

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 07th March 2013

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2	23	12/0550/FL	LAND BETWEEN WALSALL ROAD AND RUSSELL STREET, WILLENHALL, WV13 1QX	Application for 5 two-bed houses, 16 three-bed houses and 4 four-bed houses (25 in total) together with access from Russell Street and Walsall Road, associated car parking and landscaping following demolition of existing properties.	Grant Permission Subject to Conditions
3	37	12/1650/FL	SITE OF FORMER FRANCES SHARPE HOUSE, KEMPTHORNE GARDENS, WALSALL	Erection of 18 affordable dwellings for rent.	Grant Permission Subject to Conditions
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6	81	12/1604/OL	LAND BETWEEN VICTORIA STREET & BLOXWICH ROAD SOUTH, WILLENHALL, WV13 1DW	Outline planning application (considering layout & access only) for 6 x houses.	Grant Permission Subject to Conditions
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8	105	12/1684/FL	FORMER BROWN JUG P.H., 52 SANDBEDS ROAD, WILLENHALL, WV12 4EY	Extensions to side and rear and alterations to former public house to facilitate change of use from public house (use class A4) to shop (use class A1).	Refuse
9	111	12/0866/FL	39A FOLEY ROAD EAST, SUTTON COLDFIELD, B74 3HR	Demolition of existing dormer bungalow and adjoining garage building (C3 dwellinghouses). Construction of two new two storey	Grant Permission Subject to Conditions

				dwelling with integral garage (C3 dwellinghouses).	
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17	205	12/1106/FL	18 ATHLONE ROAD, WALSALL, WS5 3QX	Two storey rear and side house extension with first floor alteration at the front of 18 Athlone Road.	Grant Permission Subject to Conditions
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Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 1.

Reason for bringing to committee: Called in by Councillor Smith and a Major application

Application Number: 12/1598/FL
Application Type: Full application

Case Officer: Alison Ives
Telephone Number: 01922 652604
Email: planningservices@walsall.gov.uk
Agent: Mr Pryce

Applicant: Mr John Bowen

Proposal: Proposed erection of 14 no 3 bedroom houses and associated works.

Location: FORMER BARLEY MOW PUBLIC HOUSE, GOSCOTE LANE, WALSALL

Ward: Blakenall

Expired Date: 19/03/2013

Recommendation Summary: Grant permission subject to conditions and a S106 Agreement to secure provision for urban open space.

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Current Status – Councillor Smith has called the application before committee on the basis of lack of parking, inadequate access, traffic capacity, adverse impact on the character of the area and amenity of neighbours, adverse impact on the surrounding area and overdevelopment of the site.

Application and Site Details

The proposal is for erection of 14 houses on vacant land formerly occupied by the Barley Mow Public House and its car park. There are 4 detached houses facing Henley Close, 4 semi-detached houses facing Livingstone Road and 6 houses (2 pairs of semis and 2 detached houses) sharing a parking court off Goscote Lane. Plots 7-10 back onto the canal where it is proposed to create a 3m wide landscape buffer. The houses on plots 9 and 10 are positioned in line with the existing house 34 Henley Close but the perimeter fencing at the head of Henley Close is to remain preventing access through.

The proposal includes a new 2m wide footway along Goscote Lane. The parking court for the Goscote Lane properties utilises the existing access and is gated. Each house has 2 off-street parking spaces. A new access between the two pairs of semis facing Livingstone Road is also included to provide driveways for plots 2 and 3. There is a sewer easement which passes in front of the houses on Goscote Lane and returns along the rear of plots 7-10.

The existing trees at the corner of Henley Close/Livingstone Road are to be removed along with any trees within the visibility splay on Goscote Lane near Goscote Works Bridge. New tree planting is proposed throughout the site including front and rear gardens of the proposed houses.

The site has boundaries to Livingstone Road, Goscote Lane and Henley Close and the Wyrley and Essington Canal adjoins the northern boundary. Goscote Works Bridge over the canal is near the north-western corner of the site. Henley Close is a cul-de-sac of predominantly semi-detached houses. There are blocks of three storey flats opposite at the junction of Livingstone Road and Goscote Lane. The site is relatively flat.

House type A (plots 7 & 8) is a three storey house with rooms in the roof and a Juliet balcony on the front elevation. House type Eb (plots 1-4 and 11-13) is a two storey house with the corner plots having a side facing bay window at ground floor. House type H1 (plots 5 & 6) are angled two-storey houses. House type Ha (plots 9, 10 & 14) are detached two storey houses with a two storey projecting gable with feature staircase window.

The site area is 0.39 hectares giving a density of 36 dwellings per hectare.

The Design & Access Statement – Describes the site and location, design of the proposals and access, sustainability, landscape design, ecology and refuse collection and the policy context. It concludes the proposals are a viable option for redevelopment of this vacant site, the design takes account of existing properties in Henley Close, maximise amenity benefits, create a secure environment, respect views and create a sustainable development.

The Pre-Development Tree Survey – Identifies 5 individual trees and two groups of trees on the site and proposed works to accommodate the development.

The Bat and Bird Survey – States there was no evidence of bats using the former building or of birds nesting. Redevelopment offers opportunities to create new roosting opportunities under ridge tiles of new dwellings.

The Extended Phase 1 Survey – Identifies vegetated gravel/rubble where the former public house stood, semi-mature and mature trees and the canal. There were no structures or trees suitable for bat roosting but the adjacent canal may be used for bat foraging. No badgers or otters were evidenced but the banks of the canal are suitable for water vole although none were found a water vole survey is recommended. The grassland habitat may also be suitable for reptiles. It states new gardens will replace existing habitats providing foraging for bats, a water vole survey and reptile survey should be undertaken, protection of nesting birds during construction and provision of nesting boxes. A buffer zone along the canal would enhance conservation benefits.

The Water Vole Survey – Found no evidence of water vole within the site or along the 1km stretch of canal. Water voles are not a constraint to development but it is recommended that a 3m buffer zone is incorporated with vegetation protected from encroachment by future residents.

The Phase 1 Geo-Environmental Assessment – Examines the geology, radon and coal mining constraints, environmental setting, on and off site receptors and a geotechnical assessment. It identifies potential development constraints as potential cellars for the former public house or backfilled cellars of a former boiler house near the Goscote Works Bridge, potential asbestos contamination and potential for tree roots to require specific foundation design.

Relevant Planning History

11/1431/PD – Demolition of public house – Approved December 2011.

Rear part of site only

06/1987/FL/E2 – Erection of 14 flats – Refused for four reasons broadly relating to (1) poor layout, over-dominant parking areas, inappropriate siting and design and inadequate landscaping (2) inadequate information to assess the impact of the development on the canal embankment (3) inadequate information on landscaping and ecological habitats (4) Unacceptable pressure on education and open space provision in the locality. The application was dismissed at Appeal in November 2007.

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:

- Always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings
- Take account of different roles and character of different areas

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 9 encourages sustainable development that involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life such as improving the conditions in which people live and widening the choice of high quality homes.

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- 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

Paragraph 63 attaches great weight to outstanding or innovative design which helps raise the standard of design more generally in the area.

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

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

Paragraph 118 aims to conserve and enhance biodiversity and protect habitats.

Paragraph 120 states the effects of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Contamination or land stability issues should be addressed by the developer.

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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until/unless it is abolished by order of the Secretary of State.

Relevant RS policies are:

CF1: Seeks to significantly improve the quality of existing housing stock, increase the scale and range of new housing development opportunities in appropriate locations and create attractive urban communities and living environments.

CF4: Encourages opportunities for re-use of redundant employment land and premises in urban areas for housing purposes.

CF5: Seeks to create more balanced and mixed communities through provision of a range of housing types and tenures within new housing development.

QE1: Supports regeneration and creation of new high quality built and natural environments. Also supports protection and enhancement of irreplaceable assets such as specific wildlife habitats.

QE3: Promotes high quality design.

The Black Country Core Strategy (BCCS)

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 Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors linking the Strategic Centres will provide: high quality employment land, new homes in sustainable communities built on redundant employment land and other brownfield sites close to existing public transport routes and canal networks and locations with the best access to residential services, at moderate densities that allow for a range of house types.

CSP2: Outside strategic centres and regeneration corridors will provide a mix of good quality residential areas where people choose to live.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

ENV1: Safeguards nature conservation resources.

ENV2: Development should preserve and enhance local character.

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

ENV4: The canal network must be safeguarded and protected and enhanced for its nature conservation value and to enhance visual amenity amongst other matters.

ENV7: residential developments of 10 units or more gross (whether new build or conversion) must incorporate generation of energy from renewable sources sufficient to off-set at least 10% of the estimated residual energy demand of the development on completion.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

Walsall's Unitary Development Plan (UDP)

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:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

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 trees and hedgerows.

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

3.116 & ENV32: seeks the design of residential developments to create high quality living 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.

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

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

LC8: Seeks to protect local community facilities including public houses.

T7 – Car Parking

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

T8: Development should seek to provide and improve pedestrian routes.

T11: Where pedestrian links are considered to be substandard measures must be taken to improve them.

T13: Parking Provision

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.

1, 2 and 3 bed houses 2 spaces per unit

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;

DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. 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.

Urban Open Space (SPD) (April 2006)

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

Transportation – No objections subject to conditions to provision of visibility splays, details of highway works and surfacing car parking areas. The parking provision at 200% accords with policy T13. The developer should enter into agreements under the Highways Acts for adoptable highway works which is recommended as a note for applicant.

Pollution Control (Scientific Team) – Recommend that construction times are controlled by condition and acoustic glazing and ventilation installed in bedrooms fronting Livingstone Road.

Pollution Control (Contaminated Land) – No objections subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues as recommended in the Geo-Environmental Assessment (dated 5th September 2011 reference AJM/19563). Conditions to address these concerns have been provided.

Landscape – Full details of landscaping and boundary treatments should be secured prior to commencement of any development.

Ecology – Concern about the relationship of housing to the canal corridor which should be resolved. No reptile survey has been provided despite the recommendation in the ecology report. Conditions should be imposed to address bat and bird issues. Comments will be updated at committee.

Tree Officer – No objections subject to a condition to secure implementation of the measures identified in the tree survey.

Canal & River Trust – No objections subject to conditions to secure details of boundary treatments, finished levels and details of lighting to protect the canal corridor.

Inland Waterways – No objections. Fencing at the rear of plots 7-10 should be lower to give views over the canal.

Natural England – The supporting information has not identified there will be any significant impacts on statutorily protected sites, species or on priority Biodiversity Action Plan habitats. The Council should consider opportunities to incorporate biodiversity measures throughout the development.

Police Architectural Liaison Officer – No objections in principle. As there is a high level of recorded crime in the area Secured by Design criteria should be encouraged. Parking for plots 1 and 4 is still vulnerable but would be acceptable if retractable bollards are included. Boundary fencing and gates should be secured to deter criminals.

Fire Service – No objections.

Severn Trent Water – No objections subject to provision of drainage details which can be secured by condition.

Public Participation Response

There are 10 letters of objection from residents in Henley Close plus objections from Councillor Smith. The objections are summarised as follows: -

- Henley Close is narrow and the proposal would lead to increased vehicles, parking congestion and highway safety issues
- It is already difficult for residents in Henley Close to reverse off drives with vehicles parked on street opposite
- Inadequate parking which may encourage on-street parking
- Refuse and emergency vehicles already have to negotiate parked vehicles
- Concern that building contractors will park vehicles in Henley Close
- Object to opening up the cul-de-sac in Henley Close
- Visibility at the junction of Livingstone Road with Goscote Lane and Henley Close should be maintained – fences or refuse bins could impair this
- Henley Close cannot accommodate more driveways
- All new houses should face and use the access off Goscote Lane
- Adverse impact on the outlook for existing residents
- Overdevelopment of the site when there are vacant properties available nearby
- The boundary fence at the head of Henley Close should be retained
- Object to the introduction of alleyways as they create a security issue
- Proximity of new dwellings to existing properties may block light
- No access from the canal should be allowed as this encourages misuse by criminals
- Enlarging the cul-de-sac with more houses is out of keeping and results in extra noise and disturbance
- What impact will there be on local schools and public transport?
- Have all previous objections on the earlier scheme been addressed?

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 the canal
- Relationship to adjoining properties
- Access and parking

- Provision for urban open space
- Local Finance Considerations

Observations

Principle of residential development

The public house had been closed for a number of years and was demolished last year. There is no justification to retain the site for this use and given that it is a brownfield site in an urban area residential redevelopment is appropriate. Development of the land at the rear of the park, which was subject to an earlier refusal for residential development and was dismissed at appeal but the Inspector, who considered the site was acceptable in principle for residential development.

Despite objectors concerns that there is no need for the development as there are vacant properties nearby housing is the most appropriate use of the site and will assist the regeneration of the borough by developing a currently vacant site.

Layout and Design

The proposal creates new housing with direct frontages to Henley Close, Livingstone Road and Goscote Lane and clearly defined public and private areas. The layout of the houses is considered appropriate to the surrounding context and is designed to achieve the Council's space and separation distances in respect of existing housing. Where distances between facing elevations are below 24m (between plot 1 and 2 Henley Close, plot 5 and the flats at 173-189 Goscote Lane, plots 6 and 7 and between plot 11 and 34 Henley Close) this is across a highway where overlooking is more likely to be from users of the highway than occupiers of new dwellings. Each property has ample garden space. The density is 36 dwellings per hectare slightly less than the Henley Close development at 42 dwellings per hectare. This is considered appropriate and does not create a cramped overdevelopment of the site.

Objectors consider no new properties should face or be served off Henley Close and the boundary fence at the head of cul-de-sac should be retained. Some objectors also object to enlarging Henley Close as they consider this would be out of keeping and result in additional noise and disturbance. The proposals do not open up Henley Close which remains a cul-de-sac and the provision of 5 additional houses served off Henley Close is considered not to create significant additional disturbance.

Although there are trees to be removed on the corner of Livingstone Road and Henley Close the tree officer does not object and there is adequate replacement planting throughout the site to compensate for this.

The Police consider that boundary fencing should be increased in height from 1.8 to 2.1m to deter crime, including the boundary with the canal. Objectors are also concerned about unauthorised access from the canal. The rear gardens of the proposed houses have secure boundary fencing and where there are boundaries exposed within the street the house types incorporate side facing bay windows to increase natural surveillance. The parking court will also be controlled by a gated access and there is no public access to the canal from the street, in order to secure this boundary. Final details of boundary treatments are recommended to be submitted for approval.

Some objections relate to an earlier layout that included narrow private access to remote parking spaces that could be a security issue but these have now been removed. With regard to whether all previous objections have been addressed in terms of the earlier

application dismissed at appeal this was for development of only part of the site and was a scheme for flats which is entirely different from that now proposed. It was also a different developer. Nevertheless the key concerns in relation to scale, layout and relationship to the canal and surrounding properties have been addressed in this alternative proposal.

The proposal offers a mix of house type and size and the design of the houses is appropriate in this area.

With regard to the potential impact on local school provision and public transport the size of the development does not trigger any policy requirement for provision towards these matters.

The first layout indicated a footpath link to the canal at the rear of the site for the benefit of occupiers. This raised concerns from the Police, Ecology officer and residents. The scheme has been amended so that there is now a 3m landscape buffer along the boundary with the canal which will prevent unauthorised access from the canal and enhance the ecological habitats to benefit wildlife. This addresses the concerns raised.

On balance the layout and design is considered acceptable.

Relationship to the canal

The proposals have been amended to incorporate a 3m wide landscape buffer to the canal at the rear of plots 7-10 which will protect the embankment and provide an enhanced ecological habitat. It will also prevent encroachment by residents onto the canal edge. Inland Waterways and the Canal & River Trust support the proposals subject to provision of details of boundary treatments, finished levels and any lighting to protect the canal corridor. Appropriate conditions are included.

The Phase1 Survey recommended that a Reptile survey was carried out. This has not been provided but a condition is recommended to secure this and any appropriate mitigation prior to any development commencing.

Relationship to adjoining properties

The proposed layout maintains adequate distance between existing and proposed residential properties. There are some instances where the distance between dwellings is less than 24m but this is across a highway. For example there is 18m between plot 11 and 34 Henley Close, 20m between plot 1 and 2 Henley Close, 20.5m between plot 5 and the three storey flats in Goscote Lane. There is a highway intervening between these areas so the potential for the new development to significantly affect the privacy of existing residents is low.

Objectors have raised concerns over the proximity of the new dwellings and potential impact on loss of light. The closest distance between dwellings is 18m and as the dwellings are closest dwellings are only two storeys high this will not significantly affect the outlook or daylight of existing residents.

Access and parking

The proposal includes five new properties accessed off Henley Close, 2 off Livingstone Road and 7 off Goscote Lane. Each property has its own driveway and 2 off-street parking spaces which comply with Council policy despite objectors concerns that there is not enough parking to serve the development. There is a gated parking court serving

plots 6-10 off Goscote Lane where parking is secure and well observed. The introduction of just two driveways off Livingstone Road is considered appropriate and although they are located between two road junctions the Transportation officer is satisfied this will not cause significant highway safety issues. There is no proposal to open up the cul-de-sac and create a through road as residents have objected to.

Only 2 corner plots (1 & 4) have a driveway which is not immediately visible from their front door but they are accessible from the gardens and are observed by other properties so are likely to be used by occupiers. The police recommend these spaces are bollarded to improve security but this would detract from the appearance of the development and given the above comments is considered unnecessary.

Residents in Henley Close object to the introduction of any new properties accessed off the close as there are existing difficulties with parking congestion, refuse collection access and in manoeuvring off drives. They are also concerned that construction traffic may utilise Henley Close creating further problems. As stated the development provides adequate off street parking to serve each property in accordance with Council policy. The likelihood of visitors parking on street is no greater than for existing residents in Henley Close. There are no parking restrictions in Henley Close. Although objectors state the road is narrow the carriageway is at least 5.5m wide with footways on each side so is not considered so narrow as to be dangerous. In the circumstances, even with increased vehicle numbers the proposal will not create significant highway safety issues in Henley Close.

There is adequate space in gardens to store refuse bins so they would only be on the footway on collection day for a limited period. Transportation officers are satisfied that this would not cause any significant interruption to visibility of either of the highway junctions which have adequate visibility.

The proposal has incorporated properties facing Henley Close to create an active street frontage and offers improved security benefits and increased surveillance. If all new houses faced Goscote Lane as requested by the objectors this would result in a poor street scene to Henley Close with properties "turning their back" on existing properties and vulnerable garden boundaries.

The access and parking provision proposed for the development is considered acceptable.

Provision for urban open space

In accordance with the provisions of policies DEL1 of the BCCS, policies GP3 and LC1 of the UDP and SPD Urban Open Space the proposals trigger the requirement for provision of urban open space. This equates to a contribution of £28,770.00 for a development of this size. The developer has agreed to enter into a S106 Agreement to secure this provision.

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 scheme with the applicant's agent and in response to concerns raised, amended plans and supporting information has been submitted to enable full support to be given to the scheme.

Summary of Reasons for Granting Planning Permission

The public house had been closed for a number of years before being demolished so there is no justification to retain the site for this use. Development of a brownfield site for residential development is appropriate as supported by a previous appeal Inspector. Housing is the most appropriate use of the site and will assist the regeneration of the borough by developing a currently vacant site.

The proposal creates new housing with direct road frontages and clearly defined public and private areas and is considered appropriate in this area. There is adequate space and separation between dwellings and where there are distances below 24m this is across a highway. Each property has ample garden space. The proposals do not open up the cul-de-sac in Henley Close despite objectors concerns and provision of 5 additional houses served off Henley Close is considered not to create significant additional disturbance.

The tree officer does not object to removal of trees as there is adequate replacement planting throughout the site to compensate for this. Boundary treatment and security throughout the site are considered adequate and final details will be secured by condition to address police concerns.

Some objections relate to an earlier layout that included narrow private access to remote parking spaces that could be a security issue but these have now been removed. The earlier application dismissed at appeal related to development of flats on only part of the site so entirely different from that now proposed. Nevertheless the key concerns in relation to scale, layout and relationship to the canal and surrounding properties have been addressed in this alternative proposal. The mix of house types and design of the houses is appropriate in this area.

With regard to the potential impact on local school provision and public transport the size of the development does not trigger any policy requirement for provision towards these matters.

A 3m landscape buffer is provided along the boundary with the canal which will prevent unauthorised access and enhance the ecological habitats to benefit wildlife. It will also prevent encroachment by residents onto the canal edge and conditions are recommended to require details of levels, boundary treatments and lighting to address consultee requirements.

The Phase1 Survey recommended that a Reptile survey was carried out. This has not been provided but a condition is recommended to secure this and any appropriate mitigation prior to any development commencing.

There are some instances where the distance between existing and proposed dwellings is less than 24m but this is across a highway so the potential for the new development to significantly affect the privacy of existing residents is low. Even the closest properties are 18m away from each other so will not significantly affect the outlook or daylight of existing residents.

The parking provision accords with Council policy despite objectors concerns that there is not enough parking to serve the development. The Transportation officer is satisfied that introduction of two driveways off Livingstone Road will not cause significant highway safety issues. It is considered unnecessary to require parking for plots 1 and 4 to have bollards as they are well observed.

Residents in Henley Close object to the introduction of any new properties accessed off the close citing existing difficulties with parking congestion, refuse collection access and in manoeuvring off drives. They are also concerned that construction traffic may utilise Henley Close creating further problems. The development provides adequate off street parking to serve each property and requirement for visitors parking on street the same as for existing residents in Henley Close. The carriageway is at least 5.5m wide with footways on each side so is not considered so narrow as to be dangerous. In the circumstances, even with increased vehicle numbers the proposal will not create significant highway safety issues in Henley Close. Transportation officers are satisfied that there is adequate junction visibility. To position the houses so they all face Goscote Lane would result in a poor street scene to Henley Close with properties "turning their back" on existing properties and vulnerable garden boundaries.

The access and parking provision proposed for the development is considered acceptable.

The developer has agreed to enter into a S106 Agreement to secure provision for urban open space.

This application proposes 14 new homes and consideration should be given to the New Homes Bonus but the weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

In light of the above the proposals are considered to accord with the aims and objectives of the National Planning Policy Framework and sustainable development, the aims and objectives of the Black Country Core Strategy policies in particular CSP1, CSP2, CSP4, TRAN1, HOU2, ENV1, ENV2, ENV3, ENV4, ENV7 and DEL1, the aims and objectives

of the Walsall Unitary Development Plan saved policies GP2, GP3, H3, ENV14, ENV18, ENV23, ENV32, ENV33, 3.116, 3.117, LC1, LC8, T7, T8, T11 and T13 and Supplementary Planning Documents: Designing Walsall, Conserving Walsall's Natural Environment and Urban Open Space.

Recommendation: Grant permission subject to conditions and a S106 Agreement to secure provision for urban open space.

1. The 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. In order to address potential impact from land contamination the following matters shall be addressed:

- i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- iv) The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the "Remediation Statement" required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site and to protect human health and the environment.

3a. No development shall take place until suitable noise mitigation measures to protect internal areas to Plots 1 to 4 have been agreed in writing with the local planning authority to demonstrate acoustic glazing and ventilation (minimum Rw of 38 dB) in bedrooms and a reasonable level of glazing in other habitable rooms (minimum Rw of 31 dB).

3b. The development shall not be occupied until the agreed measures have been fully implemented and maintained thereafter.

Reason: To protect the amenities of future occupiers from traffic noise.

4a. Prior to the commencement of the development details of the disposal of both surface and foul water drainage shall be submitted to and approved in writing by the Local Planning Authority.

4b. 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.

5a. No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority.

5b. The development shall be completed with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development.

6a. No development shall commence and no works of site clearance or demolition shall take place until a reptile survey has been carried out and a Scheme of Reptile Mitigation has been submitted in writing to the Local Planning Authority for approval. The Scheme of Reptile Mitigation shall include clear and specific measures to safeguard protected species identified on the site; details of the location of any reptile-exclusion fencing to be installed during the carrying out of works; measures necessary to protect species for which the site is habitat rich; details of habitat enhancement and future management; and any other compensation/mitigation measures appropriate for the safeguarding of reptiles on the site.

6b. The development shall be implemented in accordance with the measures set out in the approved Scheme of Reptile Mitigation and under the supervision of a suitably qualified ecologist.

Reason: To ensure safeguarding of reptiles on the site and protection of habitats.

7a. No development shall commence until a landscape scheme has been submitted and approved in writing by the Local Planning Authority. The scheme shall incorporate full details and specifications, planting numbers and locations and shall incorporate planting of native seed/ fruit to create a landscape which provides a foraging resource for bats, birds and invertebrates.

7b. The approved landscape plan shall be implemented before any part of the development is brought into use.

7c. All planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any trees, shrubs or plants which dies, 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: To enhance the nature conservation value of the neighbourhood in accordance with UDP policy ENV23: Nature Conservation and New Development.

8a. Prior to the commencement of any construction works on site the recommendations and guidelines detailed in the tree survey by Midland Tree Surgeons dated 9 November 2011, shall be adhered to and the protection of the retained trees full implemented until completion of the development.

8b. The land enclosed in accordance with part 5a of this condition shall be kept clear of all contractor's materials and machinery at all times, as laid out in British Standard 5837.

Reason: To safeguard trees to be retained on site.

9a. Prior to the commencement of the development and notwithstanding the details shown on the approved planning layout (AAH4970/04 Rev E) full details of all boundary treatments shall be submitted to and approved in writing by the local planning authority.

9b. The development shall be implemented in accordance with the approved details and retained thereafter.

Reason: To preserve the visual amenities of the area including the canal.

10a. Prior to the commencement of the development and notwithstanding the site sections shown on drawing AA/4970/11 full details of finished levels (to include finished garden levels adjacent to the canal) shall be submitted to and approved in writing by the local planning authority.

10b. The development shall be implemented in accordance with the approved details and retained thereafter.

Reason: To preserve the visual amenities of the area including the canal.

11a. Prior to the commencement of site clearance or development, a scheme for the erection of bird boxes on the site shall be submitted for approval by the Local Planning Authority.

11b. The approved scheme shall be installed before any part of the development is brought into use and retained thereafter with access openings maintained free of obstructions at all times.

Reason: To protect local bird populations.

12a. No external lighting scheme shall be installed to rear of plots 7, 8, 9 and 10 other than in accordance with the requirements set out below.

- i. There shall be no direct illumination of the new bat roosts installed.
- ii. Any lighting installed shall be low wattage down lights to provide security and safety lighting which will be set no higher than head height.
- iii. Any security lighting shall use PIR's to ensure they turn off automatically once movement has ceased.

12b. Prior to the installation of any lighting in accordance with condition 12a details of proposed lighting including details of foundations, luminance in candelas and hours of operation shall be submitted to and approved in writing by the Local Planning Authority.

12c. The development shall be implemented in accordance with the approved details and retained thereafter.

Reason: To conserve local bat populations along the canal corridor and protect the integrity of the waterway infrastructure in accordance with policies ENV3 and ENV4 of the adopted Black Country Joint Core Strategy.

13a. Prior to the first occupation of the dwellings a scheme for the provision of bat roosting sites as set out on pages 14-16 of S Christopher Smith's bat report dated 12 January 2012 shall be installed within the houses of plots 9 and 10

13b. The approved bat roosting sites shall be retained thereafter with access openings maintained free of obstructions at all times.

Reason: To conserve local bat populations.

14. No planting or structures shall be introduced onto that part of the existing embankment in Goscote Lane that falls within the 2.4m x 43m visibility splay in a northerly direction at the new access point, as shown on the approved drawing AAH4970/04 Rev E.

Reason: To ensure adequate visibility at the access point along Goscote Lane is retained at all times, in the interests of highway safety.

15a. Prior to the development first coming into use, full engineering details of all adoptable highway works, including the new footway and access point on Goscote Lane, new vehicle footway crossings in Henley Close and tactile pedestrian crossings at the Goscote Lane/Livingstone Road junction and the Henley Close/Goscote Lane junction, shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.

15b. The approved details shall be fully implemented prior to the first occupation of any new dwelling on the development and retained thereafter.

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

16. All new driveway access points on Henley Close shall have 2.4m x 3.4m pedestrian visibility splays within which no planting or structures exceeding 600mm in height above ground level shall be permitted.

Reason: In the interests of highway safety.

17a. Prior to the first occupation of any new dwelling, all accesses, vehicle hard standing and parking areas serving that dwelling shall be fully consolidated, hard surfaced and drained.

17b. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure adequate off street parking is available and retained, to minimise on street parking in the interests of highway safety.

18. All site clearance and building dismantling shall take place outside the bird nesting season (the bird nesting season is March to September inclusive). Where this is unavoidable a breeding birds survey (particularly looking for black redstart and peregrine falcon) shall be undertaken by a suitably qualified and experienced ecologist prior to any works commencing. If breeding birds are discovered site clearance and other operations should be delayed until young birds have fledged. All wild birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 and subsequent amending legislation. It is an offence to damage or destroy a nest of a wild bird. If nesting birds are discovered clearance works should be delayed and advice sought from the ecologist or Natural England.

Reason: To protect local bird populations.

19. No development within Classes A (enlargement, improvement or alteration to the dwelling) and E (buildings within the curtilage) of Part 1 and Class A (fences, walls or means of enclosure) of Part 2 to Schedule 2 of the Town and Country Planning (General Permitted Development Order 1995) (Amendment No.2)(England) Order 2008, or succeeding Orders shall be carried out to the dwellings on plots 7, 8, 9 and 10 which back on to the canal, as appropriate, without the prior submission and approval of a planning application.

Reason: To protect the canal corridor from encroachment.

20. No 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 Mondays to Fridays 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.

* Note - 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: In order to protect the residential amenities of nearby occupiers.

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

- Location Plan (AAH4970/05) received 26/11/12

- Planning Layout (AAH4970/04 Rev E) received 12/2/13
- House Type A (AAH4970/01) received 26/11/12
- House Type Ebington (Eb) Detached (AAH4970/02) received 26/11/12
- House Type H1 (AAH4970/10) received 26/11/12
- House Type Ha (AAH4970/03) received 18/12/12
- Street Scene to Livingstone Rd (AAH4970/06) received 26/11/12 (to be updated)
- Site Sections (AAH4970/11) received 18/12/12
- Landscape Strategy (LS-01) received 18/12/12 (to be updated)
- Topographical Survey as of 18/10/11 (WH/R-S5500/201) received 26/11/12
- Design & Access Statement prepared by RPS (AA4970) received 26/11/12
- Pre-Development Tree Survey prepared by Midland Tree Surgeons Ltd received 26/11/12
- Bat and Bird Survey prepared by Christopher Smith MRICS received 26/11/12
- Extended Phase 1 Survey prepared by Absolute Ecology Wildlife Surveys received 26/11/12
- Water Vole Survey prepared by Absolute Ecology Wildlife Surveys received 26/11/12
- Phase 1 Geo-Environmental Assessment prepared by GIP received 18/12/12

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

Notes to applicant – Public Sewer

There is a public sewer located within the application site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. The developer is advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist the developer in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 metres of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent Water can direct building control officers to refuse building regulations approval. If you require any further information please contact Rhiannon Thomas on 01902 793883.

Note to applicant – adopted highways

The developer will be required to enter into an agreement under S38/278 of the Highways Act 1980 in respect of all adoptable highway works.

Notes for Applicant – Contaminated Land

CL1

Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in the National Planning Policy Framework (2012); British Standard BS10175: 2011 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same

CL2

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

CL3

Validation reports will need to contain details of the "as installed" remediation or mitigation works agreed with the Local Planning Authority.

For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported "clean cover" materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted.

Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 2.

Reason for bringing to committee: Major Application

Application Number: 12/0550/FL

Application Type: Full application

Applicant: J. Moody Ltd

Proposal: Application for 5 two-bed houses, 16 three-bed houses and 4 four-bed houses (25 in total) together with access from Russell Street and Walsall Road, associated car parking and landscaping following demolition of existing properties.

Location: LAND BETWEEN WALSALL ROAD AND RUSSELL STREET, WILLENHALL, WV13 1QX

Ward: Willenhall South

Case Officer: Andrew Thompson

Telephone Number: 01922 652603

Email: planningservices@walsall.gov.uk

Agent: J. Mason Associates Ltd

Expired Date: 16/08/2012

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The site is the former Comet depot (also known as Jack Moody Ltd) between Russell Street and Walsall Road, Willenhall and is made up of an irregular shaped site surrounded by housing and flats in particular on Squires Gate Road, Knights Close, and Maiden Close. The site has been cleared.

The application proposes:
5 two-bed houses,
16 three-bed houses and
4 four-bed houses

Car parking is provided at a level of 200% (50spaces). Access would be from Walsall Road and Russell Street. Site Area is approximately 0.5ha and the proposed density is 50 dph.

In support of the application the following has been submitted:

Design and Access Statement highlights the design of the houses is traditional in form and is drawn from the neighbouring properties with the overall style and the majority of features in evidence on the other new properties in the area.

Materials are facing brickwork and concrete tiles with a mixture of red and buff brickwork and feature detailing to window heads and cills in contrasting brick. This language and range of materials is evident on the other new properties and the development will sit comfortably alongside its neighbours. Overall ridge and eaves heights are comparable to other properties in the area ranging from 4.8-6.4m eaves and 8.8-10.4m ridges. The majority of other buildings in the area are either two or three story and the properties will therefore be appropriate in scale.

The site is conveniently located adjacent to the local facilities of shops and public house. The site is accessed from new roads located in the centre of the street frontages. These new access reduce the overall access points as, there were four original points for the former use. The central location for the access points also serves to improve visibility splays. The new access points will be 5.0m wide and the back of existing pavement will have a transition strip to identify the site boundary. A transport statement has been produced to accompany the application detailing the main access issues and their resolution.

Transport Statement highlights that an assessment of access by sustainable modes has been undertaken. This has demonstrated that the site benefits from excellent pedestrian access and lies within walking distance of local schools and other facilities, as well as within comfortable walking distance of Willenhall town centre. There are good cycle connections in close proximity to the site.

The site is located directly adjacent to a high frequency bus corridor on Walsall Road. Bus stops are located in very close proximity to the site for this route. It is concluded that there are no transportation reasons why this redevelopment proposal should not proceed.

The submitted *Noise Assessment* concludes that the noise level on site and the area would not prohibit use of the land for residential development and subject to an

appropriate glazing specification development would meet appropriate residential amenity standard.

Flood Risk Assessment notes that the site is identified to lie within Flood Zone 2 (medium probability) of the River Tame within the Black Country SFRA and a Flood Risk Assessment has been prepared on this basis. However, much of the site is considered likely to lie within Flood Zone 1, given the upstream improvement works and diversion of the River Tame which is understood to have left the old culverted route through Willenhall off-line of the fluvial system (based on LA Engineer and survey data available on this system). It is advised that finished floor levels be set above surrounding ground levels to provide protection to the development from the residual risk of surface water runoff and sewer flooding.

The site is currently considered impermeable and the development proposals include a reduction of impermeable area on the site, associated with the provision of rear gardens to the proposed houses. This means there will be no increase in the level of surface water runoff generated and subsequent discharge from the site, and in fact a potential reduction in impermeable area connected. Surface water shall be drained using soakaway and permeable paving SuDs systems (subject to percolation testing). Should infiltration techniques be unsuitable, cellular crate storage shall be incorporated into the drainage system to provide the required level of surface water attenuation and restrict runoff discharged.

Relevant Planning History

None relevant to this application.

Relevant Planning Policy Summary (Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

National Planning Policy

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*".

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Proactively drive and support sustainable economic development to deliver homes
- Always 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
- Reuse land that has been previously developed

Key provisions of the NPPF relevant in this case:

4: Promoting Sustainable Transport

35. Opportunities for the use of sustainable transport modes should be protected and exploited.

39. If setting parking standards, LPA's should 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.

6: Delivering a wide choice of high quality homes

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

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

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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

Relevant RS policies are:

CF1 – Seeks to provide housing within major urban areas.

QE3 – seeks to deliver high quality design

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF.'

The Black Country Core Strategy (BCCS)

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 relevant policies are:

The Vision consists of three major directions of change and underpins the approach to the whole strategy which includes the delivery of Sustainable Communities, Environmental Transformation and Economic Prosperity which are supported by the following policies:

The relevant key policies are:

CSP1 – sets out the targets for sustainable regeneration of the Black Country.

