate the former quarry workings, creating a visually attractive and diverse landscape which integrates into the local area and provides a resource with a variety of habitats of ecological value together with public access.

Relevant Planning History

BC48719P: New conditions for mineral working permission EB593 (dating from 1954), issued in 1997 under the requirements of the Environment Act 1995. These new conditions include provision for the completed mineral excavation to be landfilled to achieve a beneficial after use. A scheme of working for the quarry was approved under consent BC5828 in 1978.

07/0046/WA/E1: Planning Application and Environmental Statement to amend Conditions 27, 42, 43, 48 and 50 of Planning Permission Reference BC48719P dated 9 July 1997, and the development details in particular: the provision of information regarding the waste types

PAGE 3 OF 97

imported to restore the site to wet and deciduous woodland, grassland and a waterbody with public access at Highfields South Quarry. Granted subject to conditions 27/4/2007.

10/0165/FL: Request to extend the time to allow landfill operation to continue at Vigo Utopia Quarry and to continue the time in which it and the adjacent Highfields South Quarry will operate concurrently. Resolved: An extended period for Highfields South Quarry to operate concurrently with the deposit of waste at the neighbouring Vigo Utopia Quarry until 30th September 2010. Approved 8/4/10

11/0953/FL - Variation of Condition 3 to permit extra time to complete the approved mineral extraction works by 30th October 2013 & variation of phasing plans to approved under condition 4 of planning permission 07/0046/WA/E1. Granted subject to conditions 22/9/11

15/1403 – Screening opinion to extend the landfill completion until 31/12/25. Environmental Statement not required 9/10/15.

Relevant Planning Policy Summary

European Union Waste Framework Directive (2008/98/EC) and Waste Regulations 2011 (As Amended)

The most important objectives of national and local policy come directly from the European Union Waste Framework Directive (2008/98/EC). The Directive has been transferred into secondary legislation in England through the Waste Regulations 2011 (as amended).

National Legislation

The Waste Regulations 2011 - A planning authority must not grant planning permission or development consent for a landfill unless it has taken into consideration the requirements of—

paragraph 1.1 of Annex I and paragraph 5 of the Landfill Directive

Landfill Directive

Annex 1, Paragraph 1.1: The location of a landfill must take into consideration:

- (a) distances from residential and recreation areas, waterways, water bodies and other agriculture or urban sites
- (b) the existence of groundwater or nature protection zones
- (c) the geological and hydrogeological conditions
- (d) risk of flooding, subsidence or landslides
- (e) the protection of the nature of the area

Annex 1, Paragraph 7: Measures shall be taken to minimise nuisances and hazards arising from the landfill through:

- emissions of odours and dust
- wind-blown materials
- noise and traffic
- birds, vermin and insects
- formation and aerosols
- fires

The landfill shall be equipped so that dirt originating from the site is not dispersed onto public roads and the surrounding area

National Planning Policy Framework (NPPF)

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to

contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

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

Proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local places the country needs.

- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- contribute to conserving and enhancing the natural environment and reducing pollution.
- encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

1. Delivering sustainable development

18 The Government is committed to securing economic growth in order to create jobs and prosperity.

19 Planning should encourage and not act as an impediment to sustainable growth.

21 Investment in business should not be over-burdened by the combined requirements of planning policy expectations.

4. Promoting sustainable transport

32 All development should have safe and suitable access to the site for all people.

Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

35 Developments should be located and designed where practical to: accommodated efficient delivery of goods, give priority to pedestrian and cycle movements, create safe and secure layouts.

7. Requiring good design

56. Good design is a key aspect of sustainable development, is indivisible from good planning.

58 Developments should function well and add to the overall quality of the area. Establish a strong sense of place using streetscapes and buildings to create attractive and comfortable places to live, work and visit. Optimise the potential of the site to accommodate development. Respond to local character and history, and reflect the identity of local surroundings and materials. Create safe and accessible environments that are visually attractive as a result of good architecture.

61 Securing high quality design goes beyond aesthetic considerations. Decisions should address the connections between people and places and the integration of the new development into the built environment,

64 Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

9. Protecting Green Belt Land

80. One of the purposes of the Green Belt is to encourage the recycling of derelict land.

90. Mineral extraction is not an inappropriate form of development in the Green Belt

11. Conserving and enhancing the natural environment

109 The planning system should prevent new and existing development from contributing to...unacceptable levels of soil, air, water or noise pollution or land instability.

111 Planning decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided it is not of high environmental value.

118 Local planning authorities should aim to conserve and enhance biodiversity by....incorporate biodiversity in and around developments.

120 To prevent unacceptable risks from pollution decisions should ensure that new development is appropriate to its location. The effects (including cumulative effects) of pollution on health or general amenity and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

122. Local planning authorities should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.

123 Planning decisions should aim to:

- avoid noise from giving rise to significant adverse impacts
- mitigate and reduce to a minimum adverse impact on quality of life arising from noise from new development, including through the use of conditions.
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value.

On planning conditions the NPPF says:

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

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

Planning Practice Guidance – Waste

- Drive waste management up the waste hierarchy
- Not assume that because a particular area has hosted as waste disposal facility that it is appropriate to add to these or extend their life.
- The continued provision and availability of waste disposal sites, such as landfill, remain an important part of the network of facilities needed to manage England's waste
- The continued movement of waste up the waste hierarchy may mean that landfill sites take longer to reach their full capacity, meaning an extension of time limits to exercise the planning permission may be needed in some circumstances.

National Planning Policy for waste

- Consider the likely impact on the local environment and on amenity against set criteria
 - o Protection of water quality
 - o Land instability
 - o Landscape and visual impacts
 - o Traffic and access
 - o Air emissions including dust
 - o Odours
 - o Noise, light and vibration
 - o Litter
- Ensure waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area
- Concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities.

- Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.
- Ensure that landfill sites are restored to beneficial after uses at the earliest opportunity.

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations)

The application has been assessed and is a Schedule 2 Development, but due to the site area, substantially less than 20ha it is not an EIA development.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

The relevant key policies are:

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

2b: Encourages sustainable management of material resources through minimising waste, ensuring all members of the community have the best access to housing, previously development land is prioritised over greenfield sites and encourages a comprehensive approach to development.

CSP1: Sets out the targets for sustainable regeneration of the Black Country.

CPS3: Proposals will need to protect, enhance and expand network of environmental infrastructure.

CPS4: The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers.

CSP5: Sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

DEL1: all new development should be supported by the necessary on and off-site infrastructure to serve the development and mitigate its impacts on the environment

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

TRAN3: Seeks to manage the movement of freight

TRAN4: Requires new developments to link to existing walking and cycling networks. Cycle parking facilities should be provided at all new developments.

TRAN5 Sets out the requirement for development to focus on moving away from the reliance on the private car.

ENV1: Adequate information must be submitted with planning applications for proposals which may affect any designated site or any important habitat, species or geological feature to ensure that the likely impacts of the proposal can be fully assessed. Without this there will be a presumption against granting permission.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Provision of a high quality network of streets, buildings and spaces

ENV5: Seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage

EMV7: Promotes the development of renewable energy.

WM1: The Black Country will aim to achieve zero waste growth by 2026 through: moving waste up the waste hierarchy and supporting proposals which involve optimum uses for waste materials.

WM2: Proposals to expand or upgrade an existing waste management site will be supported in principle subject to taking into account: moving waste up the waste hierarchy; maintain or increase throughput capacity; diversify the range of facilities; support the relevant municipal waste strategy; result in improvements to the site; address existing land use conflicts.

WM3: Identifies sites as strategic waste management proposals and notes other opportunities may come through other planning applications. The Black Country has an unmet demand for Municipal Solid Wastes and Commercial and Industrial Waste

WM4: Waste arising in the Black Country should be managed within Black Country where feasible. The clustering of related or complementary waste treatment, transfer and disposal operations in a specific location will also be supported, where this would not have adverse cumulative impacts on neighbouring uses. All proposals should minimise adverse visual impacts, potential detrimental effects on the environment and human health, and localised impacts on neighbouring uses from noise, emissions, odours, vermin and litter. To minimise such impacts, wherever possible, waste management operations should be contained within a building or other physical enclosure.

It is considered in this case that the relevant provisions of the BCCS can be given full weight.

Walsall's Unitary Development Plan (UDP)

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2 Expects all development to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact upon the environment: i) Visual appearance, ii) The creation of, or susceptibility to, pollution of any kind, iii) Potential problems of land stability, contamination, vii) Accessibility by a choice of means of transport including adequacy of access, xix) The hours of operation. 3.6 Development schemes should, as far as possible, help to improve the environment of the borough.

3.7 Seek to protect people from unacceptable noise, pollution and other environmental problems.

ENV2: The extraction of minerals or the controlled tipping of waste can be appropriate development in the Green Belt.

ENV10: a) Development of an industry or facility which may cause pollution will only be permitted if it would not:

Release pollutants into water, soil or air

Cause unacceptable adverse effect in terms of smoke, fumes, gases, dust steam, heat, light, vibration, smell, noise or other polluting emissions

Have an unacceptable adverse effect on nearby land uses and/or restrict the types of new development that could be permitted in the locality, or impose special conditions on them.

b) Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses. Where there is contamination, stability or ground gas issues, the application must assess the

level of the risk and set out a strategy for dealing with them as part of the proposed development.

ENV32: Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Seeks conservation and protection of all water resources.

JP8: a) The location of potentially bad neighbour uses will be given very careful consideration taking into account the particular environmental implications of individual proposals.

T1: Seeks to ensure people can get access to public transport and improve mobility

T4: Sets the aim of managing the flow of traffic on the Borough's road network

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13. This will involve providing an adequate level of parking to meet operational needs while not exceeding any maximum parking standards that are specified.

of cycling infrastructure should be safe and secure for all users.

T10: The Council will use planning conditions to ensure that accessibility standards continue to be met throughout the life of the development.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

10.6 No further proposals for landfills will be permitted, except where landfill is necessary to facilitate the regeneration of despoiled land or mineral workings.

10.7 Council will safeguard the environment and protecting the amenities of local residents.

It is considered that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

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

Designing Walsall SPD

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DW10 – new development should make a positive contribution to creating a sustainable environment.

It is considered in this case that the relevant provisions of SPD Designing Walsall are consistent with the NPPF.

Emerging Policy

Site Allocations Document:

Draft policy W4: Highfields South is proposed to continue to be a Strategic Waste Site.

Consultations

Transportation – no objection.

Environment Agency – no comments received.

Natural England – no objection.

Pollution Control – no objection providing remaining conditions are continued into any new permission.

Canal and Rivers Trust – no objection. Safeguards put in place under previous approvals to be retained and that these conditions are updated on any new approval.

Landscape – no objection.

Environmental Health – no objection

Flood Risk Planning & SuDs Officer – no objection.

Public Participation Response

Site notices displayed, adjacent occupiers written to and notice published in the press.

Two letters have been received objecting to the application on the following grounds:

- Subjected to many environmental disturbances for long enough
- Unfair for the area not to be reinstated to the original proposed landscaping
- Existing odour problem
- Noise from the site and heavy flow of HGV traffic
- Great deal of noise pollution late into and during the night
- Increased sightings of rats around Woodbridge Close.
- Increased seagulls, magpies and crows within the area
- Praise to Cory for the management of litter, road and dust pollution as this causes little disruption.

One letter has been received making the following comments:

- Applicant unable to complete restoration of a landfill site to an agreed timescale
- Restoration of Vigo Utopia quarry is behind schedule
- If they are to be granted an extension to operate, this should be a fixed date and its restoration to create an open space within the target timescale should be closely monitored.

A petition with 88 signatures has been received from the residents of Woodbridge Close seeking:

- Council to investigate nuisance of smells, dust, flies and vermin that residents are subject to and feel that children's health has been put at risk since the quarry was opened.
- Object to any extension to the lease on the quarry as it has already reduced quality of life, to extend its life until 2025 would be an infringement of rights as citizens.

Determining Issues

- Principle of development
- Visual impacts
- Impact on residential amenity
- Impact on ecology

- Traffic impacts

Observations

Principle of development

Both the National Planning Policy for waste and the National Planning Practice guidance for waste seek to drive waste management up the waste hierarchy, that is disposal as a last resort. These documents also recognised that this continued movement of waste up the waste hierarchy may mean that landfill sites take longer to reach their full capacity, meaning and extension of time limits to exercise the planning permission may be needed in some circumstances. National guidance seeks LPAs to ensure that landfill sites are restored to beneficial after uses at the earliest opportunity.

The dereliction of this former clay pit is being addressed through its restoration by the progressive infill of waste. The planning permission secures a diverse landscaped area that would be publicly accessible. By October this year the progressive infilling of waste should cease. This time period was projected in 2007 based on the level of waste available within the industry. At that time it was anticipated that there would be an input rate of 300,000 tonnes of waste per year. The average rate of inputs has been 120,000 tonnes per year and this can be attributed to the success of recycling, waste minimisation and landfill tax initiatives in diverting large quantities of waste away from landfill. This absence of material has resulted in it taking longer to fill the site and in addition the recession that started in 2008.

The applicants are currently tipping in phase 3, with 7 phases required to complete restoration.

The applicant therefore seeks additional time period until 31/12/2025 to complete the restoration of the site due to lower than anticipated waste inputs. The prolonged tipping of material and its impacts are considered elsewhere in this report.

The approved restoration of the site would create a visually attractive and diverse landscape which integrates into the local area and provides a resource with a variety of habitats of ecological value together with public access. If permission were refused it will be impractical to complete the filling of the site. An unrestored deep mining void, with steep sidewalls will remain, with water accumulating in the base. This would pose a clear safety hazard and dereliction which would be contrary to the wider public interest of achieving in sustainable regeneration.

The petition objects to the application on the grounds that the quarry has already reduced quality of life and to extend further would be an infringement of rights.

It is recognised that a further 9.2 years seems a sizeable extension of time in addition to the years where clay was extracted from the site. Nationally the government recognises that the success of recycling means landfill sites need to operate longer and the Council would wish to seek the earliest restoration of the site. The approved restoration, including detailed landscape, ecological and surface water assessments would achieve a high quality end use of the site. The refusal of the planning permission would leave local people facing a derelict site with no public access and potential health and safety concerns.

On balance, achievement of the appropriate restoration for the site puts significant weight to this time extension.

Waste regulations require waste planning authorities to apply certain Articles in the EEC Directive when exercising their planning functions, including when they determine

applications for waste management development. In line with Regulation 18 (b) and (c) of the Waste Regulations 2011 (as amended), the Council has a duty to consider whether the proposal would contribute towards an “integrated and adequate” network of municipal waste recovery facilities, and addresses the principles of “self-sufficiency” and “proximity.”

Visual impacts

Phases 1 and 2 of the landfill have been completed, with operations advancing in Phase 3a (there are 7 phases required to complete restoration). Each restored area is subject of a 5 year aftercare programme. While the proposed application will change the timescales of the operations, extending the life of the site by some 9.2 years (end of December 2025) it is noted that due to filling taking place in phases, each phase is restored once its completed, visually the site will be progressively restored rather than simply filling from the bottom of the void all the way to the top. This enables the landscaping to establish across much of the site well before completion of the final phase of the site.

The site benefits from mature landscaping and only partial views of the site are seen from public areas. The phasing of restoration was amended in 2011 to ensure areas subject to the greater public views were restored first. While the additional time period would prolong the period in which the void remains, from public areas this would not be noticeable and on balance with the principle as discussed above the proposal would have no further visual harm.

Impact on residential amenity

In addition to the planning permission the site has and continues to be operated under an Environmental Permit (EP) issued and monitored by the Environment Agency to ensure full environmental protection is provided. The EP governs the day to day operation of the site and provides the relevant framework for determining and implementing appropriate pollution control measures which includes full engineering details to prevent the potential for pollution of groundwater environment; collection and management of leachate and landfill gas and the use of the gas to generate electricity; achievement of specific water discharge standards. In addition control measures include managing and mitigating odours, pests, dust, litter, mud on road, noise and vibration.

Waste deposited at the site is first checked for compliance, then directed to the tipping face where at the point of disposal trained operatives oversee the deposit of waste, visually inspecting the loads as they are tipped and during spreading and compaction. Waste specific heavy plant is used to manage the receipt, spreading, compaction and covering of waste, with waste being deposited in layers that are compacted and covered on a daily basis. Cover material is also applied periodically throughout the day so as to maintain the area of open, exposed waste at an operational minimum.

Leachate formed from when rainwater comes into contact with deposited waste is collected on site and then disposed of. Planning permission exists for leachate to be treated at the adjacent Vigo Utopia site to enable treated water to be discharged into the sewer. There would be no changes to this arrangement.

Landfill gas is generated through the breakdown of biodegradable waste within the landfill site. This is managed on site through collection and passage to a renewable generator which generate electricity. There would be no changes to this arrangement.

Surface water at the site is undertaken through a series of bunds and ditches and collects within a lagoon at the west of the site. Water from the lagoon and sump of the site is used for on-site operations notably wheel washing, dust suppression and sweeping of the road. Very little water is discharged from site. As the site gets restored the existing long term surface water management plan (subject to previous approval), which include sustainable urban

drainage will be implemented to ensure that surface water run-off does not exceed Greenfield rates and that flooding of adjacent land, stream course and land downstream of the site will not arise. There would be no changes to this arrangement.

The hours of operation of will not change; this is permitted to operate between the hours of 07.00-18.00 Monday to Friday and 07.00-13.00 on Saturdays. Generally the site closes to the receipt of wastes 1-1.5 hours before the end of each working day to ensure waste is fully covered and systems operate correctly.

One letter of objection raises concerns about existing odour problem, noise from the site and heavy flow of HGV traffic, increased sightings of rats around Woodbridge Close, increased seagulls, magpies and crows within the area. The petition seeks the Council to investigate nuisance of smells, dust, flies and vermin that residents are subject, commenting that children's health has been put at risk since the quarry was opened. The applicant operates an externally Certified Integrated Management System under which the company commits to investigate and maintain records of any complaints received and resulting remedial action. In eight years of landfilling operations only seven instances of complaints have been received by the applicant.

The applicants also run the Highfields South Liaison Committee which includes members of the public, officers of the Council (Planning and Pollution Control Officers) and the Environment Agency. Rarely have either the Environment Agency or Pollution Control had cause to raise issues of nuisance arising from the operations at the site.

While residents raise concerns about nuisance the absence of complaints made about the operations of the site would indicate on a day-to-day basis the site is operated to an acceptable standard.

The NPPW states LPAs should concern themselves with implementing the planning strategy and not with the control of processes. The NPPF says that authorities should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Modern, appropriately located, well-run and well-regulated waste management facilities operated in line with current pollution control techniques and standards should pose little risk to human health. Local planning authorities should assume that these regimes will operate effectively. While planning permission is required for the use of the site, environmental permits are required to operate it. The Environment Agency is the organisation in charge of day-to-day operations.

For amenity, the determining factor is whether the use is acceptable. The Environment Agency has not raised any comments about the application. The National Planning Policy for Waste indicates that LPAs should work on the assumption that pollution control regime will be properly applied and enforced. Pollution Control raise no objections subject to the imposition of conditions as on the earlier permission and the Environment Agency have not expressed any concerns. It is therefore considered that the on going use of the land, in planning terms is acceptable.

