



Walsall Council

Planning and Building Control

Planning Committee 05 Sep 2024

Plans List Item 5

Report of Head of Planning and Building Control

Reason for reporting to the planning committee.

Public petition with over 10 signatures.

Application details.

Application reference: 24/0077

Site location: 188, WALSALL WOOD ROAD, ALDRIDGE, WALSALL, WS9 8HB

Application proposal: Change of use from residential dwelling Class (C3) to a children's day nursery Class E(f) for a maximum of up to 37 children.

Application type: Full Application: Change of Use

Link to application documents: <https://go.walsall.gov.uk/planningapps?id=24/0077>

Applicant: Rahman, Rahman Investments Ltd Reman Investments Ltd, 810, Walsall Road, Great Barr, B42 1EU

Planning agent: Raymond Henry Ashall MRTPI, Mr Raymond Henry Ashall MRTPI Ashall Town Planning, Stratford House, 5 Cortland Avenue, Eccleston, Chorley, PR7 5FP

Ward: Aldridge Central And South

Red line location



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Recommendation

Committee to delegate to the Head of Planning and Building Control to grant subject to the amendment and finalising of conditions and no new material considerations.

Site and surroundings

The application site is an existing detached dwelling known as 188 Walsall Wood Road. The application site is situated at the junction of Walsall Wood Road, Lancaster Avenue and Lazy Hill Road. The site is an existing dwellinghouse and is currently unoccupied. The dwelling is circa 1970's construction and the site is a corner plot with an integral garage and vehicular access from Lancaster Avenue with the principal elevation facing Walsall Wood Road. The garden/amenity space is mainly to the front of the site and is currently laid to lawn with an approximately 0.5m to 1-metre-high brick-built boundary wall. The site levels slope upwards from Lancaster Avenue to Walsall Wood Road by approximately 0.5 to 1 metre. An existing highway tree is situated at the corner of Walsall Wood Road and Lancaster Avenue. The tree is not within the red edge of the application site. To the front of the site are Zig Zags from a nearby Zebra pedestrian crossing.

The application site is situated in Flood Zone 1 as defined on the Environment Agency Flood Map for planning. The site is also situated in the 15km zone of

influence for the Cannock Chase SAC and is a low risk area for legacy coal mining development.

Relevant planning history

None

Relevant policies

1. National Planning Policy Framework (NPPF)

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

A draft text of the NPPF for consultation has been published on the 30th of July 2024 the consultation period expires on the 24 September 2024.

2. Human rights and reducing inequalities

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

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

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

3. Walsall Council Development Plan

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

Our Development Plan includes:

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

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

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

Consultee comments (planning officer's summary)

1. Education Walsall
No comments received.
2. Environmental Health
Comments raised in relation to noise impact conditions advised in relation to an acoustic fence and the number of children shall be restricted to 8 in the external areas at any one time.
3. Environmental Protection
Advise conditions in relation to the provision of a 2-metre-high acoustic fence barrier and no more than 8 children to use the external activity areas at any one time.
4. Housing Standards
No comments received.
5. Local Highways Authority
Supports the proposal subject to conditions in relation to parking and turning areas provided prior to the occupation of the site and the provision of the details of the cycle shelter.
6. Strategic Planning Policy
No objection.
7. PQMS, Training
Supports the application.
8. Social Services
No comments received.
9. West Midlands Fire Officer
No objection
10. West Midlands Police Architectural liaison officer
No objection

Neighbour and interested parties' comments

1. 30 comments received in support of proposal for the following reasons:
 - Need for more nursery provision in the area
 - Creation of jobs
 - Support for working parents
 - Support for local employment/business
 - Bus route nearby
 - Another opportunity for employers to take on apprenticeships
 - Useful local service.