CSP2 additional windfall housing developments (on sites outside the Growth Network) will also occur in the following areas shown on the Key Diagrams will be supported in Housing Market Intervention Areas and Housing Renewal Hubs.

CSP4 – develops the need for high quality place making and design

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

DEL1 – sets out to seek appropriate developer contributions and infrastructure improvements from development.

HOU2 – Sets criteria for Housing Density, Type and Accessibility

HOU3 – Seeks to deliver affordable housing

HOU5 – Education and healthcare – seeks well design facilities providing a range of community services and community use.

TRAN4 – creating coherent networks for cycling and walking – seeks to maximise the potential for this in new development. Cycle parking provision should be made.

ENV3 – Design Quality – seeks to promote this aspect of developments

ENV5 – Sets out criteria for Flood Risk, Sustainable Drainage Systems and Urban Heat Island

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

Walsall's Unitary Development Plan (UDP)

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 indicates that the creation of, or susceptibility to, pollution of any kind will be taken into account in the assessment of development proposals

GP3 – seeks to deliver appropriate planning contributions

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land.

ENV32: seeks the design of residential developments to create high quality living 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: deals with landscape design and opportunities to create and enhance environmental quality.

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

T7: All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment.

T13: sets maximum car parking standards, account should be taken of the location of development in relation to local facilities and public transport and unless demonstrated

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)

Designing Walsall SPD

Seeks to guide development and deliver high quality design through local distinctiveness and sustainable design.

Urban Open Space SPD

Sets out the thresholds and contributions sought towards urban open space from residential developments.

Affordable Housing SPD

Sets out the thresholds, tenure, mix and type of affordable housing sought from residential developments.

Consultations

Transportation – No objection subject to conditions

Pollution Control

Scientific Team – No objection recommends conditions for inclusion in any permission granted to control noise issues arising during construction and subsequent noises impacting upon future residents. Conditions have been recommended

Contaminated Land Team – No objection subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the former uses of the site. Conditions to address these concerns have been provided.

Environment Agency – No objection subject to appropriate conditions

Seven Trent – No objection – the submitted drainage detail would be acceptable.

Fire Service – No objection

WM Police - The developer should be mindful of Secure By Design specifications for New Homes, which will significantly increase the security of the buildings, its boundary

and create a safer place for its residents to live. Raises concern about some of the parking spaces.

District Valuers Service – The scheme is not sufficiently viable to accommodate infrastructure contributions.

Representations

1 letter of objection received from the Three Tuns public house opposite the site on Walsall Road.

- Concerned about the impact of residential properties on its licence and ability to operate as the pub holds a 24 hour serving licence.
- The proposed houses will be facing the front of the pub and its smoking area, which is may be a nuisance to the residents. The pub has been there since the early 18th century possibly late 17th century.
- Would prefer if houses backed onto Walsall Road.
- Has built a positive relationship with existing residents and would like Council assistance to do the same.

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

Determining Issues

- Principle of Development
- Impact of the proposals on the character of the area
- Impact of the proposals on neighbouring and nearby properties
- Access and parking
- Contributions towards Urban Open Space and Affordable Housing
- Local Finance Considerations

Observations

Principle of development

The application site is a previously developed site with a number of residential properties around the application site. The area around the application site has evolved in recent years and is not allocated for any use within the Development Plan. Whilst there is commercial development opposite the application site on Russell Street the prevailing character is towards residential development.

It is considered that redevelopment for housing would be acceptable in principle and should be supported.

Impact of the proposals on the character of the area

The proposed development would be a traditional construction and would be two and two and a half storeys in height. The development would fit in with the prevailing character of the residential properties already on neighbouring streets and would be in keeping with the character of the area.

The proposals are considered acceptable

Impact of the proposals on neighbouring and nearby properties

The objection of the tenant of the public house opposite is noted. A busy road separates the site and there is other residential properties existing which also have a relationship. There is no reason to suggest that new properties would cause additional harm. The

residents could also become customers of the public house and assist viability and vitality of the pub.

The proposals would build a positive relationship both physically in terms of the design with neighbouring residential properties. The application proposals would have a positive impact on the adjacent local facilities.

The application continues in similar vein to the existing street layout and will provide a similar relationship to existing residential properties to Walsall Road and Russell Street. The nearest residential properties not the adversely affected by the proposals and the height of the proposed buildings at two storey would be a positive relationship to the street.

It is considered that the development will have a positive impact on the area and would not adversely affect the amenities of neighbouring residents or impact on the public house. The proposal is considered acceptable.

Access and parking

At 200%, the proposals would provide adequate levels of parking taking into account the type of accommodation, the site's location in relation to shops and services as well as public transport and also the need to promote sustainable travel choices.

Contributions towards Urban Open Space and Affordable Housing

In accordance with Council's Adopted policy, an application of this would seek:
25% affordable housing
£51,282 towards urban open space.

The proposals have been tested through the District Valuer Service and shown to be unviable. Officers note the findings of the viability assessment and consider that based on DVS comments regarding the viability of the scheme it would unreasonable to seek contributions in this instance.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes 25 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.

Summary of Reasons for Granting Planning Permission

The application site is a previously developed site with a number of residential properties around the application site. The area around the application site has evolved in recent years and is not allocated for any use within the Development Plan. Whilst there is commercial development opposite the application site on Russell Street the prevailing character is towards residential development.

The proposed density and height of the proposed buildings are considered appropriate in this location. It is considered that the development will have a positive impact on the area and would not adversely affect the amenities of neighbouring residents. The relationship to the Three Tuns public house has been carefully considered and is considered acceptable.

The proposals would provide adequate levels of parking taking into account the type of accommodation, the site's location in relation to shops and services as well as public transport and also the need to promote sustainable travel choices. With regard to fire access which raises concern further detail including hydrants and sprinkler systems will need to be incorporated into the final design.

The current proposal offers no contribution towards infrastructure taking into account the findings of the viability assessment. It is considered taking into account the history and previous assessments that it would not be reasonable to seek further contributions in this instance.

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 25 new homes. The local financial contributions are weighed into the decision but are not considered to be a determinative issue.

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies CF1 and QE3 of the Regional Strategy, policies CSP1, CSP2, CSP4, CSP5, HOU2, HOU3, HOU5, TRAN4, ENV3 and ENV5 of the Black Country Core Strategy; saved policies GP2, ENV10, ENV32, ENV33, ENV40, T7, and T13 of Walsall Unitary Development Plan, and the Council's Supplementary Planning Documents. On balance, having taken into account all material planning considerations, including the aims and objectives of the NPPF and sustainable development, the proposal is acceptable.

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.

2i) Prior to built development commencing further ground gas monitoring shall be undertaken and a re-assessment of the intrusive investigation data considering the variation in development type shall be completed. All aspects of the reassessment shall have regard to current best practice. (See note for applicant CL1).

ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

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

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

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

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

Reason: To ensure safe development of the site and to protect human health and the environment.

3a) No development shall be commenced until a schedule of facing materials to be used in external walls and roofs has been submitted to and approved in writing by the Local Planning Authority.

b) The approved scheme shall be fully implemented in accordance with the submitted details.

Reason: To ensure the satisfactory appearance of the development.

6a. Prior to the commencement of any works on site, the details of the means of enclosure and reinstatement of the existing vehicular accesses adjoining highway shall be submitted to and approved in writing by the Local Planning Authority

6b. Prior to the occupation of any dwellings hereby approved the existing vehicular accesses onto the adjoining highway shall be permanently closed as agreed by the details set out in 'part a' of this condition and remain closed thereafter.

Reason: In the interest of Highway Safety.

7a. Prior to commencement of the development parking for site operatives and visitors shall have been provided within the application site in accordance with details to be submitted to and approved by the Local Planning Authority.

7b. The agreed parking provision shall be retained and kept available during construction of the development.

Reason: To prevent indiscriminate parking in the interest of highway safety.

8a. Prior to commencement of the development a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year plus climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event.

The scheme shall also include:

- Restricting surface water outflows to no greater than 5 l/s
- Plans and calculations demonstrating adequate storage and routing of surface water for the 1 in 100 year plus climate change storm event
- Details of how the scheme shall be maintained and managed after completion

8b. The agreed surface water drainage scheme shall be fully implemented and retained thereafter

Reason: To prevent the increased risk of flooding, both on and off site.

12a. No development shall be occupied until the noise mitigation measures to protect internal and external areas, as detailed by recommendations contained in Environmental Noise Assessment prepared by Cheshire Environmental Associates. (CEA967 dated May 2012) have been agreed in writing and fully implemented.

12b. The agreed noise mitigation measures shall be fully implemented and retained thereafter

Reason: To safeguard the amenities of the occupants.

10. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) (Ref: BMW/1384/FRA/RevA, May 2011, BWB) and the finished floor levels to be set above surrounding levels.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking, re-enacting or modifying that Order), no additional extensions, outbuildings, structures or means of enclosure (e.g. walls, gates, or fences) shall be erected.

Reason: Having regard to the size of the approved back gardens, relationship to neighbouring properties and possible ground contamination on the site.

4. All planted and grassed areas and associated protective fencing will be maintained for a period of 5 years from the full completion of the scheme approved under the submitted plans and documents. Within this period:

- a) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed will be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- b) any damage to protective fences will be made good.

Reason: To ensure the success of the landscaping and planting scheme, and the establishment of the plants.

11. 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 only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be operated outside these hours.

Reason: To safeguard the amenities of the occupiers of adjoining premises.

13. The development shall be carried out in accordance with the following plans and documents

Documents:

Design & Access Statement prepared by John Mason Associates

Environmental Noise Assessment prepared by Cheshire Environmental Associates (reference CEA 967)

Flood Risk Assessment (FRA) prepared by BWB (Ref: BMW/1384/FRA/RevA, May 2011)

Plans:

1523/07, 1523/08, 1523/09, 1523/10, 1523/11, 1523/12, 1523/13.

Reason: To define the permission

NOTES FOR APPLICANT:

A) Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<http://coal.decc.gov.uk/en/coal/cms/services/permits/permits.aspx>

Contaminated Land

CL1) Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 "Investigation of potentially contaminated sites – Code of

Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings (Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

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



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 3.

Reason for bringing to committee: Major application

Application Number: 12/1650/FL

Application Type: Full application

Case Officer: Alison Ives

Telephone Number: 01922 652604

Email: planningservices@walsall.gov.uk

Agent: Ian Foden

Applicant: Willmott Dixon Housing Ltd

Proposal: Erection of 18 affordable dwellings for rent

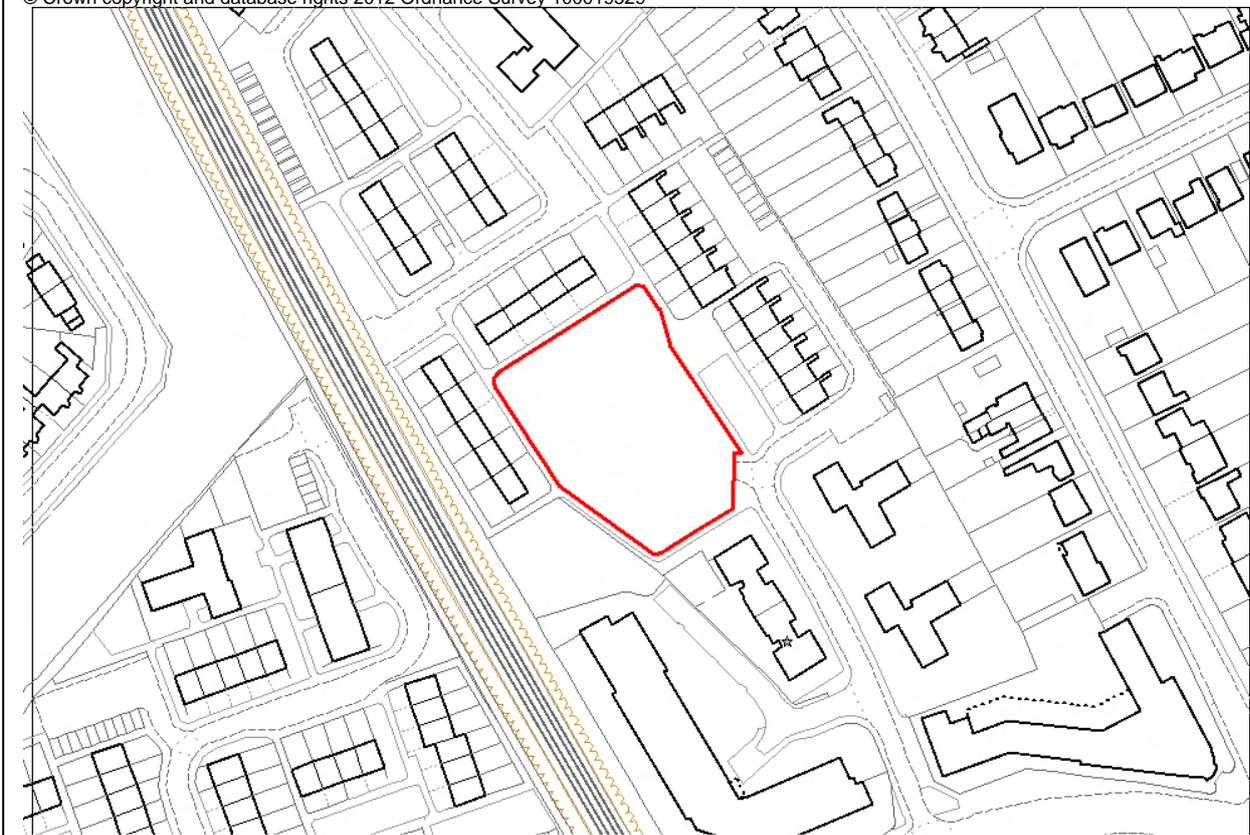
Location: SITE OF FORMER FRANCES SHARPE HOUSE, KEMPTHORNE GARDENS,
WALSALL,

Ward: Bloxwich West

Expired Date: 11/03/2013

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The proposal is for erection of 18 affordable dwellings for social rent on the site of the former Frances Sharpe House, Kempthorne Gardens. There are 4 x 1 bed units and 14 x 2 bed units proposed in a two storey building. The building has projecting wings at each end and there is a parking court in the centre and amenity areas on the outside of the building. Public footpaths surround the site and serve the surrounding housing. There are 18 proposed car parking spaces in a block paved parking court with pedestrian and vehicle access gates controlled by intercom. A bin and store is located near the car park entrance.

The proposed building is brick and render with some cedar cladding and has a tiled roof. Flats on the ground floor have direct access to a private space enclosed by a low hedge. The space beyond this is for communal use. The entire site boundary is to be enclosed by 1.8m high powder coated railings.

The supporting details highlight that the dwellings will be for occupation by residents 55+ years of age.

The site is located in a residential area and is surrounded by terraced housing, elderly person's flats. There are sheltered housing schemes nearby at Furlong House and Fairview Court. The former buildings were demolished in 2009 and the site is presently fenced with palisade fencing. There are two trees on the northern part of the site and a large tree within the grass verge at the head of Kempthorne Gardens.

The site is 0.27 hectares giving a density of 67 dwellings per hectare.

The Design & Access Statement – Describes the site and the proposals, the design principles, density, parking landscaping, appearance and access. It also covers planning policies.

The Ecological Assessment – Explains the site is dominated by semi-improved grassland including tall herb vegetation. Other habitats include a small area of hardstanding and two scattered trees. It states if the developer carries out the recommendations in the report a total of 6 credits can be awarded. Key recommendations include good horticultural practice in any landscaping scheme, tree and shrub planting. Additional recommendations are bulb planting, bat and bird boxes, log pile, climbing plants and provision of water for birds.

The Tree Survey – Identifies three trees surveyed as being worthy of retention, two on site and one off site.

The Phase 1 Desk Study – Identifies there is a layer of made ground across the site and due to the presence of historic mine workings in the area coal mining activities are significant. Surface ground hazards are not significant and there is a low to moderate sensitivity and low risk of contamination on site. The site is in Flood Zone 1 but fluvial and groundwater flooding is not significant. There is a low risk to future users or construction workers on this site.

The Phase 2 Intrusive Ground Investigation- Recommends coal workings will require stabilisation and reinforced raft foundations. It would be prudent to undertake gas

monitoring. It is recommended that foundation design is considered on an individual plot basis. The site is not suited to Infiltration style drainage for collection and disposal of run-off waste and attenuation storage will have to be provided consulting with the water supply company. Recycling and reuse of materials should be promoted and confirmation that soils for disposal have been pre-treated.

The Viability Assessment Report – Identifies the gross development value exactly matches the total scheme costs and there is no surplus income available to support land value, developers profit or any additional contributions or allowances. The scheme is only viable given the special nature of WHG as a Not for Profit Registered Provider and as a result of WHG position as landowner in this instance and the decision to subsidise the scheme from internal resources. Abnormal costs are also required over and above the site clearance costs already incurred (raft foundations, drilling and grouting, imported top soil). Accordingly the development is unable to support any additional S106 contributions over and above the 100% affordable housing provision being delivered.

Relevant Planning History

06/1678/PD/E14 – Prior notification for demolition of Francis Sharpe House – Demolition approved – October 2006.

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:

- Always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings
- Take account of different roles and character of different areas

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- 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

Paragraph 63 attaches great weight to outstanding or innovative design which helps raise the standard of design more generally in the area.

Paragraph 64 states permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of the 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. 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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until/unless it is abolished by order of the Secretary of State.

Relevant RS policies are:

CF1: Seeks to significantly improve the quality of existing housing stock, increase the scale and range of new housing development opportunities in appropriate locations and create attractive urban communities and living environments.

QE1: Supports regeneration and creation of new high quality built and natural environments. Also supports protection and enhancement of irreplaceable assets such as specific wildlife habitats.

QE3: Promotes high quality design.

The Black Country Core Strategy (BCCS)

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 Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.

2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.

5. A network of vibrant and attractive town, district and local centres

6. A high quality environment

7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors linking the Strategic Centres will provide: high quality employment land, new homes in sustainable communities built on redundant employment land and other brownfield sites close to existing public transport routes and canal networks and locations with the best access to residential services, at moderate densities that allow for a range of house types.

CSP2: Outside strategic centres and regeneration corridors will provide a mix of good quality residential areas where people choose to live.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

HOU3: Will seek to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable.

ENV2: Development should preserve and enhance local character.

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

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

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

development will be expected to meet the accessibility standards set out in Policy HOU2.

Walsall's Unitary Development Plan (UDP)

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:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

H5: Promotes provision of housing for people with special needs, including the elderly.

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.

3.116 & ENV32: seeks the design of residential developments to create high quality living 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.

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

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

T7 – Car Parking

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

T8: Development should seek to provide and improve pedestrian routes.

T11: Where pedestrian links are considered to be substandard measures must be taken to improve them.

T13: Parking Provision

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.

Flats with communal provision – 1.5 spaces per flat.

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;
DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. 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.

Affordable Housing (SPD) (April 2008)

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

Urban Open Space (SPD) (April 2006)

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

Transportation – No objections subject to implementation of parking and highway works, provision of an alternative secure cycle shelter and an age restriction on occupiers to justify the lower parking provision (100% provision instead of 150% required by policy T13). These matters can be secured by condition. Lower parking provision is acceptable as the occupiers are elderly persons who are likely to have lower car ownership. The site is also in a relatively sustainable location close to frequent bus services and Bloxwich railway station.

Pollution Control (Scientific Team) – No objections but recommend construction times are controlled by condition to minimise the impact on neighbouring residential properties.

Pollution Control (Contaminated Land) – No specific contaminated land requirements.

Tree Officer – There are 2 trees on site (Alder & Norway Maple) which are of merit and one tree off site (Weeping Willow) within influencing distance. No objections subject to further details of replacement planting.

Ecology – No objections subject to a condition to secure appropriate landscaping to provide a foraging resource for bats, birds and invertebrates.

Landscape – A full landscaping and maintenance plan is required as part of any conditional approval.

Housing Strategy – Fully support the scheme as it provides much needed affordable housing.

Asset Management – Comments will be updated at Committee.

Fire Service – No objections provided the car park has a minimum carrying capacity of 15 tonnes for a fire service vehicle.

Severn Trent Water – No objections subject to provision of drainage details which can be secured by condition.

Coal Authority – No objections subject to a condition to ensure works identified in the Ground Investigation Interpretive Report to address coal mining legacy issues present of the site are implemented.

Police – No objections. It is recommended that Secure by Design accreditation is achieved. Suggested improvements to reduce the risk of crime are an increased fencing height from 1.8m to 2.1m, relocation of the cycle store and secure windows, locks and door specifications including video entry.

Public Participation Response

One letter of objection has been received which is summarised as follows: -

- Residents hope the development will be age restricted for the elderly as per Fairview Court and Furlong House
- Anything other than a scheme for the elderly would be out of place
- The Willow tree should not be damaged

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 adjoining properties
- Access and parking
- Provision for urban open space
- Provision for affordable housing
- Local Finance Considerations

Observations

Principle of residential development

The site was previously developed for residential purposes and the proposals will bring this vacant urban land back into use. Subject to being able to achieve a suitable layout and design the principle of residential development is acceptable.

The objector expresses concern that the scheme should be for the elderly as this would be in keeping with surrounding developments. The applicant has identified the scheme is for 55+ years and will share some facilities at the existing sheltered accommodation. A condition is also recommended to restrict the age group for occupiers.

Layout and Design

The proposed layout shows a two storey building broadly within the centre of the site with parking court to the east and garden amenity areas on the perimeter of the site to the north and west of the building. Ground floor units have a small area of private garden bordered by hedge planting to afford some privacy. The remaining shared areas are easily accessible from the building and provide a valuable and useable space. Although the outlook from the eastern side of the building is onto the car parking court there is a landscaped buffer between the building and car parking spaces and the car park itself is proposed block paving to soften the appearance. Also all flats have an alternative outlook onto the garden areas on the opposite side of the building. On this basis the layout and provision of amenity space is considered acceptable.

The design of the proposed building is considered appropriate and in keeping with the scale and height of surrounding buildings.

The Police request that perimeter fencing is increased from 1.8m to 2.1m high but it is considered that as the site is observed from all directions there is adequate surveillance to act as a deterrent to intruders. Higher fencing would appear like a "barricade" around the site and may have an overbearing impact on the adjacent footpaths. With this in mind it is not proposed to amend the fencing.

The density of the development is 67 dwellings per hectare. The surrounding housing is 35 dwellings per hectare, nearby flats are 120 dwellings per hectare and nearby Furlong House is 170 dwellings per hectare. The proposal is considered acceptable within this range and the layout allows adequate space surrounding the building so the density of the development does not appear cramped. The site is also in a sustainable urban location that can accommodate this level of development.

On balance the layout and design is considered acceptable.

Relationship to adjoining properties

The position of the building is an adequate distance away from existing housing surrounding the site at over 24m between facing elevations so will not have a significant impact on outlook, privacy or daylighting for existing occupiers.

The objector seeks confirmation that the willow tree in the verge outside their home in Kempthorne Gardens will not be damaged. This tree is outside the application site and the proposals show its retention but do indicate removal of dead wood. The Tree officer is satisfied that the proposals will have no significant arboricultural implications and supports the development subject to planting of replacement trees for the tree to be removed on site. This will be secured by an appropriate landscape condition. The willow tree is to remain so addressing the neighbour's concern.

On the basis of the above comments the proposals will not significantly harm residential amenities of surrounding occupiers.

Access and parking

The proposal utilises the existing access at the head of Kempthorne Gardens. Vehicle and pedestrian gates are included with controlled access via an intercom system to

prevent unauthorised access and improve security. The applicant has demonstrated how a large vehicle can manoeuvre within the access safely. The bin store is located near the access for convenience but is within a brick built structure to blend in with the surrounding building.

There are 18 parking spaces shown within the parking court which equates to 100% provision. This is below the usual requirement of 150% for shared communal parking but as the site is in a sustainable location is acceptable. The Transportation officer also states that as the age group of occupiers is to be over 55's then the likelihood is that car ownership will be lower. It is recommended that a condition to restrict the age range of occupiers is imposed on any permission, given the special circumstances for allowing a lower car parking provision.

The layout shows a cycle store adjacent to the gable of the building (plot 1) and next to the drying area. The Police and Transportation officer has concerns that this will be out of sight of occupiers and in close proximity to the footpath where it may be a target for crime. It is recommended that a condition to require an alternative location and design for a covered cycle store is provided for approval. There is space within the site to accommodate an alternative location.

On balance access and parking are satisfactory.

Provision for urban open space

In accordance with the provisions of policies DEL1 of the BCCS, policies GP3 and LC1 of the UDP and SPD Urban Open Space the proposals trigger the requirement for provision of urban open space. This equates to a contribution of £21,920.00 for a development of this size. The developer has provided a viability assessment which demonstrates that the development is unable to support any additional contributions over and above the affordable housing proposed. In view of the viability of the scheme it is recommended that urban open space contributions are not collected in this instance.

Provision for affordable housing

In accordance with the provisions of policies DEL1 and HOU3 of the BCCS, policy GP3 of the UDP and SPD: Affordable Housing the proposal triggers the requirement for provision of affordable housing. This would equate to 5 units for a development of this size. The developer (WHG) has stated that the proposal is to deliver 100% affordable social rented units. Housing Strategy supports this provision. In the circumstances there is a commitment to deliver affordable homes on this site and this can be secured by an appropriate condition.

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 18 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 met with the applicant’s agent and in response to concerns raised, amended plans and supporting information has been submitted to enable full support to be given to the scheme.

Summary of Reasons for Granting Planning Permission

The site was previously developed for residential purposes and the proposals will bring this vacant urban land back into use. A scheme to provide housing for the elderly is in keeping with surrounding developments.

The proposed layout is considered acceptable and offers adequate amenity space for future occupiers. The design of the proposed building is considered appropriate and in keeping with the scale and height of surrounding buildings. Despite Police concerns about the height of perimeter fencing it is considered there is adequate surveillance of the site to act as a deterrent to intruders. The density of the proposal is considered acceptable within the range of surrounding properties given the sustainable location and acceptable layout.

The position of the building is an adequate distance away from existing housing surrounding the site so will not have a significant impact on outlook, privacy or daylighting for existing occupiers. The willow tree in the verge outside the site is to be retained and the Tree officer is satisfied that the proposals will have no significant arboricultural implications.

The proposed access is acceptable and there is adequate space for manoeuvring. Despite having a lower parking provision this is acceptable given the sustainable location and given the age group of the future occupiers where the likelihood is that car ownership will be lower. It is recommended that a condition to restrict the age range of occupiers is imposed on any permission, given the special circumstances for allowing a lower car parking provision. An amended location and design for the cycle store can be secured by condition to address concerns as there is ample space within the site to accommodate this.

The developer has provided a viability assessment which demonstrates that the development is unable to support any additional contributions over and above the affordable housing proposed. In view of the viability of the scheme it is recommended that urban open space contributions are not collected in this instance. The developer is proposing 100% affordable housing which is supported by officers. This can be secured by an appropriate condition.

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

In light of the above the proposals are considered to accord with the aims and objectives of the National Planning Policy Framework and sustainable development, the aims and objectives of the Black Country Core Strategy policies in particular CSP1, CSP2, CSP4, TRAN1, HOU2, HOU3, ENV2, ENV3 and DEL1, the aims and objectives of the Walsall Unitary Development Plan saved policies GP2, GP3, H3, H5, ENV14, ENV18, ENV23, ENV32, ENV33, 3.116, 3.117, LC1, T7, T11 and T13 and Supplementary Planning Documents: Designing Walsall, Conserving Walsall's Natural Environment, Affordable Housing, Urban Open Space.

Recommendation: Grant Permission Subject to Conditions

1. The 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.

2a. Prior to the commencement of the development details of the disposal of both surface and foul water drainage shall be submitted to and approved in writing by the Local Planning Authority.

2b. 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.

3a. Prior to the commencement of the development, full details of all works within the public highway at the access point on Kempthorne Gardens, including the proposed realignment of the radii and the provision of tactile crossing points across the bellmouth as referred to in paragraph 7.4 of the submitted Design and Access Statement, shall be submitted for approval in writing by the Local Planning Authority.

3b. Prior to the first occupation of the development, all of the approved highway works shall be fully implemented, completed and brought into use to the satisfaction of the Highway Authority.

Reason: In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

4a. Prior to the commencement of the development an amended plan showing an alternative location for a fully enclosed, lockable cycle shelter shall be submitted to and approved in writing by the local planning authority.

4b. The approved details shall be fully implemented prior to the first occupation of any flat and shall thereafter be retained and used for no other purpose.

Reason: To encourage sustainable modes of travel and to accord with Black Country Core Strategy policy TRAN4.

5a. No development shall commence until a landscape scheme has been submitted and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the recommendation in the report by Middlemarch Environmental Ltd dated November 2012 and incorporate full details and specifications, planting numbers and locations and shall incorporate planting of native seed/ fruit to create a landscape which provides a foraging resource for bats, birds and invertebrates. It shall also provide full details of bat and bird boxes proposed in the report. It shall provide details of replacement tree planting.

5b. The approved landscape plan shall be implemented before any part of the development is brought into use.

5c. All planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any trees, shrubs or plants which dies, 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: To enhance the nature conservation value of the neighbourhood in accordance with UDP policy ENV23: Nature Conservation and New Development.

6a. Prior to the first occupation of any dwelling on the development, the car parking area shown on the approved plan shall be fully consolidated, hard surfaced and drained and the parking bays clearly demarcated on the ground.

6b. The parking area shall thereafter be retained and used for no other purpose.

Reason: To ensure adequate on site parking is available in accordance with UDP policy T7 and T13.

7a. The development shall be completed in accordance with the approved external facing materials identified under section 6.2 of the Design and Access Statement and maintained in accordance with the agreed details thereafter.

7b. The development shall be completed in accordance with the boundary treatments identified on drawings D10 Revision E and D32 Revision A and maintained in accordance with the agreed details thereafter.

Reason: To ensure the satisfactory appearance of the development.

8a. The developer shall provide on-site provision towards affordable housing in accordance with policies HOU3 of the Black Country Core Strategy, policy GP3 of Walsall Unitary Development Plan and the Affordable Housing Supplementary Planning Document.

8b. The affordable housing shall be retained thereafter.

Reason: To ensure that affordable housing needs are met in accordance with policy HOU3 of the BCCS and policy GP3 of the Unitary Development Plan and SPD: Affordable Housing.

9. The development hereby approved shall not be occupied otherwise than by persons aged 55 years or over (the qualifying age) together with members of his/her household save that such restriction shall not apply to the continued occupation of any of the flats by a surviving spouse, partner or member of the household under the qualifying age after the death of the member of the household who was of the qualifying age.

Reason: To ensure the satisfactory operation of the site given the reduced level of parking

10. No 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 Mondays to Fridays 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.

* Note - 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: In order to protect the residential amenities of nearby occupiers.

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

- Site Location Plan (D00) received 10/12/12
- Site Layout Plan (D10E) received 13/2/13
- Floor Plans (D21A) received 10/12/12
- Elevations (D22B) received 10/12/12
- Bin Store Plans & Elevations (D31) received 10/12/12
- Boundary Treatment (D32A) received 13/2/13
- Topographical Survey (12953-01) received 10/12/12
- Ecological Assessment prepared by Middlemarch Environmental Ltd (RT-MME-111289-05-01) received 10/12/12
- Tree Survey prepared by Marlow Consulting Ltd received 10/12/12
- Phase 1 Desk Study Report prepared by JPB (LB104-04/ACJ/FT/GP) received 10/12/12
- Phase 2 Intrusive Ground Investigation prepared by JPB (LB118-55/NM/FT/JC/AS) received 10/12/12

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

Notes to applicant – Public Sewer

There is a public sewer located within the application site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. The developer is advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist the developer in obtaining a solution which protects both

the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 metres of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent Water can direct building control officers to refuse building regulations approval. If you require any further information please contact Rhiannon Thomas on 01902 793883.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 4.

Reason for bringing to committee: Major Application

Application Number: 12/0832/FL

Application Type: Full application

Applicant: Kendrick Homes

Proposal: Erection of 31 houses and 20 flats with associated access, parking, garages, landscaping and amenity space following demolition of existing buildings.

Location: 45-51, TASKER STREET, WALSALL, WS1 3QW

Ward: St. Matthews

Case Officer: Andrew Thompson

Telephone Number: 01922 652603

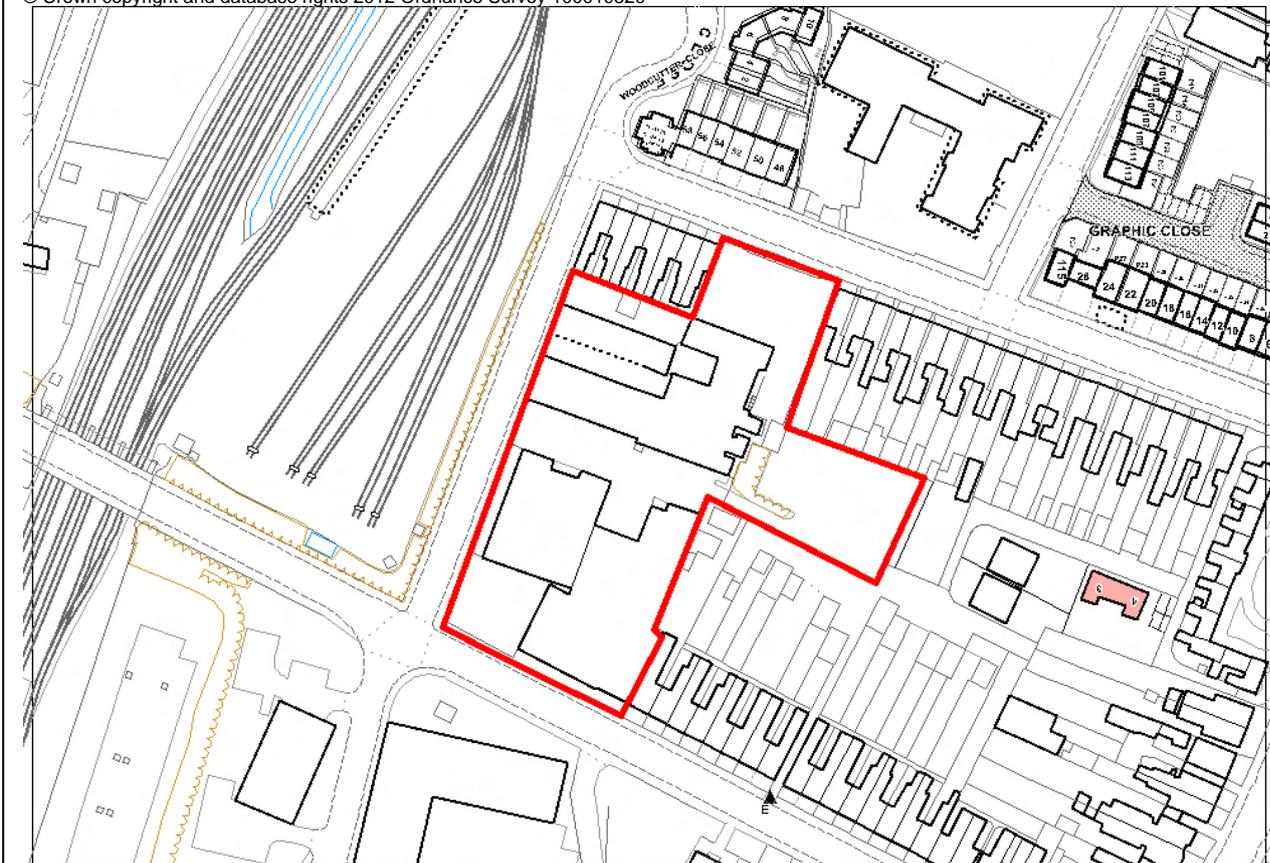
Email: planningservices@walsall.gov.uk

Agent:

Expired Date: 14/11/2012

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The application site is the former Kendrick Homes depot at Tasker Street and Meadow Street. The application proposes to replace the existing offices, depot buildings and associated buildings with 31 houses and 20 flats with associated access, parking, garages, landscaping and amenity space.

Existing buildings are principally one and two storey in height or are large commercial buildings which are akin to two-storey buildings in scale.

To the south of the site is the railway with a Network Rail yard on the opposite side of Meadow Street. The site levels slope upwards away from Meadow Street.