There has been no authorised public access to the site since before mineral extraction operations began over 50 years ago and no public footpaths have either been stopped up or diverted. An integral element of the approved restoration and landscaping scheme for the site is the creation of a network of footpaths which will provide for informal public access within and across the restored site and provide for access from Walsall and Lichfield Roads to both the canal towpath and beyond to and through the restored Vigo Utopia landfill site.

The delay to the restoration of the site could be seen as representing a temporary loss of an opportunity for public access. However this assumes public access would be available if the current proposal were not supported. However if the proposal could not be supported the site would remain unrestored and in which instance it would be unacceptable on health and safety grounds to open it up for public access.

The principle activities have the potential to generate noise and operational good practices throughout the landfill operations have served to manage and mitigate noise emissions from the site. The current permission include noise limiting conditions, with noise monitoring during the life of the site confirming the site operates in accordance with the planning permission.

Dust is dealt with through specific management and operating practices as per the requirement of the Environmental Permit. Measures include a mobile water bowser, spraying of operational areas during dry periods, sweeping and washing of roads, minila drop heights of waste and the immediate cover up of dusty wastes, control of speed on onsite vehicles.

Odour management control is also part of the Environmental Permit. The amount of biodegradable wastes being taken to landfill is reducing which reduces sources of potential odour. Mitigation measures are employed on site, including rapid deposit and good compaction of waste, use of odour masking/neutralising sprays, temporary and permanent capping, use of landfill gas abstraction system and leachate management.

Litter is also controlled through the Environmental Permit and includes sheeting vehicles, litter fences, tipping vehicles orientated to face upwind.

Pests management again is controlled through the EP and includes techniques such as exposing only small areas of wastes, use of insecticide during warmer months, use of fly-trapping bags, bait boxes and bird abatement techniques.

Taking the previous year's input, it is assumed the site inputs will average some 120-130,000 tonnes per year, compared to the expectation in2007 to be 300,000 tonnes per year. Therefore the intensity of use on a daily basis has been lower than the original planning permission permitted.

Impact on ecology

The existing approved Great Crested Newt management plan will continue to be implemented; this safeguards existing habitat and includes the enhancement of one of the ponds on site and the development of two further ponds the enhance the habitat.

The current planning permission (and conditions) secure management plan for water voles, great crested newts and to seek to establish a colony of Bithynian Vetch. No water voles have been identified during ongoing monitoring and there have been no Great Crested Newts identified within the last five years. The approved restoration scheme seeks to provide habitat for both species.

Bithynian Vetch seeds have been sown in accordance with the approved management plan for several years on a bare clay embankment on the south boundary of the site, but only poor specimen plants with very few seed pods have developed. In 2015 a trial of sowing in an alternative location took place. This has been very successful in terms of number of healthy plants and the production of seed pods for harvesting for future sowing.

The only ongoing ecological changes to the site is a change to the technique and location for the sowing of Bithynian Vetch following a trial of these measure in a different location. This trial has brought greater success than projects approved within the current Management

Plan. The proposal would replace section 4.4 of the approved management plan which is considered to be to the benefit of local ecology.

To the north of the site is the Jockey Fields SSSI and further to the south Swan Pool and Swag SSSI's. There have been no recorded instances of the operations at Highfields South having any adverse effect on the value of the SSSI's. The completion of the landfill and restoration of the site in accordance with the approved scheme will re-instate the continuity of the green links between the SSSI's.

The approved restoration has been designed to incorporate both existing features of ecological value at the site and where practicable to provide enhancements and additional features of value. These include safeguarding the existing perimeter trees with tree planting to take place within the restored site via native woodland planting. The scheme also includes retention of existing wetland habitat and grassland habitat.

The additional time for completion of the site will serve to extend the period of ecological management for enhancing the existing habitat areas across the site.

No additional habitat will be removed or lost as a result of the proposal.

Traffic impacts

There is no specific limit on the number of daily deliveries allowed to access the site, the highest annual number of deliveries to the site was during 2011 and involved an average of 68 deliveries for waste. The current average is 55. These average numbers would not change significantly to those currently experienced. If they were to increase they are not expected to be above the highest average level of 68 per day in 2011 and well below the level originally expected (132) had inputs achieved 300,000 tonnes per year. Accordingly it is considered the cumulative transport impacts of the development would not be severe.

Positive and Proactive working with the applicant

The applicant undertook pre-application discussions and the submission of a Screening Opinion prior to the submission of this application. Accordingly no further positive or proactive working has been required to enable full support to be given to the development.

Recommendation: Grant planning permission subject to conditions

1. The deposit of wastes shall be carried out in accordance with the progressive infilling and restoration phasing approved under the terms of planning permission 11/0953/FL and shall cease no later than 31 December 2025.

Reason: To define the period for deposit of waste material and to secure completion of restoration of the site in an environmentally acceptable manner.

2. The following types of waste are approved for importing, depositing and disposal within the site:

- Any waste classified as non - hazardous and inert within the European Waste Catalogue or any successor classification

Reason: To define the permission.

3. The scheme for the protection and enhancement of Bithynian Vetch as set out within section 4.4 of the approved Management Plan approved under the terms of condition discharge application 09/1179/DOC is hereby superseded by amended Bithynian Vetch Management plan received by the Local Planning Authority on 1/6/16. The measures to

protect and enhance the colony shall take place during landfilling operations and for a further period of five years following completion of restoration.

Reason: Bithynian Vetch is a Red Data Book species of national and regional importance and its protection is essential to the successful restoration of the site.

4. The Great Crested Newt Management Plan approved under the terms of condition discharge application 09/1779/DOC shall continue to be implemented in accordance with the approved details.

Reason: The Great Crested Newts, which are present at the site, are a European Protected Species.

5. The Water Vole Management Plan approved under the terms of condition discharge application 09/1779/DOC shall continue to be implemented in accordance with the approved details.

Reason: To avoid undue disturbance and physical harm to water voles which are a protected species.

6a. No operations for waste filling other than essential maintenance or pumping shall be carried out other than between the following times:

- Monday-Friday 7.00am-6.00pm
- Saturday 7.00am-1.00pm

6b. Except for emergency work, essential maintenance servicing and pumping, no operations shall take place on Sundays, Bank Holiday or other public holidays.

Reason: To protect the amenity of nearby residential occupiers and patrons of the Barons Court Hotel.

7. When circumstances demand it, all surfaced and unsurfaced roads and hardstandings shall be sprayed with water to minimise emissions of dust generated by vehicle movements and sufficient water bowers shall be available for watering purposes. A mechanical brush shall be used on the access road to remove potentially dust creating materials.

Reason: To minimise airborne dust in the interest of nearby properties and users of the highway.

8. At no time during the operations permitted shall any operations take place which, despite the use of dust control measures would give rise to airborne dust levels sufficient to cause nuisance to properties around the site. At such times as the prevention of dust nuisance proves impossible, then the operations which cause that nuisance shall temporarily cease until such time as the weather conditions change and dust suppression become effective.

Reason: To minimise airborne dust in the interest of nearby properties and users of the highway.

9. Dust monitoring equipment and its findings and records of weather conditions for any three month period shall be maintained throughout the period of waste disposal.

Reason: To ensure mitigation measures continue to operate in a satisfactory way.

10. There shall be no storage or treatment of gas and leachate on the site such as may give rise to malodours outside the site boundary.

Reason: To protect the amenity of nearby residential occupiers.

11. Except at such locations and for such periods as may be agreed in writing by the Local Planning Authority, operational plant, machinery or other equipment on the development site, as measured on (or at the cartilage of) any residential premises shall not exceed 55 dBA Leq, 1Hr.

Reason: To protect the amenity of nearby residential occupiers.

12. Notwithstanding condition 12 sound levels attributable to the operation of plant, machinery or other equipment on the development site during temporary activities, including soil stripping, construction and removal of baffle mounds, as measured on (or at the cartilage of) any residential premises shall not exceed 70dBA Leq. 1hr and no such operations shall take place over a maximum period of 8 weeks in any 52 week period.

Reason: To protect the amenity of nearby residential occupiers.

13. All plant and machinery operating on the site shall be fitted with silencer(s) which are, and which shall be maintained, in good working order. No plant or machinery shall be operated with any of the covers or panels removed except for the purposes of maintenance.

Reason: To protect the amenity of nearby residential occupiers.

14. All existing hedgerows and trees shall be maintained and protected for the duration of the development. The retained hedgerows and trees shall not be damaged or destroyed, uprooted, felled, lopped or topped during the duration of the development without the previous written consent of the Local Planning Authority. Any hedgerow or tree(s) removed without such consent or those dying or severely damaged or diseased during these periods shall be replaced in the first available planting seasons with trees or hedgerows of details to be first agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and local biodiversity.

15. No oil, fuel lubricant, paint or solvent shall be stored on the site in any manner which could lead to such materials contaminating topsoil or subsoil or reaching any watercourse. No liquid storage tank shall be located on the site except within a bund with a capacity of not less than 110% of the volume of the store liquids. All filling points, vents and sight glasses shall be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To ensure that the drainage of the site does not contaminate adjoining land and watercourse and to safeguard the quality of groundwater in the area.

16. Once deposited at the site in accordance with the terms of the permission, no waste shall be excavated or removed.

Reason: In the interests of the amenity of the area.

17. The Local Planning Authority shall be given written notice of the completion of restoration within each phase within 4 weeks of the said date.

Reason: To ensure restoration is completed within the earliest possible timeframe.

18. Aftercare shall commence upon the date of completion of each phase of restoration as notified to the Local Planning Authority under condition 19 and shall continue throughout the lifetime of the infill operations. For the first five years following the completion of the approved restoration scheme the site shall be maintained in accordance with the aftercare scheme approved under condition discharge application 10/0224/DOC.

Reason: To ensure the establishment of the restored landform.

19. Restoration of the site to wetland, woodland, grassland and other habitat in accordance with the details approved under condition discharge application 10/0224/DOC shall be completed within 12 months of completion of infilling operations at the site.

Reason: To ensure the site is restored to a high ecological value and in keeping with the local landscape character.

20. Not less than 7 days advance notice in writing shall be given to the Local Planning Authority prior to the following events taking place:

- The completion of landfilling operations in the void
- The completion of restoration.
- The commencement of aftercare.

Reason: To ensure restoration is completed within the earliest possible timeframe.

PETITION, PLANNING APPLICATION REF 16/0465
Variation of condition to extend permission until 31/12/25

We, the residents of Woodridge Close, call upon Walsall Council to investigate the nuisance of smells, dust, flies and vermin that we are being subjected to, and we feel that our and our children's health has been put at risk since the Highfield South quarry was opened.

Furthermore, the people of Woodridge Close object in the strongest possible terms to any extension to the lease on this quarry as it has already reduced our quality of life, and to extend its life until 2025 would be an infringement of our rights as citizens of Walsall Borough.

We say no to extending the lease.

ECONOMY AND ENVIRONMENT

13 JUN 2016

Name and Address

[REDACTED] 65 Woodbridge close
[REDACTED] 59 Woodbridge close
[REDACTED] " " "
[REDACTED] 45 " "
[REDACTED] 43 WOODBRIDGE CLOSE SHELFIELD
[REDACTED] " " " "
[REDACTED] 41 Wood Bridge close
[REDACTED] 41 Wood Bridge close
[REDACTED] 39 Woodbridge Close
[REDACTED] 39 Woodbridge Close
[REDACTED] 37 Woodbridge Close
[REDACTED] 37 Woodbridge Close

RECEIVED

PTO



Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Sep-2016

Plans List Item Number: 2.

Reason for bringing to committee: Major application

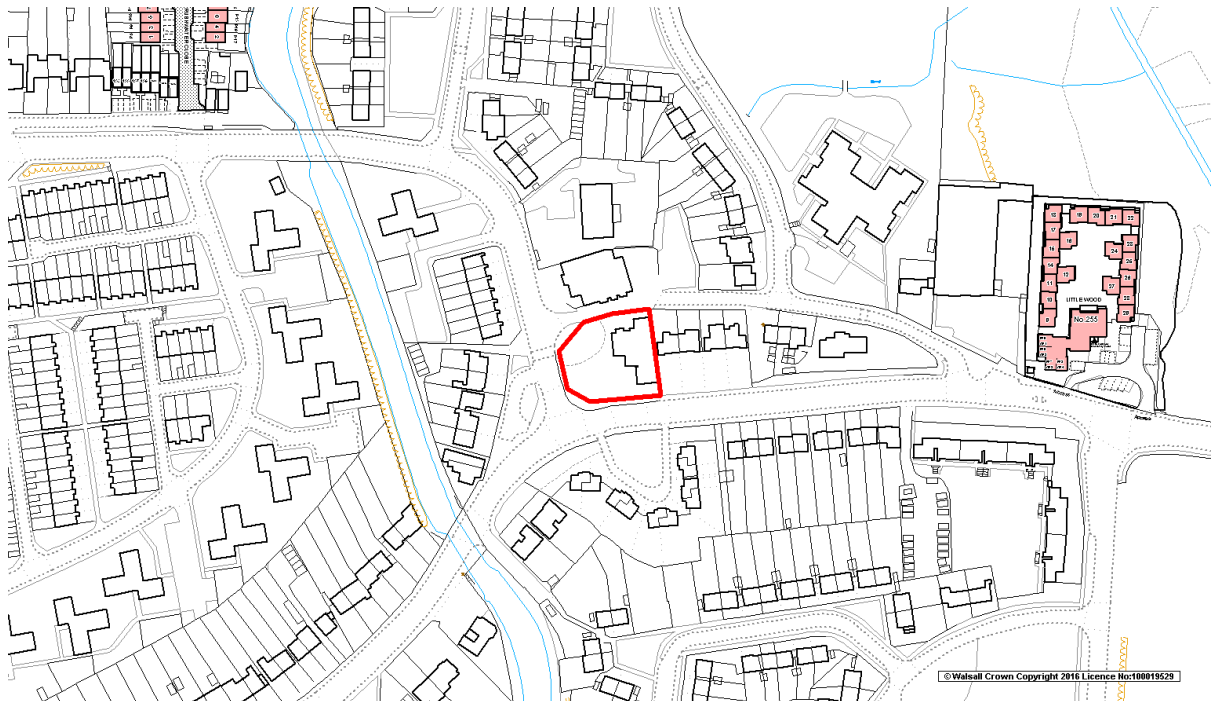
Location: FORMER MILLFIELDS NURSERY SCHOOL SITE, STONEY LANE/LICHFIELD ROAD, BLOXWICH, WS3 3LU

Proposal: ERECTION OF 14 X 2 BEDROOM FLATS.

Application Number: 14/1754/FL
Applicant: Mr Jatinder Samra
Agent: Spooner Architects
Application Type: Full Application

Case Officer: Alison Ives
Ward: Bloxwich East
Expired Date: 20-Apr-2015
Time Extension Expiry:

Recommendation Summary: Grant permission subject to conditions and completion of a S111 Agreement to require completion of a S106 Agreement to secure provision for urban open space contributions and replacement tree planting



Application and Site Details

The proposal is for the erection of 14 x 2 bed flats in a part two and part three storey building on the site of the former Millfields Nursery School, Stoney Lane. There are five flats each on the ground and first floors and 4 flats on the second floor.

The vacant site is located at the junction of Lichfield Road, Stoney Lane and Pelsall Lane. There are semi-detached and terraced two storey houses in the vicinity and bungalows on the opposite side of Lichfield Road in Yew Tree Place. The Beacon Way PH (formerly The Nags Head) lies opposite the site in Stoney Lane. Pelsall Lane is not a through road and there are bollards just beyond the application site preventing vehicular access although there is a pedestrian access through to Little Bloxwich Primary School. There is a significant Sycamore tree on the Lichfield Road frontage although the site is a lower ground level than this frontage.

The proposed building is broadly a "C" shape fronting all three highways with a longer wing along Lichfield Road. The proposed building is set back 15m from Lichfield Road, 4m from Stoney Lane and 3.5m from Pelsall Lane although it is proposed to install a new 2m wide footway along Pelsall Lane bringing the building to within 1.5m of the new highway. The building is positioned 2.5m in front of the nearest house at 231 Lichfield Road at a distance of 4m. The proposed building requires removal of the Sycamore tree.

Each of the three wings of the proposed building are 7m wide and flats within are dual aspect. There are two entrances facing Lichfield Road and one facing Stoney Lane. The building is between 7.5m high and 10m high. The building is typical brick and tile construction with a pitched roof. Some Juliet balconies are included. A patio area in the rear courtyard adjacent to the building is included.

There are 14 car parking spaces plus one disabled space shown within a parking area at the rear of the building accessed off Pelsall Lane. Cycle parking and bin storage is also within this area.

The site is currently owned by the Council.

The applicant has submitted a Design & Access Statement, Planning Supporting Statement, Contaminated Land Desk Study and High Level Highways Assessment in support of the proposals.

Relevant Planning History

No relevant history other than relating to the former school.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings

- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

NPPF4 - Promoting sustainable transport.

NPPF6 - Delivering a wide choice of high quality homes.

NPPF7 - Requiring good design.

NPPF11 - Conserving and enhancing the natural environment.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

The Development Plan

Black Country Core Strategy

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance between Employment Land and Housing
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- 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

Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources

- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- LC1: Urban Open Spaces
- T4 - The Highway Network
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Documents

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW10 Well Designed Sustainable Buildings

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

Conserving Walsall's Natural Environment SPD

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

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

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

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

Supplementary Planning Document for Affordable Housing

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

Supplementary Planning Document Urban Open Space

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

Consultations

Bloxwich & Brownhills District Regeneration Officer – Supports the application and comments on behalf of Bloxwich Business Partnership as follows:

- The site has been demolished a year ago as a result of the relocation of the nursery some years ago.
- It will create more local housing with Bloxwich
- It has no major conflict with the town or surrounding residential area

Ecology – Objects to loss of the Sycamore tree.

Environmental Health – No objections.

Fire Service – No objections.

Local Access Forum (Ramblers) – Minor concern about pedestrian safety on the northern boundary due to the relationship between the access and pavement.

Police – No objections but recommends security measures. This area is a historical high crime area, which also contains a high proportion of offenders. This site is particularly vulnerable due to the open plan layout, which provides no perimeter protection for vehicles and the building, and the building design provides unnecessary recesses and possible hiding places for offenders.

Pollution Control – No objections. A noise survey is required to inform the level of acoustic insulation required for habitable rooms as the site is located on a heavily trafficked highway in accordance with guidance from BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings'. A restriction to the hours of work during any construction period is also recommended to protect the amenity of surrounding residents. Conditions are recommended to secure these provisions.

Public Rights of Way – No objections.

Transportation – No objections to the proposal subject to safeguarding conditions for parking areas being consolidated and marked out, installation of a cycle shelter, a construction methodology, engineering details of the access and visibility splays to remain.

Tree Officer – Objects to loss of the Sycamore tree.