2. 47 comments received objecting to proposal for the following reasons:
 - Parking and highway safety issues near shops/businesses and other residential properties
 - Danger to pedestrian safety/at pick up drop off times
 - Increase in traffic
 - Capacity of the drainage system to cope with additional commercial use
 - Insufficient parking/drop off areas available on the site front garden for parents/visitors/staff
 - Antisocial behaviour
 - Not a nice place to put a nursery next to a pub
 - Speed of traffic
 - Litter and glass outside the premises which is unsuitable for children
 - Loss of a residential property would not be acceptable
 - Parking will cause major issues in the street
 - Difficulties for disabled people/pedestrians to pass on the footpath due to inconsiderate parking on the footpath
 - Nursery places are needed but this is not the right location
 - Noise and disturbance/impact to nearby residents/loss of amenity
 - The site is close to a junction and the street is poorly lit and it is difficult to see during the hours of darkness
 - Limited outdoor space for the children to play
 - Potential loss of a tree in the public highway

3. Petition
Petition with over 10 signatures objecting to the proposed development.

Determining issues

1. Principle of development
2. Design, layout, and character
3. Amenity of neighbours and future occupiers
4. Highways
5. Flood risk / Drainage
6. Trees / Protected trees
7. Ground conditions and environment
8. Planning obligations
9. Other key determining issues

Assessment of the proposal

1. Principle of development

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

The application site is situated on Walsall Wood Road Aldridge. The site is an existing dwelling situated on a junction with Lancaster Avenue. The vehicular access is situated on Lancaster Avenue.

The site is situated in a mixed use/residential area with some commercial properties adjacent to the application site. Immediately adjacent to the application site is a residential property at 2 Lancaster Avenue to the West of the application site. To the north of the application site is a public house and shop.

A number of concerns were raised about the proposal from third parties in respect of additional traffic/congestion and amenity concerns. These issues have been addressed and the highways authority/Environmental Health Officer supports the proposal subject to conditions.

2. Design, layout, and character

The proposal involves the change of use of the existing building for use as a nursery for up to 37 children.

The site is a detached property with most of the amenity space is to the site frontage with a small area of amenity space to the rear of the property.

The rear amenity space abuts other residences and a commercial shop. The rear enclosed amenity space proposes an indoor area of 17.5m². Adjacent to the indoor play area is outdoor amenity space some of which is enclosed by a proposed canopy and a 2.0-metre-high timber acoustic fence.

The internal rooms are proposed to be re-arranged to provide indoor play areas and office/wc on the ground floor and wc/kitchen/storage and play areas on the first floor.

Provision for the play accommodation is broken down into 17.5m² for children under 2 years old. 41.4 m² for children aged 2-3 years and 36.8m² for children aged 3 to 5 years. The ratio of children ranges is 5 no. 0-2-year, 16 no. 2-3 years and 16 no. 3 to 5 years.

In addition to the side elevation of the building is an outdoor area enclosed for use as bin/cycle/pram storage. This is adjacent to the office and staff room area.

The proposal is considered to accord with Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, and DW3 Character. NPPF Chapter 2 Achieving Sustainable Development.

3. Amenity of neighbours and amenity of future occupiers

A significant number of objections has been raised by third parties as set out in the Interested Party Comments Section of this report. These concerns relate mainly to the potential for additional traffic and parking provision for the proposed nursery and the use of the adjacent highway by existing road users who allegedly park inconsiderately causing issues for residents. In addition, the issues also raised are noise and disturbance from the resulting use and comments/concerns are also raised relating to the site being located next to a public house and its proximity to the nursery. In addition, a 98-signature petition was lodged with the LPA objecting to the proposal. There are also 30 of supporting comments from third parties who consider the development will provide more nursery provision in the area, create jobs, support working parents, support local businesses, is near a bus route, is a useful local service and is a potential opportunity for the nursery to provide apprenticeships for local people.

The Environmental Health Officer advises that they support the proposal subject to conditions and the provision of a 2-metre-high acoustic timber fence around the play areas as well as restrictions on the number of children to 8 at any one time in the outdoor play area.

The proposal is considered to accord with Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, and DW3 Character. NPPF Chapter 2 Achieving Sustainable Development.

4. Highways

In addition, highways had previously expressed concerns regarding the level of information provided initially on parking and turning provision to the site. Additional information has been provided in support of the application to address the highway concerns. The highways officer has now confirmed that they have no objections to the proposal subject to conditions in relation to the provision of the parking and turning areas prior to the occupation of the site and the provision of further details for the cycle shelter.

The Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the UDP policy GP2, T4, T7 and T13, and the Black Country Core Strategy TRAN4,

NPPF December 2023 paragraph 115. Which states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposals are considered to accord with the development plan policies and paragraph 109 of the National Planning Policy Framework.