The proposed mix of houses and flats are:

3, 1 bedroom flats
17, 2 bedroom flats
14, 2-bed houses
5, 3-bed houses
12, 4-bed houses

The proposals are primarily arranged with buildings fronting Tasker Street, Meadow House and Corporation Street in a mix of two, two and a half and three storey buildings with secure parking areas, garages and driveways. The proposals also include development on the former car park and service yard at the rear of the site with a single access point from Meadow Street.

The application is supported by the following documents:

Planning Statement supports the scheme in terms of the planning policy and notes that the scheme arises as Kendricks seek to move to their new headquarters. It is stated that the application presents an opportunity to redevelop the site which would remove outdated and large commercial buildings which would enhance the living conditions of existing residents that adjoin the application site on Tasker Street and Corporation Street. The *Planning Statement* indicates that proposals would be in accordance planning policy and the presumption in favour of sustainable development.

Design and Access Statement provides an overview of the design principles, the settlement character and access details to inform the development process.

Ecological Assessment concludes that there are no ecological concerns from the development.

The applicant has also submitted an openbook viability assessment to consider the viability of the development against infrastructure contributions.

Relevant Planning History

09/0076/FL - Change of use existing B1(a) (Office) to D1 (Education & training) & resubmission of 08/1788/FL – Granted 26/02/2009

08/1788/FL - Change of use of existing B1 office to D1 Education and Training - Withdrawn

BC58344P - Certificate of Lawfulness for an Existing Use: Class B2 - General Industrial – Granted 26/10/2001

Relevant Planning Policy Summary (Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

National Planning Policy

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*".

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always 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
- Reuse land that has been previously developed

Key provisions of the NPPF relevant in this case:

A key priority is the deliver new homes.

35. Opportunities for the use of sustainable transport modes should be protected and exploited.

39. If setting parking standards, LPA's should 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.

47-55 aim to deliver those aims, encouraging the recycling of buildings and land and ensuring that housing needs are met by the developments.

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

123 seeks to ensure that development mitigates against pollution, including noise.

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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered the relevant policies are policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations.

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

The Black Country Core Strategy (BCCS)

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 relevant key policies are:

CSP1 - sets out the targets for sustainable regeneration of the Black Country.

CSP2 – notes that additional windfall housing developments will occur on previously developed land.

CSP4 – develops the need for high quality place making and design

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

DEL1 – sets out to seek appropriate developer contributions and infrastructure improvements from development.

HOU2 – Sets criteria for Housing Density, Type and Accessibility

HOU3 – Seeks to deliver affordable housing

TRAN4 – creating coherent networks for cycling and walking – seeks to maximise the potential for this is new development. Cycle parking provision should be made.
ENV3 – Design Quality – seeks to promote this aspect of developments
ENV5 – Sets out criteria for Flood Risk, Sustainable Drainage Systems and Urban Heat Island

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

Walsall's Unitary Development Plan (UDP)

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.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land.

ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character.

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

H3: encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

7.1: Seeks to promote an efficient highway network;

T7: Sets out that parking provision should be well designed and sensitively integrated into the townscape or landscape.

T13: sets maximum car parking standards

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 SPD

Aims to achieve high quality development that reflects the Borough's local distinctiveness and character, through key design principles

Natural Environment SPD

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

Protection is proposed for protected animals, plants etc.

Consultations

Transportation – No objection subject to conditions relating to site operatives, site access and turning and manoeuvring areas being laid out.

Pollution Control

Contaminated Land Team- No objection however the site has had at least two former uses that may have introduced contamination into the ground. The Fordbrook to the west of the site currently follows a diverted course that previously ran through the site and was referred to as Mill Race. This would appear to have been infilled with unknown material. Secondly works of an unknown nature have appeared on parts of the site as well as a builder's yard. Currently part of the eastern side of the site is known to be used for car parking. Due to the proposed residential use of the site it is considered that an intrusive ground investigation is required to determine what remedial works will be necessary for satisfactory development

Scientific Team- No objection however concerns about noise from the railway yard along Meadow Street that may impact upon future residents and are of the opinion that Meadow Street is not appropriate for residential development without acoustic mitigation measures. Conditions are recommended to mitigate against these concerns.

Fire Service – No objection

WM Police – No objection however due to the extremely high crime experienced in this area I would strongly recommend that this site achieve Full Secure By Design.

Network Rail - Network Rail has the following comments to make which we would request are passed to the developer:

1) Noise – the proposal is along Tasker Street to the north and Meadow Street to the east. Alongside Tasker Street is a freight depot. The depot has two sections, an old parcel depot (with existing tracks) and a freight cement terminal, used for loading and unloading. Noise mitigation measures should be required by condition.

2) Network Rail right of way access shall be kept open and unblocked at all times (24/7, 365 – around the clock) during and after the development.

3) Soakaways, as a means of storm/surface water disposal must not be constructed near/within 20 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property.

4) Where vibro-compaction machinery / piling machinery or piling and ground treatment works are to be undertaken as part of the development, details of the use of such machinery and a method statement should be submitted for approval.

District Valuers Service – Based on an allowance for developer's profit based on 20% (open market) and 6 % (affordable) of the gross development value has been adopted. In my opinion, this is in line with market allowances as at the date of this report based on

the proposed residential development scheme taking into the build cost and site value for the development.

Representations

1 letter of objection from the local resident to the original plans raising concerns that:

- The proposed properties on Corporation Street are not in line with existing. Any proposed property should be in line with existing properties in the street.

- The development does not take into account a lounge window which is located on the gable wall of No 98 Corporation Street.

- The proposals will be overlooking the gardens of existing properties on Corporation Street.

- The proposed large car park adjoining existing properties will mean a dramatic rise in noise as well as represent a marked increase in security concerns. The car park will be used as a playground by the children on the development as well as provide opportunity for youth to gather in the evening. The inadequate height of the boundary fence will mean our property will become exposed to people who want to enter our property.

- The properties of 98 to 84 Corporation Street have right of way access on the proposed development

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

Determining Issues

The key determining issues are:

- Principle of the development
- Design and Layout
- Impact on the character of the area.
- Car parking and servicing
- Affordable Housing and Urban Open Space Contributions

Observations

Principle of the development

The application site is in an area that has been in transition from a mixed industrial and residential area to higher proportions of residential development. In addition the site is on the edge of Walsall Town Centre and therefore other commercial developments, i.e. the probation service, are also in near proximity to the application site.

Overall, with residential the predominant use in the area and taking into account the residential properties on Tasker Street and Woodcutter Close, residential is considered the most appropriate alternative use of the site. The application is supported in principle subject to detailed consideration set out below.

Design and Layout

The design and layout reflects the perimeter development and takes account of changing site levels which step steeply up from Meadow Street. The design of the properties reflects and builds upon the local design features, in particular the Victorian properties on Tasker Street and Corporation Street.

Account has been taken of Designing Walsall as a guidance document to aid the design of the document and amended plans have improved the relationship of the properties in the context of the area.

The comments of the Police are noted and many of the recommendations have been incorporated into the amended plans. Detail of boundary treatment and gates to secure parking areas shown on the layout plan can be secured.

The proposed design and layout is considered to be acceptable and are a considerable enhancement to the current site and its operations.

Relationship to the railway

The comments of Network Rail are noted and have been forwarded to the applicant, as requested by the consultee to facilitate discussion between the two landowners. The issues identified by Network Rail in relation to drainage and noise (both from the construction and the activity of Network Rail) are conditioned as recommended by pollution control scientific team to address their concerns. Access to the land will need to be secured through agreed between the landowners.

To assist in this regard officers seek to secure parking for site operatives within the development during construction.

The relationship to the railway has been fully considered and is considered acceptable subject to conditions.

Relationship to neighbouring residents

The concerns of the local resident to the original plans have been carefully considered and taken account of in the amended design and layout which steps the housing away from the boundary with boundary treatment conditioned. The height and detail of the boundary treatment will also need to take account of the Police comments with regard to security.

The relationship to Tasker Street properties is mitigated by the change in levels which are higher than the lower half of the application site and the overall development would not result in overlooking or loss of privacy as a result of the proposed development. The development would be an uplift and improvement to the area, when compared to the existing large commercial buildings.

Impact on the character of the area

The area is in a state of transition from industrial to town centre and residential uses with residential development already approved and delivered on the former Lithographic factory site and to the rear of the site. The area now includes a number of new residential developments with a mix of apartments and housing. The use of three storey housing and flats alongside, two and a half storey and two storey housing will follow the pattern of development established at Woodcutter Close allowing the new residential development will fit in with the street scene and character of the area.

Car parking and servicing

The car parking levels are noted in relation to the type of housing and also the proximity to Walsall town centre. In this regard the level of car parking (i.e. at least 100% for flats and at least 200% for housing) will offer an appropriate level of car parking whilst not compromising the overall design.

The proposed car parking level is considered acceptable.

Affordable Housing, Education and Urban Open Space Contributions

Due to issues of viability and the contamination of the site, no contribution is offered to deliver either Affordable Housing, Urban Open Space or Education contributions.

The applicant has submitted an open book assessment which is being considered by the District Valuers Service.

The level of S106 contributions sought are:

25% affordable housing

£88,326 towards enhancement of Urban Open Space in the area.

The DVS report has been received and concludes that the scheme is not viable with S106 contributions. No contribution is therefore sought.

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 51 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 liaised with the applicant in response to concerns raised. Additional information and amended plans have been submitted to enable full support to be given to the scheme.

Summary of Reasons for Granting Planning Permission

The comments of the local resident with regard to privacy, impact of the development and security have been carefully considered and incorporated into the design of the new development.

Whilst the area within and on the edge of Walsall District Centre, however this position has been changing and the area is changing towards residential uses, particularly having regard to similar recent developments on Woodcutter Close and Graphic Close.

The Local Planning Authority have considered the design of the proposals, the impact of the proposals on the character of the area, the relationship to the railway and neighbouring residential properties and found in this regard the proposals are acceptable.

Considering the highly sustainable location, in relation to Walsall Town Centre, the need for high levels of car parking is reduced significantly. The level of car parking is considered acceptable.

S106 contributions having been assessed independently previously and been the subject of Government grants has been shown to be unviable to support the full level of infrastructure contributions.

As such, the proposed development, having considered all material planning considerations and consultation comments is considered to comply with the relevant policies of the Development Plan (namely Walsall Unitary Development Plan and the Regional Spatial Strategy for the West Midlands) and national planning guidance and best practice guidance. The proposed development is considered to comply with the relevant policies of the development plan, in particular policies CSP1, CSP2, CSP4, CSP5, HOU2, HOU3, HOU5, TRAN4, ENV3, ENV5 of the Black Country Core Strategy; saved policies GP2, GP3, T7, T12 T13, ENV10, ENV14, ENV23, ENV28, ENV29, ENV32, ENV33, JP7(d), and H3 of Walsall Unitary Development Plan (March 2005) and Policies CF1, PA11, QE3, and QE5 of the Regional Spatial Strategy for the West Midlands (RSS11), on balance, having taken into account all material planning considerations, the proposal is acceptable.

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.

2a) Prior to the commencement of development a schedule of the facing materials to be used have been approved in writing by the Local Planning Authority.

b) The approved scheme shall be implemented in accordance with the submitted details.

Reason: To ensure the satisfactory appearance of the development.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking, re-enacting or modifying that Order), no additional extensions, outbuildings, structures or means of enclosure (e.g. walls, gates, or fences) shall be erected without prior written approval of the Local Planning Authority.

Reason: Having regard to the size of the approved back gardens, relationship to neighbouring properties and possible ground contamination on the site.

3a) Prior to the commencement of development a detailed landscaping scheme and maintenance strategy for the development (including any necessary phasing of implementation) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted on a plan to an appropriate scale and shall include, where applicable, details of:

- i) existing and proposed ground levels
- ii) dimensions of planting beds
- iii) site preparation
- iv) plant species/densities; tree species/sizes and locations
- v) arrangements to be made for the disposal of surface water
- vi) hard landscaping works.

b) The approved scheme shall be implemented in accordance with the submitted details.

Reason: To ensure the satisfactory appearance of the development.

4a) Prior to the commencement of development, a noise survey shall be carried out, submitted to and agreed in writing with the local planning authority.

b) Noise mitigation measures shall be agreed in writing with the Local Planning Authority to ensure the good criteria of BS8233:1999 is achieved internally and the noise levels in the rear garden are below the serious annoyance levels (daytime and evening) as specified in World Health Organisation 'Guidelines for Community Noise (1999).

c) The approved details shall be implemented before the dwelling they relate to is occupied, and thereafter retained in good working condition as appropriate.

Reason: In order to safeguard the amenities of future residential occupiers.

5a) No development shall be commenced until details drainage details, including any sustainable urban drainage systems in the development, have been submitted to and approved in writing by the Local Planning Authority.

b) The approved details shall be implemented before the dwelling they relate to is occupied, and thereafter retained in good working condition as appropriate.

Reason: To promote the use of such drainage systems.

6a) Prior to the commencement of development details of the boundary treatment, including gates to secure car parking areas, shall be submitted to and agreed in writing by the Local Planning Authority.

b) The development shall be carried out in accordance with the approved details prior to occupation.

Reason: To ensure the satisfactory appearance of the development.

7i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

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

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

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

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

Reason: To ensure safe development of the site and to protect human health and the environment.

8. Prior to the commencement of development parking for site operatives and visitors has been provided within the application site in accordance with details to be submitted to and approved by the Local Planning Authority, and such provision shall be retained and kept available during construction of the development.

Reason: To prevent indiscriminate parking in the interest of highway safety.

9. Prior to the first occupation of any dwelling to which this permission relates all existing redundant vehicular accesses onto the adjoining highway shall be permanently closed. Details of the means of closure and reinstatement of this existing access shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure the safe and free flow of traffic using the adjoining highway.

10. Prior to the first occupation of any dwelling to which this permission relates the accessways, turning areas and parking facilities shown on the approved plan shall have been properly consolidated, surfaced, drained, free of loose stone and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall be thereafter be retained and kept available for those uses at all times.

Reason: In the interest of Highway Safety, and ensure the free flow of traffic using the adjoining Highway.

11. No construction, demolition or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday (see Note for Applicant), and such works shall only take place between the hours of 08.00 to 18.00 Monday to Friday 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.

Reason: In the interests of the amenity of nearby residents

12. The development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Plans and Drawings:

327-01-01 Rev A; 327-03-01; 327-04-01; 327-05-01; 327-06-01; 327-07-01; 327-08-01; 327-09-01; 327-10-01; 327-11-01; 327-12-01; 327-13-01

Documents:

Design and Access Statement prepared by William Kendrick and Sons Limited
Planning Statement prepared by Tyler Parkes (reference 9847 LPA 1 MJS)

Reason: To define the permission.

NOTES FOR APPLICANT

A) 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.

B) 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).

C) 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.

D) 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, 1999 and World Health Organisation Guidelines for Community Noise 2000.

Notes for Applicant – Contaminated Land

CL1) Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings (Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

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



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 5.

Reason for bringing to committee: Major Application (reserved matters)

Application Number: 13/0177/RM
Application Type: Reserved Matters

Case Officer: Paul Hinton
Telephone Number: 01922 652607
Email: planningservices@walsall.gov.uk
Agent: Mr Jason Dodd

Applicant: Mr Chris Loizou

Proposal: Reserved matters submission to 12/0553/OL for 36 houses with amended layout and house types and consideration of landscaping

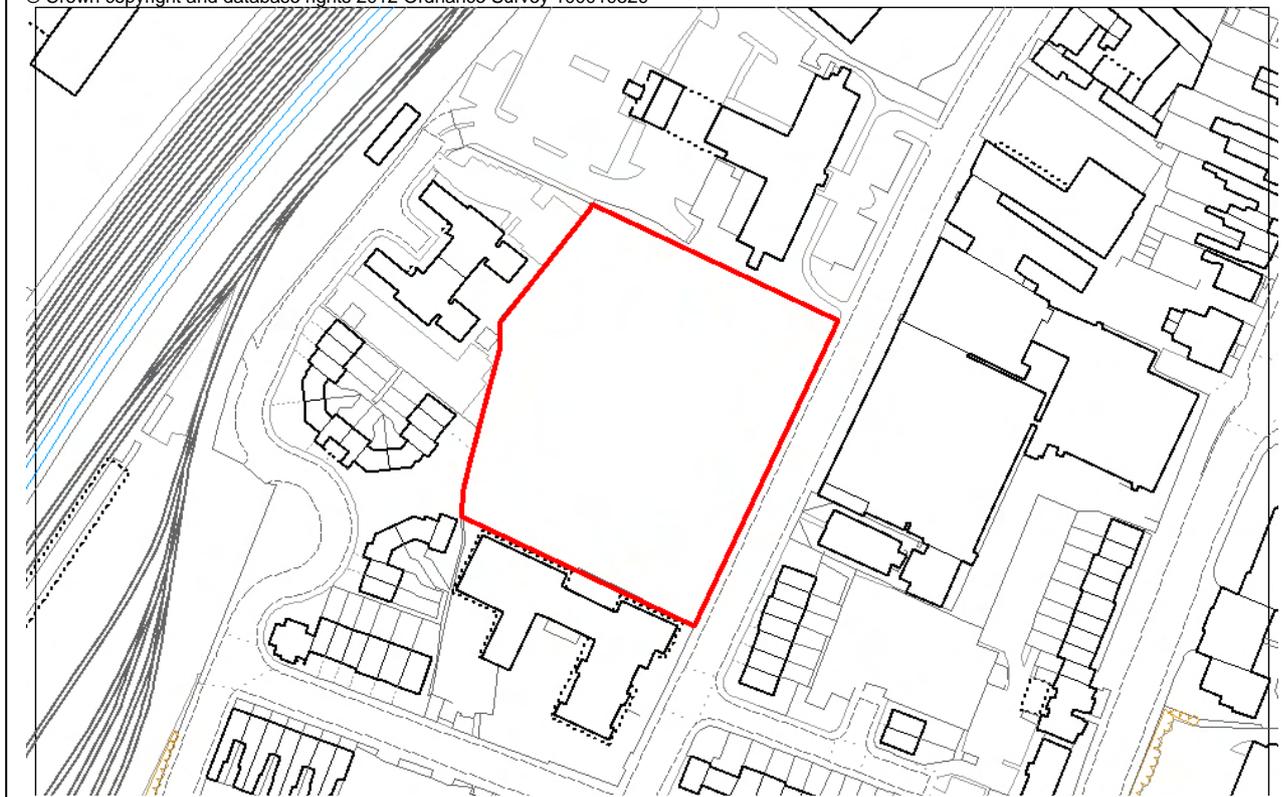
Location: FORMER CO-OP DAIRY, MIDLAND ROAD,, WALSALL,

Ward: St. Matthews

Expired Date: 15/05/2013

Recommendation Summary: Approve reserved matters subject to conditions and a deed of variation and delegate decision to Head of Planning and Building Control unless material representations are received.

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Application and Site Details

This is a reserved matters application which follows the approval of application 12/0553/OL subject to conditions and a S106 agreement for 36 houses at committee in July 2012. The application seeks to consider the remaining reserved matter of Landscaping but also proposes an amended layout and changes to the approved house types (scale and appearance). The access arrangements remain, retaining a single access road from Midland Road and direct access from Midland Road for 11 frontage properties.

The application site is the former dairy site on Midland Road, opposite Walsall Security Printers and between two office buildings, one of which is for the Probation Service and the other being the HM Revenue and Customs building. The site slopes down from Midland Road to the residential development of Woodcutter Close at the rear.

Whilst there are a number of commercial properties in the area, particularly towards the town centre, the site is located in a mixed area with residential diagonally opposite on the Midland Road frontage (on the former Walsall Lithographic factory) and to the rear and additional residential properties on Tasker Street. There are seven London Plane trees to the frontage of the site that are subject to Tree Preservation Order 2/1991.

The housing mix is proposed to be 8 two-bedroom, four person; 26 three-bedroom, five person; and 2 four-bedroom, seven person houses with associated parking, amenity areas and associated works. The application proposes to change the housing mix from the outline approval by reducing the number of four-bedroom houses by 4 and increasing the three-bedroom houses by 3, with an additional two bedroom house.

Alongside the changes to the housing mix is an increase in the floor area of four of the six house types and for two of the housing types a reduction to the height of the eaves. Garden sizes have been reduced. The changes are as follows:

House type B, 0.3m wider and 1m longer. The en-suite has been omitted to provide larger bedrooms to accommodate a chair and desk. The living room is now to the frontage of the property.

House type C, 0.2m wider and 0.1m shorter. Now two windows at first floor rear rather than one, the living room now to property frontage. The en-suite has been omitted to provide larger bedrooms to accommodate a chair and desk and a utility room is now included.

House type D, 0.4m wider and 0.8m longer. The study has been omitted to provide larger bedrooms to accommodate a chair and desk. The eaves height has been lowered by 0.5m resulting in a change of position for the roof light and front dormer window.

House type E, 0.4m narrower and 1.4m longer. Omits one en-suite, the study and dress room to provide larger bedrooms to accommodate a chair and desk and provide a utility room. The eaves height has been lowered by 1.4m and includes two roof lights at the rear.

House type F, 0.4m shorter. Omits en-suite to provide larger bedrooms to accommodate a chair and desk.

House type F1 omits en-suite to provide larger bedrooms to accommodate a chair and desk.

The development would continue to be delivered entirely for affordable housing. A deed of variation has been submitted to vary the S106 agreement omitting reference to Lifetime Homes Standard as applying this standard would increase the floor area of the house types that would make the development unviable.

The development is a traditional brick and tile construction of two and two and a half storey development with a frontage to Midland Road. Parking is primarily on driveways with a total of at least one parking space for 2 bed houses and 200% parking for the three and four bedroom houses.

In addition the application includes information in respect of condition 7: management and maintenance of open spaces, condition 8a: existing and proposed levels of the site and condition 9a: drainage.

The site area is 0.66 hectares, with a density of 55 dwellings per hectare.

The outline planning permission 12/0553/OL contained 16 conditions which set out the following information requirements:

1. Submission of reserved matters within 3 years
2. Commencement of development within 2 years of the final reserved matters
3. The Reserved Matters to be considered
4. Requires conformity with the approved plans and documents
5. Sets out the details required within the Landscape reserved matter
6. Requires maintenance of planted and grassed areas for 5 years.
7. Requires details for the management and maintenance of open space.
8. Requires details of site levels.
9. Requires drainage details.
11. Requires details of external lighting.
12. Requires schedule of facing materials for walls and roofs.
13. Requires implementation of noise mitigation measures
14. Defines construction hours.
- 15i-vi. Requires a ground investigation survey be to be submitted prior to commencement of development and implementation of remediation.
15. Removes permitted development rights for extensions, outbuildings, structures or means of enclosure.
16. Plans and documents of the Outline Planning Permission

Relevant Planning History

02/2399/FL/W2 - Outline for residential. Refused on grounds of potential noise issues, 6th March, 2003

03/1265/FL/W5 - Outline Residential. Granted Subject to Conditions 4th November, 2003. This outline consent approved the principle of use of the site for residential. Advice was given in the decision, that due to surrounding uses it would be likely that the form of development would take on a courtyard appearance with inwardly facing habitable room windows

05/0183/RM/W5 - Reserved Matters for siting and access. Grant Subject to Conditions 13th May, 2005.

05/1430/RM/W5 - Reserved matters for siting, access, design and external appearance for the erection of 112 flats. Grant Subject to Conditions 2nd November, 2005

06/2186/OL/W5 - Outline: Erection of 112 apartments and associated works. Granted 19 May 2008 together with a S106 agreement comprising:
19% affordable housing
£172,847.10 towards primary and secondary education provision and enhancement
£140,200 towards urban open space enhancement

12/0553/OL - Outline application (considering access, appearance, layout and scale) for 36 houses (7 two bed, 23 three bed and 6 four bed) with associated parking, amenity areas and associated works. Granted subject to conditions and a S106 agreement comprising 100% affordable homes.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

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"*.

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always 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
- Reuse land that has been previously developed

Key provisions of the NPPF relevant in this case:

A key priority is the deliver new homes. Paragraphs 47-55 aim to deliver those aims, encouraging the recycling of buildings and land and ensuring that housing needs are met by the developments.

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

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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered the relevant policies are policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations.

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

The Black Country Core Strategy (BCCS)

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 relevant key policies are:

CSP1 - sets out the targets for sustainable regeneration of the Black Country.

CSP2 – notes that additional windfall housing developments will occur on previously developed land.

CSP4 – develops the need for high quality place making and design

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

DEL1 – sets out to seek appropriate developer contributions and infrastructure improvements from development.

HOU2 – Sets criteria for Housing Density, Type and Accessibility

HOU3 – Seeks to deliver affordable housing

TRAN2 – Proposals should provide accessibility and safety by all modes of transport.

TRAN4 – creating coherent networks for cycling and walking – seeks to maximise the potential for this is new development. Cycle parking provision should be made.

ENV3 – Design Quality – seeks to promote this aspect of developments

ENV5 – Sets out criteria for Flood Risk, Sustainable Drainage Systems and Urban Heat Island

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

Walsall's Unitary Development Plan (UDP)

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.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land.

3.116 , GP7 and ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character.

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

H3: encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

7.1: Seeks to promote an efficient highway network;

T7: Sets out that parking provision should be well designed and sensitively integrated into the townscape or landscape.

T13: sets maximum car parking standards

8.8: Residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing these facilities.

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

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

Circular 11/95 which deals with conditions and the application of conditions is also relevant to this application.

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 SPD

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through key design principles.

Affordable Housing SPD

Seeks to guide developers on the level and mix of affordable housing in the Borough.

Urban Open Space SPD

Seeks to guide on the provision of Urban Open Space and the provision of infrastructure contributions from major application applications.

Consultations

The consultation period does not expire until 14th March, any further comments received before the committee meeting will be reported at the meeting and comments received after are recommended to be delegated to be resolved by the Head of Planning and Building Control.

Transportation – to be updated at planning committee

Pollution Control

Scientific Team – to be updated at planning committee

Contaminated Land Team – to be updated at planning committee

Flood Risk Management – There is currently insufficient evidence that the site can be satisfactorily drained and the reserved matters application should not be progressed until such time as this is demonstrated.

Housing Strategy – no objections. Supports 100% affordable homes on the site. Raises no objections to the removal of the Lifetimes Home requirement in the original S106 agreement.

Landscape – Grass and shrub areas should be protected from being used as unofficial parking. Planting beds should be larger or replaced with hardsurfacing. The supporting information, plant choice, tree staking and topsoil depths acceptable.

Severn Trent – to be updated at planning committee

Network Rail – no objections.

WM Police – to be updated at planning committee

Public lighting – to be updated at planning committee

Centro - to be updated at planning committee

Fire Services – satisfactory access.

Public Participation Responses

The consultation period does not expire until 14th March, any further comments received before the committee meeting will be reported at the meeting and comments received after are recommended to be delegated to be resolved by the Head of Planning and Building Control.

One letter from a resident of Woodcutter Close raises concerns with the 1.5m retaining wall not being of sufficient height to be effective. One other letter seeks clarification on the mature trees at the front of Midland Road.

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

Determining Issues

- Principle of the development
- Proposed layout and landscaping
- Scale and appearance
- Relationship to adjacent occupiers
- Deed of Variation
- Conditions of the outline planning permission
- Local Finance Considerations

Observations

Principle of the development

The principle of residential development is already established by the outline planning permission. There has been no change to the Development Plan that would alter the previous recommendations to grant planning permission and the principle of development is accepted.

Proposed layout and landscaping

The increase in the floor area of the plots makes no significant changes to the layout previously approved. The houses continue to be in the same position with the main changes being a reduction to the size of some of the gardens and the change in location of five parking spaces. The layout now includes a timber shed at the bottom of the garden of each plot to provide the opportunity for secure cycle storage and encourage sustainable transport.

Garden sizes range from 50m² (Plot 9) to 100m² (Plot 31). Fifteen of the plots meet the Designing Walsall SPD standard on garden sizes of 68sqm. Twelve of the remaining 20 plots exceed 60m² in garden size (plots 1, 2, 3, 4, 5, 23, 24, 25, 26, 27, 28, 29), with nine plots of garden sizes between 50m² and 60m² (plots 6, 7, 8, 9, 10, 11, 12, 13, 21). The outline approval included 20 plots below the SPD guideline, the changes to the layout has reduced the size of some of the gardens, with 21 now below the guidelines. The site is in a sustainable location 260m walking distance from the primary shopping area of the Town Centre with excellent access to various facilities. The application site is 580m walking distance from the Urban Open Space of Sister Dora Gardens on Rollingmill Street. Given the site's accessibility to services and that permitted development rights for extensions and outbuildings have been removed, the level of amenity space, on balance, is acceptable.

The layout continues to provide 100% affordable housing which is supported. The housing mix is welcomed by housing strategy as it supports the Housing Needs for the Borough in terms of providing a level of larger family units.

To accommodate the increase in the floor area of some of the plots some parking spaces have been relocated. These have no impact upon the overall layout of the site. The layout of the proposal is acceptable.

There are seven protected London Plane trees to part of the boundary with Midland Road. The removal of these trees has been approved by previous planning applications and the outline permission. The Landscape reserved matter under consideration proposes the planting of 25 trees, seven of which would be within the open spaces at the front of properties. Ornamental shrub planting is also proposed within these frontage areas and along the main vistas around the site. Rear gardens would be turfed with 17 properties also having private planting areas at the front.

The open spaces would be protected through a trip rail, to prevent these areas becoming used for parking. These areas would be maintained by the housing association through service charges to tenants. The housing association would undertake seasonal maintenance, including grass cutting, keeping planted beds weed free, pruning of shrubs, removal of litter, leaves and other essential work. Landscape Officers would prefer larger planting beds which are more suitable for the establishment of planting; given the layout does not offer an opportunity to extend these areas, it should be hardsurfaced. Officers are of the view that smaller planting beds, particularly on the street frontage would have a better visual impact than the alternative of increasing and hardsurfacing within the area. There is no objection to the plant choice, tree staking or topsoil depths

The access road would be a tarmac surface, with a raised brick pavers platform at the entrance and a brick paver surface used for the turning head.

The proposed landscaping is acceptable and under the terms of condition 6 of the outline permission, would be required to be retained and maintained for 5 years from completion.

Scale and appearance

The proposed houses are predominantly two storeys with the exception of house type D and E (14 houses) which are 2.5 storeys with dormers in the roof. The amendments to reduce the eaves height of house types D and E ensure that the dormer windows are raised above the eaves. This design matches that of the 2.5 storey houses on Tasker Street and Woodcutter Close. The amendments to the scale and appearance of the development are acceptable.

Relationship to adjacent occupiers

The layout maintains the same separation between facing elevations to the apartments along Woodcutter Close as approved under the outline permission. The relationship with adjacent occupiers is considered adequate and the proposals should have no adverse impact upon outlook, privacy or daylighting of existing properties.

One letter of objection raises concerns about the height of the retaining wall being too low to be effective. The retaining wall would be there to provide support given the land level differences between the site and its neighbours. This wall would need to be

supplemented by additional boundary treatment for amenity and security reasons. The applicant says that closed boarded fencing would be used, however full boundary details have not been submitted with the application but are required and can be provided through a planning condition, as recommended.

Deed of Variation

Planning Committee on 26th July 2012 resolved not to collect contributions for education and urban open space in balance of 100% affordable housing being delivered on one site. The policy requirement is 25% affordable housing. The higher level of affordable housing would mean that other contributions would not be viable. A S106 agreement was completed confirming 100% affordable housing and that they would be constructed to Lifetime Homes Criteria. The proposed changes to the layout and house types raise no further issues in this respect; however a Deed of Variation to the S106 is required to remove the requirement of building to Lifetime Home Standard.

The development will be funded in part by a grant from the Homes and Communities Agency. A requirement of the funding is that the development would be built to a high standard of design. The development would look to achieve Building For Life, Design Quality Standards, Housing Quality Indicators and Code for Sustainable Homes criteria. The Lifetime Home Standard requirement within the S106 is design criteria intended to make homes more easily adaptable for lifetime use at minimal cost. This criterion is required to be removed because it would require the size of the plots to be increased further which would affect the viability of the scheme. The Homes and Communities Agency do not insist on Lifetime Homes anymore for grant funding. Given the requirement for the other design standards and the acceptability of the layout of the development, there is no objection to this variation.

Committee is recommended to agree to the Deed of Variation.

Conditions of the outline planning permission

The details of the outline planning permission and associated conditions are set out above.

Conditions 1, 3, 5a, 7 and 8a (relating to the submission of and detail of the Reserved Matters submission) are discharged in their entirety.

Condition 9a of the outline planning permission requires the submission of a drainage scheme prior to the commencement of development. A drainage scheme has been submitted with this application; however there is an absence of technical detail sufficient to discharge the condition. Flood Risk Management recommends that this reserved matters application should not be progressed until the drainage element is resolved. As drainage is part of a planning condition on the outline permission, the recommendation would ensure that this condition remains and will be required to be satisfied through a condition discharge application, the same as other pre-commencement conditions.

Condition 11 is in regard to the submission of details for external lighting. Details of three lighting columns within the new access road and minor re-siting to the existing lighting column in Midland Road have been provided with the application. These details are being considered by Public Lighting Team and their comments to whether the condition can be partly discharged will be updated at Planning Committee.

The remaining conditions require implementation of the details hereby approved or require further details to be submitted (prior to commencement of development).

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes 36 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

Pre-application discussions were held with the applicant's agent and in response to concerns raised throughout this process and during assessment of the current application amended plans have been submitted to enable full support to be given to the scheme.

Summary of Reasons for Granting Planning Permission

The principle of residential development is already established by the outline permission 12/0553/OL. The changes to the layout, increasing the floor area of most of the house plots increases the family value of the development and encourages home working, this is a sustainable development which provides reasonable garden space to future residents. The layout is acceptable and provides adequate space and separation between houses and allows for high quality landscaping, the remaining reserved matter, which is appropriate for a residential development. The removal of the protected trees to the front of Midland Road has previously been approved, with replacement planting proposed across the development site.

The scale and appearance of the housing respects those in the surrounding area and the design is acceptable. The relationship between houses and adjoining occupiers does not cause overlooking or loss of privacy as there is adequate separation between facing elevations.

Concern has been raised about the adequacy of the boundary treatment to the rear of the site. Full details of boundary treatment are required through a planning condition to

ensure the site can be appropriately secured and maintain amenity for adjoining properties.

Each of the 36 houses will be affordable housing. Given this 100% provision it has previously been considered not to seek other contributions. A Deed of Variation to the S106 agreement is required to remove the requirement to build to Lifetime Homes Standard because this standard would impact upon the viability of the scheme, requiring larger house types. The design quality has been confirmed by the submitted layout and as part of the funding grant the development will need to achieve further design standards. The Deed of Variation would have no impact upon the design quality of the development.

Local Financial Contributions, including the New Homes Bonus, are a material consideration and are factored into this decision.

In light of the above the proposals are considered to accord with the aims of policies CSP1, CSP2, CSP4, CSP5, HOU2, HOU3, TRAN2, TRAN4, ENV2, and ENV5 of the Black Country Core Strategy and saved policies GP2, GP3, ENV10, ENV14, ENV32, 3.116, 3.117, ENV33, H3, 8.8, T7, T13, and LC1 of Walsall Unitary Development Plan and Supplementary Planning Documents: Designing Walsall, Urban Open Space and Affordable Housing and National Planning Policy Framework. The proposals are considered acceptable.

Recommendation: Approve reserved matters subject to conditions and a deed of variation and delegate decision to Head of Planning and Building Control unless material representations are received.

Conditions 1, 3, and 7 of planning permission 12/0553/OL are discharged entirely by this Reserved Matters submission. The submitted details required to part discharge conditions 5 and 8 of planning permission reference 12/0553/OL are acceptable subject to the works being carried out in accordance with the submitted details.

Conditions 2, 4, 6, 14 and 15 are to note.

The following conditions require further detail to be discharged:
Conditions 9, 11, 12, 13, and 15i-vi

And subject to the following conditions:

A) The proposals shall be carried out in accordance with the following plans, documents and details in addition to plans and documents identified in condition 16 of planning permission reference 12/0553/OL:

- Site layout 01 Rev P
- Location Plan 02
- Proposed street elevations 03 Rev E
- House Type B 10 Rev B
- House Type C 11 Rev A
- House Type D 12 Rev C
- House Type E 13 Rev A
- House Type F 14 Rev B

House Type F1 15 Rev B
Proposed landscaping KL.194.001 Rev A
Proposed finished levels NTS/2288/HD100 Rev P3
Landscape maintenance letter from Sanctuary Housing, dated 22nd
February 2013

Plans of this submission are considered to amend plans of 12/0553/OL in the case of duplication.