Public Participation Response

10 letters of objection from 6 addresses have been received. Of these 6 relate to the original proposals and 2 relating to the latest drawings. These are summarised as follows:

- Concerns about the parking and access and position of the access point
- Access preferred off Stoney Lane
- Narrow highway and conflict between the pub access
- How to stop pub visitors parking on the car park area
- Traffic has to cross a zebra crossing to enter the site
- Concern over accessibility for emergency services
- Inadequate parking
- Most households have two cars so parking inadequate
- Possibly create overspill parking in Yew Tree Place causing inconvenience to elderly residents
- No parking available in the locality despite the developers statement
- No parking on the cul-de-sac which is a private access
- No visitor parking
- Congestion and parking problems in the area (some due to school parking)
- Driveways impeded by inconsiderate parking
- Pedestrian hazard due to lack of footway on a well used route
- Concern where bin storage will be and where this will be collected from
- Loss of light and overshadowing adjacent property
- Untidy site needs addressing
- Overdevelopment – fewer dwellings perhaps single storey preferred
- Loss of the healthy Sycamore tree

One writer welcomes the development of an unsightly area.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Principle of residential development
- Layout and Design
- Relationship to surrounding properties
- Access and parking
- Provision for Affordable Housing and Urban Open Space
- Local Finance Considerations

Observations

Principle of development

Residential redevelopment of this previously developed site in a sustainable urban location is in accordance with the NPPF and BCCS and local development plan policies. The former nursery school building has already been demolished and the site remains vacant and could be considered to blight the surrounding area. In the circumstances redevelopment for residential purposes is welcomed in principle. As there are a mix of house types in the area provision of flats is appropriate to cater for smaller households.

Layout and Design

The proposed building faces all road frontages and has clearly defined public and private areas so will provide enhanced surveillance within the area. There is adequate shared private amenity space within the rear courtyard and within the landscaped frontage which it is proposed to maintain. There is also direct access from the street to create activity.

The proposed building, despite being up to three storeys high is considered acceptable in this context where it will form a focal point at the highway junction. Given the difference in land levels it will also not appear as tall from the adjacent highway in Lichfield Road. The spaciousness at the junction will ensure that the building is not overbearing to adjoining properties. The maintenance of landscaping around the perimeter will also partly mask the building. The variation in the building form will also assist in reducing the massing of the building and the windows and balconies help break up the elevations.

Although the building stands proud of the nearest dwellings in Lichfield Road this given the set back from the highway and difference in ground levels it is not overbearing or obtrusive within the street scene. The design of the elevations is a traditional and considered appropriate in this context.

The key consideration is loss of the Sycamore tree which the ecologist and tree officer object to as well as neighbours. This is a significant feature on the site and visible over a distance. Its presence places a constraint on the developable area of the site as it has a crown spread of 13m and would prevent any new buildings on the majority of the Lichfield Road frontage and given its size would be likely to overshadow any new dwellings elsewhere on the site. This would be unacceptable as direct frontage development is preferred. Also as the site is at a junction of three highways it lends itself to a flatted development of the nature proposed. On balance and in this context it is recommended that the tree is removed to allow for the development proposals and replacement planting secured via the planning obligation.

Despite neighbour concerns that the proposals represent an overdevelopment of the site for these above reasons the form of development is considered appropriate. Single storey dwellings as preferred by objectors would not make most effective use of this prominent site and cannot be assessed as the proposal is for a flatted scheme.

Pollution control officers recommend noise mitigation measures are secured by condition to protect the amenities of future occupiers. They also recommend a condition to restrict construction hours to protect the amenity of existing residents in the surrounding area.

The layout and design are considered appropriate.

Relationship to surrounding properties

The nearest dwelling is 231 Lichfield Road, a semi-detached house with a long front garden facing Lichfield Road and main vehicular access at the rear off Pelsall Lane. This house is set back 2.5m from the rear of the proposed building fronting Lichfield Road at a distance of 4m to the nearest part of the house, a single storey element of the building with a wide window although apparently not a habitable room. There is a close board fence along the boundary of the former nursery and vegetation along the boundary which screen the outlook from this window. Also the original nursery building at the site was positioned closer to the road than 231 similar to the proposed building. On balance given the separation it is considered that the proposals will not have any significant impact on the outlook, privacy or daylight to this nearest neighbour from the front elevation. This part of the proposed building nearest to 231 is two storeys high so reducing potential for overshadowing. The proposed building does not impact on the rear elevation of 231 given the distance separation. Given the relationship between the two it is considered that the neighbour concerns regarding loss of light and overshadowing have been addressed.

Other objectors consider the site is untidy and needs to be addressed. If planning permission is granted this would give the opportunity to address the site by developing it.

Access and parking

The proposed car park is accessed at the rear of the building off Pelsall Lane. This is on the opposite side of the access to the pub car park. There are 14 spaces provides plus one disabled parking space. This equates to 100% parking which is below the required 150% parking recommended in UDP policy T13. The development site is located on a major bus route, along Lichfield Road, which links towns and district centres. The site is within 800metres of Buxton Road Local Centre and just over 1000metres to Bloxwich District Centre, which is considered to be within reasonable walking distance of local community facilities. The site is also within good access to the cycle network. Reviewing the 2011 Census data, confirms that this part of the Ward 16% of households own 2 or more cars/vans and 30% own no cars or vans at all. Considering all of the factors, it is considered that in this instance, the level of parking and the location of the access is considered to be acceptable and in accordance with the NPPF and would not have severe transport implications subject to imposing safeguarding conditions.

The position of the Pelsall Lane access is considered acceptable and provides the opportunity to enhance pedestrian access with a 2m wide footway along this boundary, addressing Local Access Forum concerns.

The circulation of traffic in the area would not be increased to such a level as to cause significant harm to the surrounding highways sufficient to cause a detriment to highway safety, when balancing the potential traffic of the former nursery in comparison to the proposed 14 flats.

Neighbours are concerned about inadequate parking levels and potential congestion in the area and potential impact on highway and pedestrian safety. The level of parking is considered appropriate for the scale of the development and as convenient parking is provided on-site there should not be a significant impact on surrounding streets.

There is provision for bin storage within the site and the refuse will collect as they would have done for the former nursery.

Provision for Urban Open Space and replacement trees

Under the terms of policies DEL1 of the BCCS and policies GP3 and LC1 of the UDP and SPD: Urban Open Space the proposal triggers the requirement for a contribution towards provision of urban open space. Based on the policy requirements this equates to a contribution of £19,180.00 to be secured by a S106 Agreement. In addition, as compensation for the loss of the mature sycamore tree, a financial contribution for offsite tree planting. As the land is currently owned by the Council it is proposed that the developer enters into a S111 Agreement to require them to enter into a S106 Agreement to secure the obligations for provision of urban open space once any land sale is complete.

It is also recommended that the S106 Agreement should include for provision of replacement trees commensurate with the Sycamore tree lost to development.

This mechanism of requiring a S111 Agreement will secure the obligations for urban open space and replacement trees.

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 14 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

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

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice relevant supporting information and additional revised plans have been submitted. In light of the submitted details officers are able to support the scheme.

Recommendation: Grant permission subject to conditions and completion of a S111 Agreement to require completion of a S106 Agreement to secure provision for urban open space contributions and replacement tree planting.

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

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

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

- Site Plan/Topographic Survey (1416-5 Rev A) received 18/07/16
- Floor Plans (1416-2) received 21/11/14
- Elevations (1416-3) received 21/11/14
- Topographic Site Survey (15110-15-01)
- Section Survey (15110-15-04)
- Proposed Planting Plan received 30/11/15
- Design & Access Statement prepared by Spooner Architects received 13/01/15
- Planning Supporting Statement prepared by PJ Planning (November 2015) received 18/11/15
- Contaminated Land Desk Study prepared by Envirep.co.uk (63378R1v2) received 17/11/15
- High Level Highways Assessment prepared by Assured Planning Services (C048) received 18/07/16

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 the development drainage details for the disposal of both surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority.

3b. The development shall be completed with the approved details and retained as such.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

4a. Prior to the commencement of the development, a Construction Methodology Statement and plan including details of a turning facility and parking for site operatives, the siting of portakabins and materials, shall be submitted to and approved in writing by the Local Planning Authority.

4b. The Construction Methodology Statement shall be implemented and retained during the period of construction in accordance with the approved details demonstrating parking and turning facilities for site operatives and construction deliveries, together with steps to minimise conflicts between construction traffic and passing school children and including full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.

Reason: In order to minimise potential disruption to the free flow of traffic on the public highway, minimising parking and congestion around the road junctions and to safeguard pedestrian movements along Pelsall Lane bearing in mind it is a 'Safe Routes to School' and in the interests of highway safety and due to the sensitive nature of the site near to existing housing.

5a. Prior to the commencement of any built development above damp proof level on any structure full details of all external facing materials and boundary treatments shall be submitted to and agreed in writing by the local planning authority.

5b. The development shall be implemented in accordance with the agreed facing materials.

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

6a. Prior to the commencement of any development on site, a noise survey shall be undertaken to the written satisfaction of the local planning authority. The results of this survey, including details of all instrumentation used, prevailing weather conditions and traceable calibration tests shall be submitted to the local planning authority within 2 months of completion for approval in writing.

6b. No development shall take place until suitable noise mitigation measures have been agreed in writing with the local planning authority, and the development shall not be occupied until such measures have been fully implemented.

Reason: To safeguard the amenity of residential occupiers of the site.

7a. Prior to the development first coming into use, full details of the proposed cycle shelter for the use of residents and visitors, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented in accordance with the approved details.

7b. The cycle shelter facility shall thereafter be retained and used for no other purpose.

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

8a. Prior to the development commencement of the development, full engineering details of all adoptable highway works and works within the existing highway, including ;-

i) the proposed new access onto Pelsall Lane, which shall take the form of a footway crossing rather than a bellmouth type,

ii) the reinstatement of the existing redundant access near the road junction back to full kerb height, including the removal of the existing adjacent concrete bollards.

iii) the removal of the existing school 'Keep Clear' road markings and replacement with 'No Parking' junction protection markings supported by modifications to any Traffic Regulation Orders,

iv) the widened adoptable footway to 2 metres along the site frontage, shall be submitted to the Local Planning Authority for technical approval in writing in consultation with the Highway Authority.

8b. Prior to the first occupation of any new flat on the development, the highway infrastructure works detailed under Condition 4 (a) above shall be fully implemented in accordance with the approved details and to the satisfaction of the Local Highway Authority.

Reason: To ensure the satisfactory completion and operation of the public highway and in the interests of highway safety.

9a. Prior to construction of the development full details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the development will meet Secure By Design specification.

9b. The approved details shall be fully implemented prior to first occupation of the house and thereafter retained

NB. Please refer to "Note For Applicant" for further information.

Reason: To ensure the safety of future occupants.

10a. Prior to the development first occupation of any flat within the development, the access road and parking areas shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or any highway drain and all parking bays shall be clearly demarcated on the ground.

10b. These areas 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.

11. A 2.4m x 25m visibility splay shall be provided at the new access point on Pelsall Lane and shall be kept free at all times of any structures or planting exceeding 600mm in height above carriageway level.

Reason: In the interests of highway safety.

12a. The scheme shall be completed fully in accordance with the approved landscape details before the development is occupied and retained as such.

12b. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to safeguard the visual amenity and natural environment of the area.

13. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall otherwise only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

* Bank Holidays and Public holidays for this purpose shall be taken to include: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday, and August Bank Holiday Monday.

Reason: To protect the amenities of surrounding occupiers.

Note for applicants - Noise surveys

Noise surveys may need to adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation point, and may also need to take account of changes in noise levels on account of height above ground floor level to account for noise exposure at sensitive receptor points. Additionally, a noise survey may have to take into consideration changes in noise climate between normal weekdays, and weekends, effects of holiday periods, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys may be required to corroborate a single noise survey.

Submitted noise measurement data should include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of performance verification checks, recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum. Sound level measuring instrumentation shall conform to either: 'Type 1' of either British Standard BS 5969: 1981 'Specification for sound level meters', and/or BS EN 60651: 1994 'Specification for sound level meters', and/or BS 6698: 1986 'Specification for

integrating-averaging sound level meters', and/or BS EN 60804: 1994/2001 'Specification for integrating-averaging sound level meters' and/or 'Class 1' of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications' (or any superseding standards as applicable).

Instrumentation shall have been verified either in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' or BS EN 61672: 2003 'Electroacoustics - Sound Level Meters - Part 3: Periodic Tests' within a preceding 2 year period of measurements being conducted, or else verified with a multifunction acoustics calibrator that has been UKAS certified within a preceding 2 year period.

In regard to specifying suitable noise mitigation measures to protect internal and/or external residential areas, reference can be made to guidance and criteria contained in British Standard BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings' and World Health Organisation 'Guidelines for Community Noise 2000'.

Note for applicant – Police

1. The developer should be made aware of Secure By Design specifications which will significantly increase the security of the building (doors and windows). Information can be found at http://www.securedbydesign.com/wp-content/uploads/2016/03/Secured_by_Design_Homes_2016_V1.pdf

2. A fencing plan needs to be incorporated to protect the car park and rear of the building. Metal railing fencing 2.1m in height would be ideal as it would provide a physical barrier as well as allow for natural surveillance opportunities.

3. Rear court yard parking has universally been accepted to be a crime magnet and should be avoided at all costs. If unavoidable they should be protected by robust fencing and gated access. The proposed car park area renders vehicles vulnerable to crime due to its ease of access and limited natural surveillance. The car park area needs to be protected by gates and fencing. There should also be a vandal resistant access control system in place on the gates. Manual gates have been proven to be ineffective with regards to securing an area as the inevitably end up being left open and provide offenders with ease of access to vehicles and the already vulnerable rear of properties.

4. Parking bays should not be identifiable to the flats by numbers, as it enables offenders to establish which properties are unoccupied. Another system of identification should be used or none corresponding numbers.

5. If pedestrian gates are to be installed, as part of the perimeter security measures, the pedestrian gates should have access control systems in place along with self-locking mechanisms. This will help maintain the security of the perimeter.

6. The car park itself needs to be light to appropriate British Standards BS5489:2013.

7. There needs to be an access control system in place on all entry / exit doors. The system must have a vandal resistant external entry panel. A colour video entry system should be linked to each apartment, so that residents have a clear colour image of callers to the address along with audio communication between the resident and the caller. This will reduce unauthorised access to the blocks.

8. All communal, Residential and French doors sets should comply to PAS 24 2012 standards.

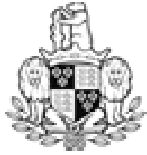
9. All ground floor and accessible windows (including French windows) should comply to PAS 24 2012 P1A standards. This should improve the standard of security to the more vulnerable ground floor windows.

10. There should be an area of defensible space in front of all ground floor windows, this space should overlap the width of the window and be around at least 1m in depth. This will help protect such windows and reduce the anonymity to offenders looking to target these windows as a means of entry. There is currently no defensible shown. Where shrubbery is to be used in front of windows or around parking spaces, the shrubs should be such that they grow to no more than 1m in height when mature. The plants / shrubbery should be selected for their suitability to their environment.

11. Due to the national increase in metal thefts where possible lead substitute products should be used.

Notes to Applicant- Highways:

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to enter into an agreement under S38/278 of the Highways Act 1980 or other appropriate agreement for all adoptable highway works and works within the existing public highway.



Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Sep-2016

Plans List Item Number: 3.

Reason for bringing to committee: Major application (variation)

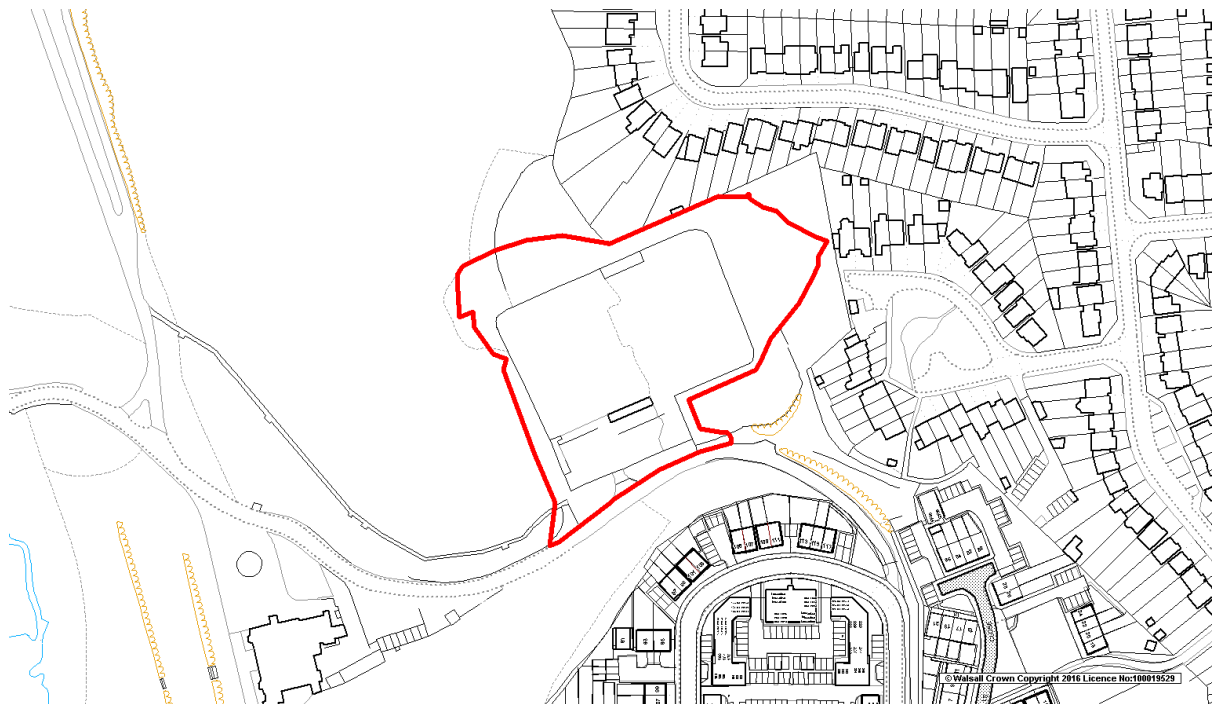
Location: FORMER ST. MARGARET'S HOSPITAL, OFF QUESLETT ROAD, GREAT BARR, WALSALL

Proposal: AMENDMENT OF CONDITION 33C OF PLANNING PERMISSION 02/2417/OL/E2 TO INCLUDE "OR ANY OTHER USE APPROVED BY THE LOCAL PLANNING AUTHORITY"

Application Number: 16/0659
Applicant: Bovis Homes Limited
Agent:
Application Type: Full Application (Major)

Case Officer: Karon Hulse
Ward: Pheasey Park Farm
Expired Date: 10-Aug-2016
Time Extension Expiry:

Recommendation Summary: Grant permission subject to conditions and subject to a Deed of Variation to the original Section 229A Agreement (equivalent to a Section 106 Agreement) to secure the outstanding provisions within the Agreement.



Application and Site Details

The proposal seeks a variation of condition 33c of permission 02/2417/OL/E2 relating to the Bovis development at the former St. Margaret's Hospital site off Queslett Road.

The outline permission for residential development and other associated development was granted on appeal in September 2004. Condition 33c requires a scheme for the restoration of the walled garden including details of the existing and proposed ground levels; tree clearance; the repairs to the walls; the landscaping of the walled garden and the timing for completion of the works.