5. Flood Risk / Drainage

The application site is situated in flood zone one as defined on the Environment Agency Flood Map for planning. The proposed use will involve the use of the existing drainage network which the property is already served by. Some third-party comments advise that the site may not be able to support an increase in the drainage capacity. As the site involves the use of an existing building the property will already be connected to the drainage system. The proposed development is acceptable in terms of flood risk and drainage and the proposal is considered to accord with Black Country Core Strategy ENV5: Flood Risk, Sustainable Drainage Systems, Urban Heat Island and NPPF Chapter 14 of the revised NPPF December 2023.

6. Trees / Protected trees

An existing tree is situated outside the red edge of the site within the highway verge. This tree is a highway tree and is within the control of the highway authority. Any work to the tree would require consent from the highway authority. The application description does not include any works outside the control of the of the red edge.

7. Ground conditions and environment

The application site is in an area at low risk of legacy coal mining development. The proposed use is for an existing dwelling to be changed to a nursery and therefore no further action is necessary. There are no objections from the Coal Authority. Standing advice is advised. The proposal is considered to accord with "Saved"

Unitary Development Plan Policy ENV10: Pollution and The Black Country Core Strategy ENV8 Air Quality.

8. Other key determining issues

There is substantial community support for the proposal on the basis that the development will provide additional opportunities and jobs within the community. There are also significant objections to the proposal on the grounds of highway safety and amenity. These matters have been addressed in the submission to the extent that the application can now be supported when weighed in the planning balance against the planning policies the application is considered acceptable and in compliance with the relevant development plan policies.

Conclusion and reasons for decision

On balance, this application is considered acceptable when assessed against the local and national planning policies and guidance as set out in this report on balance, this application is considered acceptable when assessed against the local and national planning policies and guidance as set out in this report. Officers have worked with the applicant/agent to overcome the concerns regarding highway safety, and amenity. Considering the above factors, it is considered that the application should be recommended for approval.

Conditions and Reasons

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

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

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Drawing number 3000-401-03 Rev B existing and proposed site plan, block plan, location plan.
- Drawing number 3000-401-02 Rev C Proposed Plans and Elevations. All received 20 March 2024.
- Noise Assessment AN/1248/24/309/ V4. 0 dated 22 April 2024.
- Highways Supporting information received 20 March 2024.
- Noise Supporting information received 20 March 2024.

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

3. The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been hard surfaced and drained /permeable surfaced and no loose stone. The access, turning area and parking facilities shall not be used for any purpose otherwise than for access, turning and parking respectively.

Reason: To reduce the need for on street parking in the interest of highway safety and ensure surface water does not run onto the highway and to avoid increased surface flooding to comply with the Walsall Unitary Development Plan saved policies GP2 and ENV40.

4. The proposed extension and alterations to the development hereby permitted shall comprise facing materials that match, in size, colour and texture, those which are used in the existing building and the facing materials shall thereafter be retained for the lifetime of the development.

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

5a. No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

5b. No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area in accordance with saved policies GP2, ENV11 and ENV32 of the Walsall Unitary Development Plan.

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

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

7. The development hereby permitted shall not be open to customers otherwise than between the hours of 07:30 hours to 18:00 hours Mondays to Fridays and shall not be open on Saturdays, Sundays, Bank and Public Holidays

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

8. Notwithstanding the provisions of Class E of the Town and Country (Use Classes) Order 1987 (as amended) or any subsequent re-enactment thereof the premises shall only be used as a crèche or day nursery for the care of children under Use Class E(f).

Reason: To define the permission, to ensure the satisfactory functioning of the development and to safeguard neighbours, amenity to accord with the Walsall saved Unitary Development Plan Policy GP2.

9. The Nursery shall operate with no more than 37 children on site at any one time.

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

10. No more than eight children shall be permitted to use the external activity areas at any one time.

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

11a) Prior to the occupation of the development hereby approved full details of the proposed cycle shelter, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the cycle shelter shall be fully implemented in accordance with the approved details.

11b) 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.

Notes for applicant

Coal Authority Standing Advice - Development Low Risk Area

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.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

End of report