Reason: In order to define the permission.

B) No development shall commence on site until details of all boundary treatment, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first residential occupation of the site and shall be retained thereafter.

Reason: In the interests of protecting residential amenity.

C) i) Prior to the first occupation of any dwelling on the development, all access ways, parking and vehicle hard standing areas serving that dwelling shall be fully consolidated, hard surfaced, drained and brought fully into use.

ii). These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 6.

Reason for bringing to committee: Disposal of Council Land

Application Number: 12/1604/OL

Application Type: Outline Application

Applicant: Plascolour

Proposal: Outline planning application (considering layout & access only) for 6 x houses.

Location: LAND BETWEEN VICTORIA STREET & BLOXWICH ROAD SOUTH,
WILLENHALL, WV13 1DW

Ward: Willenhall South

Case Officer: Alison Ives

Telephone Number: 01922 652604

Email: planningservices@walsall.gov.uk

Agent: Alpha Plans

Expired Date: 04/02/2013

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The application seeks outline permission for erection of 6 houses, 3 fronting Victoria Street and 3 fronting Bloxwich Road South. Access and layout are to be considered at this stage with appearance, landscaping and scale reserved for subsequent approval.

The site comprises two parcels of land. The first are industrial premises fronting Victoria Street comprising buildings and a fenced yard, owned by the applicant "Plascolour". The second is a strip of unoccupied land at the rear of the Plascolour premises fronting Bloxwich Road South which is owned by the Council. This land is planted and there are a few trees. Victoria Street is predominantly comprised of Victorian terraced houses. Bloxwich Road South has a variety of residential properties. The nearest adjacent house, 16 Bloxwich Road South, is positioned directly at the back of footway, there are modern semi-detached houses opposite the site and a private garage court adjoining the eastern boundary.

The layout shows a detached house and pair of semi-detached houses fronting Victoria Street and three detached houses fronting Bloxwich Road South. Each of the proposed houses has a single garage and driveway providing 2 parking spaces per plot. The proposed houses are positioned close to both street frontages with private gardens at the rear. Some boundary treatment is included at the front of the houses.

The site area is 0.11 hectares giving a density of 54 dwellings per hectare.

The Design & Access Statement – Describes the site location and proposed layout including accessibility to Willenhall centre. It explains that the applicant is seeking new premises to continue their business

The supporting letter from Plascolour – explains that the current site does not have space for this long standing company to develop by accommodating necessary equipment to expand the business. They are in a residential area restricted by operational hours. Large vehicle deliveries also cause disruption to local residents. Once new premises are located the intention is to increase staff numbers from 4 to 7. The intention is to find premises in the locality to retain existing staff.

Relevant Planning History

BC9860 – Change of use for blending and producing plastic pigment – Planning permission not required – July 1978.

BC26128P – Provision of a landscaped area of public open space – Granted May 1989.

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:

- Always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings
- Take account of different roles and character of different areas

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 9 encourages sustainable development that involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life such as improving the conditions in which people live and widening the choice of high quality homes.

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- 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

Paragraph 63 attaches great weight to outstanding or innovative design which helps raise the standard of design more generally in the area.

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

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

Paragraph 120 states the effects of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Contamination or land stability issues should be addressed by the developer.

Paragraph 121 in determining whether a site is suitable for its new use consideration should be made of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation.

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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until/unless it is abolished by order of the Secretary of State.

Relevant RS policies are:

CF1: Seeks to significantly improve the quality of existing housing stock, increase the scale and range of new housing development opportunities in appropriate locations and create attractive urban communities and living environments.

CF4: Encourages opportunities for re-use of redundant employment land and premises in urban areas for housing purposes.

CF5: Seeks to create more balanced and mixed communities through provision of a range of housing types and tenures within new housing development.

QE1: Supports regeneration and creation of new high quality built and natural environments. Also supports protection and enhancement of irreplaceable assets such as specific wildlife habitats.

QE3: Promotes high quality design.

The Black Country Core Strategy (BCCS)

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 Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors linking the Strategic Centres will provide: high quality employment land, new homes in sustainable communities built on redundant employment land and other brownfield sites close to existing public transport routes and canal networks and locations with the best access to residential services, at moderate densities that allow for a range of house types.

CSP2: Outside strategic centres and regeneration corridors will provide a mix of good quality residential areas where people choose to live.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

ENV1: Safeguards nature conservation resources.

ENV2: Development should preserve and enhance local character.

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

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy

HOU2.

Walsall's Unitary Development Plan (UDP)

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:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

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 trees and hedgerows.

3.116 & ENV32: seeks the design of residential developments to create high quality living 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.

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

JP7: Seeks to protect core employment uses in other employment land and buildings. When windfall sites come forward for redevelopment there may be exceptional circumstances where it will be more appropriate to consider alternative uses such as housing.

JP8: Seeks to control bad neighbour industrial uses.

LC1: Seeks to retain and enhance existing open spaces. Development resulting in the loss of open space must demonstrate none of the functions of the open space would be prejudiced.

T7 – Car Parking

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

T8: Development should seek to provide and improve pedestrian routes.

T11: Where pedestrian links are considered to be substandard measures must be taken to improve them.

T13: Parking Provision

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.

1, 2 and 3 bed houses 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

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;

DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. 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

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

Consultations

Transportation – No objections subject to retention of off street parking and protection of pedestrian visibility for the driveways. Appropriate conditions are recommended to address this.

Pollution Control (Scientific Team) – No objections but recommend that demolition and construction times are controlled by condition to minimise impacts on neighbouring residential properties. Main noise impacts will be from road traffic so noise mitigation measures to bedrooms facing Bloxwich Road South are required.

Pollution Control (Contaminated Land) – Part of the site is industrial land and has potential for ground contamination. An intrusive investigation to determine remedial measures is required to accompany any full application to ensure the development is suitable for residential use.

Asset Management – The Council has agreed to dispose of the Council owned land (304 sqm) for a consideration of £25,000. In isolation the Council site has little development potential as it was acquired by Compulsory Purchase Order many years ago and can only be developed as part of the larger site.

Public Participation Response

Two letters of objection have been received which are summarised as follows: -

- The adjacent houses do not extend as far back as shown on the plan
- Concern as to who is responsible for maintenance of the boundary wall between the site and 144 Victoria Street and shared access
- The WV13 area is at risk of flooding according to insurance companies
- The 2 off street parking includes the garages
- Overspill parking on Victoria Street will cause a hazard as it is already congested
- Will the development affect the factory site?

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

Determining Issues

- Principle of residential development
- Access
- Layout
- Relationship to adjoining properties
- Local Finance Considerations

Observations

Principle of residential development

The site is not allocated as an employment site and is surrounded by residential development so new residential development is appropriate for the site. It will also give the opportunity to improve the appearance of the site and eliminate a source of pollution, noise and nuisance to benefit existing residents.

Plascolour who operate from the site are seeking alternative premises locally where they can expand the business and already have existing premises elsewhere in the country. They intend to retain the jobs and hopefully secure more. In the circumstances the loss of this constrained site for employment purposes does not significantly affect employment opportunities.

The objector has been advised that the proposal is to redevelop the factory site.

The existing Council owned land is small at 0.031 hectares and there are a few trees on the frontage plus some overgrown planting. There is also evidence that the land is being used for unauthorised parking. It was previously developed as housing which was subsequently demolished by the Council and permission granted to develop the site as landscaped open space in 1989. The function of this open space would have been to provide a buffer between incompatible land uses and contributed to the visual amenity of the vacant site. As the industrial premises form part of the current proposals for residential development the open space would no longer be required to buffer incompatible uses and development of houses is considered to offer visual amenity benefits. It also removes unauthorised parking.

On the basis of the above the principle of residential development is considered acceptable and will improve the amenities of the area.

Access

Each of the proposed new houses has its own driveway and garage providing 2 off street parking spaces per dwelling in accordance with policy T13 for up to 3 bedroom houses. The Transportation Officer recommends the houses are restricted to 3 bedrooms to ensure parking remains adequate to serve the development. An appropriate condition is recommended for the reserved matters submission. The objector considers that as the 2 spaces include the garage overspill parking is likely on Victoria Street that would cause a hazard. It is not usual to assume that a garage will not be used for parking and as 2 spaces per dwelling are provided this is considered adequate. In the circumstances on street parking would not be significant to cause a hazard to highway safety. The position of the driveways achieves adequate pedestrian and vehicle visibility

Layout

The proposed layout shows three houses fronting each road filling in a gap between existing properties. The houses replace industrial premises in Victoria Street with housing development that is more in keeping. The development of houses on the open space on Bloxwich Road South is also considered to benefit visual amenities as this is a small area of open space which is apparently being used for unauthorised parking. The proposed development of housing would be more in keeping with the newer developments opposite the site.

The proposed layout demonstrates the position of the proposed houses does not extend beyond a 45 degree line from the facing elevations of the adjacent houses and so protects neighbours outlook, privacy and daylight. The position of the proposed houses

in relation to the road is also designed to respect the position of adjoining buildings. Some boundary treatment is included at the front of the houses which will define public and private space.

The objector states the adjacent houses in Victoria Street do not extend as far back as shown on the layout i.e. the rear wing of terraced houses are not present. Nevertheless the proposed houses in Victoria Street do not extend beyond the rear elevation of the main dwellings on each side and comply with 45 degree code guidelines.

The neighbour is also concerned about responsibility for maintenance of a boundary wall between the site and 144 Victoria Street and the shared access between the site and adjacent houses. The proposal does not affect this right of access which is maintained. With regard to the boundary wall it is proposed to install fencing to maintain privacy and a secure boundary between the sites.

There is between 21.8m and 23.4m distance between the facing rear elevations of the proposed houses which is below the usual requirement of 24m defined in SPD: Designing Walsall. The proposed distance separation is considered adequate to maintain privacy for occupiers. It is also a similar back to back distance between existing housing on Victoria Street and Bloxwich Road South further along the street.

The objector has raised an issue over potential flood risk but this site is not within a Flood Zone defined by the Environment Agency.

In light of the above the layout is considered acceptable.

Relationship to adjoining properties

The layout of the houses and position in respect to adjacent properties respects the outlook, privacy and daylight of adjoining occupiers. The proposals to replace industrial premises with housing is more in keeping with the surrounding properties and are considered to benefit residential and visual amenities by replacing a non-conforming use in a predominantly residential area.

Although the proposed houses are positioned in front of the adjacent semi-detached houses 135/137 Victoria Street, they do not have any significant impact on the outlook, daylight or privacy as they comply with 45 degree code guidelines. The proposed new houses are positioned closer to the footway to reflect the Victorian terraced housing which is predominant in Victoria Street. The pair of houses at 135/137 are almost the exception to this established form of development.

The relationship to surrounding occupiers is satisfactory.

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 6 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 issues with the applicant's agent and in response to concerns raised, amended plans and supporting information has been submitted to enable full support to be given to the scheme.

Summary of Reasons for Granting Planning Permission

The site is not allocated as an employment site and is surrounded by residential development so new residential development is appropriate for the site. It will also give the opportunity to improve the appearance of the site and eliminate a source of pollution, noise and nuisance to benefit existing residents. The business will continue at alternative premises so employment is protected.

The incorporation of the open space land is considered acceptable its function as open space is limited by the small size and apparent use for unauthorised parking. It was also previously developed as housing. The new housing offers visual benefits. On the basis of the above the principle of residential development is considered acceptable and will improve the amenities of the area.

Adequate off street parking is provided for each of the houses and despite neighbour concerns about overspill parking in Victoria Street the parking accords with policy. The Transportation Officer recommends the houses are restricted to 3 bedrooms to ensure parking remains adequate to serve the development. Pedestrian visibility is also maintained for the driveways.

The proposed development of housing would be more in keeping with the surrounding properties does not have any significant impact on neighbour's amenities and is considered appropriate within the street scene. The proposed houses in Victoria Street do not extend beyond the rear elevation of the main dwellings on each side and comply with 45 degree code guidelines despite the neighbour's objections. Boundary treatment is indicated and the development does not affect the shared access to adjacent properties.

There is adequate distance between the facing rear elevations of the proposed houses to maintain privacy and this reflects a similar back to back arrangement in the area. The site is not within a Flood Zone defined by the Environment Agency.

The layout of the houses and their position in respect to adjacent properties respects the outlook, privacy and daylight of adjoining occupiers and is satisfactory. It also reflects the street pattern of the majority of surrounding buildings.

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

In light of the above the proposals are considered to accord with the aims and objectives of the National Planning Policy Framework and sustainable development, the aims and objectives of the Black Country Core Strategy policies in particular CSP1, CSP2, CSP4, TRAN1, HOU2, ENV1, ENV2 and ENV3, the aims and objectives of the Walsall Unitary Development Plan saved policies GP2, H3, ENV10, ENV14, ENV18, ENV32, ENV33, 3.116, 3.117, JP7, JP8, LC1, T7, T8, T11 and T13 and Supplementary Planning Documents: Designing Walsall and Conserving Walsall's Natural Environment.

Recommendation: Grant Permission Subject to Conditions

1. Application for the approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission.

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

2. 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.

3. This development shall not be commenced until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) Appearance
- b) Landscaping
- c) Scale

Reason: Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995

4. In order to address potential impact from land contamination the following matters shall be addressed:

- i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

- ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- iv) The remedial measures as set out in the “Remediation Statement” required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the “Remediation Statement” required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site and to protect human health and the environment.

5a. Prior to the commencement of the development noise mitigation measures to bedrooms facing Bloxwich Road South shall be submitted and agreed in writing with the local planning authority.

5b. The agreed measures shall be implemented in accordance with the agreed details and maintained thereafter.

Reason: In order to protect the residential amenities of nearby occupiers.

6a. Prior to the commencement of the development details of the disposal of both surface and foul water drainage shall be submitted to and approved in writing by the Local Planning Authority.

6b. 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.

7a. No development shall commence until samples of all facing and roofing materials and details of all boundary treatments have been submitted to and approved in writing

by the Local Planning Authority.

7b. The development shall be completed with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development.

8. Prior to the first occupation of any dwelling on the development;-
- i. All driveways/vehicle hard standing areas serving that dwelling shall be fully consolidated, hard surfaced and drained.
 - ii. These areas shall thereafter be retained and used for no other purpose.
 - iii. All new vehicle footway crossings to serve the new driveways, including the reinstatement of any redundant footway crossings back to full kerb height, shall be fully implemented, to a specification to be first approved in writing by the Local Planning Authority and implemented and maintained thereafter in accordance with the agreed specifications to meet all statutory requirements.

Reason: To ensure the satisfactory completion and operation of the development.

9. No structures or planting exceeding 600mm in height above ground level shall be permitted with the 2.4m x 3.4m pedestrian visibility splays at each access point, shown on the approved plan.

Reason: In the interests of highway safety.

10. Each dwelling type submitted at Reserved Matters stage shall have no more than three bedrooms.

Reason: To ensure adequate off street parking in accordance with UDP Policy T13 and highway safety.

11. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation) and deliveries to the site, 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 Mondays to Fridays 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.

* Note - 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: In order to protect the residential amenities of nearby occupiers.

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

- Location Plan received 30/11/12
- Site Plan (SBVR-113b) received 18/1/13
- Design & Access Statement prepared by Alpha Plans (BVS-DA1112) received 30/11/12

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

Notes for Applicant – Contaminated Land

CL1: Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2011 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

CL3: Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports.

This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 7.

Reason for bringing to committee: Called-in by Councillor D Shires

Application Number: 12/1673/FL
Application Type: Full application

Case Officer: Andrew Thompson
Telephone Number: 01922 652603
Email: planningservices@walsall.gov.uk
Agent: Cerda Planning Ltd

Applicant: Marstons Estates

Proposal: Proposed alterations and single storey rear extension. Permitted change of use to retail store.

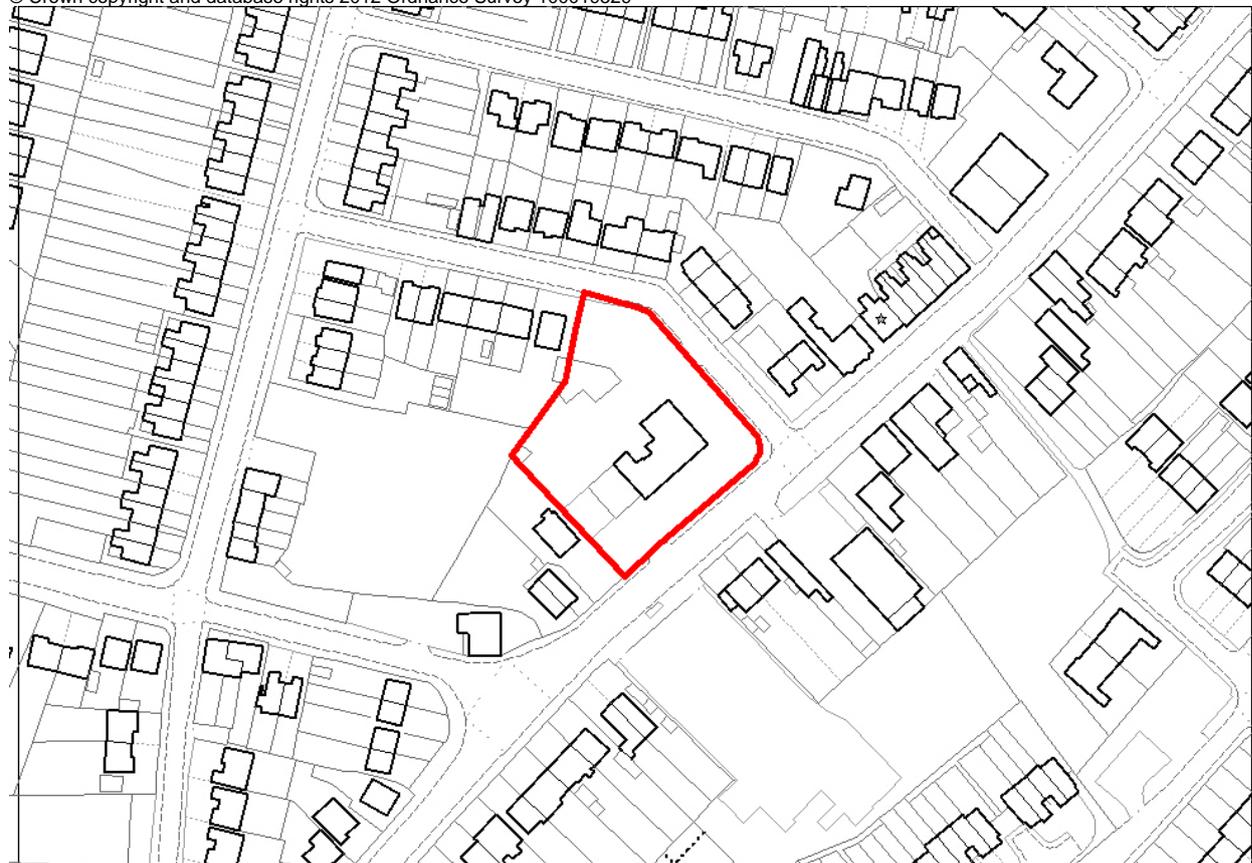
Location: BRITISH OAK INN, HIGH ROAD, WILLENHALL, WV12 4JR

Ward: Short Heath

Expired Date: 15/02/2013

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This application relates to the British Oak Public House and proposes extensions and alterations to the public house.

The proposals include a minor infill extension to the rear of the site of 21.4sqm and the installation of new windows to the front elevation. The proposals also look to rationalise the forecourt to provide a higher quality car park and demarcation of the spaces to provide 19 parking spaces, including 2 disabled spaces, and cycle parking.

The application site is located within Lane Head Local Centre.

Relevant Planning History

Other sites nearby – Brown Jug Public House

12/1684/FL - Extensions to side and rear and alterations to former public house to facilitate change of use from public house (use class A4) to shop (use class A1). On same agenda.

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*".

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Reuse land that has been previously developed
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth and
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

Key provisions of the NPPF relevant in this case:

Paragraphs 18-21 encourage Planning Authorities to support and put significant weight on economic growth.

23. Decisions should support and develop strong and vibrant town centres with community and cultural development identified as town centre uses

30. LPAs should support a pattern of development that facilitates the use of sustainable modes of transport.

58 developments should respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;

123 seeks to ensure that development mitigates against pollution, including noise.

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.

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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

Policies UR1, UR1a, UR1b, UR1c, UR3, UR4 which seek to regenerate urban areas, support town centres and in particular the major urban areas deliver appropriate housing and social infrastructure within urban area.

The Black Country Core Strategy (BCCS)

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 Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The above are supported by the following policies which have superseded UDP Waste Management Policies:

CSP4 – Seeks to ensure that developments enhances place making

CEN1 - identifies the importance of the Black Country Centres (including Walsall) for regeneration of the Black Country as the focus for town centre uses (including community and cultural uses)

CEN2 - identifies Walsall as a strategic centre

CEN5 – within the Local Centres, individual convenience retail developments of up to 500 square metres net and developments for comparison retail, offices or leisure uses of up to 200 square metres gross will be permitted where they satisfy local requirements and are appropriate to the scale and function of that particular centre.

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

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

Saved Policies of Walsall Unitary Development Plan March 2005

GP2 expects development to make a positive contribution to the environment and considers (II) the susceptibility to pollution of any kind as an adverse impact which would not be permitted, and VII. Adequacy of access will be taken into account.

The relevant policies are:

GP2 indicates that the creation of, or susceptibility to, pollution of any kind will be taken into account in the assessment of development proposals

ENV10 – indicates that development will not be permitted where pollution will cause and adverse effect on nearby land uses.

ENV33 - Good landscape design is an integral part of urban design and the Council will require, where appropriate landscape design should be incorporated into proposals.

S1 and S2 similar in policy to the BCCS policies in seeking a town centre first approach to town centre uses.

S5 - Boundaries are drawn tightly to concentrate investment and within these areas the retention, enhancement and further development of shops, services and other town centre uses will be encouraged.

T7 and T13 – seeks to ensure that there is an appropriate car parking provision and that sustainable travel is encouraged.

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

Consultations

Pollution Control

Contaminated Land Team – No objection

WM Police – No objection

Fire Service – No objection

Environmental Health – No objection – should consider a restriction on delivery times due to problems with noise from early morning deliveries to community supermarkets in other areas.

Representations

A petition of 345 signatures has been submitted objecting to another convenience store.

2 letters of objection stating the following reasons:

- There is not a further need for a food retail unit in this area as there are numerous on the same stretch of road.
- There will also be an increase in heavy logistics transport which would be entering and exiting the site opposite to where we are located.
- This would be an increased risk of traffic accidents
- There could be an increase in anti-social behaviour and loitering around the site

1 letter received raising no objection to the proposals.

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

Determining Issues

- Principle of development
- Extensions to the building
- Car parking provision and servicing

Observations

Principle of development

The comments of the local resident are noted with regard to retail need.

The existing use of the application site is a public house and whilst the proposals would be for extensions to the existing public house, the applicant indicates that the proposals are intended to convert the site into convenience retail. This change of use would be permitted development.

There is case-law which indicates that if proposed extensions are required to ensure that the retail use is viable and deliverable, planning permission for the change of use should be sought. In this case the proposals are general and minor alterations and are not material to the structure of the building or fundamental to the change of use and would be carried out for improvements to a pub.

Notwithstanding the above, the proposals are located in a local centre and contribute towards the viability and success of the local centre. The proposals are in the most sustainable location (i.e. in-centre) and therefore as the scale of the development would be of such that would not represent a development of inappropriate scale, the proposals are considered acceptable.

Even if planning permission was required for the change of use to retail, in principle, the proposals are supported.

Extensions and alterations to the building

The proposals would incorporate a 21.4sqm single storey extension to the existing building and include alterations to the front elevation to include new windows and customer entrance to the building. The proposed extensions are minor and would complement and improve the overall local environment.

The proposed design of the scheme is considered to be acceptable.

Car parking provision and servicing

The comments of the local resident are noted with regard to the level of car parking provision at the site, traffic impact and highway safety.

The development would largely re-use the existing car parking provision and layout and servicing arrangements with no alteration other than to formalise the demarcation of disabled parking and provision of cycle parking. The proposals offer 19 spaces including 2 disabled parking spaces. This would be a provision of 1 space per 22sqm (or 1 space per 20sqm including the disabled spaces) for customers. There are 6 spaces shown within the service yard which would be for staff. The parking provision is considered acceptable.

The existing arrangements and access would not be altered and vehicles would be able to exit the site safely. There is no objection to the proposed car parking layout.

The improved car parking layout and provision are supported.

Antisocial Behaviour issues

The comments of local residents are noted however the current use as a public house and is located within a commercial local centre on an established public transport route. A level of footfall and commercial activity is therefore to be expected. It is not considered that the proposed change to a retail shop or proposed extensions and alterations would generate any significant issues differing from the established use of the site. The comments of the police are noted.

The proposals are considered acceptable and would not give rise to anti-social behaviour.

Positive and Proactive working with the applicant

Officers have met with the applicant's agent and in response to concerns raised to enable full support to be given to the scheme

Summary of Reasons for Granting Planning Permission

The comments of the local resident with regard to the need for retail space, traffic generation and highway safety and anti-social behaviour issues are carefully considered in the determination of this application.

The proposals are located in a local centre and would contribute towards the viability and success of the local centre. The proposals are in the most sustainable location (i.e. in-centre) and therefore as the scale of the development would be of such that would not represent a development of inappropriate scale, the proposals are considered acceptable. The single storey extension and alterations to the building are relatively minor and would complement and improve the overall local environment.

The development would largely re-use the existing car parking provision and layout and servicing arrangements with no alteration other than to formalise the demarcation of disabled parking and provision of cycle parking. The parking provision is considered acceptable.

The existing arrangements and access would not be altered and vehicles would be able to exit the site safely. There is no objection to the proposed car parking layout.

Anti-social behaviour concerns are noted however a level of footfall and commercial activity in this commercial local centre and established public transport route is to be expected. It is not considered that the proposed scheme would generate any significant issues differing from the established use of the site.

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies UR1, UR1a, UR1b, UR1c and QE3 of the Regional Strategy, policies CSP4, CEN5, TRAN4, and ENV3 of the Black Country Core Strategy; saved policies GP2, ENV10, ENV33, S5, T7, and T13 of Walsall Unitary Development Plan, and the Council's Supplementary Planning Documents. On balance, having taken into account all material planning considerations, including the aims and objectives of the NPPF and sustainable development, the proposal is acceptable.

Positive and Proactive working with the applicant

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

Recommendation: 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.

2a) Prior to the commencement of the use, the boundary treatment and gates shown on the submitted plans shall be fully implemented.

b) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order no new or additional fences, gates, walls or other means of enclosure shall be erected.

Reason: To safeguard the satisfactory appearance and functioning of the site.

3 The 3no. Sheffield Stand cycle stands shown on drawing number 3450-P10B shall be installed prior to the commencement of the use.

Reason: To promote alternative and sustainable modes of transport.

4. This development shall be carried out in facing materials to match the existing building.

Reason: To ensure the satisfactory appearance of the development.

5a) Prior to their installation, details of plant and equipment used for the purpose of heating, ventilation, air conditioning, refrigeration and/or freezing shall be submitted to and approved in writing by the Local Planning Authority. The proposed equipment shall in the first instance be situated within the buildings, or acoustically designed enclosures with noise emissions from such equipment shall not exceed a Rating Level of +5 dB as determined by BS4142.

b) The agreed details shall be installed and retained in accordance with the approved details.

Reason: In the interests of the amenities of neighbouring residents.

6. 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 only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.

Reason: In the interests of the amenities of neighbouring residents.

7a) Prior to the development being brought into use the access, servicing/turning area and parking facilities shown on the approved plan shall have been properly consolidated, surfaced, drained, free of loose stone in accordance with details to be submitted to and approved in writing by the local planning authority

b) These areas shall be thereafter be retained and kept available for those uses at all times.

Reason: In the interest of highway safety, and ensure the safe operation of the site along with the safe free flow of traffic using the adjoining Highway.

8. The development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Plans and Drawings:

3450-P00, 3450-P10B, 3450-P11; 3450-P12; 3450-P13; 3450-P21; P9306-344-B
P9306-344-C; 12523/127 2DY Rev A; 12523/127 E.

Documents:

Design and Access Statement prepared by KMB Ltd (Issue 1, Dec 2012)
Sheffield Cycle Stand Detail

Reason: In order to define the permission.

Appendix One – Petition Against 12/1673/FL

1/18

**Residents of Lane Head, Willenhall, West Midlands
Against the proposed plans for changing The British
Oak on High Road in to another Convenience Store.**

Please support us by signing and dating the Petition below to be handed in to the Walsall Council Civic Centre on January 30th 2013. Many thanks for your support.

We (Local Residents and Businesses) Signed Below - Oppose the Application 12/1673/FL Planning to Change The British Oak Public House into another Convenience Store.

Name	Street	Postcode	Date
K Bateman	26 BLOXWICH RD NORTH	WV12 5PG	21/1/13
S Bateman	26 Bloxwich RD North	WV12 5PG	21/1/13
G. Butcher	26 Bloxwich RD North	WV12 5PG	21/1/13
T Bateman	26 Bloxwich Road North	WV12 5PG	21/1/13
L Butcher	26 Bloxwich Road North	WV12 5PG	21/1/13
J. SINGH	1 BLOXWICH RD NORTH	WV12 5PG.	20/1/13
H. PEARCE	108 HARVEST	WV12 4TU	11
M. JONES	RHYSTONE	WV12 4PX	11
C. Page	11 Lodge Street	WV12 4JP	11
A. Huds.	Bentley Lane Bloxwich	WV12 4HA	21/1/13
S. COLLIS	Rd North Droad Avenue	WV12 5PG	21/1/13
S. BATH		WV12 4HA	11
T. Honey	Harvest	WV12 4JU	21/1/13
WAYNE	HARVESTERS WAY	WV12 4AQ	21/1/13
SARAH	HARVESTERS WAY	WV12 4AQ	21/1/13
Jenny DAVIS	1a Holly Close	WV12 5RR	21/1/13
William DAVIS	1a Holly Close	WV12 5RR	21/1/13
J. DAVIS	ELIOT CLOSE	WV12 5AA	21/1/13
A. Rogers	KINVER AVE	WV12 4LS	21/1/13
N PARKER	3000SS GARDENS	WV12 4BS	21/1/13



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 8.

Reason for bringing to committee: Contrary to development plan policy

Application Number: 12/1684/FL

Application Type: Full application

Applicant: Mr Andrew Rowson

Proposal: Extensions to side and rear and alterations to former public house to facilitate change of use from public house (use class A4) to shop (use class A1).

Location: FORMER BROWN JUG P.H., 52 SANDBEDS ROAD, WILLENHALL, WV12 4EY

Ward: Short Heath

Case Officer: Andrew Thompson

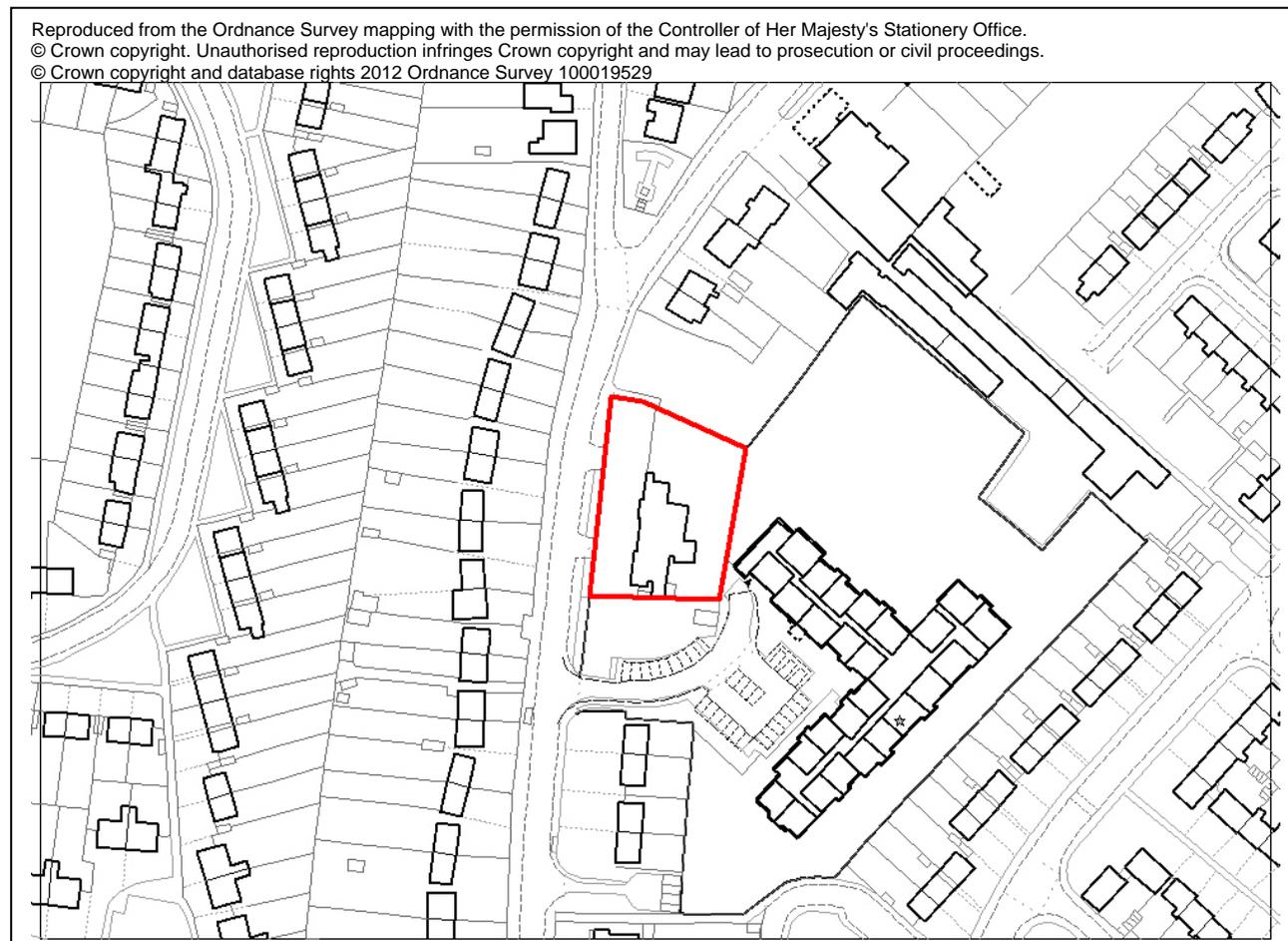
Telephone Number: 01922 652603

Email: planningservices@walsall.gov.uk

Agent:

Expired Date: 26/03/2013

Recommendation Summary: Refuse



Application and Site Details

This application seeks consent to erect a single storey rear ground floor extension on the existing Brown Jug public house. The extension will provide an extension to the existing function room with a new lounge area and extended kitchen facilities.

The proposed extension will extend into the rear garden area towards the rear boundary with Winehala Court by 5.2 mts, it will have a monopitch roof around three sides, there are no rear facing windows proposed.

The pub is surrounded by residential. The nearest local centre is Lane Head approximately 200 metres to the north, Winehala Court is at the rear of the pub and is a new extra care housing development offering accommodation with a wide range of on-site care and support services for older people is to the rear of the pub.

The nearest wing of Winehala Court provides an entrance and offices at ground floor with individual flats on the first and second floors, these have habitable room windows which look down on the rear of the Brown Jug pub.

Relevant Planning History

12/0171/FL - Extension to Brown Jug P.H. to create single storey function room.
Refused 23/04/13

Reasons:

- 1. Harm to the amenities currently enjoyed by the residents of Winehala Court from noise from speakers/music systems and events held in the function room.*
- 2. The potential to increase the number of persons using the venue at any one time as such the use of the venue by larger audiences and impact on the local highway network.*

Other sites nearby – British Oak Public House

12/1673/FL - Proposed alterations and single storey rear extension. Permitted change of use to retail store. On same agenda.