The application seeks to vary the condition to include use of the walled garden as an allotment. This would allow the use of the walled garden for allotments whilst carrying out remedial works to the historic walled garden. The application also includes the provision of a car park for users of the allotments.

The site is located within the Great Barr Hall Park and Garden (Grade II Listed) and Great Barr Conservation Area. The former walled garden part of the site lies to the north of the new residential development Great Barr Hall and northwest of the housing development.

The proposals include:

- Stabilisation of remaining walls
- historic features - vegetation removed and surrounded by gravel to give emphasis.
- new walls provided in contrasting brick from historic walls.
- Interpretation boards will be provided in publicly accessible areas to tell 'Story' of the garden.
- Enhancement of the existing thoroughfare through the garden for public access
- link from the main drive through to High Wood,
- new public seating area formed around the footprint of the former glasshouses and boiler room.
- Benches
- Raised Beds
- Paths within Walled Garden

It is intended that the site will be adopted by a private management company.

Measures to stabilise the walls include capping, re-pointing, replacement of degraded bricks and minor areas of re-building where required. Three areas would require the walls to be slightly reduced in height to ensure their stability.

The proposed use as allotments will be for local residents.

The application is accompanied by the following documents:

Hard and Soft Landscaping Specification – this identifies the materials to be used in the proposed allotments.

Landscape design statement – this sets out the history of the walled garden and the proposed masterplan behind the allotments.

Relevant Planning History

02/2417/OL/E2 – Outline application for residential development of former St. Margaret's Hospital Site, alterations to existing access at Queslett Road including repositioning of gate posts and associated development, application accompanied by an Environmental

Statement and Master Plan providing up to a maximum of 445 dwellings and design statement - Allowed on Appeal 13/9/04. Condition 33 of the decision states the following:

33. Other than the works of demolition, no development shall commence until a scheme has been submitted to, and approved by the local planning authority relating to:

- c. The specification of the works for the restoration of the Walled Garden including details of the existing and proposed ground levels; tree clearance; the repairs to the walls; the landscaping of the Walled Garden and the timing for completion of these works.*

A Section 229A Agreement (equivalent to a Section 106 Agreement) was completed to secure provision of Education, Transport Contributions and Facilities, Highway Works, Affordable Housing Primary Care and Community Facilities, Landscaped Areas and Public Open Space and works of restoration to the Lodge. Variations to this agreement have subsequently been approved in relation to provision of affordable housing including tenure and amount which has been reduced to 18% in total throughout the site.

There is a Tree Preservation across the site – 19/1995.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

- **NPPF 7** - Requiring good design
- **NPPF 8** - Promoting healthy communities
- **NPPF 9** - Protecting Green Belt Land
- **NPPF 11** - Conserving and enhancing the natural environment
- **NPPF 12** - Conserving and enhancing the historic environment

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The key planning policies include:

CSP4: A high quality of design of the built and natural environment is required.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

WM5: Resource Management and New Development.

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

ENV1: Defines the purpose of the Green Belt.

ENV2: Allows limited infilling or redevelopment of major existing developed sites in accordance with policy ENV4.

ENV3: Identifies more detailed considerations for proposals in the Green Belt.

ENV8: New development on Great Barr Hall and Estate and St. Margaret's Hospital other than that which is normally appropriate in the Green Belt will be limited to the replacement

footprint of existing buildings. All proposals must provide for preservation, enhancement and improvement of the character of buildings of architectural or historic interest, and management of the historic landscape and SINC's, and preservation and enhancement of Great Barr Conservation Area.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV25: Proposals for development which affect archaeological sites will normally need to be accompanied by an evaluation of the archaeological resource.

ENV27:?

ENV29: Development should preserve or enhance the character and appearance of a Conservation Area. In the event the Council grants permission for demolition of a Conservation Area property possessing architectural or historic interest the Council will require a building recording scheme.

ENV30: Protects the Borough's registered parks and gardens from the effects of inappropriate built development.

ENV32 & 3.116: seeks to create high quality environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV33 & 3.117: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

ENV41:

T1: Seeks to improve access and help people get around

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

Supplementary Planning Documents (SPD)

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

Designing Walsall SPD

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

Conserving Walsall's Natural Environment SPD

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

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

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

Consultations

Transportation – No objections.

Pollution Control - No objections.

Conservation – Comments to be updated at planning committee

English Heritage – Recommend the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

Natural England - No comments to make.

Environmental Health - no objections

Walsall Civic Society - no objection provided the walls are adequately repaired and maintained.

Police Architectural Liaison Officer - no objections

Regeneration (Landscape) - I have no major issues with the design.

Sites and Monuments - From an archaeological perspective, any work done to the gardens, whether the complete restoration or a conversion into allotments with the restoration of specific historic features, would need to ensure that as little damage as possible is done to any underlying archaeological levels, and to record any archaeological features/deposits that are revealed.

Public Participation Response

Four letters of representation have been received objecting on the following grounds:

- How affect the Hazel trees at the rear of my house
- Construction of car park located behind and in sightline of Nether Hall park will be an eye sore
- car park and cars will source of sound and air pollution
- use of drive by cars will be an obstruction to walkers,
- Opening the road will open access route
- long-term management is unclear
- After 2 years management the site will turn into a derelict and abandoned space.
- The restoration of the walled garden was part of the initial marketing and sale of the properties by Bovis Homes.
- Sold property on basis of the parkland and a wall garden
- Bovis have not completed the park lands or walled garden
- walled garden is currently a rubbish dump for Bovis building materials
- this a conservation area of local historic importance and it needs to be restored as per the terms of Bovis original planning permission

A representation has also been received from Great Barr Hall Action Committee stating that the historical background is important for a proper understanding and appreciation of this site, the applicants are unaware of crucial early historical material...excellent proposals need to be backed by soundest historical evidence to fully appreciate its value as a rare and important local heritage asset.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Principle of development/Green belt
- Relationship to surrounding properties
- Historic value
- Section 106 Agreement

Observations

Principle of development/Green belt

The principle of the alternative proposal will ensure the reinstatement of the walls to their previous height in most parts. The applicants considered that implementation of the original

option would only create a pastiche of a former point in time, with the potential for users to query why this time was chosen for replication over another period of the site's history.

The variation of condition will allow for the proposed use of the garden as allotments to come forward whilst ensuring the historic fabric of the walled garden will be restored where possible and retained for future generations, whilst ensuring the walled garden is utilised and not left to deteriorate.

The maintenance of the garden would be through a committee which would be set up to manage the allotments, splitting the site into full and half sized plots as required. The details of this can be secured by a planning condition.

Existing buildings in the south-west of the garden would be renovated to provide secure storage for general equipment and a communal water supply.

The allotments would be fenced off and gated from general public access and thereby providing security for persons and property. The site is currently not accessible to the public other than those who are on foot.

The car park would be for the users of the allotments, whilst it will be mostly local residents using them there is a need for the car park in order that equipment can be transported to and from the site by its users. Also visitors to the walled garden area will be able to park near to the facility.

Any drainage of the car park will be controlled by way of a condition requiring full details to be submitted prior to commencement.

The proposed reuse as allotments would appear to be an acceptable alternative use and will not have any greater impact on the former use of the walled garden. It will preserve the openness of the green belt and the restoration of the walls and any associated garden buildings will be of a form, bulk and general design in keeping with their surroundings.

As such and on balance the proposed reuse is acceptable in this location.

Relationship to adjacent properties

The nearest properties are new housing on Nether Hall Park, Great Barr Hall Grade II Listed Building and established housing in the Park Farm Road area. The housing and Great Barr Hall are located to the south of the site. Although the walled garden originally fell within the curtilage of Great Barr Hall it is now under separate ownership and forms part of the land for which planning permission was secured by Bovis Homes.

The nearest residents on Horseshoe Crescent are 44 metres away from the walled garden, this distance and the presence of mature trees and landscaping is considered sufficient to protect their amenities. The proposal to restore the walled garden, then to utilise as allotments for use by local residents, will not have any significant impact on surrounding properties.

It will also enable the developer to fulfil their obligations to reinstate the walled garden.

The site is currently screened from nearby housing by existing trees and is a significant distance away, at least 80m away from the rear gardens of housing in Aviemore Crescent. There is no intention to remove any trees along those boundaries and on the basis that the principle of the landscaping has already been accepted it is considered that there will be no loss of privacy as a consequence of the alternative use of the walled garden for allotments.

Historic Value

It is proposed to vary the condition to include “any other use” as this wording would provide uncertainty to any potential third party it is recommended that the condition specifies the use as allotments.

This will allow enabling works for the restoration of the walls surrounding the walled garden which is a key consideration in any development proposal for the site.

From an archaeological perspective, any work done to the gardens, whether the complete restoration or a conversion into allotments with the restoration of specific historic features, would need to ensure that as little damage as possible is done to any underlying archaeological levels, and to record any archaeological features/deposits that are revealed.

Of particular concern is the feature tree in the centre of the garden, as this is potentially the location for the 18th century rabbit warren.

It is therefore important that conditions are imposed requiring archaeological work at a number of stages as set out by the sites and Monuments Officer.

Comments on the objections

There will be no trees removed from the perimeter of the application site and Kinross Crescent. The new car park will be over 40 metres away from the nearest residential property on Horseshoe Crescent, there is also landscaping which provides screening and will further mature and screen this part of the estate. It is not anticipated that the car park will be used to such an extent that it will detract from the area or impact on residential amenity. Management of the site will be through a company, a condition requiring details will be imposed on any approval to secure this. The reuse of the walled garden will remove any rubble and rubbish from the site.

Section 106 Agreement

There is an existing Section 229A Agreement (equivalent to a Section 106 Agreement) to secure provision of Education, Transport Contributions and Facilities, Highway Works, Affordable Housing Primary Care and Community Facilities, Landscaped Areas and Public Open Space and works of restoration to the Lodge. Variations to this agreement have subsequently been approved in relation to provision of affordable housing including tenure and amount which has been reduced to 18% in total throughout the site. There are still some matters which remain outstanding such as the primary care and community facilities which the developers are seeking to provide a contribution for in lieu of on-site provision. A Deed of Variation is required to secure the outstanding matters as the variation of condition 33c result in the issue of a new permission if agreed. The Deed of Variation will essentially tie this permission to the existing Agreement.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

Recommendation: Grant permission subject to conditions and subject to a Deed of Variation to the original Section 229A Agreement (equivalent to a Section 106 Agreement) to secure the outstanding provisions within the Agreement.

General

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

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

2. This development shall not be carried out other than in conformity with the following approved plans and documents except in so far as may otherwise be required by conditions or as may have already been approved under the original consent 02/2417/OL/E2: -

- Block Plan (STMG/WG/100) received 20/7/16
- Landscape general arrangement plan(BMN.15.032.DR.P101 A) received 29/4/16
- Planting plan (BMN.15.032.DR.P602 A) received 29/4/16
- Soft details (sheet 1 of 2) (BMN.15.032.DR.P601 A) received 29/4/16
- Soft details (sheet 2 of 2) (BMN.15.032.DR.P602 A) received 29/4/16
- Hard details (BMN.15.032.DR.P603) received 29/4/16
- Landscape design statement received 12/5/16
- Hard and soft landscaping specification received 29/4/16-

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 may require).

3. No development shall commence on any phase of development until the following details for that phase of development have been submitted to and approved in writing by the local planning authority:

- i. Hard surfacing including roads and footpaths (and the approved allotments);
- ii. Street and other lighting proposals;
- iii. Details of construction programming; compound requirements and locations and temporary construction lighting requirements;
- iv. Details of public open space to be provided on that phase of development, including children's play area
- v. Details of the locations of underground services.

Reason: To ensure the satisfactory development of the site.

Amenity Areas

4. The areas of open space including areas of Public Open Space as shown on the master plan within each phase of the development shall be laid out within 12 months of completion of development in that phase of development in accordance with details to be submitted to and approved by the local planning authority.

Reason: To ensure the satisfactory provision of open space.

Open Areas

5. Prior to any other works in respect of the open areas commencing a revised Landscape Management Plan shall be submitted to the local planning authority for approval in writing and shall include details of the following:

- i. Long term design objectives
- ii. Management responsibilities and maintenance schedules for all the undeveloped areas of the site including open amenity areas within the housing development, the woodlands and the open land formerly comprising the Male Homes part of the site
- iii. Arrangements for the provision of public access to the open land including the provision for walking and cycling between Queslett Road and Chapel Lane using Sutton's Drive.

Reason: To ensure the satisfactory maintenance of the open areas of the site and public access.

6. All hard and soft landscape works approved by subsequent reserved matters submissions shall be carried out for each phase of the development within 12 months of the completion of the last dwelling in that phase of the development.

Reason: To ensure the satisfactory appearance of the development.

Ecological Management

7. Prior to any other works in respect of the open areas commencing a revised Ecological Management Plan to take account of the amendments shall be submitted to and approved in writing to the local planning authority. The Ecological Management Plan shall include long term design objectives, including phasing of works to limit public access to the woodlands within and adjoining the site; the identification of significant ecological interests and measures to protect these ecological interests in the woodlands within the site; and its relationship to with the Landscape Management Plan required by Condition 5. The Ecological Management Plan shall be implemented in accordance with the phasing and timing of works contained therein.

Reason: To ensure the protection of wildlife and/or protected species on the site.

Cycle and Pedestrian Access

8. The pedestrian and cycle route between the site and 42 Park Farm Road shall be maintained in accordance with approved details and remain available for use by the public.

Reason: To secure sustainable cycle and pedestrian links to the wider area.

Highway Access

9. No access to the development site for motor vehicles except emergency service vehicles shall be made to the site other than from the improved access onto Queslett Road.

Reason: To maintain highway safety.

10. No dwelling shall be occupied until the parking area for that dwelling, and vehicle and pedestrian access to the dwelling from the public highway, has been hard surfaced.

Reason: To ensure the satisfactory completion of the development and availability of parking.

Drainage

11. Details of the scheme for foul and surface drainage for each phase of the development shall be submitted and approved by the Local Planning Authority prior to the commencement of built development on that phase of development. The drainage works shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory development of the site.

Trees

12. All tree protection measures shall be implemented in accordance with the details submitted under application 02/2417/OL/E2.

Reason: To ensure the protection of retained trees.

13. No underground service shall be sited within the crown spread of any tree to be retained except where otherwise agreed in writing by the local planning authority.

Reason: To ensure the protection of retained trees.

14. No storage of plant, machinery or materials, the driving of vehicles or lighting of fires shall take place under the canopy of any retained tree throughout the construction period.

Reason: To ensure the protection of retained trees.

Implementation

15. Notwithstanding details previously submitted full details of the following matters shall be submitted to and agreed in writing by the local planning authority prior to the implementation of the works:

(a) Specification of the works for the restoration of the Gothic Bridge including a full repairs schedule and arrangements for the commencement and completion of the works;

(b) The timing of and arrangement for the removal of the concrete pedestrian bridge situated alongside the Gothic Bridge.

(c) The specification of the works for the restoration of the Walled Garden for use as an allotment shall be submitted to the Local Planning Authority to be agreed in writing and include the following details;

- the existing and proposed ground levels;
- any tree clearance;
- any repairs to the walls, including materials;
- the landscaping of the Walled Garden and
- the timing for completion of these works.

The specification of works shall also include

- car parking details,
- surfacing,
- drainage and
- boundary treatments

(d) The scheme for the restoration of the natural ground levels, topography and landscaping of the former Male Homes part of the site shall be carried out in accordance with the submitted details referred to in condition 2 of this permission. The reinstatement of the open water course between The Duckery and the Gothic Bridge; the removal of ornamental trees planted in association with the hospital development and the landscaping of this part of the site, including the provision of new tree and hedge planting and the removal of the bund on the north side of Sutton's Drive shall be implemented in accordance with an timetable to be first submitted to and agreed in writing with the local planning authority.

Reason: To ensure the satisfactory development of the site.

16. Prior to any works commencing on the restoration of the walled garden the following shall be submitted to and approved in writing by the Local Planning Authority:

- Preparation of an overall plan of all known garden features which can be used to check features during the groundworks, and can be added to as new features are revealed
- A watching brief during tree removal (it is preferable to grind out the stumps to limit damage to surrounding deposits)
- Recording of walls and features brought to light during work
- Targeted trenching in advance of tree planting, to record any archaeological features in these areas.

Reason: To safeguard areas of ecological importance.

Restriction of Permitted Development

17. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or succeeding order or enactment, no development of the type specified below and within the following classes in Schedule 2 to the Order shall take place without prior approval of the local planning authority.

Part 1 - Development within the curtilage of a dwelling house

Class A: The enlargement, improvement or other alteration of a dwelling house.

Class B: The enlargement of a dwelling house consisting of an addition or alteration to its roof.

Class F: The provision within the curtilage of a dwelling house of a hard surface for any purpose incidental to the enjoyment of the dwelling house as such where such hard surface would be closer to a highway or other public area than the nearest part of the original dwelling facing that highway or public area.

Part 2 – Minor Operations

Class A: The erection, construction, maintenance, improvement or other alteration of a gate, fence, wall or other means of enclosure that is visible from a highway or other public area.

Class B: The formation, laying out and construction of a means of access to a highway.

Routing of Services

18. Save with the written approval of the local planning authority, all pipes; meter boxes; fibres; wires and cables required by statutory undertakers and all other appropriate bodies including cable TV operators or service providers of telecommunications shall be placed underground or in concealed locations, where this would not damage areas of ecological importance. Prior to any works referred to in this condition being carried out, areas of ecological importance shall have been previously defined on a plan submitted to and approved in writing by the local planning authority.

Reason: To safeguard areas of ecological importance.



Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Sep-2016

Plans List Item Number: 4.