Relevant Planning Policy Summary (Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

National Planning Policy Framework

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

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Reuse land that has been previously developed
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth and

- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

Key provisions of the NPPF relevant in this case:

Paragraphs 18-21 encourage Planning Authorities to support and put significant weight on economic growth.

23 Decisions should support and develop strong and vibrant town centres with community and cultural development identified as town centre uses

30 LPAs should support a pattern of development that facilitates the use of sustainable modes of transport.

58 developments should respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;

123 seeks to ensure that development mitigates against pollution, including noise.

Black Country Core Strategy 2011-2026

The Vision and Strategic Objectives to regenerate the Borough and deliver development are supported by a suite of policies designed to promote and safeguard town centres. The importance of protecting the environment, seeking high quality design and managing the impact on the historic environment are also considered alongside the management of transport and movement from the site.

The key planning policies include CSP1, CSP2, CSP4, CSP5, EMP1, CEN1, CEN2, CEN3, CEN7, TRAN1, TRAN2 and TRAN5

Saved policies of Walsall Unitary Development Plan

Adopted in March 2005, the saved policies seek to ensure that development makes a positive contribution to the environment whilst protecting people and ensuring adequate and safe access. Also supports regeneration and previously developed land, especially in Walsall Town Centre as the most sustainable location. The saved policies also support the appropriate provision of car parking whilst promoting the use of public transport, walking and alternative modes of transport.

Key planning policy references include saved policies 3.6, 3.7, GP2, ENV10, 7.3, T7 and T13

Supplementary Planning Documents

Designing Walsall SPD

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

DW1- Sustainability- New development should seek to simultaneously meet environmental, economic and community needs without compromising the needs of future generations

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

DW3 - Character- All new development must be designed to respect and enhance local identity

DW7 - Diversity- All new development should contribute to creating lively places that offer a mix of activities to the widest range of possible users

DW10 - Well designed sustainable buildings- New development should make a positive contribution to creating a comfortable, adaptable and sustainable built environment

Regional Spatial Strategy for the West Midlands (RSS 11)

On 6 July 2010 the Secretary of State issued a direction to revoke Regional Spatial Strategies. Following a legal challenge this was reversed by the High Court on 10 November 2010.

The Government responded by advising its proposed abolition of the RSS system (abolition will require legislation, through the Localism Act and will take time) should be a material consideration in decisions. On 7 February 2011 the High Court published its judgement that the proposed abolition can be a material consideration. The Localism Act has now received Royal Assent and is moving towards Enactment. Further consultation has been undertaken regarding the Strategic Environmental Assessment of the proposed abolition of the RSS. The Localism Act and the abolition of the RSS continue to be capable of legal challenge.

Officer's advice is that the RSS remains part of the statutory development plan for the Borough (with the saved policies of Walsall's UDP and the Black Country Core Strategy), and decisions should be made in accordance with it unless material considerations indicate otherwise.

The focus for the Black Country policies is to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

Key planning policies include UR1a, UR3, UR4, PA1, PA13

There is no need for this application to be considered under the Conformity Protocol.

Consultations

Transportation – Object – The increase in floorspace would require a Transport Statement. The level of car parking has also not been demonstrated.

Pollution Control

Contaminated Land Team – No objection subject subject to works being implemented to investigate and remediate any localised ground gas issues. Conditions to address these concerns have been provided.

Representations

None received

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

Determining Issues

- Principle of the use
- Impact on neighbouring occupiers
- Highways/parking

Observations

Principle of the use

The site is outside the Lane Head Local Centre, and it is noted that an application is under consideration for the British Oak Public House. The principal difference in the proposed extension and use of permitted development is that the extension in this instance is required in order to make the use for retail viable and feasible.

As demonstrated by the submission of the British Oak application, there are suitable and available alternative sites that are also viable within the Local Centre. In addition there are existing and alternative sites within the centre that are also existing shops.

It is considered that the proposed change of use would have a negative impact on the local centre and should be refused.

Impact on neighbouring occupiers

The site is surrounded by residential properties and to the rear of the pub (east) is Winehala Court development, a new extra care housing development offering accommodation with a wide range of on-site care and support services for older people.

The nearest part of this extra care unit is 2 metres from the boundary with Brown Jug pub, the existing distance between the habitable room windows of the care home flats and the rear of the pub (ground floor conservatory) is 18 metres. The proposed extension will bring the building closer to the residential home by 5 metres reducing the distance to 13 metres. The purpose of the extension is to increase the commercial activity into this area in the form of toilets, staff facilities and chiller units are a significant concern, particularly with regard to plant and machinery.

As such, the increased level of commercial activity and the size of the proposed extension would be contrary to policy.

Highways/Parking

The applicant has failed to demonstrate through the submission of a Transport Statement that the proposed extension will have no detrimental impact on the local highway network. The additional floor area will increase the potential use of the venue for significant traffic movements which will increase the number of persons visiting the premises. Although on a bus route, the out of centre location would also increase the likelihood of car-based activity rather than a local centre.

Recommendation: Refuse

1. The proposals are in an out of centre location with suitable, available and viable alternatives in the Lane Head Local Centre some 200m to the north as evidenced by the planning application at the British Oak Public House (reference 12/1673/FL). There is no demonstrated local need for the facility. The proposals unsustainable and will promote unsustainable transport use and are contrary to policies CSP1, CSP4, CEN5, CEN6 and CEN7 of the Black Country Core Strategy; saved policies S1, S2, S3, S5, S6 and S7 of Walsall Unitary Development Plan and aims and objectives of the National Planning Policy Framework.

2. The proposed extension will result in the Brown Jug Pub being closer to Winehala Court at the rear. Whilst the proposed extension will not have any rear facing windows its purpose to increase the level of commercial activity in this area, together with associated plant and machinery will have a detrimental impact on the amenities currently enjoyed by the residents of Winehala Court. The proposal is considered to be contrary to Black Country Core Strategy policies CSP1, CSP2, CSP4, CSP5, EMP1, CEN1, CEN2, CEN3, CEN7, TRAN1, TRAN2 and TRAN5 and saved policies 3.6, 3.7, GP2 and ENV32 of the Unitary Development Plan.

3. As a result of the out-of-centre location, increased floor area and change of use to retail activity will increase the number of persons using the application site at any one time and will have an impact on the local highway network due to the lack of parking available at the site and would encourage the use of the private car. The applicant has failed to demonstrate through the submission of a Transport Statement that the proposed extension will have no detrimental impact on the local highway network in accordance with Black Country Core Strategy Policy TRAN 2 and saved policies 7.3, T4 (f), T7 and T13 of the Unitary Development Plan.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 9.

Reason for bringing to committee: Significant Community Interest

Application Number: 12/0866/FL
Application Type: Full application

Case Officer: Barbara Toy
Telephone Number: 01922 652615
Email: planningservices@walsall.gov.uk
Agent: CooPe Design

Applicant: Mr & Mrs G & A Craddock

Proposal: Demolition of existing dormer bungalow and adjoining garage building (C3 dwellinghouses). Construction of two new two storey dwellings with integral garage (C3 dwellinghouses).

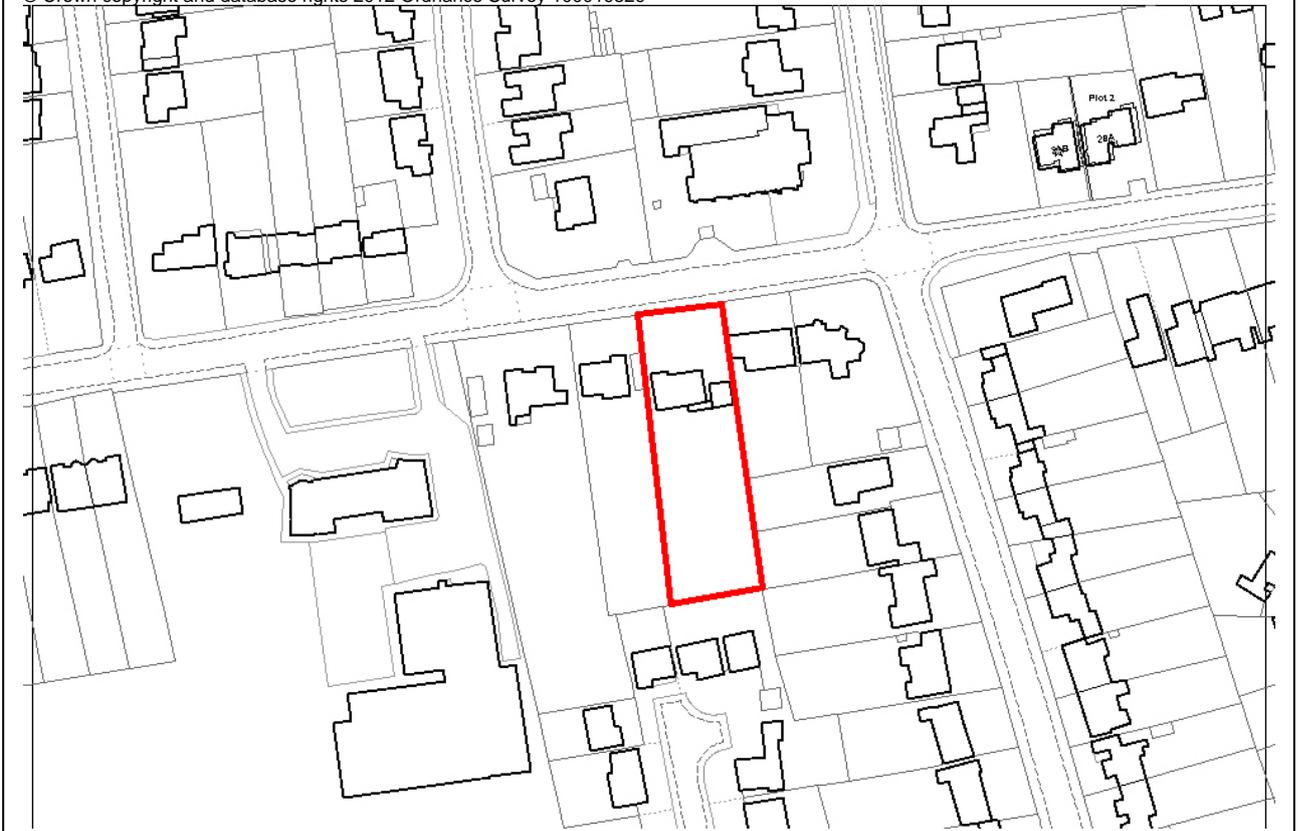
Location: 39A FOLEY ROAD EAST, SUTTON COLDFIELD, B74 3HR

Ward: Streetly

Expired Date: 30/10/2012

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The site is situated on the southern side of Foley Road East just to the west of the junction with Middleton Road.

The site comprises an existing dormer bungalow with single storey side garage, the property is set back from the road with a large mature rear garden that contains a large number of trees. The site has an existing single vehicle access to the eastern side of the frontage.

The site lies within the Streetly Area of Special Townscape Character and all the trees within the site are protected by an area Tree Preservation Order 2 of 2005.

Foley Road East comprises a residential street characterised by detached and semi detached two storey houses and bungalows set in large plots.

Immediately to the east of the site is 39b Foley Road East, a two storey modern house set forward of 39a in a much smaller plot than 39a. No 39 is a two storey house that sits on the corner of Middleton Road and addresses both street frontages.

No 41 Foley Road East immediately to the west of the site is a dormer bungalow with detached single storey side garage adjacent to the site, again set forward of 39a. No 43 is a bungalow beyond which lies Streetly Community Centre and sports hall.

To the north of the site on the opposite side of Foley Road East is All Saints church and vicarage. To the south (rear of the site) are detached two storey houses in Astor Drive.

The application proposes the demolition of the existing dormer bungalow and erection of 2 x two storey 4 bed houses with integral garages. Unit 2 would have a slightly larger footprint than unit 1. Unit 1 would utilise the existing vehicle access and an additional new access would be provided for unit 2. Three off street parking spaces would be provided for each house in the form of a single integral garage and two spaces within the front driveway.

The properties would be finished in white render with detail brickwork, clay tiled pitched roofs, and include chimneys, front gable features and stone detailing to windows and door surrounds.

The following have been submitted in support of the proposals:

A Design and Access Statement

This discusses the design process, including the constraints of the site (trees and bats), planning policy, design and character of area, scale, appearance and access arrangements.

Pre Development Tree Survey

This provides a detailed assessment of all the trees on the site and requirements for root protection areas and tree protection. All the trees within the site are to be retained.

Bat and Bird Survey

This concludes that a bat roost is unlikely in the existing building and trees and recommends conditions to ensure that demolition is undertaken under appropriate conditions to ensure no bats are affected.

Relevant Planning History

43 Foley Road East

08/1750/FL, Demolition of existing bungalow and erection of 2 detached, 4 bed, two storey houses, with new access to the highway, granted subject to conditions 01-04-08.

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:

- 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
- Proactively drive and support sustainable economic development to deliver the homes that the country needs.

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.

6: Delivering a Wide Choice of High Quality Homes

49. Housing applications should be considered in the context of the presumption in favour of sustainable development

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

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

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 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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered that the relevant RS policy is;

QE3: Creating a High Quality Built Environment for All

Creation of high quality built environment through use of architecture, urban design and landscape design which respects local character.

QE5: Protection and enhancement of the Historic Environment

A - Conserve and enhance the Region's diverse historic environment and manage change in such a way that respects local character and distinctiveness.

B – Particular attention to:

1 Securing high quality townscape, urban form, building design and urban space

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

Local

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 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*".

It states that the councils will create cohesive, healthy and prosperous communities with equal access to a mix of affordable and aspirational housing.

The relevant policies are:

HOU2: Housing Density, Type and Accessibility

States that the density and type of new housing provided on each site will be informed by, amongst other factors, the need to achieve high quality design and minimise amenity impacts, taking into account the characteristics in the area where the proposal is located. All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness.

ENV2: Historic Character and Local Distinctiveness

States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits

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

Walsall's Unitary Development Plan (UDP) (2005)

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: 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.

ENV18: Existing Woodlands, Trees and Hedgerows.

Loss of TPO'd trees will be resisted unless it would be in the interests of good arboricultural practice. Where any trees are lost replacements should be provided to minimise the loss.

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. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

(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.

ENV33: Landscape Design

Good landscape design is an integral part of urban design

H3: Windfall Sites on Previously Developed Land

The Council will encourage the provision of additional housing through the re-use of previously developed windfall sites.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

T13: Parking Provision

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 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 the NPPF policy. The relevant SPD's are;

Designing Walsall (Feb 2008)

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DW3 – Character - all new development must be designed to respect and enhance local identity

DW9 – High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality

The Vision: Homes, provides guidance on designing homes in Walsall.

Annexe E: 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, set backs 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.

Conserving Walsall's Natural Environment (April 2008)

Expands on the policies contained within the environment chapter of the UDP. The document provides criteria for European Protected Species survey requirements.

Supplementary Planning Guidance (SPG)

Area of Special Townscape Character, Thornhill Road, Middleton Road and Foley Road East, Streetly. (2003)

Provides guidance for new development within the area, which includes requirements to provide a building footprint not exceeding 25% of the total area of the plot within which it

is to be set, to provide appropriate design, boundary treatment and planting and appropriate use of materials.

Consultations

Transportation – No objections.

Pollution Control – Scientific Team – No objections subject to condition to restrict hours of working on site.

Contaminated Land Team – No specific contaminated land requirements.

Conservation Officer – No objections to amended scheme subject to condition to ensure appropriate materials and detailing are provided for approval.

Severn Trent Water – No objections subject to a drainage condition

Fire Officer – No objections

Environmental Health – No adverse comments

West Midlands Police – No objections but recommend that the development meets the requirements of Secured By Design.

Tree Officer – No arboricultural objections providing tree protection measures detailed in the tree survey are fully implemented.

Natural Environment Officer – No reason to refuse on ecological grounds subject to conditions to ensure that the recommendations of the bat survey are implemented.

Public Participation Responses

Eight letters of objection/concern received.

Objections:

- Adverse impact on visual amenity
 - Loss of view
 - Overbearing and massing
 - Loss of light to house and patio
- Houses in the vicinity well spaces to create open character the proposals would reduce the spacing
- Increased massing out of character
- Variation in the house styles adds to the amenity and diversity of the area , the proposed houses will erode this
- Increase in vehicles and vehicle movements
- Additional access opposite the church and adjacent to the sports centre will make access difficult at times
- A single property would be more appropriate
- Very small gap to the side of the new house causing issues for adjacent property during construction (scaffolding) and for future maintenance.

Concerns:

- Existing mature trees to the rear should be retained to ensure existing privacy and no impact from new houses to neighbours

- Trees protected
- The proposed houses should have as low a pitched roof as possible to reduce the impact and prevent adverse impact on outlook
- The position of the new houses should be forward of the existing bungalow further away from the houses at the rear.

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

Determining Issues

- Principle of the Development
- Design and Layout and Impact on the Street Scene
- Impact on the Amenities of Surrounding Occupiers
- Parking and Access
- Impact on Trees and Protected Species
- Local Finance Considerations

Observations

Principle of the development

The site is situated within a well established residential area, characterised by detached houses and bungalows with a mix of ages, types and styles, but predominantly set in large plots, within easy walking distance of Chester Road (A452 Strategic Highway Network) where there are regular bus services. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP in terms of sustainable transport and reuse of previously developed land.

Both national and local policy guidance require efficient use of land, the provision of two residential properties to replace one is considered an efficient use of this windfall site.

The existing bungalow is of no particular architectural merit and no objections are raised to its demolition.

The principle of the provision of two residential properties to replace the existing bungalow on this windfall site is considered appropriate.

Design and layout and impact on the street scene and character of the area

The area is characterised by predominantly detached two storey houses in large plots. The site is situated within an area of Special Townscape Character (adopted SPG) which was established to manage change in the area without adversely affecting the overall character and appearance of the area. The area shows strong influences from the Arts and Crafts movement, with emphasis on high quality workmanship and the arts and crafts are an integral part of the structure and design rather than an 'add on' decoration. The policies within the SPG provide guidance for new developments which should complement and provide a contemporary reflection of these elements.

The layout and design of the proposed houses have been amended during the course of the application in order to sit more comfortably within the general street scene and the character of the area. The two houses would differ in size and design but both incorporate key design features appropriate for the location; large bay windows, gable features, chimneys, clay roof tiles and white render. It is considered that the design of

the houses would comply with the guidance within the SPG and sit comfortably within the diverse nature of the immediate area.

Whilst No 41 adjacent is a bungalow, No 39b is a two storey house, the principle of replacing the existing bungalow with house is considered appropriate within the general street scene and would continue the existing mix of properties within the area. The additional massing that would be created by two storey properties over the existing bungalow is considered to fit comfortably within the street scene and the immediate vicinity.

The proposed houses would be set forward from the existing bungalow by between 5 and 6m so that the new houses would follow the existing building line, the current bungalow and garage is set back, out of step with the existing building line.

The proposals would result in plot widths of approx 12m, whilst this would be narrower than those at 41 and 39b it would be similar to those previously approved for the redevelopment of No 43 and the plots widths are considered appropriate for the area of special townscape character.

Objectors have raised the issue of reduced spacing between the properties. A gap of 1.2m would be provided between the two units and 1.1m between unit 1 and No 39b and 0.4m between unit 2 and No 41. Whilst the proposals reduce the gap to No 41 by approx 1m the gap to No 39b would be retained as well as an additional gap between the two houses. No 39b is built up to the boundary and provides no gap to the boundary with the site. It is considered that the separation and spacing of the proposed properties would be consistent with the surrounding pattern of development. The gaps proposed would provide sufficient spaces for future maintenance of the properties.

The house footprints would represent 11% and 15% of the plots below the 25% required by the SPG whilst allowing for large mature rear gardens exceeding the requirements of Appendix E of Designing Walsall. . The size of the footprint of the proposed dwellings would reflect that of other properties in the immediate vicinity.

The front boundary hedging would be retained apart from the width of a new vehicle access for plot 2, retaining the existing character of the site within the street scene and in compliance with guidance in the SPG.

The design and layout of the development is considered appropriate and would have no adverse impact on the general street scene or the area of special townscape character.

Impact on the amenities of surrounding occupiers

The amended proposals would fully comply with the 45 degree code in relation to each other and the adjoining properties either side and with separation distances required by Appendix E of Designing Walsall.

It is considered that the proposals would have no adverse impact on the amenities of the surrounding residential occupiers in terms of loss of amenity, loss of light or loss of outlook.

Parking and Access

The proposals would provide three off street parking spaces for each of the new houses in compliance with policy T13 of the UDP. There are no on street parking restrictions in the locality.

Transportation have no objections to the proposed new access or parking the provision.

It is considered that the increase in vehicle movements from the provision of an additional property would have no adverse impact on highway safety, the amenities of the surrounding occupiers or other uses in the immediate vicinity.

Impact on Trees and Protected Species

The submitted bat survey concludes that a bat roost is unlikely in the existing building and trees but makes a number of recommendations regarding the demolition of the building and the provision of bat roosting sites within the development as well as restrictions on external lighting around the properties in order to ensure conservation of the local bat population. Appropriate conditions are recommended.

The proposals would not require any of the existing trees to be removed but the submitted tree assessment does recommend removal of a small number of trees in the rear garden due to their poor condition.

The existing monkey puzzle tree on the frontage adjacent to the boundary with No 39b would be retained and protected during construction and details of a water permeable surface to the new front driveway have been provided and are considered acceptable in order to ensure the future of the tree.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes two new homes.

The 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

During the course of the application the applicant was requested to amend the position and design of the two houses in order to comply with the 45 degree code and guidance

in the Streetly Area of Special Townscape Character SPG. Amended plans were received and used in the assessment of the proposals.

Summary of Reasons for Granting Planning Permission

The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP in terms of sustainable transport and reuse of previously developed land. Both national and local policy guidance require efficient use of land, the provision of two residential properties to replace one is considered an efficient use of this windfall site. The existing bungalow is of no particular architectural merit and no objections are raised to its demolition.

The principle of the provision of two residential properties to replace the existing bungalow on this windfall site is considered appropriate in this location.

The size, density, spacing, massing and design of the properties is considered appropriate for the location to fit with the character of the area and guidance within the Streetly Area of Special Townscape Character SPG. The properties will continue the existing building line and appropriate separation distances and garden areas are provided to comply with Appendix E of Designing Walsall SPD.

The proposals comply with the 45 degree code and it is considered that the proposals will have no adverse impact on the amenities of the surrounding occupiers in terms of overlooking or loss of privacy or the amenity of the general street scene.

The proposed access and parking facilities for both properties would meet policy requirements and would have no adverse impact on highway or pedestrian safety.

The proposals will have no adverse impact on any of the protected trees within the site or the local bat population.

The proposal is consistent with the NPPF and is considered to accord with the aims and objectives of the Regional Strategy (2008), the Black Country Core Strategy (2011), in particular policies HOU2, ENV3 and ENV2, Walsall Unitary Development Plan (2005), in particular saved policies GP2, H3, ENV32, ENV33, T7 and T13, Supplementary Planning Documents – Designing Walsall (2008) and Natural Environment (2008) and Supplementary Planning Guidance - Streetly Area of Special Townscape Character.

Recommendation: Grant Permission Subject to Conditions

1. The 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.

2a. No development shall commence until details of the following have been submitted to and approved in writing by the Local Planning Authority:

- All external facing materials

- Exterior roofing materials
- Rain water goods
- All external joinery including fenestration and doors and proposed external finish, full details consisting of sections at a minimum scale of 1:5 and elevations at 1:20.

2b. The development shall be completed with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding area.

3a. No development shall commence on site until drainage details for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority.

3b. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure the development is provided with 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.

4. Prior to the commencement of any works on site the tree protection measures as detailed in the arboricultural survey by Midlands Tree Surgeons Ltd dated February 2012 shall be fully implemented and retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2012.

Reason: To safeguard the trees included in the Tree Preservation Order on the site.

5. Contractors undertaking demolition works shall be made aware that bats may be present and undertake demolition works in accordance with the method of working set out in S Christopher Smith's bat report on pages 17-18.

If no bats or evidence of bats are found during these operations, the approved works can continue.

If bats or evidence of bats are found during these operations:

1. bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.
2. no further destructive works shall be carried out to the building until the need for Natural England licence has been established.
3. within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation
4. work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England licence issued

Reason: To ensure the conservation of local bat populations.

- 6a. Prior to the first occupation of either house, a new vehicle footway crossing to serve unit 2 shall be constructed to a specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements.
- 6b. The driveway and vehicle manoeuvring areas serving each house shall be fully consolidated, hard surfaced and drained.
- 6c. These areas shall thereafter be retained and used for no other purpose.

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

7. A scheme for the provision of bat roosting sites as set out on pages 15-16 of S Christopher Smith's report dated 18/7/12 shall be installed before any part of the development is brought into use and retained thereafter with access openings maintained free of obstructions at all times.

Reason: To ensure the conservation of local bat populations.

8. No external lighting scheme shall be installed other than in accordance with the requirements set out below. Namely:

- There shall be no direct illumination of the new bat roosts installed or the hanging tiles on the house frontage.
- Any lighting installed shall be low wattage down lights to provide security and safety lighting which will be set no higher than head height.
- Any security lighting shall use PIRs to ensure they turn off automatically once movement has ceased.

All external lighting shall be carried out in accordance with the above requirements.

Reason: To ensure the conservation of local bat populations.

9. No demolition, engineering or construction works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday*, and otherwise such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

(*Bank and Public Holidays for this purpose shall be: Christmas Day, Boxing Day, New Years Day, Good Friday, Easter Monday, May Day, Spring Bank Holiday Monday and August Bank Holiday Monday.)

Reason: To safeguard the amenity of occupiers of premises within the vicinity.

10. The works hereby approved shall only be carried out in accordance with details contained within drawings:

Site Location Plan 1 Rev * submitted 04-09-12

Existing Site Plan & Elevations 3 Rev A submitted 04-09-12

Proposed Scheme 13 Rev G submitted 01-02-13

Sections & Street Scene Existing & Proposed 14 Rev B submitted 01-02-13

Tree Constraints Plan 4 Rev B submitted 23-11-12

Pre-Development Tree Survey by Midland Tree Surgeons dated February 2012
submitted 04-09-12.
Existing Site Plan and Elevations Identifying Trees submitted 04-09-12
Design and Access Statement submitted 04-09-12
Bat and Bird Survey by S Christopher Smith dated 18-07-12 submitted 04-09-12.

Reason: In order to define the permission.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 10.

Reason for bringing to committee: Called in by Councillor Hughes

Application Number: 12/1429/FL
Application Type: Full application

Case Officer: Phillip Wears
Telephone Number: 01922 652611
Email: planningservices@walsall.gov.uk
Agent: Spooner Architects

Applicant: Ms Olivia Hatton

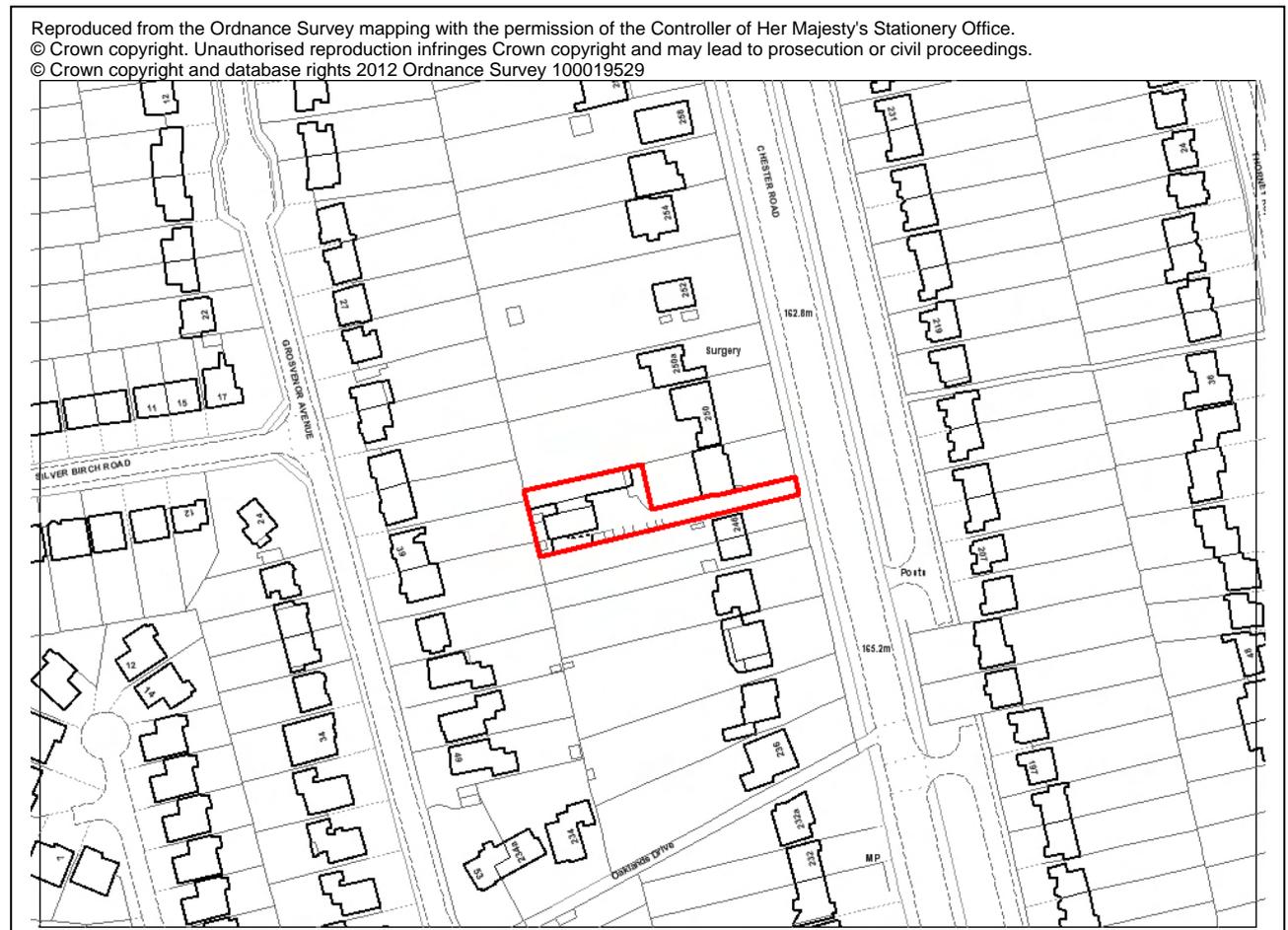
Proposal: Demolition of existing builders premises and erection of new two storey dwelling.

Location: 248 CHESTER ROAD, STREETLY, WALSALL, B74 3NB

Ward: Streetly

Expired Date: 26/12/2012

Recommendation Summary: Refuse



Status

The application is called to Committee by Councillor Hughes who considers that the proposal has merit, and would be an improvement on existing structures. However he would like to seek the opinion of the Committee.

Application and site details

The proposal is to redevelop an existing builders premises located at the rear of 248a Chester Road, removing the existing buildings and erecting a two-storey detached house, which also has accommodation on a second floor within the roof space. The house could therefore be described as 2.5 storey. The application is in detail.

Following the consultations/neighbour notifications stage has been amended to reduce the proposed height by 0.6 metres, re-arrange the roof space accommodation and provide more roof-lights.

The layout of the house includes:-

Ground floor :- living rooms, a kitchen, utility, study and garden room.

First floor :- Three bedrooms, a bathroom, a dressing room and en-suite bathroom, and large landing.

Second floor :- (in the roof space) a bedroom with an en-suite bathroom, and dressing room/study.

The design of the house is traditional brick walls with some tile hanging, and a tiled roof. It would incorporate gable ends at each side and smaller gables to the front and rear. There would be a higher chimney on its south side. As amended there are three roof-lights to the rear and two roof-lights to the front. The amendment has entailed reducing the height of the roof ridge of the house from 9 metres to 8.4 metres.

The site is accessed from Chester Road via a driveway between numbers 248a and 246. The plans show three parking spaces in the front garden, although more could be accommodated and the application form proposes four.

The surroundings are characterised by substantial traditional detached and semi-detached houses and bungalows, fronting to Chester Road, and mainly substantial semi-detached houses fronting to Grosvenor Avenue, all having generous front and rear gardens with hedges, trees and fencing. On Chester Road the rear gardens are generally long with hedges and small trees. However there is no back-land development in the immediate vicinity.

The proposed house and garden would have boundaries with six existing houses and gardens. The front (east side) of the proposed house would be directly to the rear of number 248a Chester Road, with about 14.5 metres separation from number 248a's rear garden, and about 26 metres separation from the house itself. The south side of the proposed house would be about one metre from the rear garden at 246 Chester Road, and the north side about 4.5 metres from the rear garden at 250 Chester Road. The rear (west side) of the new house would be directly to the rear of 39 Grosvenor Avenue, with an average 8.5 metres separation from its rear garden, and about 38 metres separation from the house itself.

The brickwork rear walls of the storage and office buildings currently form the boundary treatment to the rear garden of 250 Chester Road. As yet there are no details of the replacement boundary treatment.

Public Transport;- On bus routes 88, 935, 935A, X56, with nearest bus stop 75 metres away.

Relevant Planning History

None - the builders premises is a very long-standing use.

Relevant Planning Policy Summary (Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

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 good standards of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraphs

56. Design of the built environment is extremely important. Good design is a key aspect of sustainable development, and should contribute positively to making places better for people.
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
61. High quality and inclusive design goes beyond aesthetic considerations. Planning decisions should address the connections between people and places and the integration of new development into the natural, built and historic 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.

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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

Relevant RS policies are:

CF1: Seeks to significantly improve the quality of existing housing stock, increase the scale and range of new housing development opportunities in appropriate locations and create attractive urban communities and living environments.

QE1: Supports regeneration and creation of new high quality built and natural environments.

QE3: Promotes high quality townscape, urban form, building design and urban spaces, respecting local character.

The Black Country Core Strategy (BCCS)

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 Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in meeting the increasing aspirations of their catchment areas.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The relevant key policies are:

CSP2 – Areas outside the Strategic Centres and Regeneration Corridors to provide small scale development opportunities.

CSP4 – All development to make a positive contribution to place-making and environmental improvement, with design enhancing the attributes of the local area and its local character.

ENV2 – Protection and promotion of special character and local distinctiveness to also apply to mid 20th century low density suburban development.

ENV3 – Place-making will depend upon high quality design, responding to identity of each place

It is considered in this case that there is no conflict with the NPPF and relevant provisions of the BCCS can be given full weight.

Walsall's Unitary Development Plan (UDP)

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:

3.6, & GP2 All development to make a positive contribution to the quality of the environment, the considerations including visual appearance, overlooking, loss of privacy, and effect on daylight and sunlight.

H3 and ENV14 . Additional windfall housing on previously developed land encouraged subject to compliance with other plan policies.

3.116 & ENV32 – seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poor design failing to take account of context will not be permitted. Especially significant contexts include where a special character arises from homogeneity.

H10 – New housing and extensions to create high quality living environment well integrated with surrounding land uses and local character.

T7 and T13 – three parking spaces per unit for new houses with 4 bedrooms or more.

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 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.

Appendix E Numerical Guidelines:-

- Minimum separation of 24 metres between habitable room windows in new developments of 2-storeys and above.
- Minimum garden dimensions for houses of 12 metres in length or 68 square metres.

This will normally mean designing developments that, as a minimum, meet these numerical guidelines. However Appendix E explains that shorter distances may be justified through creative design or to preserve the character of an area, and likewise greater distances than these guidelines will be needed where appropriate to the character of the area.

Consultations

Transportation – If approved recommends a condition to require the access road and vehicle hard-standings to be surfaced and drained before the house is occupied, and thereafter retained and used for no other purpose.

Pollution Control – Scientific Team –

If approved recommends a condition is attached to control hours of work to construct the new house.

Pollution Control – Contaminated Land –

If approved recommends conditions to ensure investigation and remediation of any localised ground contamination associated with the builders premises

Severn Trent Water –

No objection but drainage plans for foul and surface water to be submitted and approved by the LPA before development commences.

Representations

Letters and emails containing **objections** have been received from 10 households in Chester Road and Grosvenor Avenue.:-

- Loss of privacy in gardens from overlooking windows
- Patios at bottom of gardens for sunlight will be particularly vulnerable to overlooking. (37, 39, and 41 Grosvenor Avenue).
- Loss of privacy in existing houses from overlooking windows
- Description as 2 storey - should say 3 storey owing to windows in roof
- Potential to change uses of upper level rooms, making more overlooking bedrooms.

- Overshadowing of gardens and blocking out natural light
- Over-large for the plot and too close to boundaries
- Will dominate surrounding area
- Impact comparable with development in a back garden
- Position amongst back gardens is out of character with the area
- Will set a precedent for further 'back garden' developments, causing major loss of privacy for existing dwellings.
- Increased traffic and noise relative to the builders premises, especially at evenings and weekends.
- Insufficient information on drainage.
- Rights of access would need preserving
- Design is modern and out of character.
- Existing use is not a builders yard – carpenters workshop and stores
- A bungalow would be more acceptable because no overlooking windows.
- One resident has supplied photographs.

Determining Issues

The site is situated within a suburban area which is not within the Green Belt. The proposal is a form of 'infill' development and is acceptable in principle. The decision on the application will depend upon the detailed impacts, and whether the proposal would set a precedent. The determining issues are therefore :-

1. The impacts of the proposed new house on the character of the area and on neighbours, with reference to:-
 - visual impact and integration with the surroundings
 - impacts on the level of privacy for residents in the houses and gardens any overshadowing of adjacent properties.
 As compared with,
 Any benefits arising from the existing builders premises being removed by the proposed redevelopment, with reference to;-
 - visual impact of the existing buildings
 - potential for noise and disturbance.
2. Whether the proposal would set a precedent for similar developments which would cause cumulative additional harm

OBSERVATIONS

The visual impacts of the house, its impacts on privacy, and any overshadowing:

Visual impact and integration with the surroundings.

Officers consider that the house would integrate poorly with its surroundings. Its location amongst the rear gardens would be out of keeping with existing pattern of road frontage development. Garden buildings might be expected in this location, but they would be far smaller than the proposed house and so would be significantly screened or visually softened by the fences, hedges and small trees. The proposed house would stand alone, far above the height of these existing landscaping elements, and would also have

substantial massing, so that overall it would appear visually dominant and also incongruous.

Its high visual impact would not be mitigated by distance because the rear and sides of the proposed house would be relatively close to its north, south and west boundaries with other properties. In this location it would visually intrude into its setting of spacious rear gardens.

The gabled roof design would exacerbate these problems, by accentuating its massing and visual prominence, and also contrasting with the hipped-roof design of most of the neighbouring houses and bungalow, tending to emphasise its incongruity. However, the over-riding factor is not the gabled roof design but is the visual impact of a substantial building of over one storey close to its boundaries.

The recent amendment to reduce the height of the house from 9 metres to 8.4 metres would reduce its visual dominance and incongruity, but these would still remain very serious problems in your officers' view.

Impacts on privacy within the existing dwellings and gardens – Chester Road

The existing houses with potential to be most affected can be identified as those falling within a 90 degree arc drawn from the front of the proposed house, although others could be affected to a lesser extent. To the front the houses most affected would be 244, 246, 248a and 250 Chester Road, and in the proposed house the windows with potential to cause overlooking would be, on the first floor, a master bedroom window, landing window and bathroom window; and on the second floor, a bedroom window, roof-light to stairs and roof-light to bathroom.

In terms of whether there would be loss of privacy within these houses, the separation distances are above the minimum standards required by the policies in Appendix E of Designing Walsall (see above). Nevertheless these distances are far less than those currently existing between the houses on Chester Road and Grosvenor Avenue, and Appendix E requires separation distances above the minimum where it is necessary to respect the character of an area.

248a Chester Road is potentially most affected of all owing to its very short rear garden and its being directly in front of the proposal. Applying the principle in Appendix E, the separation distance would be around 26 metres, compared with minimum standard of 24 metres. At adjacent houses to either side, the separation distances would be slightly greater, for example about 28 metres for number 246, and 32 metres for number 250. Officers judge that the separation distance between these houses should be greater than these figures to reflect the existing spacious character of the area. Whilst it is difficult to say that occupants of the proposal and these existing houses would be able to observe each others activities in the houses, for the existing householders there would be a strong impression of overlooking and loss of privacy. This would be accentuated by the number of proposed first and second floor windows and roof-lights.

In terms of privacy within the existing gardens, the houses potentially most affected by overlooking would be 244, 246, 248a, and 250 Chester Road.

At Number 244 extensive overlooking of the garden may be prevented by the planting on the intervening boundary with 246, but the height is variable, and planting cannot be

expected to remain for the life of the proposed house. At Number 246 officers consider the approximately 2.5 metre conifer hedge in the side boundary would be insufficiently high to prevent close-range overlooking of the rear patio area and garden by the proposed first and second floor bedroom windows. At 248a Chester Road the rear boundary conifer hedge at around 2.5 metres high would not prevent direct and close-range overlooking of the rear patio/garden from the first and second floor windows and roof-lights. At 250 Chester Road (a wide bungalow) the future intervening boundary treatment is not known but assuming a maximum 3 metre high boundary treatment, the garden and rear patio would be overlooked by the proposed first floor landing window. There would also be overlooking from the window and roof-light to first and second floor bathrooms. Obscure glazing could reduce the latter but these windows would normally need to be open-able, and it would be very difficult to require these rooms to remain as bathrooms indefinitely.

Impacts on privacy within the existing dwellings and gardens – Grosvenor Avenue

Again, the existing houses with potential to be most affected can be identified as those falling within a 90 degree arc drawn from rear of the proposed house, although others could be affected to a lesser extent. To the rear the houses most affected would be 35, 37, 39, 41, and 43 Grosvenor Avenue, and in the proposal the windows with potential to cause overlooking would be, on the first floor, two bedroom windows, a dressing room, and ensuite bathroom window, and on the second floor, two bedroom roof-lights and a dressing room/study roof-light.

The closest of these, number 39 would be over 37 metres away, and officers consider that at these distances actual loss of privacy within the houses would be hard to identify. However as at the front of the house, existing householders would experience an impression of overlooking and loss of privacy, accentuated by the number of first floor and second floor windows and roof-lights.

In terms of the privacy within the rear gardens of 35, 37, 39, 41, and 43 Grosvenor Avenue, the first floor windows and second floor roof-lights would be around 11 metres and 12 metres respectively from the rear boundary of the garden at 39 Grosvenor Avenue which lies directly behind the proposal. For the gardens to either side these distances are progressively greater. There is no significant intervening screening on the boundaries at Numbers 35, 37, 39 and 41, because the few trees are relatively small or deciduous. Whilst at Number 35 there would be some mitigation by distance, officers consider that the first and second floor windows and roof lights would overlook the rear gardens at Numbers 37, 39, 41 at close-range, and directly in the case of Number 39. These gardens would experience serious loss of privacy. At Number 43, intervening boundary planting could prevent extensive overlooking, but this can not be relied upon indefinitely.

The orientation of these houses in Grosvenor Avenue means that it is the bottoms of their gardens which catch the afternoon and evening sun in summer. Numbers 37, 39 and 41 keep their garden furniture there and Numbers 39 and 41 have substantial hard surfaced patios. These areas would be seriously overlooked by the proposed house, but are areas where privacy is important to the level of amenity.

Privacy within the proposed house and garden

Whilst occupiers of the proposed new house would not experience a loss of existing privacy levels as would the existing residents, the privacy level at the proposed house would not be ideal. The proximity with the houses at Numbers 244, 246, and 248a Chester Road in particular would give an impression of overlooking from upstairs rooms, and the surrounding rear gardens would have a line of sight to the upstairs windows of the proposal, particularly from rear gardens in Grosvenor Avenue.

Over -shadowing

It is considered that the proposal would significantly affect the gardens of existing houses with overshadowing. The house would lie 4.5 metres to the south of the garden at 250 Chester Road and it is considered it would cast a shadow over this garden, lengthening when the sun is low in the sky. The house would be to the west of 246 Chester Road, and would cast a shadow over its rear garden on summer evenings. These impacts add to the harm caused to the level of amenity at existing properties

The impacts of the existing builders premises, and the benefits of this ceasing as a result of the redevelopment. .

These impacts will take two main forms; the visual impacts of the existing buildings, and the impacts in terms of noise and disturbance for surrounding residents.

Visual impact of existing buildings

The existing buildings are located towards the rear of the site (nearest Grosvenor Avenue). On the side boundaries, flanking the rear gardens of 246 and 250 Chester Road are low buildings about 3 metres high. On the boundary with 250 Chester Road there is also a small pitched roof office building with a maximum height of about 4.1 metres at its ridge. Between these buildings at the opposite sides of the site is a larger building, a workshop, with a pitched roof reaching about 4.6 metres, reducing to about 4.4 metres in the rear-most section. This building is about 3.5 metres from the rear garden of 39 Grosvenor Avenue and there is a 1.8 to 2.4 metre high brick wall on the boundary.

The roof of the larger 4.4 to 4.6 metre high building is readily visible from the bottoms of the rear gardens in Grosvenor Avenue, as it stands above the boundary wall, but it appears to be in good condition. Furthermore, it can be compared with garden buildings which qualify for householder permitted developments rights if no more than 4 metres high and in locations away from boundaries such as this. In general terms, owing to their modest heights, all these existing buildings integrate well in the setting of back gardens with hedges, small trees and fencing. This is particularly so because the larger building is well separated from adjoining gardens. No complaints have been received regarding the condition of the buildings, and officers consider them to be generally of modest visual impact and good appearance, especially when viewed from gardens on Grosvenor Avenue. Views into the yard are relatively well screened by boundary hedges and buildings.

Noise and disturbance

The information available for predicting possible future noise and disturbance if the builders premises remains is incomplete, this reflecting the fact that planning permission

has not been sought because the use has been carried on as an 'established use' over many years. The submitted Design and Access statement describes the site as former small building contractor's yard. However a neighbour's letter claims it is better described as a carpenters workshop and store. Officers note that Companies House information suggests the builders firm was not one carrying out construction of buildings but was engaged in building completion and finishing. The applicant stated verbally that it was still in some use up until June 2012.

However the site is understood to have been used to provide some offices, a workshop, storage buildings, and storage and vehicle parking in the open yard. With this mix of activities it appears to officers that the 'established use rights' that have been acquired do not fit into a Use Class (sui generis). This will tend to reduce the range of business users that the site would be likely to attract in the future.

The letters from residents in the vicinity treat the existing premises as unproblematic. It is possible that this reflects in part the business becoming more 'low key' in recent years, but the possibility of some intensification of the activity, leading to increased noise and disturbance has to be taken into account. There is no planning permission that could control this through conditions, because the use has been operating on the basis of 'established use rights'. Noise serious enough to constitute substantial nuisance could be tackled under other legislation. This means there is some risk of moderate noise and disturbance issues which cannot be controlled through the planning legislation. However the relatively small size of the yard and the separation of the workshop building from the boundaries would tend to reduce noise levels. Overall officers consider that the risk of noise and disturbance problems is moderate only.

Whether a precedent would be set

It appears at first sight that if permission is granted this is unlikely to set a precedent for similar developments because there are no other commercial premises nearby which are in similar back-land locations.

However it follows from the officers' view above that as the harm caused by the existing builders premises is only likely to be moderate, a grant of planning permission would be based on adopting a view that the impacts of the proposal are readily acceptable. This would then indicate that similar impacts would be acceptable on other land in the vicinity. This would depend upon suitably sized plots of accessible land in other types of use could be identified, but officers consider that plots could come forward in this way. On that basis the proposal would set a precedent for similar developments which cumulatively would cause additional harm to the character of the area and to the level of amenity enjoyed by existing householders.

Conclusion

The proposed house would cause serious harm to the character of the area by reason of its visual dominance and incongruous location, exacerbated by some overshadowing of adjacent gardens. Combined with this would be a strong impression of overlooking of existing dwellings, and serious and severe overlooking of their rear gardens. Overall there would be serious harm to the level of amenity enjoyed at the existing dwellings. There is relatively little mitigation of overlooking by reserving specific uses for

overlooking rooms, or from intervening garden vegetation, and furthermore these are always liable to change in the future. (In the case of vegetation limited life-spans can be a factor). It would also set a precedent for further developments in these back-land locations which would cause cumulative harm.

These are the 'costs' of the proposal.

The 'benefits' arise from the removal of the existing builders premises. In terms of visual amenity these benefits would be very slight indeed. In terms of avoiding noise and disturbance the benefits are harder to quantify, but are likely to be moderate, and public health legislation could be used if serious noise and disturbance were to arise in the future. The overall 'benefits' are therefore considered modest overall.

Accordingly it appears to officers that the serious harm caused by the proposal would only be offset by modest benefits of losing the existing builders premises. Accordingly it appears to officers that 'costs' of the proposal are very high and are seriously disproportionate when compared with the 'benefits, and therefore a grant of permission cannot be justified.

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 one new home.

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 delivery of homes in previous years the total amount awarded this year was £2,583,252 (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 might 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 advised the agent that they are unable to support the proposal. They have suggested to the agent that a single storey bungalow could however be supported in principle, because it would resolve the problem of overlooking/loss of privacy, and although it would be higher than the existing buildings and have more impact on the rear gardens, this lesser degree of additional impact could be justified by the removal of the existing builders premises.

However the applicant has declined to amend the application in this way, but made the slight amendment as detailed above.

Recommendation: Refuse

1. By reason of its massing and height, its standing alone amongst rear gardens, its proximity to its boundaries, and the absence of similar back-land houses in the vicinity, the proposed house would appear visually dominant and incongruous, and would be harmful to the character of the surrounding suburban area of detached and semi-detached dwellings with generously sized gardens. Its incongruity would be exacerbated by its gabled design contrasting with hipped roof designs of its immediate neighbours. The proposed house would therefore be contrary to policies 3.6, GP2, 3.116, ENV32 in the Walsall Unitary Development Plan, policies CSP4, ENV2 and ENV3 in the Black Country Core Strategy, policy QE3 in the West Midlands Regional Spatial Strategy, Policy DW3 in the Supplementary Planning Guidance 'Designing Walsall', and the sustainable development objectives of the National Planning Policy Framework.
2. By reason of the number of first and second floor windows and roof-lights, and the proximity of the proposed house to adjacent dwellings, it would create an impression of overlooking the occupiers of those adjacent dwellings and lowering the level of privacy. Furthermore the proximity of the proposed house to the rear gardens of adjacent dwellings, would cause serious and in some cases severe overlooking and loss of privacy within those gardens. The impacts on privacy would cause serious harm to residential amenities. The proposed house would therefore be contrary to policies 3.6, GP2, 3.116, ENV32 in the Walsall Unitary Development Plan, policies CSP4, ENV2 and ENV3 in the Black Country Core Strategy, policy QE3 in the West Midlands Regional Spatial Strategy, Policy DW3 in the Supplementary Planning Guidance 'Designing Walsall', and the sustainable development objectives of the National Planning Policy Framework.
3. It is considered that the benefits of the removal of the existing builders premises would not amount to special circumstances justifying acceptance of the seriously harmful impacts of the new house on visual amenities, the character of the area, and privacy, as noted in the reasons above. The proposed house would therefore be contrary to policies 3.6, GP2, 3.116, ENV32 in the Walsall Unitary Development Plan, policies CSP4, ENV2 and ENV3 in the Black Country Core Strategy, policy QE3 in the West Midlands Regional Spatial Strategy, Policy DW3 in the Supplementary Planning Guidance 'Designing Walsall', and the sustainable development objectives of the National Planning Policy Framework.
4. Acceptance of the proposed house in this back-land location and with these impacts on visual amenities, the character of the area, and privacy would set a precedent for similar back-land developments in the area, thereby causing additional and cumulative harm to these considerations. The proposed house would therefore be contrary to policies 3.6, GP2, 3.116, ENV32 in the Walsall Unitary Development Plan, policies CSP4, ENV2 and ENV3 in the Black Country Core Strategy, policy QE3 in the West Midlands Regional Spatial Strategy, Policy DW3 in the Supplementary Planning Guidance 'Designing Walsall', and the sustainable development objectives of the National Planning Policy Framework.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 11.

Reason for bringing to committee: Major application

Application Number: 12/1662/FL

Application Type: Full application

Applicant: Mr Kevin Bland

Proposal: To demolish the 2 existing derelict buildings and to build 2 new buildings forming 9 apartments.

Location: LAND TO REAR OF 19 & 21 MARKET PLACE, WILLENHALL, WALSALL

Ward: Willenhall South

Case Officer: Alison Ives

Telephone Number: 01922 652604

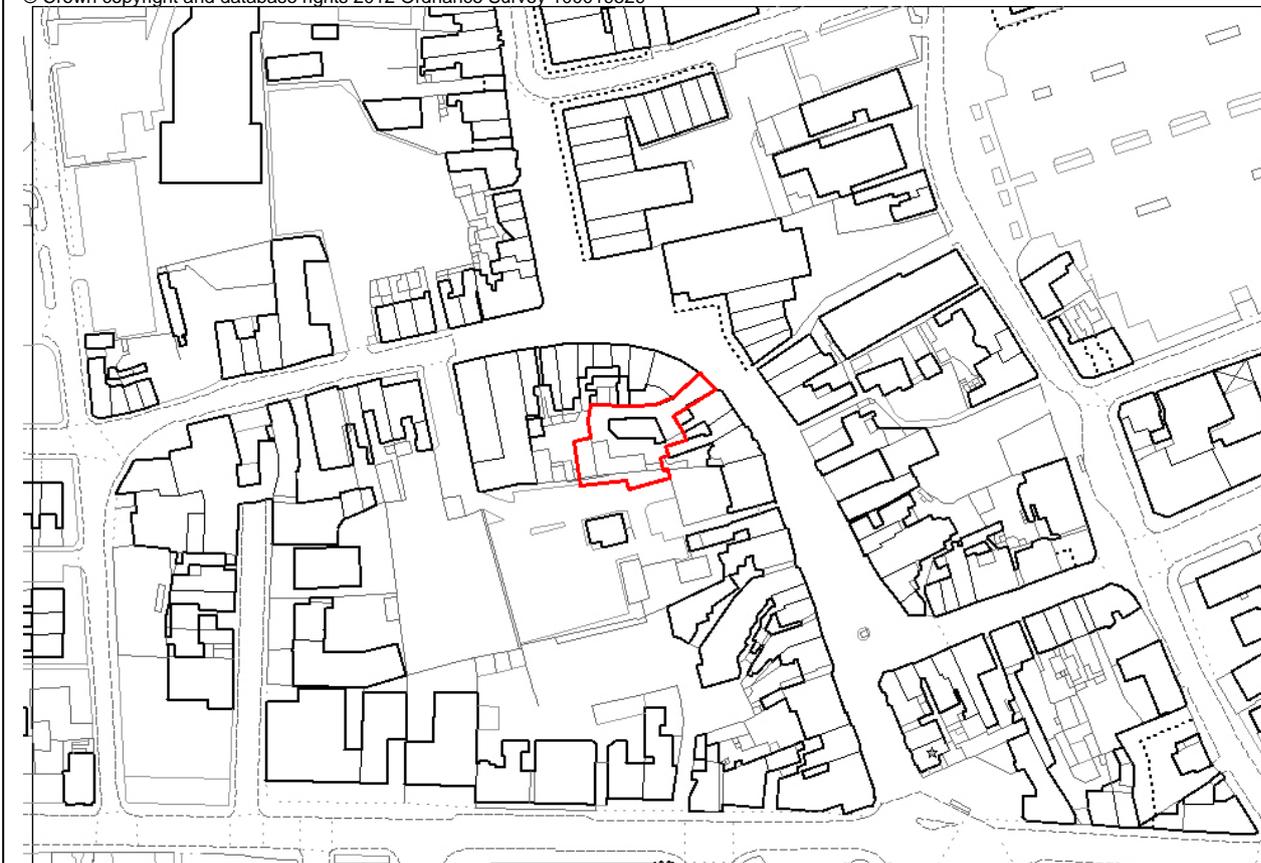
Email: planningservices@walsall.gov.uk

Agent: HG Design Ltd

Expired Date: 01/03/2013

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The proposal is to demolish two derelict buildings at the rear of 19 and 20 Market Place, Willenhall and rebuild two new buildings on broadly the same footprint to accommodate 9 flats (4 in block one and 5 in block two). Both buildings are two storeys high with accommodation provided over three floors utilising the loft space. The roof space provides a second bedroom for two of the flats in block one and a second bedroom plus bathroom in two of the flats in block 2.

The site is located at the rear of shops within the pedestrianised Market Place. It falls within Willenhall Conservation Area. The surrounding buildings are up to four storeys high with some living accommodation at upper floors. There are high boundary walls at the rear of adjoining properties that face the site. The access to the site off Market Place is also used to service the rear of some of the adjoining shops and businesses. This is a very untidy site; the buildings are derelict beyond repair and have suffered anti-social behaviour.

There is no on site parking. The applicant has included an area of land presently forming part of the verge of the Council car park. It is intended to create a defensible space for occupiers of block 2 within this land and a new pedestrian access from the site to the public car park to allow occupiers the opportunity to utilise the car park. The developer suggests that 9 parking spaces on the public car park could be secured by agreement with the Council.

The buildings are designed to resemble a converted building in utilising contemporary industrial characteristics in a simple design that includes irregular openings, deep reveals and recessed brickwork to give the illusion of bricked up openings.

The developer has confirmed that a sprinkler system will be installed in both blocks of flats.

The Design & Access Statement – Describes the location of the site, the proposals, the planning history and how the design has evolved from the earlier scheme. It also covers the policy context. In summary the statement considers the proposal will provide improved living spaces benefiting from proximity to the town centre, shops and bus routes, in a sensitive design that blends in with its surroundings.

Relevant Planning History

11/1345/FL – Demolish existing buildings and erect an apartment block of 17 x 1 bed flats – Refused February 2012. There were two reasons for refusal broadly relating to (1) poor layout and design, cramped and overbearing in scale massing and height failing to respect Willenhall Conservation Area. Also the units were single aspect with poor outlook and lack of amenity space and failure to provide off-street parking, cycle storage or vehicle manoeuvring space (2) Failure to make provision for urban open space and affordable housing. This proposed a single four storey building replacing the two buildings.

11/1455/CC – Demolition of buildings at rear of 19 & 20 Market Place – Refused February 2012 for one reason. This related to the absence of any approved redevelopment scheme whereby the proposed demolition of the buildings would neither preserve nor enhance the Willenhall Conservation Area.

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:

- Always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings
- Take account of different roles and character of different areas

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- 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

Paragraph 63 attaches great weight to outstanding or innovative design which helps raise the standard of design more generally in the area.

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

Paragraph 126 states local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment.

Paragraph 128 states in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

Paragraph 131 states in determining applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 134 states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until/unless it is abolished by order of the Secretary of State.

Relevant RS policies are:

CF1: Seeks to significantly improve the quality of existing housing stock, increase the scale and range of new housing development opportunities in appropriate locations and create attractive urban communities and living environments.

QE1: Supports regeneration and creation of new high quality built and natural environments. Also supports protection and enhancement of irreplaceable assets such as specific wildlife habitats.

QE3: Promotes high quality design.

The Black Country Core Strategy (BCCS)

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 Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.

2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.

5. A network of vibrant and attractive town, district and local centres

6. A high quality environment

7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors linking the Strategic Centres will provide: high quality employment land, new homes in sustainable communities built on redundant employment land and other brownfield sites close to existing public transport routes and canal networks and locations with the best access to residential services, at moderate densities that allow for a range of house types.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

ENV2: Development should preserve and enhance local character.

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

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN4: Cycle parking facilities should be provided at all new developments and should be located in a convenient location with good natural surveillance

Walsall's Unitary Development Plan (UDP)

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:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV10: seeks to control pollution from development – including noise

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.

ENV29: Development should preserve or enhance the character and appearance of a Conservation Area.

3.116 & ENV32: seeks the design of residential developments to create high quality living 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.

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

S8: Encourages investment in housing development within district centres provided a satisfactory residential environment can be achieved.

T7 – Car Parking

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

T8: Development should seek to provide and improve pedestrian routes.

T11: Where pedestrian links are considered to be substandard measures must be taken to improve them.

T13: Parking Provision

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.

Flats with individual parking spaces – 2 spaces per unit

Flats with communal parking – 1.5 spaces per unit

WH2: Retain and enhance Willenhall street market.

WH3: Seeks to ensure developments make a positive contribution towards the environment of Willenhall centre particularly the character of the Conservation Area.

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;
DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. 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.

Consultations

Transportation – No objections. Although there is no parking on site and access from Market Place is restricted the proposed development has been reduced significantly from the refused scheme for 17 flats. The site is located in the centre of Willenhall town centre and there are frequent bus services to the nearby town centres and a wide range of shopping and other public facilities close by. The site is considered to be in a highly sustainable location. Whilst the development will have no parking of its own there is public parking elsewhere within centre that could be utilised. It has also been taken into account that the existing buildings could be brought back into use with no parking. Vehicle access to the site via Market Place will be restricted to outside the market operational times under the restrictions imposed by the Traffic Regulation Order.

Pollution Control (Scientific Team) – The demolition contractor needs to control potential noise and dusts that may be generated from the demolition of the existing building and construction of the new apartment block. Conditions have been recommended to address this.

Pollution Control (Contaminated Land) – Supports the proposals but as the site was formerly utilised as works of an unspecified nature that may have resulted in localised ground contamination a note for applicant is recommended.

Conservation – No objections subject to provision of details relating to facing and roof materials, external joinery, fenestration and doors, mortar details, eaves detailing, brick bond, rainwater goods, boundary treatment and gates and roof lights. These can be secured by condition. Although Conservation Area Consent has been granted for demolition of one of the buildings a further consent for demolition of both buildings will be required. A note for applicant is recommended and conditions to secure building recording for the current proposals.

Economic Regeneration – Fully supports the proposals as it will improve Willenhall town centre and reduce anti social behaviour experienced at this site currently. The applicant has also attempted to address officer concerns where possible. Use of the public car park by residents will improve the appearance and usage of this car park.

Fire Service – Fitting domestic sprinklers would satisfy the fire authority requirements.

Severn Trent Water – No objections subject to provision of drainage details which can be secured by condition. There is a public sewer near the site so a note for applicant is also recommended.

Police – This is a high crime area and the town centre is vulnerable due to lack of natural surveillance at night. The proposal may deter some elements of crime but does provide its own opportunities for crime in the future. Secured by Design accreditation should be achieved. The access gates and perimeter fencing should be secure of robust construction 2.4m high. Entrances should be well lit and video intercom to each property is recommended.

Public Participation Response

One letter has been received supporting the development as a positive improvement to Willenhall town centre.

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

Determining Issues

Whether the proposals address reasons for refusal of 11/1345/FL in terms of: -

- Scale, massing and height
- Poor quality living environment
- Off street parking, cycle storage and emergency access
- Provision for urban open space and affordable housing

Other material matters

- Layout and Design
- Relationship to adjoining properties
- Local Finance Considerations

Observations

Whether the proposals address reasons for refusal of 11/1345/FL in terms of:

- Scale, massing and height

The earlier proposals were for 17 flats in a four storey building and the current proposal is for 9 flats in a two storey building so it is clear the proposals have been scaled down significantly to address earlier reasons for refusal regarding height, scale and massing and are considered less cramped and overbearing. The smaller buildings are also more respectful of the surrounding buildings in the Willenhall conservation area.

- Poor quality living environment

The proposals indicate that the flats are dual aspect so there is an alternative outlook for occupiers, albeit the buildings are in close proximity to each other and to the boundaries of the site. There is 2.8 - 3.7m distance between the facing elevations of the two blocks of flats. The layout of the proposed flats is also designed to limit directly facing habitable rooms in each block. For example the main aspect on flat 5 of block 2 faces east and south so that the bedroom and living rooms of flat 4 in block 1 do not directly overlook. Given the restricted site and proximity of the buildings it is inevitable that this cannot be achieved for all proposed flats but the design does off-set facing windows as much as possible. There is also potential to incorporate a green wall system to the northern boundary to enhance the outlook for future occupiers rather than looking onto a high brick wall.

It is considered that the more intimate relationship is acceptable as it reflects the character of the existing buildings and will provide a high quality, secure development. There are useable paved areas around the proposed buildings that will have amenity value for occupiers.

Given the above the amended scheme has carefully considered earlier reasons for refusal and addressed them as best as possible to provide an enhanced living environment for future occupiers. This has addressed this element of the first reason for refusal of 11/1345/FL.

- Off street parking, cycle storage and emergency access

There are no proposed parking spaces available on site but in order to address earlier reasons for refusal the developer has provided a pedestrian access directly from the development to the public car park so occupiers could utilise this for parking. In the event that pedestrian access is not granted the path leading from the site to the car park could be removed and the space incorporated within the landscaped areas acting as a buffer for flats in block 2. This site is highly sustainable within Willenhall town centre amongst local shops and facilities and within walking distance of frequent bus routes. In light of this the lack of on-site provision of parking is considered acceptable.

There is space within the site to accommodate cycle storage so a condition requiring details to be submitted for approval is recommended. Cycle provision will also provide an alternative to car parking provision to encourage occupiers to use an alternative sustainable means of transport.

The access off the Market Place is to be secured with separate vehicle and pedestrian gates. This will ensure the site remains private yet allows emergency or refuse vehicles to access the site. Whilst there is not sufficient distance for a Fire Service vehicle to reach all flats the developer has confirmed that sprinklers will be fitted in both blocks so there is adequate provision for fire safety. This will be a matter for Building Regulations but a condition is recommended to secure this.

The proposals offer a unique opportunity to redevelop a site that has become an eyesore over the years due to the derelict nature of the existing buildings which continue to deteriorate and are a magnet for anti social behaviour. The proposals offer regenerative benefits for Willenhall replacing the derelict buildings with new homes. These benefits are considered to outweigh any shortfall in parking, or indeed separation distance between dwellings or amenity space provision.

On the basis of the above comments it is considered that the proposals have addressed this element of the first reason for refusal of 11/1345/FL.

- Provision for urban open space and affordable housing

The proposals have been scaled down in terms of the number of units proposed from 17 to 9 and do not now trigger any requirement for provision of urban open space or affordable housing. This addresses the second reason for refusal of 11/1345/FL.

Other material matters:

Relationship to adjoining properties

The proposed buildings are in broadly the same position as the existing buildings on site. Despite being new buildings they are only two storeys high and the outlook for existing occupiers of flats above shops in the vicinity will not be materially different. Accommodation is proposed in the loft space but velux windows are proposed on the elevations facing into the site and facing the car park. In the circumstances there will be no significant potential for overlooking.

Inevitably residential development of the site would create more activity at the rear of surrounding properties but not to such an extent that the activity would have a significant impact on residential amenities.

The proposals maintain access to the rear of premises in Wolverhampton Street that back onto the site.

The proposals have an acceptable relationship to surrounding properties.

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 9 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 met with the applicant's agent and in response to concerns raised, amended plans and supporting information has been submitted to enable full support to be given to the scheme.

Summary of Reasons for Granting Planning Permission

The proposals have been significantly reduced from the earlier scheme and now address earlier reasons for refusal regarding height, scale and massing and are considered less cramped and overbearing. The smaller buildings are also more respectful of the surrounding buildings in the Willenhall conservation area.

The proposed flats are dual aspect so offer an improved outlook for future occupiers and despite the proximity of the buildings to each other and to the boundaries of the site the layout has been carefully designed to reduce potential overlooking as much as possible. There is also potential to incorporate a green wall system to the northern boundary to enhance the outlook for future occupiers rather than looking onto a high brick wall. The proposal will provide a high quality, secure development with useable paved areas around the proposed buildings that will have amenity value for occupiers. This addresses part of the first reason for refusal of 11/1345/FL.

There are no proposed parking spaces available on site but this is a highly sustainable location in a town centre where there are shops and facilities and frequent bus services. Cycle storage provision can be accommodated to encourage alternative modes of travel. The developer has also shown a potential pedestrian access from the development to the public car park so occupiers could utilise this for parking. The lack of on-site parking is considered acceptable in the circumstances. Sprinklers will be fitted in the proposed buildings for fire safety purposes. This addresses the remaining part of the first reason for refusal of 11/1345/FL.

The proposals offer a unique opportunity to redevelop a problematic site that has become an eyesore due to the derelict nature of the existing buildings which continue to deteriorate and are a magnet for anti social behaviour. The proposals offer regenerative benefits for Willenhall replacing the derelict buildings with new homes. These benefits are considered to outweigh any shortfall in parking, or indeed separation distance between dwellings or amenity space provision.

The proposals have been scaled down in terms of the number of units proposed from 17 to 9 and do not now trigger any requirement for provision of urban open space or affordable housing. This addresses the second reason for refusal of 11/1345/FL.

The proposed buildings are in broadly the same position as the existing buildings on site so the outlook for existing occupiers of flats above shops in the vicinity will not be materially different. The design of the buildings is such that there will be no significant potential for overlooking. Increased activity at the rear of surrounding properties will not be to such a great extent as to have a significant impact on residential amenities. The proposals maintain access to the rear of premises in Wolverhampton Street that back onto the site. The proposals have an acceptable relationship to surrounding properties.

There is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing as the application proposes 9 new homes.

In light of the above the proposals are considered to accord with the aims and objectives of the National Planning Policy Framework and sustainable development, the aims and objectives of the Black Country Core Strategy policies in particular CSP1, CSP4, TRAN1, TRAN4, HOU2, ENV2 and ENV3, the aims and objectives of the Walsall Unitary Development Plan saved policies GP2, H3, ENV10, ENV14, ENV18, ENV29, ENV32, ENV33, 3.116, 3.117, S8, T7, T11, T13, WH2 and WH3 and Supplementary Planning Document: Designing Walsall.

Recommendation: Grant Permission Subject to Conditions

1. The 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.

2a. Prior to demolition operations commencing, a method statement shall be agreed in writing with the local planning authority for the purposes of controlling noise, dust and fume.

2b. The agreed method statement shall be implemented and thereafter maintained throughout the duration of demolition operations and activities.

2c. No ground fires shall be permitted on the demolition site.

Reason: In order to protect the residential amenities of nearby occupiers.

3a. No development shall be commenced, until full details of the following matters have been submitted to and approved in writing by the Local Planning Authority.

- i. a schedule of all facing materials
- ii. the exterior roof materials
- iii. full details consisting of sections at a minimum scale of 1:5 and elevations at 1:20, of all external joinery including fenestration and doors and proposed exterior finish
- iv. full **details including a sample panel** of the mortar mix, colour, gauge of jointing and pointing
- v. full details of the eaves detailing
- vi. full details of the brick bond to be used
- vii. full details of rainwater goods, their materials and designs
- viii. all boundary treatments and gates
- ix. hard landscape details
- x. full details of roof lights

3b. Development shall thereafter be undertaken in accordance with the approved details.

Reason: To protect the visual amenities of the conservation area.

4. The works of demolition occasioned by the redevelopment or alteration hereby permitted shall not be commenced until it has been demonstrated to the local planning authority in writing that the redevelopment or alteration will immediately follow on from the works of demolition.

Reason: To protect the visual amenities of the conservation area.

5a. No works shall be commenced until the implementation of an appropriate programme of building recording and analysis has been agreed in writing with the local planning authority, to be carried out by a specialist acceptable to the local planning authority and in accordance with an agreed written brief and specification.

5b. If hitherto unknown evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record together with recommendations for dealing with it in the context of the scheme shall be submitted for written approval by the local planning authority.

5c. The scheme shall be implemented in accordance with the agreed details.

Reason: To ensure appropriate recording of all buildings to be demolished in the conservation area.

6a. The development hereby permitted shall not commence until confirmation of the installation and commissioning of a sprinkler system in both blocks of flats has been submitted to and approved in writing by the Local Planning Authority.

6b. The agreed sprinkler system shall thereafter be retained.

Reason: In the interests of fire safety for future occupiers of the development.

7a. Prior to the development first coming into use, full details, including position and design, of a cycle shelter for the use of residents and visitors shall be submitted to and approved by the Local Planning Authority. The shelter shall be secure, covered and illuminated.

7b. The approved facility shall be fully implemented and brought into use prior to the first occupation of any apartment on the development and,

7c. The facility shall thereafter be retained and used for no other purpose.

Reason: To encourage alternative and sustainable travel modes and in accordance with Black Country Core Strategy Policy TRAN4.