Reason for bringing to committee: Significant community Interest

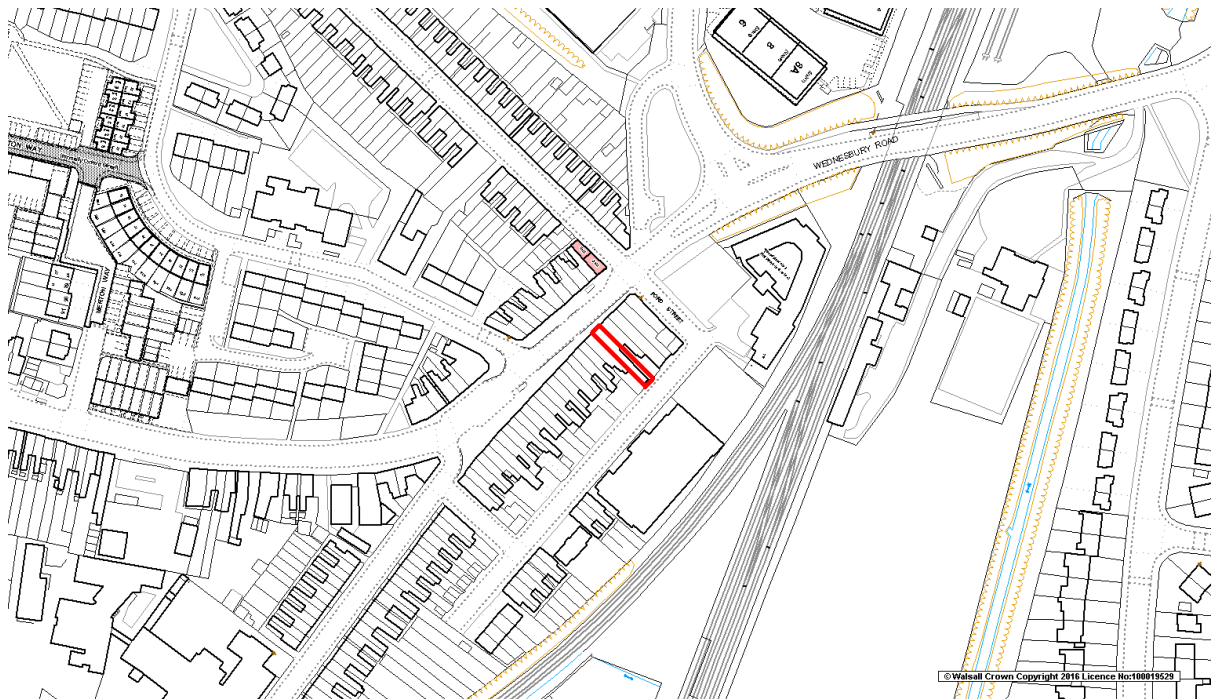
Location: 175, WEDNESBURY ROAD, WALSALL, WS2 9QL

Proposal: CHANGE OF USE TO A5 (HOT FOOD TAKEAWY) WITH ANCILLARY SEATING AND NEW VENTILATION DUCT.

Application Number: 16/0433
Applicant: Mr Aqil Yasin
Agent: Anthony Spruce
Application Type: Full Application

Case Officer: Mike Brereton
Ward: Pleck
Expired Date: 15-May-2016
Time Extension Expiry: 16-Sep-2016

Recommendation Summary: Grant Permission Subject to Conditions



Application and Site Details

The application site is a vacant retail unit (A1 use ground floor with residential at first floor) fronting Wednesbury Road, within Pleck Local Centre which benefits from a mixed use area with shops, hot food takeaways and residential at upper floors.

This application proposes the ground floor changes use from retail to a hot food takeaway (A5 use) with an ancillary seating area and associated extraction flue to rear. The proposed opening hours are 11.00am to 24.00am Monday to Friday, Sundays and Bank Holidays and 11.00am to 01.00am on Saturday.

Relevant Policies

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

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*".

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

On **planning conditions** the NPPF says:

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

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where

possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework System, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advised that "...due weight should be given to relevant policies....according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight they may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on the 24 July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

CSP4: Place Making

All development will be required to demonstrate a clear understanding of the historic character and local distinctiveness of the area and show how proposals make a positive contribution to place-making and environmental improvement.

ENV2 and ENV3 states that all development should aim to protect and promote the special qualities, design quality and local distinctiveness of the Black Country.

CEN5: District and Local Centres – promotes appropriate uses in Local Centres to meet the needs of local communities.

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

X. The effect on species, habitats and sites of nature conservation or geological interest.

XII. The effect on woodland or individual trees on or near the site.

ENV10: Pollution – seeks to protect health and the environment against pollution arising from development.

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
 - The appearance of the proposed development.
 - The height, proportion, scale, and mass of proposed buildings / structures.
 - The materials proposed for buildings, external spaces and means of enclosure.

S10: Hot Food Take-Aways, Restaurants and Other A3 (Food and Drink) Outlets –

Promotes such uses within town, district and local centres subject to adequate noise, vibration and odour mitigation measures to protect nearby occupiers amenity along with appropriate opening hours and parking. The Council must have regard to cumulative impacts on nearby occupiers from existing late evening uses in the area.

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

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

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address.

Relevant Planning History

BC58130P - Proposed two storey rear extension and single storey rear and side extension with internal alteration. GSC 20/11/2001.

Consultation Replies (*Officer comments in italics where appropriate*)

Access Officer – None received.

Clean and Green - None received.

Environmental Health – No objection subject to conditions requiring maintenance of the extraction system and grease trap drainage details.

Fire Officer – Chasing comments, will be updated at committee.

Planning Policy – No objections.

Pollution Control – No objection subject to conditions regarding noise and odours from the proposed extraction system and drainage details to prevent grease entering the system and extraction flue to be at least 1m above roof ridge height.

Severn Trent – No objection subject to conditions regarding drainage.

Town Centre Manager – Chasing comments, will be updated at committee.

Transportation (Highways) - No objections.

Representations (*Officer comments in italics where appropriate*)

Five objections have been received, three from nearby neighbours, one from an address in Manchester (*it hasn't been confirmed whether the individual has a business or other interest in the nearby area*) and another from a site at rear on the following grounds:

- Galvanised ventilation duct should be relocated further away from neighbours habitable windows;
- Too many hot food takeaways already in vicinity;
- Another takeaway would add to anti-social behaviour issues in area;
- Proposal will add to existing litter problem in area;
- Will attract more rodents and pigeons (*this is not a material planning consideration*);
- Submitted drawings do not include scale bar or dimensions and not accurate (*the submitted plans are stated to be to a scale of 1:100 and this is sufficient to meet the National validation requirements and to assess the application*);
- Concerns of odour, grease, noise and vibration from extraction equipment;
- Parking in front of neighbours drive way and use of delivery vehicles such as mopeds should be restricted (*this is not a material planning consideration*);
- Long trading hours; and
- Proposal will cause additional traffic congestion.

Determining Issues

- Principle of Use
- Amenity of Nearby Residents
- Highways

Observations

Principle of Use

The proposed hot food takeaway is a town centre use (A5) located in a local centre (Pleck) and is considered acceptable in principle. The proposal would bring a vacant A1 unit back into an appropriate local centre use and is considered to meet the aims of the NPPF and BCCS in helping to achieve a vibrant centre.

Amenity of Nearby Residents

The proposed change of use would be at ground floor level only and the upper floor is an empty flat which does not form part of this current proposal and would remain. Neighbours and nearby occupiers concerns regarding the change of use resulting in too many hot food takeaways in the area, increased anti social behaviour, litter, odour, grease, noise and vibration have been considered as part of the assessment of the planning application. UDP Policy S10 states that cumulative impacts on neighbours must be considered in assessing evening uses. The application site location is within an existing local centre. It is considered the location generates higher levels of noise and lower amenity to any potential occupiers of the flat above, and to nearby neighbours and occupiers, than would be expected at other predominantly residential, sub-urban, areas of the borough. The proposed takeaway use is considered would not result in any significant additional impacts on neighbours' or nearby occupier's amenity over and above any arising from existing nearby commercial uses. There is no evidence to suggest a takeaway at this location would result in any increased levels of anti-social behaviour. Without clear evidence, it is considered it would not be a sustainable reason for refusal.

In terms of litter, the application property frontage sits at the back of a relatively narrow footpath and there is limited opportunity to seek additional litter bins to serve the development. There are existing nearby litter bins which are considered acceptable in this instance.

Conditions would be included to control grease along with controlling odours, noise and vibration from the proposed extraction equipment in line with recommendations of Pollution Control and Environmental Health.

Neighbour concerns regarding the proposed extraction duct should be positioned further away from neighbour's habitable windows. There are a number of existing extraction flues positioned on the rear elevations of properties fronting Wednesbury Road in close proximity to habitable windows and reflects the mixed-use character of the local centre. It is considered that the recommended conditions from Pollution Control and Environmental Health regarding the height of flue to be at least 1m above roof ridge height due to proximity to neighbours habitable windows to physically minimise the risk of odour, smell and noise and appropriate noise mitigation measures including cowls, acoustic insulation and noise restrictions are acceptable in minimising any impacts on adjoining neighbours amenity. Neighbours concerns that the proposed takeaway would have long trading hours, Pleck local centre is served by a number of other hot food uses and the following nearby uses are open during the following times:

- Dixy Chicken (185 Wednesbury Road) – opening hours 11.30am to 12am Monday to Sunday; and
- Sheeren Mahal (199 Wednesbury Road) opening hours Sunday to Thursday 12pm – 12.30am and Fri & Sat 12pm – 1am.

This application proposes opening hours of 11.00am to 24.00am Monday to Friday, and Sundays and Bank Holidays and 11.00am to 01.00am on Saturday which, when considered against existing opening times set out above and due to the location in a local centre, is considered acceptable in this instance. A condition would be included should permission be granted to restrict the hours as proposed to protect neighbours amenity.

Refuse bins serving the hot food takeaway are shown on submitted plans as being stored at back of footpath to rear (Ford Street) and it is considered that a further condition is necessary to ensure these bins are stored within the internal storage area at all times (except on bin collection days) to ensure they do not cause obstruction to the highway and to help minimise any potential odours to safeguard neighbours, and nearby occupiers amenity.

Highways

The site is located within Pleck Local Centre with sufficient parking controls and restrictions outside the application site in the form of pedestrian crossing zig-zags and guard railing to minimise any potential indiscriminate on street parking. Neighbours concerns that the change of use would result in additional traffic congestion and it is considered, on balance, that the amount of trips generated by a hot food takeaway over and above the existing shop use, if any, is unlikely to result in any severe additional impacts on the highway as defined by the NPPF.

Conclusion/ Summary

It is considered that, on balance, the proposed change of use would bring a vacant unit back into an appropriate centre use and would not result in any significant additional impacts on neighbours or nearby occupiers amenity over and above any that arises from existing commercial uses due to the location within Pleck Local Centre. Overall, taking into account the comments received, testing the proposal against national and local policies, it is considered the proposal would contribute to the vitality and viability of Pleck Local Centre

Positive and Proactive working with the Applicant

Officers obtained additional information from the applicant's agent regarding the proposed extraction system and this, along with the use of appropriate conditions, is considered to enable full support to be given to the application.

Recommendation: Grant Permission Subject to Conditions

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

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

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

- Application Form. Deposited 21/03/2016
- Location, Block and Elevation Plan. Deposited 21/03/2016
- Layout Plan. Deposited 21/03/2016
- Design and Access Statement. Deposited 21/03/2016
- Email from Adeel Yasin on 05/07/2016 titled 'FW: Planning application 16/0433 additional information'.

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

3a. Notwithstanding information shown on submitted plans, prior to commencement of any part of the development hereby approved, details shall be submitted to and approved in writing with the Local Planning Authority for any extraction systems to serve commercial hot food cooking points, with extracted gases passing through filtration and odour mitigation systems.

3b. Prior to the development first coming into use, the approved details shall be fully installed and thereafter retained as such.

Reason: To ensure the satisfactory functioning of the development, to safeguard the amenity of neighbours, future occupiers of the flat above and of nearby occupiers and to accord with the NPPF and UDP Policies ENV10, GP2 and S10.

4a. Prior to commencement of any part of the development, an internal noise insulation scheme shall be submitted to and agreed in writing with the Local Planning Authority.

4b. Prior to the development first coming into use, the applicant shall provide written confirmation to the Local Planning Authority that the agreed noise insulation scheme has been fully installed.

Reason: To safeguard the amenity of adjoining neighbours and future occupiers of the flat above and to accord with the NPPF and UDP Policies ENV10, GP2 and S10.

5a. Prior to commencement of any part of the development, details of a system to control grease, oil and fat discharges to drainage/sewerage systems shall be submitted to and agreed in writing with the Local Planning Authority

5b. Prior to the development first coming into use, the approved details shall be fully implemented

5c. Prior to the development first coming into use, written confirmation shall be provided to the Local Planning Authority that the agreed drainage system has been installed.

Reason: To ensure the satisfactory functioning of the development and to prevent grease entering the drainage system.

6a. Prior to commencement of development, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved in writing with the Local Planning Authority.

6b. Prior to the development first coming into use, the scheme shall be implemented in accordance with the approved details and thereafter retained as such.

Reason: To ensure that 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.

7. Prior to the development first coming into use, a Swedish Cowl (taper) shall be installed on the flue exit and the flue serving the commercial hot food cooking points shall terminate at least 1 metre above the building ridge level and thereafter retained as such.

Reason: To ensure the satisfactory functioning of the development, to safeguard the amenity of neighbours, future occupiers of the flat above and of nearby occupiers and to accord with the NPPF and UDP Policies ENV10, GP2 and S10.

8a. Where extract ventilation flues and associated fan and motor units are attached to wall or other structural building elements appropriate vibration isolation mounting systems shall be used and ductwork shall be de-coupled from fan and motor units.

8b. Noise from the extraction system shall not exceed a Noise Rating of 40dB one metre from the window of a habitable room between 07.00 am and 11.00 pm.

8c. Noise from the extraction system shall not exceed a Noise Rating of 35dB one metre from the window of a habitable room between 11.00 pm and 07.00 am.

9d. Windows in the kitchen and serving area shall be kept closed when food is being prepared and served.

9e. External doors to the kitchen and serving areas shall only be used for ingress and egress purposes and otherwise shall be kept closed, with self-closing mechanisms when food is being prepared and served.

Reason: To safeguard the amenity of neighbours, future occupiers of the flat above and of nearby occupiers and to accord with the NPPF and UDP Policies ENV10, GP2 and S10.

10. The development shall only be open during 11:00am to 24:00am Monday to Friday, Sundays and Bank Holidays and 11:00am to 01:00am on Saturdays.

Reason: To safeguard the amenity of neighbours, future occupiers of the flat above and of nearby occupiers and to accord with the NPPF and UDP Policies ENV10, GP2 and S10.

11. Notwithstanding the details shown on submitted plans, refuse bins serving the hot food takeaway shall be stored within the internal storage area within the application site (accessed from Ford Street) at all times, except on bin collection days.

Reason: To ensure the bins do not cause obstruction to the highway and to help minimise any potential odours to safeguard neighbours, and nearby occupiers amenity and to accord with the NPPF and UDP Policies ENV10, GP2 and S10.

Notes to applicant

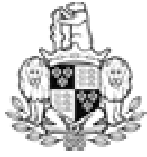
1. There may be a public sewer located within the application site and encourage the applicant to investigate this. Please note that public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. If there are sewers which will come into close proximity of the works, the applicant is advised to contact Severn Trent Water to discuss the proposals and we will seek to assist with obtaining a solution which protects both the public sewer and the building.

2. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

3. Prior to the development first coming into use, the applicant should agree fire protection details with Building Control Services and implement the agreed protection measures.

4. Any approved drainage system should be cleaned, maintained and serviced in accordance with manufacturers' recommendations.

5. Any approved extraction and odour systems should be cleaned, maintained and serviced in accordance with manufacturers' recommendations.



Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Sep-2016

Plans List Item Number: 5.

Reason for bringing to committee: Significant Community Interest

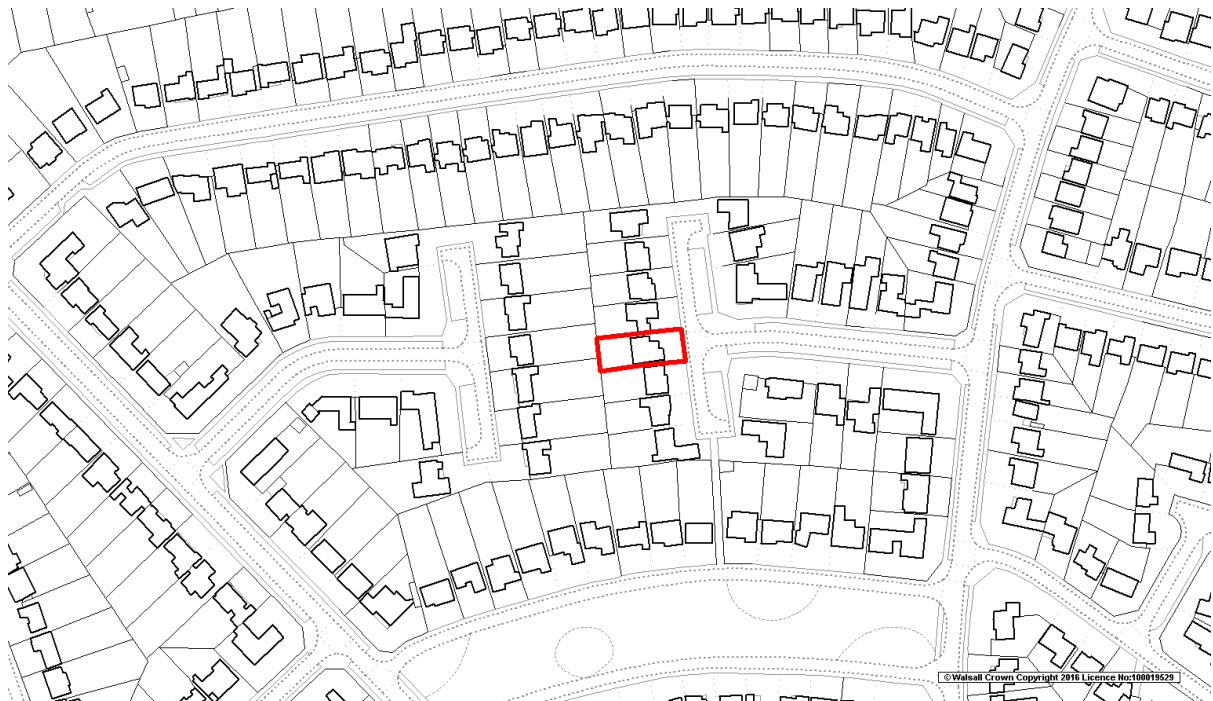
Location: 17, GREAVES CLOSE, WALSALL, WS5 3QT

Proposal: FIRST FLOOR FRONT EXTENSION AT 3.8M LONG (ADDITIONAL 1.8M ABOVE THAT APPROVED UNDER 07/1217/FL/NB), REPLACEMENT PITCHED ROOF, INTERNAL LAYOUT ALTERATIONS AND AMENDED ASSOCIATED EXTERNAL WINDOW AND DOOR POSITIONS AND ROOFLIGHT TO FRONT (RE-SUBMISSION OF 15/1433).

Application Number: 16/0057
Applicant: Mr Sunny Dubb
Agent: Masood Akhtar Associates
Application Type: Full Application

Case Officer: Mike Brereton
Ward: Paddock
Expired Date: 05-May-2016
Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Application and Site Details

The application house is a detached dwelling fronting Greaves Close, in a predominately residential location made up of a mix of 1960's detached houses and bungalows of varying in design. Greaves Close falls in a westerly direction resulting in houses and their roof ridges stepping down along the street. The ground level of the application house also falls from the front to the rear garden of the site.

The applicant has explained the works currently underway at the house are to implement a previous planning permission (07/1217/FL/NB) for a two storey front extension and first floor side extension which when completed will provide two pitched gables to the front of the application house.

This application proposes amendments to the previous approval 07/1217/NB, extending the first floor forwards by a further 1.8m in length, bringing the second pitch gable (nearest No.24) further out from the front of the application house.

The application also proposes the replacement of the main pitched roof with a new roof at the same height as the original. The main roof has been removed to accommodate other works at the property. There are other changes to the internal layout and changes associated to the external window and door positions. A proposed roof light is included in the front flat roof lobby area.