8a. Prior to the development first coming into use, all vehicle hard standing and manoeuvring areas shall be fully consolidated, hard surfaced and drained.

8b. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development.

9a. Prior to the commencement of the development details of the disposal of both surface and foul water drainage shall be submitted to and approved in writing by the Local Planning Authority.

9b. 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.

10. No 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 Mondays to Fridays 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.

* Note - 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: In order to protect the residential amenities of nearby occupiers.

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

- Existing Site Plan and Location Plan (HGD-11-63.2.1) received 13/12/12
- Proposed Site Plan (HGD11-63.5.2 Revision B) received 7/2/13
- Proposed Ground Floor Plan & Elevations Block 1 ((HGD11-63.6.1) received 13/12/12
- Proposed First Floor Plan & Elevations Block 1 (HGD11-63.6.2) received 13/12/12
- Proposed Second Floor Plan Block 1 (HGD11-63.6.3) received 13/12/12
- Proposed Ground Floor Plan & Elevations Block 2 (HGD11-63.6.4) received 13/12/12
- Proposed First Floor Plan & Elevations Block 2 (HGD11-63.6.5) received 13/12/12
- Proposed Second Floor Plans & Elevations Block 2 (HGD11-63.6.6) received 13/12/12
- Existing Floor Plans & Elevations Building One (HGD11-63.2.2) received 13/12/12
- Existing Floor Plans & Elevations Building Two (HGD11-63.2.3) received 13/12/12
- Existing Building Elevations Building One/Two (HGD11-63.2.4) received 13/12/12
- Design & Access Statement prepared by HG Design Limited received 13/12/12

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

Note for Applicant – Contaminated land

The area of this proposed development was formerly a works of an unspecified nature that may have resulted in localised ground contamination that may present Health and Safety implications for persons undertaking ground works. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.

Notes to applicant – Public Sewer

There is a public sewer located very close to the application site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. The developer is advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist the developer in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 metres of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent Water can direct building control officers to refuse building regulations approval. If you require any further information please contact Rhiannon Thomas on 01902 793883.

Note to applicant regarding Conservation Area Consent

The developer must apply for Conservation Area Consent for demolition of the buildings prior to the commencement of any works forming part of this permission.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 12.

Reason for bringing to committee: Significant Community Interest

Application Number: 12/1628/FL

Application Type: Full application

Applicant: Miss Samera Mohammed

Proposal: Change of use to hair & beauty salon.

Location: 78 BRADFORD STREET, WALSALL, WS1 3QA

Ward: St. Matthews

Case Officer: Karon Hulse

Telephone Number: 01922 652614

Email: planningservices@walsall.gov.uk

Agent:

Expired Date: 12/02/2013

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This application seeks consent for a change of use of the ground floor only to a hairdressers and beauty salon at no. 78 Bradford Street, Walsall. The site is on the corner of Bradford Street and Midland Road, which falls within the Walsall town centre and Bradford Street Conservation Area.

The application does not propose any external alterations. It is currently vacant having previously been occupied by a Chinese herbal shop on the ground floor with a tattoo shop on the upper floors.

A hair and beauty salon falls within a Sui Generis use class requiring a change of use.

The proposed hours of opening will be 9.00am to 9.00pm Monday to Saturday and 10.00am to 4.00pm on Sundays and bank holidays.

The services and products on offer will be haircuts, body massage, body treatments, henna applications, waxing, nails and threading.

Relevant Planning History

BC23431P – Change of use to private therapy practice. Granted 24/8/1988

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:

- Proactively support and drive sustainable economic development
- Support the transition to a low carbon future in a changing climate
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.

1. Building a strong competitive economy

- 18. Committed to securing economic growth in order to create jobs and prosperity.
- 19. The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth.

2. Ensuring the vitality of town centres

- 23. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should
 - recognise town centres as the heart of their communities and pursue to support their viability and vitality
 - define a network and hierarchy of centres that is resilient to anticipated future economic changes;
 - allocate a range of suitable sites to meet the scale and type of leisure, development needed in town centres.
 - allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available.
 - set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres

4. Promoting Sustainable Transport

- 32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:
 - the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- 35. Plans should protect and exploit opportunities for the use of sustainable transport modes

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:

- 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

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 **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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

QE3 – Design Quality

T2 – Reducing the need to travel especially by car

T3 – Walking and cycling

T7 – Car parking standards.

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

Black Country Core Strategy

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*”.

It states that the councils will create cohesive, healthy and prosperous communities with equal access to a mix of affordable and aspirational housing.

The relevant policies are:

CEN 2 – Hierarchy of centres.

CEN 5 – District and local centre

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

Walsall's Unitary Development Plan (UDP) (2005)

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:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

S1 – definition of town centre uses

S2 – hierarchy of centres

T13 car parking standards

Other shops 1 space per 20 square metres of gross floor space

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

Consultations

Transportation – no objections

Conservation officer – no objections

Public Participation Responses

One letter of objection on the following grounds:

- My business has already been affected by the Charvenz Hair & Make-Over Salon which opened next door
- There is not sufficient passing trade and little to encourage customers out of the town and up Bradford Street.
- Another business offering the same services is not going to encourage visitors to that part of the town as would a variety in shops and services.
- The prospect of another hair and beauty salon which may create two new jobs could result in the loss of another business.

The same person has also submitted a petition signed by 24 operators (of which ten businesses have been identified from along Bradford Street) again on the same grounds.

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

Determining Issues

- Policy
- Competition
- Impact on the Bradford Street Conservation Area

Observations

Policy

Bradford Street is within the Walsall Town centre inset plan, on the opposite side of Midland Road is the boundary of the town centre primary shopping area, policy S1 defines town centre uses as including A1 uses. In general it is accepted that a hairdressers on its own would fall within an A1 use class but because the proposal includes an element of beauty treatments it falls within Sui Generis use class and requires the change of use. The service and products will not be so different to similar uses within the town centre. The principle of this use in the town centre is considered to be an appropriate town centre use and should be supported as it would contribute to enhancing the vitality and viability of this part of the town centre by bringing back into use a currently vacant unit within the identified town centre.

Competition

The planning system does not deal with competition between businesses, highlighted in the objections received. In this instance, it is considered the objection based on competition would not be a valid material planning consideration in the determination of this planning application.

Impact on the Bradford Street Conservation Area

There will be no material alterations to the shop and as such there will be no harm to the visual amenity of the Conservation Area or the building. The reuse of this unit will preserve and enhance the character of the Conservation Area.

Summary of Reasons for Granting Planning Permission

The application site is located within Walsall Town Centre and forms part of the vitality and viability of that centre. The proposals will allow for a currently vacant unit to be brought back into effective use and will continue to add to the vitality and viability of the area and town centre and add to the services being provided. There will be no material change to the appearance of the building or the Conservation Area. Competition between similar uses is not a material planning consideration.

As such and on balance the proposed change of use is considered to be consistent with the National Planning Policy Framework and sustainable development and meets the aims and objectives of the Regional Strategy (RS) policies QE3, T2, T3 and T7, Black Country Core Strategy policy CEN2 and Walsall's Unitary Development Plan (UDP) (2005) 3.6, 3.7, & GP2, S1, S2 and T13

Positive and Proactive working with the applicant

The Government encourages applicants to seek pre-application advice prior to submitting applications to ensure that the proposal meets the aims and objectives of local and national policy. This can be written, by telephone or by looking at the Council's website. This application meets these requirements.

Recommendation: Grant Permission Subject to Conditions

1. This use 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: -

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

NOTE FOR APPLICANT: This permission does not grant consent for any signs or advertisements, illuminated or non-illuminated. A separate application may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992 or subsequent legislation.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 13.

Reason for bringing to committee: Significant Public Interest

Application Number: 13/0048/FL
Application Type: Full application

Case Officer: Karon Hulse
Telephone Number: 01922 652614
Email: planningservices@walsall.gov.uk
Agent: ACP Architects

Applicant: ABle Comm Limited

Proposal: Use of premises as A5 Hot Food Take Away, including installation of external extract duct.

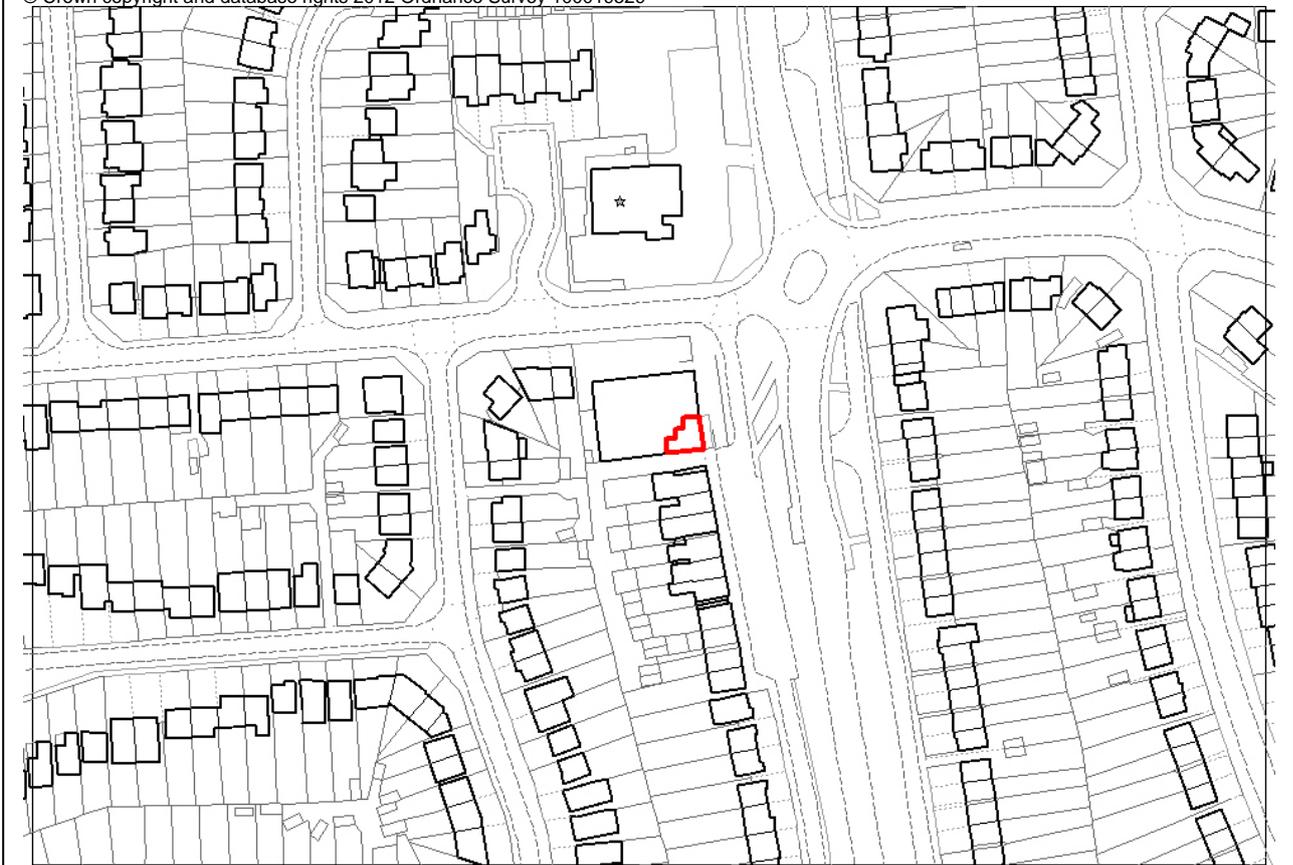
Location: 152A BEACON ROAD, GREAT BARR BIRMINGHAM, B43 7BN

Ward: Pheasey Park Farm

Expired Date: 11/03/2013

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This application seeks to reopen the unit adjoining the Nisa convenience store on Beacon Road for a hot food take away. Previously this was granted planning permission for a hot food takeaway but specifically conditioned for use by a pizza take away : 'Hot Stuff Pizzas'

This application seeks a general a5 use hot food takeaway with the same hours of opening as previously approved: 1200 to 2400 hours Thursday to Saturday and 1200 to 2330 hours Sunday to Wednesday.

The application site adjoins the local shopping parade on Beacon Road, a three storey development with shops on the ground floor and apartments above at first and second floor.

The unit occupies the south-eastern corner of the convenience store, it is a separate unit comprising some 800sq. ft in floor area, and presenting approximately one third of this retail elevation to the street. The supermarket has an A-frame structure as a first floor above part of the retail site and in part above the application site.

The area at the side of the supermarket is shown as available for shared parking, with delivery via the service access drive to the rear and south side of the site.

Internal works would provide customer area with counter, open preparation areas, fridge and freezer storage, staff toilet and cooking facilities.

The proposals include the installation of a through the roof external galvanised steel extract duct attached to the gable of the 'A' frame roof structure at first floor facing towards Beacon Road.

There is no provision for seating for customers to consume food on the premises.

Relevant Planning History

04/0997/FL/E4 – Change of use to Hot food (Pizzas) take away (A3). Granted 4/8/2004

140 Beacon Road

BC 39957P - change of use from retail to Hot Food takeaway granted on Appeal1993.

BC 59971P - granted permission to open on Sundays. 3/11/1999

The Fish and Chip Shop was approved in 1965 and the Chinese Take-away approved in 1975, neither of these premises have hour's limitations on their operation.

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:

- Enhance and improve the places in which people live their lives;
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- Support town centres and a town centre first approach for retail, leisure, commercial, office, tourism, cultural, and community uses;
- Always require high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

Key provisions of the NPPF relevant in this case:

2. Ensuring the vitality of the town centre

23 Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:

recognise town centres as the heart of their communities and pursue policies to support their viability and vitality

promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;

4: Promoting Sustainable Transport

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

7. Requiring good design

56. The Government attaches great importance to the design of the built environment.

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

57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

Planning policies and decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.

63. In determining applications, 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 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.

Other Relevant National Policy

The Planning System: General Principles

This has not been superseded by the NPPF. Paragraph 15 indicates that a planning application should be determined on its merits in light of all material considerations.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered that the relevant RS policy is;

QE3: Creating a High Quality Built Environment for All

Creation of high quality built environment through use of architecture, urban design and landscape design which respects local character.

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

Black Country Core Strategy (BCCS) (2011)

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*".

It states that the councils will create cohesive, healthy and prosperous communities with equal access to a mix of affordable and aspirational housing.

The relevant policies are:

ENV3: Design Quality - Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits.

CSP4 Place Making – hierarchy of centres will provide a focus and concentration for essential local services.

CEN2 Hierarchy of centres – identifies 3 levels of hierarchy.

CEN5 Local Centres – local centres provide day to day convenience local services.

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

Walsall's Unitary Development Plan (UDP) (2005)

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:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

3.113, 3.114, 3.115, ENV32 and 3.116: 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.

ENV35 The design of frontages to shops and other commercial premises should be appropriate to their setting and sympathetic to the building on which they are situated. In considering proposals for shop fronts, shutters and grilles, canopies, blinds and signs, the Council will take the following factors into account:-

I. The architectural and historic merits of the building.

II. The character of the area in which they are located.

III. The prominence of the building.

IV. Whether the building is subject to surveillance by CCTV.

V. Any exceptional justification for the proposal.

VI. Any proposals and initiatives for the enhancement of the centre in which they are located.

3.121 Shop front alterations, and security shutters and grilles in particular, can have a significant effect on the appearance of an area. This policy seeks to reconcile the need to protect the amenity of an area.

S1 identifies a food and drink and hot food take-aways as a town centre uses.

5.2 The prime concern will be to sustain and enhance the vitality and viability of the Town, District and Local Centres, and to assist these centres to meet the needs of residents, workers and visitors.

S2 local centres main function is to meet the day to day convenience shopping and local service needs of their communities

S5 Local centre boundaries are drawn tightly to concentrate investment and within these areas the retention, enhancement and further development of other town centre uses will be encouraged.

S10 advises that hot food takeaways and restaurants will be appropriate in Local Centres and in some shopping and commercial frontages subject to the following considerations:

The use proposed must not adversely affect the amenities of existing or proposed dwellings (including those on upper floors above commercial premises) by reason of noise, smell disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.

Where the Council is minded to grant planning permission, the closing time for hot food take-aways will be considered in relation to the amenities of nearby dwellings – both existing and proposed – where these are likely to be affected. In such locations, the Council will usually impose a condition requiring the premises to close at 23:00 hours

Mondays to Friday and 23:30 hours on Saturdays. Later opening hours and Sunday opening will be considered on their merits.

Permission will not be granted where the absence of adequate off street parking would likely to lead to on street parking in a hazardous area.

Permission will only be granted where fume and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment will not be detrimental to visual amenity.

T7: development should satisfy car parking standards set out in Policy T13.

T13: car parking standards - 4 car parking spaces for establishments with a gross floorspace up to 50 square metres then 1 space per 22 square metres.

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 the NPPF policy. The relevant SPD's are;

Designing Walsall (Feb 2008)

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

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

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

Consultations

Transportation - no objections

Pollution Control (Scientific Team/Contaminated Land) - no objections subject to ...

Environmental Health – no objections subject the installation of a high level of odour control and subject to submission of details specifying the type of equipment to be installed to prevent fat, oil and grease entering the drainage system.

Fire Service - no objections

Severn Trent Water – no objections

Police Architectural Liaison Officer – no objections subject to CCTV equipment to cover the area underneath the canopy at the front.

Public Participation Responses

Three representations have been received. One objects but has not identified any grounds of objection, the second objects on grounds of shoppers parking across and blocking her drive way, make parking more of a problem and the third one which includes a petition 50 with signatures against the proposals stating that another take away will have negative impact on local businesses/ residents for the following reasons:

- No car parking for another take away
- Parking is a major issue
- Limited parking spaces
- Another take away will contribute to the problem
- Extract duct is at the front

- Noise and smell from the takeaway will affect those nearby
- Established hot food businesses will suffer from addition of another takeaway

Determining Issues

- Principle of development
- Impact on neighbouring residential and commercial properties
- Anti Social Behaviour
- Parking and access

Observations

Principle of development

Planning permission was previously granted in 2004 for a pizza takeaway with delivery service. This site is within the Beacon Road/Waverley Avenue local centre as identified by the Unitary Development Plan, the principle of a hot food take-away is acceptable in local centres and would accord with Policy S10 of the UDP which advises that hot food takeaways and restaurants will be appropriate in Local Centres subject to it not adversely affecting the amenities of existing or proposed dwellings (including those on upper floors above commercial premises) by reason of noise, smell disturbance or traffic impact.

The principle of the proposed use is considered acceptable as the current use of the property is a hot food take away, this permission just expands the food groups available to be sold from the property.

Impact on neighbouring residential and commercial properties

There are other businesses in the area providing a similar service and which are likely to open late or produce cooking smells. There is a chinese take-away, fish and chip shop, balti restaurant/ take-away and the Cat and Fiddle Public House. There is a level of business/food related activity in this area that is established and which opens until at least midnight some evenings.

One of the nearest properties to the application site is 150 Beacon Road, a first and second floor apartment above the shopping parade. This and other properties are above existing hot food take-away premises. There is a parking lay-by and 20 car parking spaces at this part of the frontage to Beacon Road. Customers of the proposal will be able to park in this area. In addition, the parking area along-side the supermarket, off Waverley Road, would be nearer and also available.

The house at 7 Waverley Avenue is to the rear of the supermarket and fronts the busy local road of Waverley Avenue. The gable of this house and its side boundary adjoin the car park and access areas of the supermarket. The boundary is formed by a brick wall with panel fencing over. A brick wall acts as a sound barrier and would contribute to reducing any impacts on the occupiers of number 7.

Deliveries will be via the existing access road, rear servicing area and service entrances to the rear of the supermarket premises.

The nearest residential properties are close to the existing facilities of the area and

would already experience disturbance from visitors to the businesses in the evenings. It is considered the relaxation of food groups to be sold from the application property would not be sufficient in this instance to refuse the planning application.

Hours restrictions

Existing Hot Food takeaways near to the site do not have restricted hours of opening. Businesses show closing times between 11.45pm and 00.30 am Thursdays to Saturdays and between 11.00pm and 11.30 pm on Sundays and other weekdays. The applicant proposes Thursday to Saturday opening until midnight and Sunday to Wednesday opening until 11.30pm. On balance and on the basis that the opening hours have previously been operated without any reported issues, the proposed continuation of the opening hours is considered acceptable.

Unrestricted A5 use class (hot food takeaway)/competition

The previous use restricted the sale of hot food to pizzas only and this application seeks to allow a wider food group to be sold.

It was considered at that time the site was not necessarily suitable for other hot food outlets because other cooking methods could give rise to malodour. Since that decision there have been several Planning Inspectorate decisions stating that provided the type of odour equipment is of a high specification malodours can be satisfactorily prevented and will not impact on residential amenity. It is considered in this instance, that the installation of high specification odour control equipment it will adequately control any issues of malodour.

The Appeal at 140 Beacon Road, the Inspector commented that a level of noise already results from customers visiting the various late night business premises in the locality and was not convinced that the additional disturbance from the opening of another takeaway would significantly impact, such as to make the proposed use unacceptable.

Whilst there are existing take-aways in the local centre, it is not the purpose of the planning system to prevent competition, and there is no evidence to show that this will lead to an unacceptable concentration of such uses. The nearest hot food take away to the application site is 140 Beacon Road approximately 40 metres to the south.

On balance, an unrestricted A5 use can be satisfactorily controlled by imposing safeguarding conditions requiring the details of fume and ventilation equipment to be agreed.

Fume extraction and visual amenity

The external ventilation duct will be sited against the gable end to the A-frame part of the roof structure on the first floor, it will terminate one metre above the ridge line and from the main road, Beacon Road, it will be seen against the back drop of a large number of existing street furniture. On balance it is considered that subject to a condition to (colour code/screen) the proposed ventilation equipment will be relatively unobtrusive in relation to the existing buildings and not free standing and conspicuous.

Measures will be put in place to control any noise, grease or waste from the operations and installation of cooking equipment is unlikely to create noise levels above the existing background noise of the local area.

The vent/flue would not be directly visible from the nearest residential properties in

Waverley Avenue because of the intervening A-frame first floor structure, but would be seen from properties on the opposite side of Beacon Road, numbers 121 to 131 in particular, some 60 metres away, minimising any visual impact. The first floor flat above the parade of shops adjacent to the site have no habitable room windows in the side elevation, the ventilation equipment will not be visible to occupiers of those properties.

Further details are required to be approved by Environmental Health.

Anti Social Behaviour

The local police have suggested that the existing canopy above the shop frontage provides shelter for youths to gather under. The applicants have explored removing this however as it forms an integral part of the building (this unit and that of the conveniences store next door) it is not viable to remove it. It is proposed to provide CCTV equipment to cover the area fronting the shop which will act as a deterrent to criminal or anti social behaviour and there is existing good natural surveillance from neighbouring premises.

Parking and access

The development proposes to share the car parking (10 spaces) at the side of the convenience store as well as the shared parking in front of the parade of shops along Beacon Road. This was as the previous arrangement when the shop was the pizza takeaway and florist. Transportation have no objection as there is adequate provision of car parking in the vicinity.

The objectors concerns regarding parking in front of the house which is approximately 100 metres away can not be directly attributed to this site which is at the other end of the parade of shops and has its own parking within the convenience store parking area. Any obstruction of private driveways should be reported directly to the highways enforcement officers.

Summary of Reasons for Granting Planning Permission

The area has three Hot Food takeaways and a pub. It is considered that the addition of an additional hot food takeaway outlet will not significantly add to the existing level of activity so as to materially change the character of the area. The installation of odour equipment of a high specification will satisfactorily prevent malodours and will not impact on nearby residential amenity.

A level of noise already results from customers visiting the various late night business premises in the locality and on balance any additional disturbance from the opening of an additional take-away will not significantly impact as to make the proposed use unacceptable.

The application is located in a local centre alongside an existing purposely built parade of shops within walking distance of its customers and will serve a local need, it will not have an adverse impact on existing facilities or residential occupiers. Measures will be put in place to control any noise, grease or waste from the operations and installation of cooking equipment is unlikely to create noise levels above the existing background noise of the local area. The use of CCTV equipment will act as a deterrent to criminal or anti

social behaviour and there is existing good natural surveillance from neighbouring premises.

The objectors concerns regarding parking in front of the house which is approximately 100 metres away can not be directly attributed to this site which is at the other end of the parade of shops and has its own parking within the convenience store parking area.

All servicing and deliveries will be at the rear with no impact on the free flow of traffic along Beacon Road.

Whilst there are existing take-aways in this local centre, it is not the purpose of the planning system to prevent competition, and there is no evidence to show that this additional take away will lead to an unacceptable concentration of such uses.

On balance, it is considered that the reopening and bringing back into use a currently vacant unit will be a benefit to the area and the proposed development will not cause additional noise and disturbance to occupiers of adjacent and nearby residential properties which will materially harm the peace and quiet that they will reasonably expect to enjoy. As such the proposed change of use is consistent with the National Planning Policy Framework and sustainable development and meets the aims and objectives of the Black Country Core Strategy policies ENV3, CSP4, CEN2 and CEN5 and saved policies 3.6, 3.7, GP2, ENV35, S1, S2, S5, S10, T7 and T13 of the Unitary Development Plan.

Positive and Proactive working with the applicant

Officers have discussed with the applicant's agent and in response to concerns raised, additional information has been submitted to 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.

2a. No development shall commence until details of a method to prevent grease entering the drainage system have been submitted to and approved in writing by the Local Planning Authority.

2b. The premises shall not be open for business until this approval has been given and the approved details have been fully implemented. The approved equipment shall thereafter be retained and maintained in accordance with manufacturer's or installers requirements.

Reason: To prevent grease entering into the drainage system in the interests of the free flow, capacity and the prevention of pollution of the system.

3a. No development shall begin until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority.

3b. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

4a. Prior to the commencement of this development, details of an odour arrestment system serving hot food cooking points shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be constructed in accordance with the approved details and retained and maintained at all times.

Reason: To safeguard the amenities of the occupiers of adjoining residential premises.

5a. Prior to commencement details of proposed refuse and waste recycling facilities to be used have been approved in writing by the Local Planning Authority.

5b. The approved scheme shall be fully implemented before the development is brought into use, and shall be thereafter retained.

Reason: To ensure the satisfactory appearance and functioning of the development, to safeguard the visual amenity of the area.

6a. Before the use hereby permitted begins a scheme showing details of a CCTV system including a facility for digital recording on site shall be submitted to and approved in writing by the Local Planning Authority.

6b. The scheme as approved shall be implemented before the use begins. All equipment installed as part of the scheme shall thereafter be retained and operated and maintained in full working order.

Reason: To safeguard the amenities of occupiers nearby.

7a. No development shall be commenced until the following have been submitted to and approved in writing by the Local Planning Authority

- i) Details of odour extraction and abatement equipment
- ii) Details of the extract ductwork which shall be of a rigid construction and installed using anti-vibration mountings, with stiffeners and bracing
- iii) Manufacturer's details and external finish screening of the flue

7b. The agreed details shall be fully implemented prior to any part of the development being first used and thereafter retained and maintained in good working order.

Reason: To safeguard the amenities of occupiers nearby.

8a. Prior to the use commencing full details of the specification and type of any proposed plant and equipment used for the purpose of ventilation and extraction of cooking odours, shall be submitted to and approved in writing by the local planning authority.

8b. The equipment shall be suitable to provide a high level of odour control and be installed and maintained in accordance with the manufacturer's specification prior to the use commencing and thereafter retained in good working order.

Reason: To safeguard the amenities of residential occupants nearby.

9. The premises shall not be open for business outside the hours of 1200 to 2400 hours Thursday to Saturday and 1200 to 2330 hours Sunday to Wednesday.

Reason: To safeguard the amenities of the occupiers of adjoining premises.

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

- Location Plan (12090/101) received 11/1/13
- Block Plan (12090/102) received 11/1/13
- Proposed Plan Layout and elevations (12090/110) received 11/1/13
- Existing Plan Layout and elevations (12090/105) received 11/1/13
- Design and access statement received 11/1/13

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

NOTE FOR APPLICANT

This permission does not grant consent for any signs or advertisements, illuminated or non-illuminated. A separate application may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992 or subsequent legislation.

The Defra guidance entitled "Control of Odour and Noise from Commercial Kitchen Exhaust Systems" indicates that a high level of odour control is required. The proposed extraction media (carbon filtration cell) required to be suitable to provide a high level of odour control so long as it is installed and maintained in accordance with the manufacturer's specification. The extraction flue must terminate no less than 2 metres above the highest part of the roof to aid dispersal of any residual cooking odour.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 14.

Reason for bringing to committee: Significant community interest

Application Number: 12/1670/FL
Application Type: Full application

Case Officer: Devinder Matharu
Telephone Number: 01922 652602
Email: planningservices@walsall.gov.uk
Agent: The Tyler-Parkes Partnership Ltd

Applicant: Kingswood Homes (West Midlands) Ltd

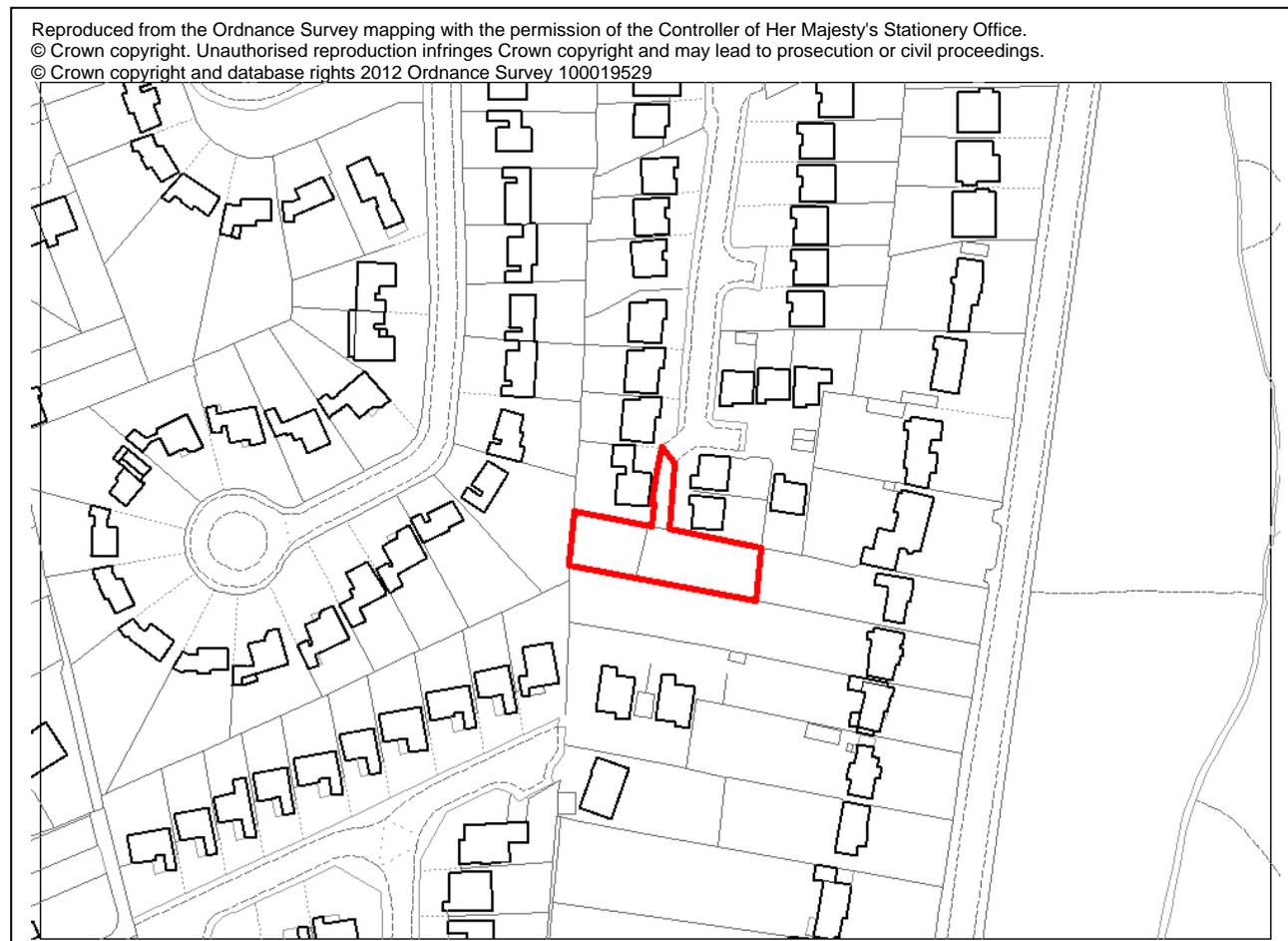
Proposal: Erection of two dwellings with access from Millcroft Road.

Location: LAND AT REAR OF 160 THORNHILL ROAD, STREETLY, B74 2EH

Ward: Streetly

Expired Date: 28/02/2013

Recommendation Summary: Grant Permission Subject to Conditions



Application and Site Details

The application site forms part of the rear garden of 160 Thornhill Road. The current rear garden of 160 Thornhill Road is approximately 81m long, split into four sections. The first section being 0.6m higher than the house ground level, the second level being 0.5m higher than the first section, the third and fourth section being 0.6m higher than the second level, in total the application site sits 1.7m higher than 160 Thornhill Road but at the same level as Millcroft Road. There are a number of trees and shrubs within the garden and along the boundaries with the adjoining properties. At the very end of the garden, adjacent 30 Millcroft Road is a tennis court.

160 Thornhill Road is a large detached property with rear two and single storey extensions.

Along part of the rear garden, towards the north is Millcroft Road. The southern end of Millcroft Road forks into two with the western end serving 4 properties, numbers 28, 30, 33 and 35 with 30 and 35 sitting parallel to the application site and 31 facing the rear garden of 160.

Numbers 35 and 33 sit facing number 30 across the private drive way. Number 30 is a corner plot that is positioned with the front elevation facing number 28 and the rear elevation facing towards 160 Thornhill Road and the side elevation facing the access drive. This side elevation is blank at first floor with two small windows at ground floor. These ground floor windows are screened from the access drive by a brick wall approximately 2m high. The rear elevation of 30 has a bedroom window at first floor and two kitchen windows at ground floor. The kitchen windows overlook the side garden which varies in length from 4.6m to 3.8m.

Number 35 has no windows on the side gable facing the rear garden of 160 Thornhill Road.

To the south of the application site is number 162 Thornhill Road, a large detached property that sits in line with 160 and has an 80m long rear garden. To the east of the site is 17 Tudor Grove, a house set at an angle to the application site, with a large average length rear garden of 22m.

Millcroft Road is a modern cul de sac of detached properties, accessed Thornhill Road between numbers 144 and 148. On Thornhill Road there are a mix of large detached properties, some of which are arts and crafts in design.

The application proposes the erection of 2 four bedroom detached properties to sit adjacent 35 and 30 Millcroft Road. Both properties are "L" shaped with integral garages of traditional brick and tile construction, reflecting the design of houses in Millcroft Road and include;

-Plot 1, 95 square metres floor area, height 7.2metres, includes ground floor bay window, 3 off road parking spaces, rear garden length of 9.5m and garden amenity of 138 square metres.

-Plot 2, 99 square metres floor area, height 7.3metres, 3 off road parking spaces, rear garden length of 9.5m and garden amenity of 138 square metres..

The site is 1300 metres from Streetly Local Centre and 1200m from Streetly Village just over the Walsall boundary in Lichfield. Across Thornhill Road is Sutton Park.

The proposal would retain a 29m rear garden length with an amenity area of 421 square metres for 160 Thornhill Road.

The existing density of the immediate vicinity is 42 dwellings per hectare (dph) for Millcroft Road, for numbers 148 to 168 Thornhill Road is 12 dph and for the northern end of Linforth Drive –Rowthorn Close and Leandor Drive is 17 dph and for Ryknild Drive is 6 dph. The development would have a density of 33 dph.

The following documents have been submitted with the application:

Design and Access Statement – which states the built form is designed with reference to the local vernacular, buildings will convey an overall sense of unity, a mixture of building types and roof forms is incorporated to add interest and vitality, the dwellings have been designed at two storey. The report concludes by stating the proposal would provide an opportunity to create a high quality residential development.