The previous application (15/1433) submitted in 2015, the height of the front pitched gables had been constructed 6.7m high, exceeding the 6.3m permitted by permission 07/1217/FL/NB. Following refusal of application 15/1433, site visits have confirmed that the applicant has reduced the height of the front gables to around 6.15m. Plans submitted as part of the current application show the front gables would be finished at 6.3m high, matching the original permission. The applicant has been advised that further works carried out at the application house, which do not benefit from planning permission would be at their own risk. It is understood that works have now ceased at the site and will not re-start until this current application has been determined.

Relevant Policies

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf
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*".

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

PAGE 58 OF 97

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

On **planning conditions** the NPPF says:

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

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework System, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advised that "...due weight should be given to relevant policies....according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight they may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the

exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on the 24 July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

CSP4: Place Making

All development will be required to demonstrate a clear understanding of the historic character and local distinctiveness of the area and show how proposals make a positive contribution to place-making and environmental improvement.

ENV2 and ENV3 states that all development should aim to protect and promote the special qualities, design quality and local distinctiveness of the Black Country.

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

X. The effect on species, habitats and sites of nature conservation or geological interest.

XII. The effect on woodland or individual trees on or near the site.

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development.
- The height, proportion, scale, and mass of proposed buildings / structures.
- The materials proposed for buildings, external spaces and means of enclosure.

T7 and T13: Parking Standards – sets the basis for the number of required parking spaces to serve a development.

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

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

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address.

Relevant Planning History

15/1433 – Front extension, rear dormer and new pitched roof. Refused for the following reasons:

- 1. On balance, it is considered when taken as a whole that the proposed development, particularly due to the prominent position of the application house, sloping ground levels and adjacent character of shallow pitched roofs, would result in an overbearing appearance to adjoining neighbours and in the street scene and would be out of character with the nearby area. The proposed increase to the ridge height is also considered would harm the appearance of the existing roof line of the nearby two storey houses thereby resulting in an overly dominant appearance in the street scene. The applicant has made some positive amendments to reduce the roof ridge height and rear dormer and it is considered, for the reasons above, that the amendments are not sufficient to outweigh the harm to the character of the nearby area and would be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; the Black Country Core Strategy policies ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32.*
- 2. It is considered the proposal, when taken as a whole and due to the prominent position of the application house and higher ground level would have a detrimental impact on neighbours visual amenity contrary to UDP policy GP2.*

15/1263 - Rear dormer and roof lights to front. Withdrawn 29/09/2015.

07/1217/FL/NB - Two storey extension at front and first floor extension to side (re-submission of 04/0739/FL/H4). Granted Subject to Conditions 22/08/2007.

04/0739/FL/H4 - Proposed two storey extension at front and first floor extension to side. Withdrawn 10/06/2004.

Consultation Replies (Officer comments in italics where appropriate)

Park Hall Residents Association – none received.

Representations (Officer comments in italics where appropriate)

Three objections have been received from neighbours on the following grounds:

- Extensions would result in overlooking and loss of privacy at rear;
- Proposed extensions are of an unacceptable bulk, scale and appearance and would be over-bearing;
- Design, does not reflect character of the area;
- Construction is ongoing without permission (*the applicant has been advised that any further works carried out at the application house which do not have the benefit of*

planning permission would be at their own risk and it is understood that works have now ceased at the site and will not re-start until this current application has been determined);

- Roof should be replaced to match original roof height and design;
- All windows on elevation facing No.15 should be obscure glazing;
- Submitted proposed elevation plan refers to roof lights in main roof area but their positions are not shown;
- Loft space could be converted into further living accommodation in the future;
- Concerns that the roof line and the gable ends could be altered and increased in future;
- The submitted plans do not accurately reflect the difference in ground levels at the building line;
- The planning permission reference 07/1217/FL/NB has not been implemented;
- Submitted plans incorrectly show an existing completed house which does not reflect the original house dimensions or the current status of the site which is still under construction; and
- Neighbour notification letters not received on time and decision date shown on letter is prior to expiration of statutory 21 day period for neighbours to comment (*this neighbour has been contacted to explain the application will not be determined before the statutory 21 day notification period has ended. This neighbours comments have been received and taken into account*).

Determining Issues

- Has this application overcome reasons of refusal for 15/1433
- Amenity of Nearby Neighbours
- Parking
- Other Matters

Observations

Has this application overcome reasons of refusal for 15/1433

Planning application 15/1433 sought to increase the height of the main roof along with the creation of a rear roof extension to create rooms in the loft and was refused for reasons of poor appearance. This re-submission now seeks to replace the roof and to extend the length of a front gable along with minor interior / exterior alterations and is considered against each of the previous refusal reasons below.

Refusal Reason 1 - ...overbearing appearance to adjoining neighbours and in the street scene and would be out of character with the nearby area...

Planning permission was previously approved for two pitched gables to front and this application proposes to retain these gables at the same height of 6.3m as previously approved and to extend the first floor by a further 1.8m in length bringing the second pitched gable (nearest No.24) further out from the front of the application house. The second gable would be set back by 1m from the front of the first gable. This application proposes changes to the internal layout and associated external window and door positions along with the addition of a roof light in the flat roof area to front above the lobby. It is considered that, on balance, these proposals would not result in any significant additional overbearing impacts to adjoining neighbours or to the street scene.

This application also proposes a replacement roof to match the original height of roof at the application house. The submitted plans under the original permission for extensions (reference 07/1217/FL/NB) show the original roof height when measured from the existing ground level to ridge height to be around 7.25m. This height would have formed a

consideration in determining the original application for the extensions at that time and, in the absence of any other detailed measurements of the original application house, it is considered reasonable to use this measurement as the basis in assessing the current application. The plans submitted alongside this current application show the proposed replacement roof height to be 7.4m high to ridge (0.15m above the height shown on the 2007 plans) and 5m to eaves of proposed front gables (matches the height shown on the 2007 plans). Accurate on-site measurements cannot be provided and measurements taken at the time of the site visits (in 2016) show that the front gables had been constructed to around 6.15m high and the side gable at around 6.8m, all below the previous approved heights of 6.3m and 7.25m respectively. The discrepancy of 150mm between the original roof height and proposed replacement roof height is considered unlikely to result in any significant additional overbearing impacts to adjoining neighbours or to the street scene.

It is considered that this proposal overcomes refusal reason 1 of 15/1433 and conditions would be included on any permission to restrict the roof height to no more than 7.4m (to ridge) and 5m (to eaves) to ensure satisfactory appearance and to define the permission. A condition would also be included to ensure appropriate external materials are used to ensure satisfactory appearance of development.

Refusal Reason 2 - ...due to the prominent position of the application house and higher ground level would have a detrimental impact on neighbours visual amenity...

The proposals in this re-submission are considered to be an improvement to the details submitted in refused application 15/1433 and are considered more closely reflect the overall design and appearance of the extensions permitted in 2007 under application 07/1217/FL/NB. It is considered the proposal would not result in any significant additional detrimental impacts on neighbours visual amenity and this application has overcome refusal reason 2 of 15/1433.

Amenity of Nearby Residents

The proposed increased length of 1.8m to the front gable, which would be set back by 1m from the first gable (nearest No.15), would not breach the 45 degree code to the nearest ground floor habitable window at No.24. Due to the north orientation of the application site, it is considered that the proposed increase of front gable, when combined with the 1m set back from the first gable, would not result in any significant additional impacts on No.24 in terms of loss of light and shadowing.

Neighbours raised concerns that the extensions would result in overlooking and loss of privacy at rear. This application does not propose any additional rear extensions to those permitted under the original permission and is not a consideration for this current application. In any case, over 40m would be present between rear facing habitable windows at first floor at the application house and neighbours at rear and this is considered a sufficient distance to minimise any potential impacts on neighbours' amenity and exceeds the recommended minimum separation distance of 24m set out in Appendix D of the Designing Walsall SPD. Furthermore, the rear elevation of the application house does not extend any further beyond those at adjoining neighbour No.24 and is considered would not result in any significant additional impacts on loss of privacy and overlooking to neighbours rear garden amenity space over and above any which already exists.

This application proposes changes to the internal layout and associated external window and door positions. A condition would be included to ensure any side facing windows at first floor are obscure glazed, along with preventing the installation of any additional side facing windows to minimise any potential overlooking and loss of privacy. It is considered the proposed replacement roof would not result in any additional impacts on neighbours' amenity.

Parking

A house with four bedrooms or more is required to provide three spaces within the curtilage measuring 2.4m x 4.8 each in accordance with UDP policy T13. Sufficient space is present to the front of the application house to provide three spaces along with an integral garage as shown on the submitted plans which would be conditioned, if permission is granted, to be fully laid out and retained to meet the Council's policy stated above.

Other Matters

Neighbours raised concerns that the original 2007 permission has not been implemented, that works on site do not have the benefit of planning permission, that the extensions would result in an over-bearing development out of keeping with the character of the area and that the replacement roof height should match the original application house. The Council's records indicate that works to the extensions may have commenced prior to the expiration of the original permission under 07/1217/FL/NB and due to some works going beyond the scope of that permission it could be argued that the original permission has lapsed and current works are unauthorised. Notwithstanding this, the original permission deemed extensions to be acceptable at the application house at that time and this current application must be assessed on the basis of the information submitted and gathered during site visits and be determined on its own merits.

Neighbours also raised concerns that the submitted proposed elevation plan refers to roof lights in the main roof area but their positions are not shown, and that further works could be carried out in future to increase the size of extensions and to convert the loft space into further living accommodation. The applicant's agent has confirmed that no roof lights are now proposed in the main roof area and it should be noted that current permitted development rights allow certain works in future to go ahead, such as loft conversions and installation of roof lights, without the need to apply for planning permission subject to meeting certain criteria. Furthermore, it is not possible to take account of any potential future alterations and any such works requiring permission would need to be considered and assessed on their own merits at that time. The applicant has been advised that the application site does not currently benefit from permitted development rights as the house is not considered to be in a liveable state. Permitted development rights can also be removed permanently where the Local Planning Authority considers it is appropriate in restricting further additions which, when combined with works already given permission, have the potential to result in unsatisfactory appearance or impacts on neighbours amenity. In this instance, as the proposed amendments would bring the roof ridge back to a height to reflect the original roof height and overcomes the previous reasons for refusal, it is considered, on balance, that any further permitted development restrictions (other than to restrict additional side facing windows in interest of neighbours amenity) would not be warranted.

Neighbours state the submitted plans do not accurately reflect the difference in ground levels at the building line. The ground level difference to front of 0.5m between No.15 and the application house, as shown on the submitted plans, matches the plans submitted as part of the original application in 2007 and is considered reflects the relationship between the two properties as identified during site visits.

Conclusion/ Summary

It is considered that, on balance, the re-submission overcomes the previous reasons for refusal and would not result in any significant additional impacts on the character of the application house or nearby area or to neighbours amenity and would enable works to progress to completion bringing the application house back into use to the benefit of the street scene.

Positive and Proactive working with the Applicant

Officers have given advice to the applicant's agent to ensure the proposed amendments would result in satisfactory appearance in the street scene and to enable works on site to be brought into a lawful state. It is considered the submitted plans can now be fully supported.

Recommendation: Grant Permission Subject to Conditions

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

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

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

- Application Form. Deposited 14/01/2016
- Proposed Floor Plans (PA 4593-03 Rev B). Amended Plan Deposited 11/03/2016.
- Proposed Elevations (PA 4593-04 Rev B). Amended Plan Deposited 11/03/2016.
- Proposed Site and Location Plan (PA 4593-05 Rev B). Amended Plan Deposited 11/03/2016.
- Email from Masood Akhtar Associates titled 'RE: Incomplete Application Ref : 16/0057 17 Greaves Close Walsall' dated 11/03/2016 regarding removal of roof lights.

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

3a. Prior to commencement of development, details of proposed roof tiles including colour, size, texture and material shall be submitted to and approved in writing with the Local Planning Authority.

3b. The walls of the extensions shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building as it exists at the time of this application

3c. The approved materials shall be retained as such after completion of the extensions.

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

4. A minimum of three parking spaces measuring 2.4m by 4.8m each shall be retained within the curtilage of the application house (a garage counts as one space) and fully consolidated, surfaced and drained at all times.

Reason: To meet the requirements of the NPPF and UDP policy T13 and in the interest of highway safety.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no additional side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

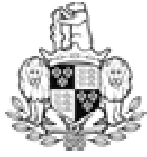
Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with the NPPF and policy GP2 of Walsall's Unitary Development Plan.

6. The proposed side facing windows at first floor serving en-suites and walk in wardrobe as shown on 'Proposed Floor Plans (PA 4593-03 Rev B)' must be obscure glazed to Pilkington (or equivalent) privacy level 4 and any opening parts to be more than 1.7m higher than the floor level of the rooms they serve and must be retained as such.

Reason: To safeguard the amenities of the neighbours and to comply with the NPPF and policy GP2 of Walsall's Unitary Development Plan.

7. The replacement roof shall not exceed a total height of 7.4m to ridge and 5m to eaves when measured from existing ground level and thereafter retained as such.

Reason: To define the permission and to ensure satisfactory appearance of development to accord with the NPPF,



Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Sep-2016

Plans List Item Number: 6.

Reason for bringing to committee: Called in by Councillor Andrew

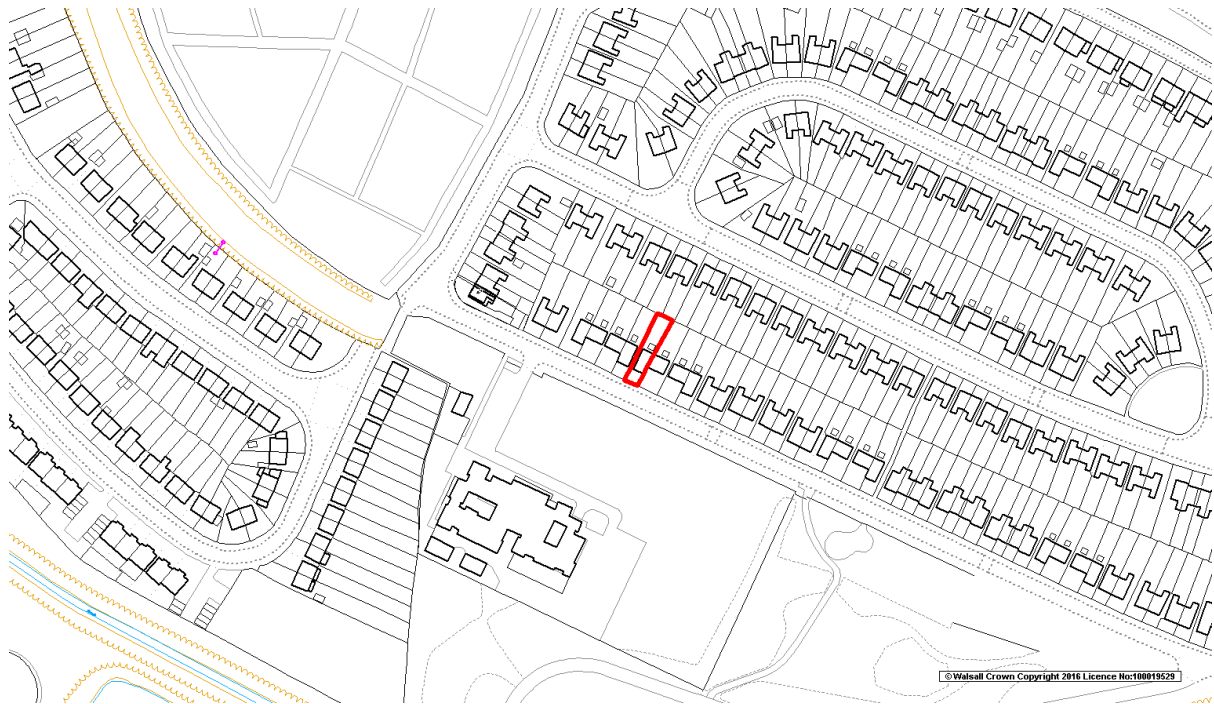
Location: 44, ANSON ROAD, BENTLEY, WALSALL, WS2 0DH

Proposal: RETROSPECTIVE: SINGLE STOREY 6.2 METRES DEEP REAR EXTENSION.

Application Number: 16/0416
Applicant: Manjit Saund
Agent: GD Designs
Application Type: Full Application

Case Officer: Helen Smith
Ward: Bentley And Darlaston North
Expired Date: 10-Jul-2016
Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Reason for bringing to Committee

Councillor Andrew has called this application before planning committee because he wishes to have a wider debate about the pros and cons of this planning application.

Application and Site Details

The street has a residential character consisting of pairs of semi-detached houses of varying design. County Bridge Primary School is located on the opposite side of Anson Road to the application house.

The application property is a semi-detached house which has been converted to a six bedroom HMO (House of Multiple Occupancy). The applicant has advised that the conversion was completed prior to the extension being constructed.

The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class L permits the change of use of a dwelling house (C3) to a small HMO (C4) and vice versa without the need to apply to the Local Planning Authority for permission.

Following an enforcement enquiry the applicant submitted a retrospective planning application to retain a 6.2 metres deep single storey flat roofed rear extension which has been added across the width of the rear elevation.

This 2.6 metres high flat roofed extension replaced a smaller rear utility extension. The extension has a lower ground level than the rear garden of no. 44 which has a new retaining wall. There is also a new raised patio area at the end of the rear garden.

Plans have been requested to show the land levels prior to the development being commenced and the current land levels were requested as it appears that engineering works may have been carried out to alter land levels to the rear garden to facilitate the rear extension along with the construction of a new retaining wall.

In response, the applicant advised that no excavation works have been undertaken to accommodate building the new extension and that a new retaining wall was built to accommodate a new patio area and not the extension. No further plans have been provided to address this matter.

The original application house had 3 bedrooms and this property has been altered and extended to provide a total of a 6 bedroom HMO. The single storey extension contains 2 bedrooms and 2 en suite shower rooms and a larger shared kitchen area.

Housing Standards officers have inspected the property to ensure that relevant fire safety precautions are in place.

There is off street parking for two vehicles on the frontage of the application property with a dropped kerb. The area of the remaining rear garden is 68.7 square metres.

The extension sits to the north of the application property and the rear elevations of the neighbouring houses, no's 43 and 45 Anson Road face north.

No. 43 Anson Road, the adjoining semi, has a rear habitable room window near to the rear garden boundary with no. 44. The existing boundary wall and fencing between no's 43 and 44 is approximately 0.3 metres lower than the height of the extension at no. 44. This is

because the extension has been built at the same ground level as these semi's, rather than the original higher garden level.

There is a separation distance of 2.6 metres between the side of the application house and No. 45 Anson Road which has a single storey rear extension with a rear facing habitable room window. There is 1.8 metre high fencing along the side garden boundary between no's 44 and 45 which sits on gravel boards and a low wall. This fencing is stepped as the height of the rear garden increases to the rear.

Houses to the rear of the application house along King Charles Avenue have a higher ground level than no. 44 with rear facing habitable room windows. There is a habitable room window to window separation distance of 26.2 metres between the proposed extension and no. 41 King Charles Avenue.

Relevant Legislation

The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3 Changes of Use

Class L – small HMOs to dwellinghouses and vice versa

Permitted development

L. Development consisting of a change of use of a building—

(b) from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule.

Development not permitted

L.1 Development is not permitted by Class L if it would result in the use—

(a) as two or more separate dwellinghouses falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order of any building previously used as a single dwellinghouse falling within Class C4 (houses in multiple occupation) of that Schedule;
or

(b) as two or more separate dwellinghouses falling within Class C4 (houses in multiple occupation) of that Schedule of any building previously used as a single dwellinghouse falling within Class C3 (dwellinghouses) of that Schedule.

Relevant Policies

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

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*".

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

- Encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

On **planning conditions** the NPPF says:

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

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

The relevant policies are:

ENV2 and ENV3 states that all development should aim to protect and promote the special qualities, design quality and local distinctiveness of the Black Country.

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says “*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
- The appearance of the proposed development.
 - The height, proportion, scale, and mass of proposed buildings / structures.
 - The materials proposed for buildings, external spaces and means of enclosure.

It is considered in this case that the relevant provisions of Walsall’s saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

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

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, 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. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area’s character.

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from www.walsall.gov.uk).
- Garden dimensions: 12m in length or a minimum area of 68 sq m for houses and 20 sq m of useable space per dwelling where communal provision is provided.

Relevant Planning History

None

Consultation Replies

Pollution Control – No objections

Representations

Objections and comments have been received from three neighbours on the following grounds;

- By completing and submitting the Notification of a Larger Home Extension Form it is not possible to undertake this process retrospectively (*the applicant has applied for retrospective planning permission rather than a prior approval for a larger home extension and this comment would not apply in this instance*)
- No neighbour consultation was carried out as required of any extension between 3 and 6 metres under the Neighbour Consultation Process (*the Neighbour Consultation Process related to a prior approval for a larger home extension application and is not relevant to this proposal. Neighbours were notified of the planning application on 20/5/16 and again following revisions to the plans on 6/6/16*)
- Planning permission was not applied for before the work was completed (*works undertaken without the benefit of planning permission are at the applicants own risk and a retrospective planning application has been submitted for assessment*)
- The extension should extend no more than 3 metres beyond the rear wall of the original house and the original outhouse was not attached to the rear wall of the house (*this criteria relates to permitted development allowances which the enables householders to extend their properties without having to apply to the Local Planning Authority for permission and is not a consideration when assessing a planning application*)
- No consultation under the Party Wall Act 1966 undertaken (*this is private legislation which the Council does not enforce and a matter between neighbours to pursue separately*)
- No permission was requested and obtained to put 2 en suite bathrooms in the extension (*this forms part of the consideration of the retrospective planning application*)
- The plans show the extension to be 621 cm when the application states 6 metres and the extension is actually 630 cm, therefore is 30 cm too long for the application (*the walls of extension have been measured at 6.2 metres and the revised plans at 6.21 metres are considered to be sufficiently accurate to assess this proposal*)
- The extension has been built directly over a public sewer and no permission had been applied for or granted by Severn Trent Water (*this is a separate matter for Building Regulations and Severn Trent Water to pursue*)
- Materials must be similar in appearance as the existing house, the house is of red brick and the extension of breeze block, rendered and painted cream. This in no way matches the existing house (*this forms part of the consideration of the retrospective planning application*)
- The stench pipe position has been installed on the neighbours wall 5 cm further over than agreed (*any encroachment on to neighbours land is a private matter between neighbours*)
- Concerns about lack of parking and as Anson Road is a narrow road with street lighting only on one side of the road
- Parking is difficult during school run hours and the addition of possibly 4 more cars will make this area more dangerous for school children

PAGE 72 OF 97

- Will the landlord restrict to tenants with no cars when he has filled the parking area and any further parking in front of other homes will cause friction
- The planning application is late as the extension has already been built and is in excess of the 6 metres stated on the application (*the description has been amended following receipt of amended plans to 6.2 metres*)
- Parking is an issue as there are 3 cars at the moment and the applicant intends to move another 2 residents in.

Determining Issues

- Principle of Use
- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Observations

Principle of Use

The change of use from a dwelling house (Use Class C3) to a small HMO (Use Class C4) for not more than 6 residents sharing facilities is a permitted change granted by The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3 Changes of Use, *Class L – small HMOs to dwellinghouses and vice versa*. Therefore this planning application will assess the planning merits of the proposed extension only.

Design of Extension and Character of Area

The addition of a single storey extension with a flat roof is considered similar to other extensions in the surrounding area with the exception of its 6.2 metres length. It is considered that as this proposal is located at the rear of the application house and cannot be viewed from the public realm any additional impact on the character of the area and street scene is limited.

Whilst materials used in the extension are not similar in appearance to the existing house it is considered that as no. 43 Anson Road has painted brickwork and no. 45 Anson Road has a rendered and painted exterior finish the materials used for the extension do not look out of place in this instance.

Ground level alterations and the addition of the raised patio area and retaining wall at the rear of the application property requires permission in its own right, which the Local Planning Authority would need to assess the impact on neighbours' amenity. The applicant has declined to provide amendments and consequently if members are minded to approve the extension, these engineering works would be referred to planning enforcement.

Amenity of Nearby Residents

The length of the rear extension breaches the Council's 45 degree guidance, as referred to in Appendix D of Designing Walsall SPD, in relation to the adjacent, ground floor, habitable room window in the rear elevation of no. 43 Anson Road. This advice is the Council's tool to guide development and planning applications in relation to neighbour's light and outlook.

However it is considered that there are mitigating circumstances in this instance as the existing boundary treatment between no's 43 and 44 Anson Road is only 0.3 metres lower than the extension, due to the land changes and provides screening of this proposal from no. 43.

Furthermore as the rear elevations of these houses face north and the extension lies within the shadow of the existing house. It is considered that the additional impact of this extension on neighbours' light and amenity at no. 43 is limited.

The proposal meets the Council's 45 degree guidance in relation to the habitable room window in the rear extension at no. 45 Anson Road and it is considered that the proposal has a limited impact on neighbours' light and amenity at no. 45. The existing boundary treatment between no's 44 and 45 provides screening for the occupiers of no. 45.

The habitable room window to window separation distance of 26.2 metres between the proposed extension and no. 41 King Charles Avenue exceeds the Council's recommended separation distance between facing habitable room windows of 24 metres, as referred to in Appendix D of Designing Walsall SPD, by 2.2 metres.

Parking

The extension increases the number of bedrooms at the property from 3 to 6. In parking policy terms a dwelling with 4+ bedrooms requires 3 off street parking spaces to meet the maximum standards referred to in UDP Policy T13 Parking.

However as the dwelling previously had no parking provision, two off street parking spaces would be required to address maximum parking standards. The applicant has provided these spaces along with the installation of a new authorised dropped kerb access. Taking into account the school opposite and noting that during the beginning and end of the school day, there is a high demand for parking. Transportation officers have no highway objections to the proposal.

Whilst residents consider there could be friction due to parking demand in the location, Anson Road is public highway and available to anyone to park. Parking on the public highway is outside the scope of the planning legislation to consider. In this instance, the Council's Highway Authority, who advise the planning team, have no objections to the proposed parking at the property.

Conclusion

The concerns about the works being carried out prior to a planning application, prior to consulting neighbours, the depth of the extension, parking and materials have all been considered as part of this planning application. The issues of building over a sewer, adding two en-suite bathrooms are matters for building control/Severn Trent to consider and outside the scope of the planning legislation. The concern of the party wall act not being followed and the position of the stench pipe are matters outside the scope of the planning legislation and for neighbours to resolve. Taking into account all of the above matters, the retention of the retrospective extension is considered on balance to be acceptable in this instance, subject to safeguarding conditions, because of the northerly orientation of this development in relation to neighbouring houses and screening by existing high boundary treatment limits any additional impacts on neighbours' existing light and amenity.

The extension is not visible from the public realm and taking all these factors into consideration. The land level changes, retaining wall and raised patio area will form part of a separate planning enforcement enquiry.

Positive and Proactive working with the Applicant

Officers have spoken with the applicant's agent regarding the length of the proposal as described on the application form and subsequent plans and these concerns have been addressed with the exception of land level changes, retaining wall and raised patio area to the rear of the property which will form part of a planning enforcement enquiry.

Recommendation: Grant permission subject to conditions

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

- Existing Plans and Elevations, drawing no. GD1671/01, deposited 16/05/16
- Proposed Plans and Elevations, drawing no. GD1671/02, deposited 16/05/16
- Amended Location Plan and Block Plan, drawing no. GD1671/03A, deposited 29/07/16

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).

2: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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

3: There shall be no alterations to the driveway that would prevent the use of the existing hard-surfaced area for the provision of two parking spaces each measuring at least 2.4 x 4.8 metres and with access from the highway

Reason: To ensure the satisfactory provision of off-street parking, and in accordance with policies T7 and T13 of Walsall's Unitary Development Plan.



Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Sep-2016

Plans List Item Number: 7.

Reason for bringing to committee: Called in by Councillor Hughes

Location: 2, BLUE CEDAR DRIVE, ALDRIDGE, WALSALL, B74 2AF

Proposal: FIRST FLOOR FRONT GABLE EXTENSION OVER GARAGE AND SINGLE STOREY SIDE EXTENSION.

Application Number: 16/0622
Applicant: Mr Manjit S. Kang
Agent: Sueshire Services
Application Type: Full Application

Case Officer: Stuart Crossen
Ward: Streetly
Expired Date: 19-Jun-2016
Time Extension Expiry:

Recommendation Summary: Refuse



Application and Site Details

The site is near to the corner of Field Maple Road and Blue Cedar Drive, with views of the house when entering the estate, which are predominantly two storey detached houses of traditional styles and designs. Blue Cedar Drive falls away from north to south.

The property is a detached two storey four bedroom house with a single storey double garage with gable roof projecting forward on the left hand side of the frontage and a large gable feature to the right hand side of the frontage with gable roof to the ridge of the main roof.

No 9 Field Maple Road is a smaller house type than No 2 but also has a gable feature to the left (smaller than 2's) with a garage to the side of the house.

No 4 is a similar design but with a hipped main roof and hipped roof front projecting garage with a similar but smaller front projecting front gable features to the right.

The application proposes a first floor gable extension above an existing front projecting garage to provide an additional bedroom with en-suite. The first floor extension would be the full width of the existing garage (5.4m). The gable roof would extend 500mm lower than the ridge line of the main house, with similar eaves height and design to the existing gable to the right hand side of the property.

A single storey side extension is also proposed as part of the proposal to the side of the main house no further back than the main rear elevation and no close to number 4 than the existing garage of the application house. This extension would enlarge the lounge and proposes no side elevation windows.

Although there are no other double gable designs on this part of Blue Cedar Drive there are existing double gable designs elsewhere on this estate. Where this is the case the second gable has significantly smaller or single storey second gable designs like that at the application house, to ensure the main feature gable is the focal point. This characteristic is common in traditional mock tudor house designs which the houses of this estate are replicating.

The garage and driveway parking would be unaffected by the proposals.

Relevant Planning History

13/1008/FL - 15 KATSURA
CLOSE, STREETLY, SUTTON
COLDFIELD, B74 2AR - First floor front
extension above garage.



Proposed Front Elevation

Refused 11/09/13 for the following reason:

1. The design of the proposal would not integrate with the original design of the house because the gable would be similar to the original feature gable and would project further forward competing with the original feature gable focal point, a characteristic of this traditional style of house. The proposed gable would become dominant within

the street scene and have a poor visual relationship with the neighbouring traditional styled houses having a significant detrimental impact on the character of the area.

The above decision was upheld at appeal, but is not available from the Inspectorate site at present.

Relevant Planning Policy Summary **National Planning Policy Framework (NPPF)**

The NPPF was published on Tuesday 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

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

- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas

Key provisions of the NPPF relevant in this case:

4: Promoting Sustainable Transport

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

39. If setting parking standards for residential LPA's should also take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people

58. Policies should set out the quality of development that will be expected of an area, including:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

59. Consider using design codes where they could help deliver high quality outcomes. Design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.

60. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.

60. It is, proper to seek to promote or reinforce local distinctiveness
64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

On **planning obligations and conditions** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- 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.

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

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*".

The key planning policies include ENV2 and ENV 3

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

Walsall's Unitary Development Plan (UDP)

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse

impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV14: Development of Derelict and Previously-Developed Sites

(c) Where either the site or adjoining land is found to have been occupied or underlain by uses or activities which may have:

I. contaminated the site;

II. affected the stability of the site; or

III. led to the generation of landfill gas;

the application must also be accompanied by a site investigation report which identifies the hazards actually present on the site, assesses the level of risk for the proposed development and sets out a strategy and timescale for dealing with them as part of the proposed development.

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. This policy will be applied to all development.

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

The appearance of the proposed development.

- The height, proportion, scale, and mass of proposed buildings / structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The integration and co-ordination of buildings and external space.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The proposed vehicular and pedestrian circulation patterns.
- The integration of existing natural and built features of value.
- The maintenance requirements of the development.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

1, 2 and 3 bedroom houses 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Document (SPD)

On the basis that relevant Unitary Development Plan policies are consistent with National Planning Policy Framework, the related Supplementary Planning Document(s) will also be consistent provided they are applied in a manner consistent with National Planning Policy Framework policy. The relevant Supplementary Planning Document's are:

Designing Walsall (Feb 2008) refers to the development respecting massing, scale and rhythm of adjacent buildings, plots sizes and built density will relate to their local context, privacy and aspect distances between buildings must ensure all occupants have a satisfactory level of amenity, whilst reflecting the emerging and existing character of the area, ground floor activity and natural surveillance will be maximised, a clear definition

between private and public realm and building frontage to overlook the public realm, common building lines along road frontages must be maintained with buildings have a clear relationship with their neighbours and new development should make a positive contribution to creating a comfortable, adaptable and sustainable built environment.

Annexe D: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 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 20m² per dwelling where communal provision is made, setbacks to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

It is considered in this case that the relevant provisions of Designing Walsall Supplementary Planning Document are consistent with the NPPF.

Consultations

Pollution Control – Object because there has been no details provided for ground gas protection

Public Participation Responses

2 objections have been received on the following grounds:

The applicants are not complying with their lease because there should be no trade business or profession carried out at the property and no commercial vehicle exceeding 600kg should be parked at the site overnight.

Lack of Parking

Unbalance the appearance of the house

Loss of light

Loss of outlook

Determining Issues

- Ground Gas
- Design and Character of the Area
- Neighbouring Amenity
- Access and parking

Observations

Ground Gas

Pollution Control is concerned that given the history of the site the agent/applicant is unaware of the substantial amount of ground gas protection measures on site and incorporated into the dwellings. No information has been supplied regarding the current measures in the property or those for the proposed extension.

The residential development is situated on a former sand quarry that has been backfilled with waste materials. Investigation of this site prior to redevelopment identified the presence of methane in concentrations above the lower explosive level.

Reclamation of the land included the installation of a site wide ground gas management system intended to collect and disperse gas to atmosphere.

In addition all dwellings and structures forming part of the development have been constructed with integral protection measures included as part of the design. In most cases these measures comprise under foundation ventilation arrangements linked to “air bricks” in the outside walls of buildings. Additionally the floor slabs have been constructed with a high specification gas impermeable membrane installed under the floor screed. This membrane is continuous with the damp proof membrane and crosses the cavity wall to seal structure.

In order to facilitate development it is necessary for Pollution Control Contaminated Land Team to be confident that applicant understands the implications of making adaptations to buildings and the construction of new structures in relation to ground gas protection measures.

The agent has been advised of the above requirements but no information has been submitted. In the absence of sufficient information Pollution Control Officers recommend that the application is refused.

Design and Character of the Area

The proposed gable would be the full width of the existing double garage and would create a forward projecting two storey gable 5.4m wide, similar size to the original gable feature on the main house. The extension is considered to dominate the frontage of the house and the street in a prominent position visible to those entering the estate. The design would take the focus away from the original feature gable design of the house. The proposal would not integrate with the original house and would have a poor visual relationship with the neighbouring traditional styled houses having a significant impact on the character of the area. An identical extension has been refused at a nearby house. The applicant appealed with the Planning Inspectorate upholding the Council’s reason for refusal. This proposal has the same impacts as the nearby house and consequently is being recommended for refusal for the same reasons.

Amenity of Nearby Residents

The proposal would be nearest to number 4 and could result in some loss of light to the side elevation window. However this window serves a non-habitable room and would not significantly impact on the amenities enjoyed by occupiers of this house.

The nearest front elevation bedroom window at number 4 would be set away from the proposal on higher ground, however the proximity and height of the proposal would still result in an overbearing impact and result in significant loss of light to a main habitable room. The proposal also breaches the Councils 45 degree code.

Parking

The proposed parking accords with the Councils parking standards and would be acceptable.

Positive and Proactive Working with the Applicant:

The case officer has raised their concerns with the agent regarding the design, 45 degree code and ground gas issues. The agent has not been willing to amend the design and considers that the ground gas issues can be mitigated through condition.

Recommendation: Refuse

1. The design of the proposal would not integrate with the original design of the house because of the following design features:

- the gable is of a similar size to the original feature gable and would project further forward competing with the original feature gable focal point, a characteristic of this traditional style of house;
- The proposed gable would be lower than the original roof and partly to the side of the main roof which would mean the main roof side gable would be visible to the side of the proposal.

The accumulative impact of these design features would also have a poor visual relationship with the neighbouring traditional styled houses having a significant impact on the character of the area. The development would therefore be contrary to the National Planning Policy Framework in particular paragraphs 56, 57, 58, 64, 109, 186 and 187, the Black Country Core Strategy policies HOU2 and ENV2 and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document, Designing Walsall.

2. The proximity and height of the proposed extension over the garage would result in a loss of light and overbearing impact on the ground floor front lounge window of number 4 and would not accord with the Council's 45 degree code. The development would therefore be contrary to the National Planning Policy Framework in particular paragraphs 56, 57, 58, 64, 109, 186 and 187, the Black Country Core Strategy policies HOU2 and ENV2 and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document, Designing Walsall.

3. The application has failed demonstrated whether or not the development would compromise existing ground gas protection measures which would potentially be detrimental to the amenity of occupiers. The development would therefore be contrary to the National Planning Policy Framework in particular paragraphs 56, 186 and 187 and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV14, and the Supplementary Planning Document, Designing Walsall.



Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Sep-2016

Plans List Item Number: 8.

Reason for bringing to committee: Called in by Councillor Wilson

Location: 35, NORTHGATE, ALDRIDGE, WALSALL, WS9 8QF

Proposal: RETENTION OF AN EXISTING FENCE AND SHED WITH ALTERATIONS

Application Number: 16/0737
Applicant: Mrs Pauline Jefferies
Agent: Andrew Upson
Application Type: Full Application

Case Officer: Jenny Townsend
Ward: Aldridge Central And South
Expired Date: 06-Jul-2016
Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Reason for bringing to Committee

Called in by Councillor Wilson on the grounds that the proposed development could represent an over development of the site by virtue of being too large to be satisfactory accommodated and / or may not comply with guidelines as stated in the UDP or Supplementary Planning Guidance

Application and Site Details

This is a retrospective application for the retention of a 1.8 metres high close board fence which has been erected around the side garden of a detached house and a timber garden shed which has been erected within the garden behind the fence, 480mm higher than the fence to the apex of the shed roof.

The fence is 1.8 metres high, in line with the front of the house, extending towards Greenfields and set back 9 metres from the Northgate road footpath at the front of the house. The Greenfields frontage, the fence is set back 1.1metres from the back of the pavement, 14.5 metres long and 1.1 metres from the boundary with number 1 Greenfields, the house to the rear. The driveway of number 1 Greenfields is adjacent the rear boundary of the application site with a strip of lawn approximately 1.2 metres wide between the fence and the driveway. There are two tall conifer trees and tall shrubs within the application site along the boundary with 1 Greenfield.

The Northgate frontage includes part of the fence that currently extends up to the low wall alongside the pavement in Greenfields. The applicant has agreed to remove the last 1.1 metres of the fence, so the corner would be in line with the fence fronting Greenfields.

The shed is positioned in the corner nearest to Greenfields, 0.5 m's from the fence with 480mm of the pitched roof visible above the fence.

The application site is on the corner of a service road set back from Northgate and Greenfields, which is a cul-de-sac containing 6 houses. There is a wide grass verge with hedges along sections of the grass strip in front of the house and trees and tall shrubs to the corner of the application site and number 37 Northgate on the opposite corner of the junction at the entrance of Greenfields. Around the edge of the application site and number 37 there is a low brick wall approximately 0.3 metres high and whilst there are two other fences in the cul-de-sac, these are low level with planting alongside.

Past photographs of the site show that some of the shrubs alongside the fence have been in situ for a long time but there has been some infill planting put in at the same time as the fence was erected.

It must be noted that permitted development allows for the erection of fences/walls or gates over 1.0 metre high provided that they are set back 2 metres from the back of the pavement. The Local Planning Authority has no control over planting adjacent to the footpath.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

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

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

Local Policy

Black Country Core Strategy

- ENV3: Design Quality

Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF.

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Relevant Planning History

None.

Consultation Replies

Transportation – No objections.

Representations

Two letters of objection from neighbours on the following grounds:

The submitted application is inaccurate as part of the fence was erected before May 2016, it implies that the lower part of the fence has been removed and the plan suggests that you can see through the trees;

The fence is nearer to the road than the plan suggests and breaches legal requirements; Plans do not show before and after and therefore does not highlight the substantial effect of the fence on the environment;

The application refers to the removal of an existing fence but there has never been a fence along the side road;

The fence is not in keeping with and spoils the open plan character in the local area;

Similar applications /permission have been refused at 2 Greenfields and 37 Northgate; (*The Council has no records of these applications at the addresses quoted*)

Covenants in title deeds state Council must approve all fencing; (*Covenants are are enforced outside the scope of the Planning Legislation*)

Safety concerns as there is no clear access and visibility from their property as the fence obstructs view up the road;

Poor visibility is exacerbated by overgrown and unkempt shrubs which overhang onto the public footpath;

No planning permission was sought before the fence and shed were erected;

Fence is next to the highway and over 1 metre high;

The shed has been built forward of a wall forming the principle elevation.

Photographs have been submitted illustrating views of the fence from the neighbouring driveway and the cul-de-sac.

All letters of representation area available for inspection upon publication of this committee report.

Determining Issues

- Design and Character of Area
- Amenity of Nearby Residents
- Highway Safety

Observations

Design and Character of Area

It is noted that parts of the fence are considered to be permitted development. In addition, the Local Planning Authority, in this instance, has no control over the resident planting adjacent to the highway. These two factors have to be taken into account when assessing this application.

The fence is mostly screened by planting and shrubs within the application site itself and the grass verge alongside Northgate. The fence is set 9m's back from the pavement in Northgate and also set 1.1m's from the pavement in Greenfields. There is 480mm of the shed pitched roof visible above the fence and planting. The plans show that a 1.1m section of the front fence which currently continues to the Greenfields pavement is to be removed, so that the corner is in line with the side fence, which is considered would improve the overall appearance. On balance and in this context it is considered that the fence and shed do not harm the appearance of the application site or area. It is considered any changes to the visual amenity of the locality are not sufficient to warrant a refusal of the application for this reason alone. In assessing the application, it is considered not to be overdevelopment of the site.

Amenity of Nearby Residents

The rear section of the fence is adjacent to number 1 Greenfields driveway and whilst it is acknowledged there must have been a view of the road into the cul-de-sac through the existing planting and across the side garden of the application house, this has now been lost by the erection of the fence. However the part of the fence which fills these gaps would be permitted development and not require a separate planning approval from the Council, as it would be more than 2 metres away from the back of the pavement.

Regarding the neighbours comments, the submitted plan shows the visibility splay required by Manual for Streets from the driveway of number 1 Greenfields. This allows intervisibility for pedestrians and vehicles to maintain highway safety; the fence and shed were in place at the time of the application, this would be considered the existing situation. The reference to existing fence is the 1.1m end of the front section which currently extends to the Greenfields pavement and the applicant intends to remove so that the corner is in line with the side fence, improving the appearance. At the time of the officer's site visit the shrubs were not overhanging the pavement. Should plants overhang the pavement in the future, it will be a matter for the Council's Highway Authority to consider what action to pursue.

Highway Safety

The fence falls outside a 2.4m x 25m visibility splay from 1 Greenfield vehicular access point towards the junction with Northgate, which is based upon the likely relatively low traffic speeds along the short cul de sac. Pedestrian visibility is also unaffected as demonstrated on the submitted drawing 01A.

Taking into account the intervening planting could be implemented without a permission from the Council and that a number of existing trees and shrubs along this boundary, the Highway Authority considers that visibility at the access point meets current highway design guidance and is acceptable.

Positive and Proactive working with the applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation: Grant Permission Subject to Conditions

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

Location plan deposited 12 May 2016;
Elevation and layout plans drawing 01A deposited 22 August 2016.

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

2: Within one month of the date of this decision, the 1.1 metre section of the front fence which projects up to the back of pavement in Greenfields beyond the side fencing along Greenfields is to be removed so that the front corner of the fence is in line with the existing side fence. Once removed, the fence is to remain as such thereafter.

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

Notes for Applicant

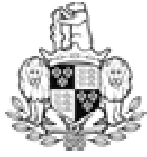
The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining.

Further information is also available on The Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com

This Standing Advice is valid from 1st January 2015 until 31st December 2016



Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Sep-2016

Plans List Item Number: 9.

Reason for bringing to committee: Significant Community Interest

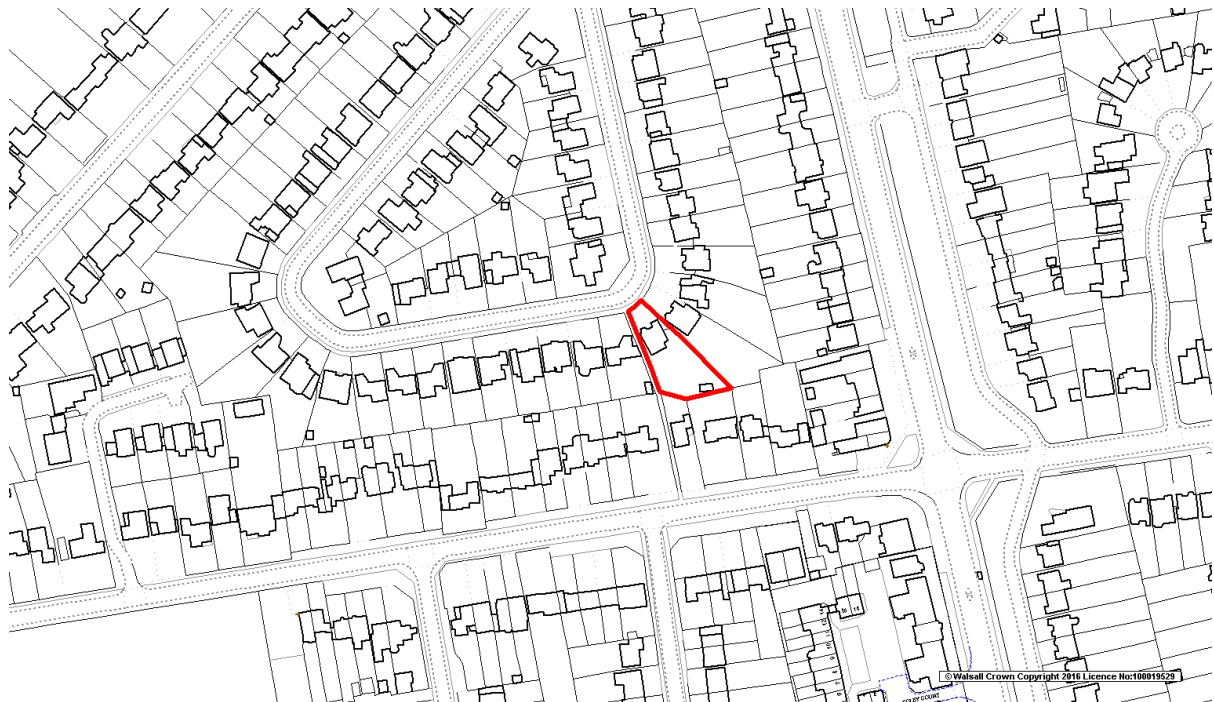
Location: 39A, INGLEWOOD GROVE, STREETLY, SUTTON COLDFIELD, B74 3LL

Proposal: TWO STOREY SIDE/REAR EXTENSION AND SINGLE STOREY REAR EXTENSION.

Application Number: 16/0578
Applicant: Mr and Mrs Baker
Agent: Mr Ian Savage
Application Type: Full Application

Case Officer: Jenny Townsend
Ward: Streetly
Expired Date: 31-May-2016
Time Extension Expiry: 08-Sep-2016

Recommendation Summary: Grant Permission Subject to Conditions



Application and site Details

This application is for extensions to a detached house that would add a hallway, lounge, shower room, sun room and conservatory at ground floor, enlarge the bathroom and two of the existing bedrooms and add a new bedroom with en-suite and storage at first floor level with a 5th bedroom with en-suite facilities created in the roof space. The existing garage is to be converted to create a sitting room and a porch is proposed to infill the area between the front bay window and the side of the existing garage. No increase is proposed to the height of the ridge of the roof.

The extensions are to provide an annex to enable the parents of one of the applicants to live with the family.

Inglewood Grove is a residential area which has a mix of houses and bungalows that vary in design. The road is a long oval shape with bungalows on the inner side and mainly houses on the outer edge of the loop. The application house is at the end of one of the long sides, on a bend and is a traditional design with a hipped roof and a long sloping roof on the left-hand side. The garage projects forwards and has a hipped roof which ties into the original side sloping roof. The whole of the frontage is tarmaced with a block paved edge.

The boundary on the left-hand side of the site adjacent to number 39 Inglewood angles away from the house and the proposed two storey extension would be in line with the existing two storey part of the house at the front (which is set back 1.8 metres from the front of the garage) and built up to the boundary with number 39. The first floor part of the extension would be stepped out in width along the angled boundary with the front section 4 metres long and the rear section 1.4 metres wider and 6.3 metres long. Two hipped roofs with a valley between them and ridges 1.2 metres lower than the main roof are proposed over the side extension. The single storey part of the extension adjacent to the boundary is to have a 2.8 metre high flat roof. No windows are proposed in the side elevation.

Three velux roof lights are proposed in the front roof slope facing onto the road.

On the rear the two storey extension would be 2.5 metres deep and replace the existing single storey kitchen/diner to be across the full width of the house and the proposed side extension. Hipped roofs 1.2 metres lower than the ridge of the main roof are proposed to the rear two storey extension with three velux roof lights to the loft bedroom in the slope.

The proposed single storey extension would be 3 metres deep and across the whole of the rear elevation of the house up to the angled boundary with number 39.

No changes are proposed to the existing two storey part of the house adjacent the public gully and no windows or doors are proposed in the side elevation of the extensions nearest to the gully.

Number 39 is to the east of the application house. At the front, the gap to the side of number 39 is approximately 0.6 metres, widening to 2.4 metres at the rear. At the rear number 39 has a bedroom at first floor and a conservatory at ground floor nearest to the boundary.

Numbers 82 and 82A Foley Road West are to the rear. There is a 2 metre high fence and trees on the boundary which belong to both the application house and neighbours which provide screening between the rears of the houses.

Relevant Policies

National Planning Policy Framework (NPPF)

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

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
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Key provisions of the NPPF relevant in this case:

- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

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

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It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF.

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Relevant Planning History

None.

Consultation Replies

None.

Representations

Eight letters/emails of objection have been received from neighbours in relation to the original plans. The objections are on the following grounds:

Extensions appear to include a new self contained unit with an additional front door onto the street;

The annex could be occupied by a separate household which would give rise to additional parking requirements that would be impossible to provide with the size of the frontage. This would lead to on street parking on the narrow road near to the sharp bend;

The fully tarmaced drive has no drainage and during heavy rain, causes flooding across the pavement which is to the detriment of passing pedestrians;

Difficult to determine the size/scale of proposal as the existing and proposed plans are not to the same scale, the proposed plans are smaller so as not to emphasize the magnitude of the proposal;

What limitations are there for doubling the size of a property?;

Recently paid for a new fence which may be undermined/threatened by proposed extensions; *(not a material planning matter)*

Loss of daylight/sunlight to their conservatory;

Overshadowing/loss of outlook;

Overlooking/loss of privacy;

Does the proposal meet the 45 degree code in relation to their property?;

Highway/parking issues because of the location of the house on a fairly severe bend and the number of vehicles which are presently parked at the property;

Loss of trees;

Design of extension with angled walls close to their boundary;

Will not allow access onto their land to undertake construction or for future maintenance of the proposed extensions; *(covered by separate legislation and outside the scope of the planning legislation)*

Roof design is incongruous, not in keeping with character of area/surrounding property type mix and for space only rather than appearance;

Proposed extensions would be completely out of character;

Front garden is already like a car park with vehicles regularly parked on the road or pavement;

Disruption would cause unnecessary inconvenience and could prevent access by ambulances should the elderly neighbours require one;

Over-development and erosion of original formation of area;

Site is next to public gully and the security of this may be threatened when builders vans and the applicant's vehicles are clogging the area; *(not a material planning issue)*

Extension is too dominant;

In relation to the amended plans, and in addition to the previous comments which were all reiterated, the following comments were received:

Amended plans extend the boundary conflict with their new fence even further;

Does the gateway into the public alleyway contravene any law?; *(this does not form part of the application)*

Large reduction in privacy for nearby bungalows in particular;

Regular parking on pavement from applicant's vehicles creates vision hazards for motorists negotiating the bend and also pedestrians trying to stay on the pavement; (*covered by separate legislation*)

Plans state 'second floor' rather than 'loft conversion';

Plans give no indication that the roof will be raised but there are long established rules on rooflines;

Six windows proposed in roof area which will overlook nearby properties;

Boundary between 39 and 39A will be almost non-existent – what happened to the 2 metre rule?:

Future maintenance will be difficult. (*not a material planning matter*)

All letters of representation area available for inspection upon publication of this committee report.

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Observations

Design of Extension and Character of Area

The amended design of the extension is considered to be compatible with the design of the existing house.

The two storey part of the extension would be set back from the front of the converted garage with this remaining a feature of the front of the house. The proposed porch infilling alongside would be subservient to the garage as the roof would be lower.

The wider two storey part of the extension would be set back from the front of the house and the lower roof would keep the extension subservient to the main part of the house. The second door alongside the converted garage is considered would not significantly harm the appearance of the house and would not appear unusual as in some instances doors to covered ways are on the front elevations and it is clear that the main entrance is in the middle of the front elevation.

It is acknowledged that the extension would be built to the boundary with number 39 at ground floor. There would still remain a first floor gap between the houses alongside number 39 and this together with the existing space on the other side of the application house adjacent to the public gully, would reflect reduced gaps of other extended neighbouring houses in Inglewood Grove. The variety of house designs in Inglewood Grove means that there is no regular pattern of gap between houses. On balance and in this context, it is considered that the proposed extensions would not harm the appearance of the house and would reflect the character of the area.

The applicant's agent has advised that the extensions are to provide space to enable parents of the one of the applicants to live with them. This would be annexed accommodation with meals cooked in the only kitchen at the property. A condition for the extensions to remain part of the main house and not sub-divided is to be added to prevent the annex being used as a separate dwelling.

Amenity of Nearby Residents

The side two storey part of the extension would not project beyond number 39 at either the front or rear and there are no windows proposed in the side elevation.

The rear part of the two storey extension would be approximately 4 metres from the side elevation of the conservatory belonging to number 39 and this separation, together with the hipped roof shape sloping away from the boundary is considered would minimise any shading to the conservatory. There is an existing 2 metre high fence and trees on the boundary which already would cause some shading to the side of the conservatory. On balance in this context, the proposed two storey part of the extension is considered would not significantly worsen this situation sufficiently to warrant refusal of the application for this reason alone.

Whilst the single storey part of the rear extension projects approximately 3 metres beyond the rear of number 39, it complies with the 45 degree code measured from quarter point of the rear first floor bedroom window of number 39. This part of the 2.8 metre high flat roofed extension would be within the height allowed as permitted development.

The rear windows of the extension would face towards the rears of numbers 82 and 82A Foley Road West with a separation distance exceeding the minimum 24 metres required by policy (approximately 32 metres to number 82 and 25metres to rear of 82A). The existing fence and trees would continue to provide screening to protect the privacy of both the neighbours and applicants. This would also apply to the velux windows in the rear roof slope.

The velux windows proposed on both the front and rear of the main roof slopes would serve a habitable room. The front windows would face towards the bungalows opposite over the road and when windows face onto the road they already have limited privacy which the proposed velux windows are considered would not significantly worsen.

With regard to the neighbour's comments, a condition to prevent the house being subdivided or used as a separate dwelling has been added which would avoid the requirement of further parking spaces; the application does not propose any changes to the existing driveway and it is not clear how long this has been in place. It therefore may be immune from any enforcement action by the Local Planning Authority; there are no protected trees at the property so no planning permission would be required to remove any tree on the site. All other comments have been covered in the above assessment.

Parking

The existing front driveway is large enough to provide 3 parking spaces (2.4metres X 4.8 metres) which accords with UDP policy for a house with 4 or more bedrooms.

Positive and Proactive working with the applicant

Approve

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

Recommendation: Grant Permission Subject to Conditions

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

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

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

Location plan deposited 6 April 2016;

Block plan deposited 6 April 2016;
Existing elevations and floor layout plans deposited 6 April 2016;
Amended proposed elevations, floor layout and roof plans deposited 14 July 2016.

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

3: The walls and roof of the extension shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

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

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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

5: The approved extensions are to be kept as part of the main property and at no time shall be subdivided to create a separate dwelling.

Reason: The site is not suitable for independent occupation because of the lack of separate amenity space, levels of privacy and parking normally required in a separate dwelling.

6: Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015, or succeeding orders, no change of use within the provisions of Schedule 2, Part 3, Class L shall take place to change the existing house and extension hereby approved from Class C3 (dwellinghouses) to Class C4 (houses in multi occupation).

Reason: To safeguard the amenities of the occupiers of adjoining premises and to allow the LPA to retain control of the site.