Planning Support Statement – which states:

- the site is on the eastern side of Thornhill Road characterised by large detached properties, interspersed with various drives and cul de sacs.
- Opposite side of Thornhill Road is Sutton Park.
- Northern boundary of site 3 detached properties in Millcroft Road.
- Proposal to provide 2 detached properties with access from an extension to the existing private drive which serves 30, 33 and 35 Millcroft Road.
- The house type is traditional with facing brickwork and pitched tiled roofs.
- Appropriate windfall site within a residential area with good access services and public transport
- The design, scale and massing of the proposed dwellings is in keeping with Millcroft Road.
- Habitable room window at first floor of number 30, plot 2 designed to provide a 12m separation distance between this window and the side facing wall.
- Rear gardens have areas in excess of 68 square metres.
- No trees of any merit which would be affected.
- Each plot has 2 parking spaces and an integral garage.

Traffic and Transportation Statement which states:

- The proposal has the provision of 2 off road parking spaces and an integral garage
- Layout includes sufficient manoeuvring to allow a private car to enter and leave the driveway in a forward gear.
- New owners can place wheelie bins on verge in accordance with manual for streets.
- A housing development of 2 properties on an existing cul de sac of 44 properties at Millcroft cannot be described to have a severe traffic impact
- The existing infrastructure of Millcroft is adequate to serve the development
- The route of Thornhill Road accommodates high traffic flows but the traffic from additional two houses using the junction with Millcroft Road would not have a material impact on safety.
- Inter-visibility is available between vehicles manoeuvring and emerging from each private area is such that there is a negligible safety risk at this location at the termination of public highway.

Tree survey plan which identifies trees and shrubs on site, in particular a number of conifer trees.

Relevant Planning History

None

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:

- 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
- Proactively drive and support sustainable economic development to deliver the homes that the country needs.
- Contributing to conserving and enhancing the natural environment.

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.

6: Delivering a Wide Choice of High Quality Homes

49. Housing applications should be considered in the context of the presumption in favour of sustainable development

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

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

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.

11. Conserving and enhancing the natural environment

118. opportunities to incorporate biodiversity in and around developments should be encouraged.

On **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.

Other Relevant National Policy

The Planning System: General Principles

This has not been superseded by the NPPF. Paragraph 15 indicates that a planning application should be determined on its merits in light of all material considerations.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered that the relevant RS policy is;

QE1: Conserving and enhancing the natural environment

protect and enhance the distinctive character of different parts of the Region as recognised by the natural and character areas

QE3: Creating a High Quality Built Environment for All

Creation of high quality built environment through use of architecture, urban design and landscape design which respects local character.

CF4: The reuse of Land and buildings for housing

Optimise opportunities for new housing development.

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

Local

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 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*".

It states that the councils will create cohesive, healthy and prosperous communities with equal access to a mix of affordable and aspirational housing.

The relevant policies are:

HOU2: Housing Density, Type and Accessibility

States that the density and type of new housing provided on each site will be informed by, amongst other factors, the need to achieve high quality design and minimise amenity impacts, taking into account the characteristics in the area where the proposal is located.

All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness.

ENV2: Historic Character and Local Distinctiveness

proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits

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

Walsall's Unitary Development Plan (UDP) (2005)

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:

Policies GP2, 3.6, 3.7 seek to make a positive contribution to the quality of the environment, whilst protecting people and not permitting 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.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV14 encourages the development of previously developed land.

ENV18: Seeks to protect, manage and enhance existing trees.

ENV17 new planting will be encouraged.

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

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

H3 encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

T10: Accessibility Standards – General

(b) Standards will apply to all development proposals with the exception of:

i small residential developments within existing residential areas including infill plots

7.51: Easy walking/cycling distance will depend on local circumstances but the maximum will normally be regarded as 1000m.

T13: Parking Provision

3 bedroom houses and above, 2 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 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 the NPPF policy. The relevant SPD's are;

Designing Walsall (Feb 2008)

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

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.

Annexe E: 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.

Conserving Walsall's Natural Environment (April 2008)

Expands on the policies contained within the environment chapter of the UDP. The document provides criteria for European Protected Species survey requirements.

Consultations

Transportation – No objection subject to a condition relating to the parking and driveways.

Pollution Control Scientific Team – No objection subject to a noise condition to protect the amenity of neighbouring occupiers.

Pollution Control Contaminated Land Team – No objection

Fire Service – No objection

Severn Trent Water - No objection subject to drainage details being submitted and approved in writing.

Ecology Officer- No objection subject to a condition to ensure all site clearance work is undertaken outside the bird nesting season.

Arboricultural Officer – No objection subject to a landscaping scheme

Public Participation Responses

Thirty six letters from thirty one residents have been received objecting to the amended plans on the following grounds:

- Site history incorrect.
- Rural character of area.
- Harm local area.
- Impact on character and identity of local area.
- Not previously developed land.
- Garden land.
- No street frontage.
- Design inappropriate.
- House sizes not proportion to plot sizes.
- Height of building.
- Overdevelopment.
- High density development in surrounding area already.
- Loss of privacy.
- Close proximity of habitable room windows facing application site.
- Loss of outlook.
- Overlooking.
- Overbearing impact.
- Loss of sunlight and daylight.
- Shading.
- Right to light.
- Light pollution.
- Impact on amenity and living conditions of residents due to noise and disturbance.
- Existing drainage problems.
- Impact on trees and wildlife.
- Impact on protect bat species.
- Increase in number of wheelie bins at the entrance of the site.
- Already a number of wheelie bins on site.
- Security issues.
- Access and parking issues - no parking facilities for construction workers, congestion, increase in traffic, obstruction to existing residents, narrow access serves 3 properties, vehicle near misses, additional traffic pulling onto Thornhill Road, not in keeping with road width and depth, access for emergency vehicles and loss of parking for existing properties.
- Increased collisions between vehicles and pedestrians.
- Lack of footpath.
- Does not meet separation distances.
- Devalue of property.

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

Determining Issues

- Principle of the Development
- Design and Layout
- Impact on the Amenities of Surrounding Occupiers
- Impact on Trees and wildlife
- Parking and Access
- Local Finance Considerations

Observations

Principle of the Development

The proposed houses would be in a residential area within easy walking distance of Streetly local centre (Chester Road) and Streetly Village local centre (Lichfield DC). Although these centres are over the maximum 1000m as defined in paragraph 7.51 of the UDP, these centres are only marginally over the 1000m thresholds not dissimilar to the surrounding houses and considered to be consistent with guidance in the NPPF, BCCS and UDP.

Whilst the proposals would result in the development of part of a residential garden which is not defined as previously developed land in the NPPF, in this case it is considered that the proposals would not harm the local area and would not adversely impact on the character and identity of the vicinity as the houses are considered to reflect the immediate character.

Whilst Thornhill Road has a semi rural character fronting onto Sutton Park, Millcroft Road has a more urban character and environment with houses with street frontages and houses to their rears. The proposal reflects the character of Millcroft Road.

An appropriate level of private amenity would be retained for 160 Thornhill Road whilst creating an appropriate level of private amenity for both new houses.

Officers are aware of the site history, which is over 20 years old and as such not relevant as any new proposal would be assessed against current planning policy.

The principle of 2 additional houses is considered appropriate in this location reflecting its immediate character.

Design and Layout

The proposed houses would sit adjacent to numbers 30 and 35 Millcroft Road within relatively similar plot sizes and similar house designs. It is considered that the design and layout of the proposed houses reflect the character of Millcroft Road and as such the proposal is considered acceptable in this instance.

Designing Walsall requires that housing proposals either provide a rear garden length of 12m or a total amenity area of 68 square metres; In this case, the total amenity area for both houses exceeds the 68 square metre garden size by 70 square metres.

The ridge height of the proposed houses would be lower than 30 and 35 Millcroft contributing to reducing any visual impact within the street scene.

Boundary treatments can be sought via condition to ensure all adjoining surrounding properties are secured. Residents have concerns about security. The two properties would provide additional natural surveillance of locality adding to the security of the vicinity.

Residents concerns regarding the existing drainage problems in the area, Severn Trent Water have no objection to the proposal subject to drainage details being submitted and agreed at a later stage via an appropriate condition.

Residents concerns about the number of wheelie bins currently at the entrance of the private drive and further wheelie bins would be placed in an already crowded area. The

issue of wheelie bins being placed outside on the street frontage for bin collection is not a material planning consideration; this is a matter for street pride to review their operating procedures.

The density of the site is 33 dwellings per hectare, reflecting the character of Millcroft Road. It is considered that the proposed house would not result in overdevelopment or overcrowding of the site.

Impact on the amenities of surrounding occupiers

The proposal would not unduly result in the overlooking of the rear garden of 162 Thornhill Road, numbers 9 and 11 Rowthorn Close or numbers 20 and 35 Millcroft Road as there are no side facing windows on the proposed houses which would also prevent any loss of privacy for these occupiers.

The occupier of 162 Thornhill Road, to the south of the application site is concerned the proposed houses would be overbearing. The proposed houses would be positioned over half way down the rear garden, some 30 metres away from the objector's house, exceeding Designing Walsall minimum standards. Whilst the new houses would be seen from the rear garden of 162 Thornhill Road, the new houses would be seen in the context of the existing properties on Millcroft Road, plus the new houses would be to the north of 162's garden, minimising any loss of light and shadowing concerns, as such would not have an overbearing impact upon the amenities of the occupiers to warrant refusal of the application.

The proposal exceeds the Council's residential separation distances between habitable room windows between plot 1 and 160 Thornhill Road and plot 2 and 17 Tudor Grove and therefore the proposal is unlikely to result in overlooking or loss of privacy of these properties.

Number 30 has habitable room windows facing the application site at both ground and first floor. The separation distance from the ground floor kitchen window to the side gable to plot 2 would be 6m. However, there are two kitchen windows on the ground floor that serve the kitchen and due to the 'L' shaped design of plot 2, light to the neighbours windows would not unduly result in loss of daylight or sunlight. The separation distance from the first floor habitable room to the main part of plot 2 is just over 12m, it is considered whilst the proposal does not meet the 13m separation distance due to the shape and design of the proposed house, the proposal would not unduly impact upon the amenities of the occupiers of this property.

Plot 2 may result in some shading of the side garden of 30 Millcroft Road, however, it is considered due to the orientation, separation distance and shape and design of the house, this would minimise any shadowing impact due to the shadow being dissipated over the length of the shadow.

The occupiers of 9 and 11 Rowthorn Close to the south of the application site have sought clarification as to whether the 45 degree code would apply from their property. These properties are at least 24m away, meeting the Council's minimum separation distance, with a third party garden between. The proposal is considered not to impact upon the amenities of these occupiers by way of loss of light as they are south facing with a 24m separation distance between the houses.

Residents have raised concerns over light pollution; any external lighting to be installed can be conditioned.

A condition restricting the hours of construction work on site can be imposed to protect the amenity of surrounding residential occupiers during the building period.

Residents have referred to right to light; this issue is a civil matter residents would need to take up with the developer.

Loss of outlook and devaluing of property are not material planning considerations.

Impact on Trees and wildlife

The proposals have been assessed by the Natural Environment team who confirm that a bat survey was not required in support of this application. There are no major trees or buildings on the site where bats could be expected to roost. The application site is a tennis court which has negligible value as foraging habitat for bats. There are a number of hedges, shrubs and small trees, which may be adversely affected. However, bats can range several kilometres from their roosts so the loss of a tiny bit of habitat will not be significant. The development would not result in the loss or damage to any key habitat features for bats.

The majority of the trees within the rear garden of 160 Thornhill Road are conifers and whilst these do contribute to the character of the area their removal is considered acceptable subject to adequate replacement planting being sought by condition.

Parking and Access

The proposal provides 3 off road parking spaces for each of the houses in line with Policy T13 of the UDP. The vehicular access to the site utilises an existing private access point adjacent numbers 30 and 35 Millcroft Road and Transportation have no objection to the proposal.

Residents concerns regarding disruption during construction of the houses, it is accepted there may be a small amount of disruption during the construction of 2 houses. It is considered there would be a limited amount of construction vehicles on site to result in access issues to other houses on Millcroft Road. There is parking within the curtilage of 160 Thornhill Road, which could be used during the construction phase of the development. Any works would be undertaken during the daytime hours to minimise any potential access issues. It is considered that in this instance, the level of disruption to neighbours during the construction period, would not be enough to sustain a reason for refusal.

The traffic from 2 additional houses would not unduly impact on the safe operation of the highway network, Millcroft Road and Thornhill Road and as such Transportation have no objection to the proposal. Transportation confirm that it is not a highway requirement to provide a segregated footpath on a shared private drive serving up to 5 houses. The proposed driveway would be a shared surface for both vehicles and pedestrians.

Emergency vehicles would be able to utilise the existing private driveway to gain access to the proposed houses. The Fire Officer has no objection to the proposal.

Residents have stated that the private drive is used for the parking of vehicles by existing disabled residents. The private drive is owned by the developer and any

existing parking issues would need to be taken up with the developer as a private matter. The properties in Millcroft Road have adequate off road parking facilities within the curtilage of their properties to accommodate their vehicles without utilising third party land.

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 2 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 delivery of homes in previous years the total amount awarded this year was £2,583,252 (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 might 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

During the processing of the application, the agent was advised to amend the scheme to reduce the height of the proposed dwellings.

Summary of Reasons for Granting Planning Permission

The proposed houses are situated within a well established residential area in a sustainable location. Whilst the proposals would result in the development of a residential garden, the proposals would not harm the local area and would not adversely impact the character and identity of the vicinity as the houses are considered to reflect the immediate character.

The sizes of the plots are sufficient to accommodate 2 additional houses with appropriate amenity space being provided for the proposed houses and adequate amenity space being retained for the existing property.

The plot sizes and design of the proposed houses are reflective of the design and plot sizes of the properties along Millcroft Road and as such the proposal is considered acceptable in this instance.

Replacement planting and all boundary treatments would be sought at a later date.

The two properties would provide additional natural surveillance of locality adding to the security of the vicinity.

The issue of wheelie bins being placed outside on the street frontage for bin collection is not a material planning consideration; this is a matter for street pride to review their operating procedures.

The density of the site is reflective of the character of Millcroft Road and therefore would not result in overdevelopment or overcrowding of the site.

Drainage can be agreed at a later stage.

There are no side facing windows on the proposed plots reducing any loss of privacy or overlooking for adjoining residential occupiers.

The houses would be seen against the back drop of the existing properties on Millcroft Road and as such would not have an overbearing impact.

The proposal exceeds the habitable room separation distances from the rear of 162 Thornhill Road, 17 Tudor Grove and meets the habitable room separation distance from the rear of 9 and 11 Rowthorn Close. The proposal is considered not to impact upon the amenities of the occupiers of this property by way of overlooking or loss of privacy. The proposed houses would be north of 162 Thornhill Road and 9 and 11 Rowthorn Close minimising loss of light and shadowing concerns.

Number 30 has habitable room windows facing the application site at both ground and first floor. The separation distance from the ground floor kitchen window to the side gable to plot 2 would be 6m. However, there are two kitchen windows on the ground floor that serve the kitchen and due to the 'L' shaped design of plot 2, light to the neighbours windows would not unduly result in loss of daylight or sunlight. The separation distance from the first floor habitable room to the main part of plot 2 is just over 12m, it is considered whilst the proposal does not meet the 13m separation distance due to the shape and design of the proposed house, the proposal would not unduly impact upon the amenities of the occupiers of this property.

Plot 2 may result in some shading of the side garden of 30 Millcroft Road, however, it is considered due to the orientation, separation distance and shape and design of the house, this would minimise any shadowing impact due to the shadow being dissipated over the length of the shadow.

External lighting can be agreed at a later date.

A condition restricting construction work on site would be imposed to protect the amenity of surrounding residential occupiers.

Residents have referred to right to light; this issue is a civil matter residents would need to take up with the developer.

Loss of outlook and devaluing of property are not material planning considerations in this case.

The development would not result in the loss or damage to any key habitat features for bats.

The proposal provides 3 off road parking spaces for the proposed houses in line with Policy T13 of the UDP.

It is accepted there may be a small amount of disruption during the construction of 2 houses. It is considered there would be a limited amount of construction vehicles on site to result in access issues to other houses on Millcroft Road. There is parking within the curtilage of 160 Thornhill Road, which could be used during the construction phase of the development. Any works would be undertaken during the daytime hours to minimise any potential access issues. It is considered that in this instance, the level of disruption to neighbours during the construction period, would not be enough to sustain a reason for refusal.

The traffic from 2 additional houses would not unduly impact on the safe operation of the highway network, Millcroft Road and Thornhill Road. It is not a highway requirement to provide a segregated footpath on a shared private drive serving up to 5 dwellings. The proposed driveway would be a shared surface for both vehicles and pedestrians.

Emergency vehicles would be able to utilise the excising private driveway to gain access to the proposed houses.

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 a 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 2 new homes. The local finance contributions are weighed in this decision but are not considered to be a determinative issue.

The proposal is consistent with the NPPF and is considered to accord with the aims and objectives of the Regional Strategy (2008), the Black Country Core Strategy (2011), in particular policies HOU2, ENV3 and ENV2, Walsall Unitary Development Plan (2005), in particular saved policies GP2, ENV32, ENV33, T7, T10, 7.51 and T13 and Supplementary Planning Documents – Designing Walsall (2008) and Natural Environment (2008).

Recommendation: Grant Permission Subject to Conditions

1. The 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.

2a. Prior to the commencement of this permission samples of all facing, roofing and driveway surface materials shall be submitted to and approved in writing by the Local Planning Authority.

2b. The development shall be fully completed with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

3a. Prior to the commencement of this permission drainage details for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority.

3b. The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure the development is provided with 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.

4a. Prior to the commencement of this permission, a detailed landscaping scheme illustrating/detailing:

- all planting within the site
 - planting densities
 - planting numbers
 - size of plants to be planted
 - soil depth
 - soil specification
 - all proposed hard surfaces
 - all boundary walls and fences
 - access features
 - details of all existing hedges and trees to be retained
 - details of existing vegetation to be protected during the construction phase
- shall be submitted to and approved in writing by the Local Planning Authority.

4b. The boundary fences / walls shall be erected prior to the first occupation of the proposed dwelling.

4c. The approved landscaping scheme shall be implemented within 12 months of any part of the development being brought into use.

4d. Any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted.

Reason: In order to safeguard the satisfactory appearance and safety of the development of the application site.

5a. Prior to the commencement of this permission, details of all external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall include manufacturer's details.

5b. All external lighting shall be carried out in accordance with the approved details and retained and maintained at all times.

Reason: To protect the amenity of adjoining residential occupiers.

6. All site clearance shall take place outside the bird-nesting season (the bird nesting season is March to September inclusive). Where this is unavoidable a breeding birds survey shall be undertaken by a suitably qualified and experienced ecologist prior to any

works commencing. If breeding birds are discovered site clearance and other operations should be delayed until young birds have fledged. All wild birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 and subsequent amending legislation. It is an offence to damage or destroy a nest of a wild bird. If nesting birds are discovered clearance works should be delayed and advice sought from the ecologist or Natural England.

Reason: To protect local wildlife.

7a. Prior to the first occupation of either of the new dwellings, the extended private shared access drive and the vehicle hard standing and driveways areas serving that dwelling shall be fully consolidated, hard surfaced and drained.

7b. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development.

8. No demolition, engineering or construction works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday*, and otherwise such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

(*Bank and Public Holidays for this purpose shall be: Christmas Day, Boxing Day, New Years Day, Good Friday, Easter Monday, May Day, Spring Bank Holiday Monday and August Bank Holiday Monday.)

Reason: To safeguard the amenity of occupiers of premises within the vicinity.

9. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Amendment) (N02) (England) Order 2008, or succeeding Orders, no works shall be carried out under Part 1, Classes A to E.

Reason: To enable the Local Planning Authority to retain effective control over future development of this site.

10. The works hereby approved shall only be carried out in accordance with details contained within drawings:

- KH/TR_CP/06 – Context Plan submitted 14 December 2012.
- KH/TR_LP01 – layout plan submitted 14th December 2012.
- KH/TR_HT1/03A – House type plot 1 elevations submitted 8 February 2013
- KH/TR_HT1/02 – House type plot 1 plans submitted 8 February 2013
- KH/TR_SE/07A – street elevation A-A submitted 8 February 2013
- KH/TR_SE/08 – street elevation B-B submitted 8 February 2013
- KH/TR_HT2/04 – House type plot 2 plans submitted 8 February 2013
- KH/TR_HT2/05a – House type plot 2 elevations submitted 8 February 2013

Reason: To define the permission.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 15.

Reason for bringing to committee: Delicate Judgement Regarding Character of Area

Application Number: 12/1582/FL

Application Type: Full application

Case Officer: Stuart Crossen

Telephone Number: 01922 652608

Email: planningservices@walsall.gov.uk

Agent: Mr Anthony Spruce

Applicant: Mr B. Verma

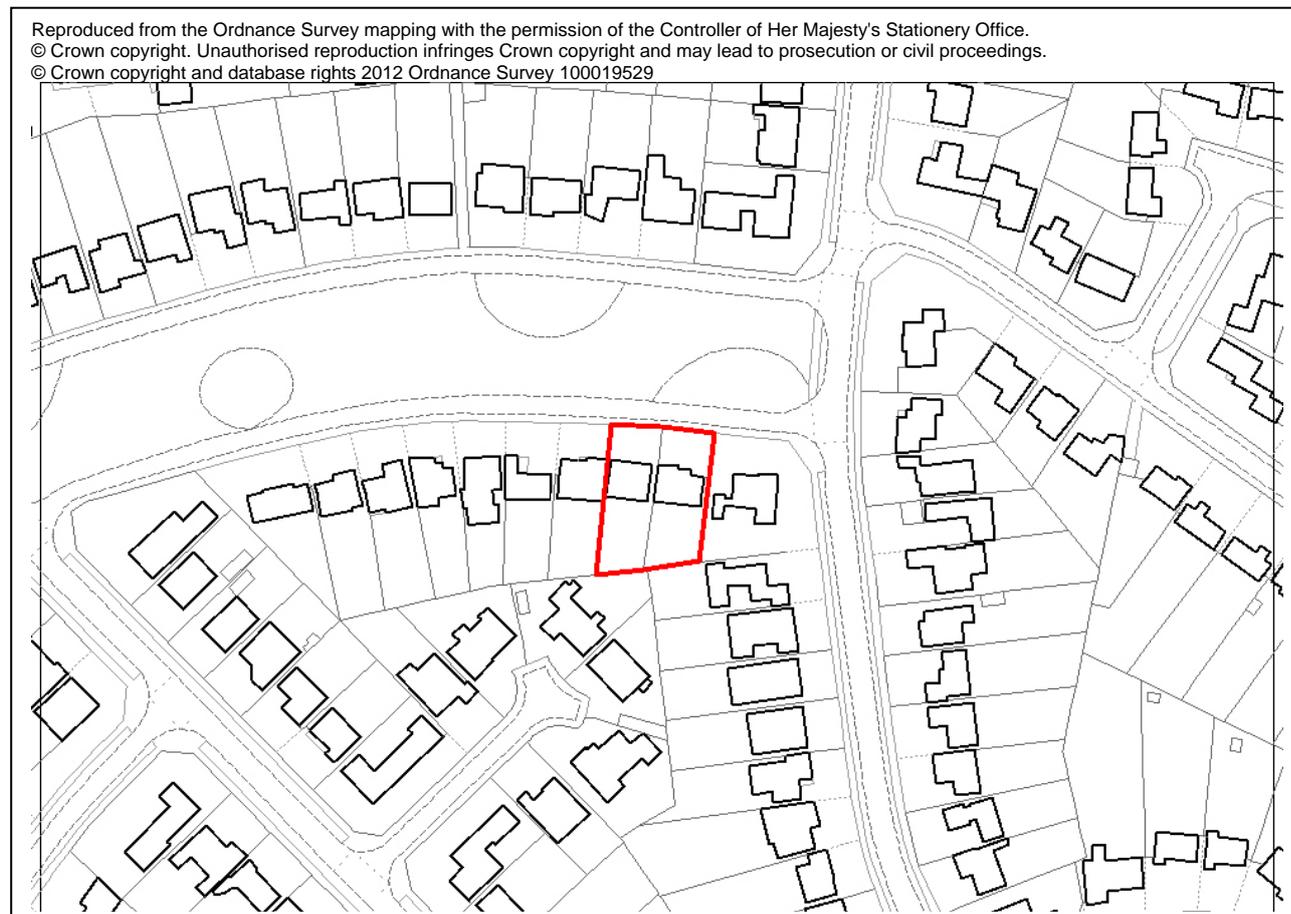
Proposal: Retrospective - single storey side extensions to 18 & 20 to provide access to both properties.

Location: 18 & 20 ATHLONE ROAD, WALSALL, WS5 3QX

Ward: Paddock

Expired Date: 29/01/2013

Recommendation Summary: Refuse



Application and Site Details

The application proposes to retain a flat roof side extension internally linking numbers 18 and 20 Athlone Road via the kitchen store at number 20 and the dining area of number 18. The character of Athlone Road is defined by 1960's style detached houses. In the same row of houses numbers 14 to 20 have gaps of at least 900mm in between, which provides access to the rear and defines the character of these houses.

The application is a resubmission of a similar refused application due to a proposed first floor link bridge between 18 and 20 Athlone Road. The current proposal is for a ground floor link.

The brick extension in fills a 1 metre gap between the numbers 18 and 20, is 3.5 metres high with a flat roof in line with the first floor window sill of number 18.

Number 18 is in the same ownership as number 20. The first floor front elevation of no. 18 is positioned 1 metre forward of the first floor front elevation of number 20 and the rear elevations are in line with one another. The side extension to be retained would not be visible from either house. From the street 1.6 metres of the proposal would be visible above the existing gate between the two houses. Although the plans illustrate the gate to be 2.6 metres high, following the site visit it is considered to be no more than 2 metres high.

Number 22 is a bungalow with a garage to the side next to number 20 and front and rear facing habitable room windows.

Number 7 Connaught Close is a bungalow with rear facing habitable room windows to the rear of the application house and is at an angle in relation to the rear of number 20 and is 34 metres away from the side extension to be retained.

Number 27 Greaves Avenue is a bungalow with rear facing habitable room windows at right angles to the application house.

Relevant Planning History

12/1365/FL - Ground floor side extension, roof extension and first floor rear extension at 20 Athlone Road. Elsewhere on this agenda.

12/1106/FL - Two storey rear and side house extension with first floor alteration at the front of 18 Athlone Road. Elsewhere on this agenda

12/0738/FL - Two storey rear extension and front first floor extension with first floor link bridge to 20 Athlone Road, Refused 16/08/12 for the following reason:

The proposed flat roofed first floor link bridge, connecting to no. 20 Athlone Road would introduce an incongruous feature in the street and by closing the first floor gap would create a terracing effect. The development represents poor design which would have a detrimental impact on the appearance of the existing house and would be out of character with the street scene and the immediate vicinity.

12/0733/FL - First floor rear extension and loft extension with first floor link bridge to 18 Athlone Road, Refused 16/08/12 for the following reasons:

The design of the proposal would have a detrimental impact on the appearance of the existing house, the existing amenity of neighbours and the character of street scene because of;

- the cumulative increase in building mass of the proposed first floor extension, the changes to the roof (hips/front to back ridge to full size gable and the ridge running the full width) and the rear dormer plus the additional depth of the finished property.
- The rear dormer/first floor extension/gable roof and overall depth of final house extension would introduce a prominent and incongruous feature which would be visible from Greaves Avenue seen above 22 Athlone Road and is considered would have a detrimental impact on the views from Greaves Avenue.
- The height and close proximity of the rear dormer to the rear garden of 27 Greaves Avenue would have an unacceptable impact on the privacy of neighbours using their rear garden.
- The proposed roof extension to larger gables is an increase in size which would have an unacceptable impact on the existing daylight and sunlight available to the occupiers of no's 18 and 22 because of the combined height, scale and mass of the proposal.

BC36435P – Kitchen and lounge extension to rear with 2 additional bedrooms at first floor to side and canopy to front – granted permission subject to conditions on 30/7/92

BC38858P – Covered way, laundry and storeroom, pitched roof over existing rear extension – granted permission subject to conditions – 14/10/93

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*".

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

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.

11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

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.

Decision-taking

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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered that the relevant RS policy is;

QE3: Creating a High Quality Built Environment for All

Creation of high quality built environment through use of architecture, urban design and landscape design which respects local character.

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

Local

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 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*”.

It states that the councils will create cohesive, healthy and prosperous communities with equal access to a mix of affordable and aspirational housing.

The relevant policies are:

ENV2: Historic Character and Local Distinctiveness

States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

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

Walsall’s Unitary Development Plan (UDP) (2005)

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: 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. This policy will be applied to all development but will be particularly significant in the following locations:-

- Areas with a special character arising from the homogeneity of existing development in the neighbourhood.

(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.
- Community safety and security.
- 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

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 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 the NPPF policy. The relevant SPD's are;

Designing Walsall (Feb 2008)

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 E (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.

- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

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

Consultations

None

Public Participation Responses

The occupier of number 22 Athlone Road has objected on the following grounds:

- They can see contractors at work at number 20 which is an invasion of privacy.
- There is no impartiality reflected in the decisions made by the planning office.
- The house is a modest size and should not be overdeveloped to be incongruous in the street scene.
- There is not ample parking at the application site.

Determining Issues

- Design of Extension and Impact on Character of Area and Whether the Proposal Overcomes the Previous Reason for Refusal.

- Impact on Neighbouring Amenity
- Parking
- Positive and Proactive working with the applicant

Observations

Design of Extension and Impact on Character of Area

The flat roof design of the extension and 3.5 metre height connecting number 20 and number 18 Athlone Road, represents poor design which would have a detrimental impact on the appearance of the existing house and would be out of character with the street scene and the immediate vicinity, by closing the gap creating a terracing effect contrary to the Councils terracing policy. The terracing policy requires a minimum 900mm gap to be retained between houses where this is a characteristic of the area. It is considered that the current proposal has not fully overcome the previous refusal reason.

In relation to the existing houses, and extensions visible from the front elevation, whilst there are clear concerns regarding visual amenity impact and being out of character, it is considered this side extension would not represent overdevelopment.

Impact on Neighbouring Amenity

The extension itself is not in direct view from the rear neighbouring houses and would have limited impact on their amenity. A lack of privacy due to construction works is temporary and not sufficient reason to refuse the application.

Parking

The extension does impact on the existing parking provision or require any additional parking provision in itself.

Positive and Proactive working with the applicant

Officers have spoken with the applicant's agent previously about their concerns with the proposal and a similar proposal has been omitted from another application for the same site. A previous application for a similar link has also been refused.

Recommendation: Refuse

1. The proposed flat roofed link connecting to number 18 and 20 Athlone Road would introduce an incongruous feature in the street and by closing the first floor gap would create a terracing effect. The development represents poor design which would have a detrimental impact on the appearance of the existing house and would be out of character with the street scene and the immediate vicinity. The development would therefore be contrary to the National Planning Policy Framework, the Black Country Core Strategy policies ENV2 and ENV3, and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document, Designing Walsall in particular Appendix E.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 16.

Reason for bringing to committee: Delicate Judgement Regarding Character of Area

Application Number: 12/1365/FL
Application Type: Full application

Case Officer: Stuart Crossen
Telephone Number: 01922 652608
Email: planningservices@walsall.gov.uk
Agent: Integrated Designs & Associates Limited

Applicant: Mr Bobby Verma

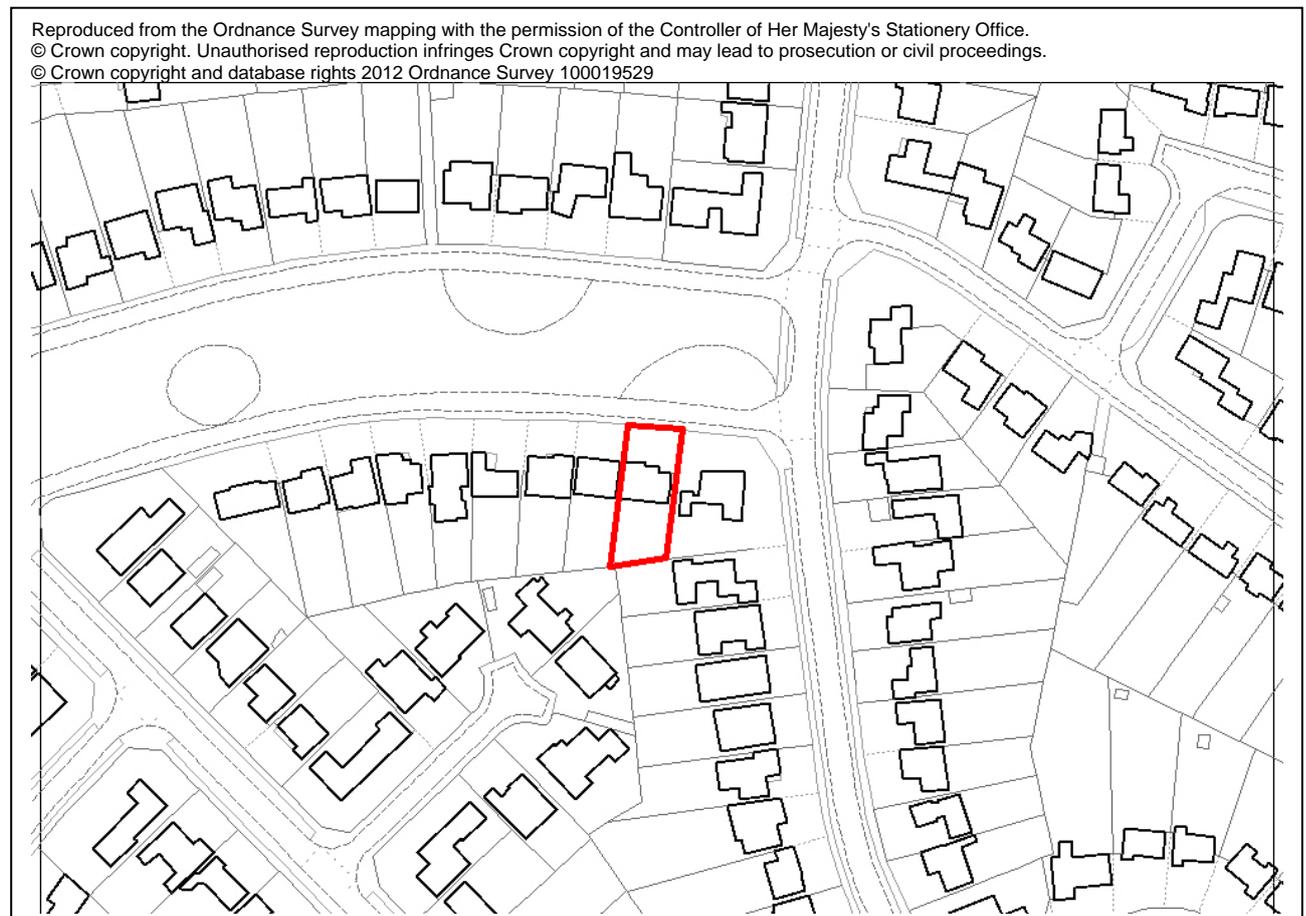
Proposal: Roof extension and first floor rear extension.

Location: 20 ATHLONE ROAD, WALSALL, WS5 3QX

Ward: Paddock

Expired Date: 07/12/2012

Recommendation Summary: Refuse



Application and Site Details

The application is a resubmission of a previously refused similar sized proposal. This application proposes a ground floor side extension, roof extension and first floor rear extension to a modern designed detached house which has a two storey front gable feature and a first floor side extension. There is an existing single storey rear extension 3.4 metre deep across the full width of the house and an extension along the side garden boundary of no. 22 extending 11.7 metres deep from the ground floor rear elevation.

The difference between the previous refused application and this one is as follows:

- side gable roof conversion replaced by a hipped roof design
- omission of side elevation bathroom window
- rear dormers reduced in width from 12 metres to two smaller 1.9 metre wide dormers and reduced in depth, being set in from the rear elevation a further 500mm

Amended plans has also been received which has omitted the front gable loft window, added a side velux to the roof plan of the same front gable and reduced the first floor rear extension depth by 441mm.

The application house frontage faces a wide grassed verge with mature trees and the street has a spacious character. Athlone Road benefits from a mix of housing styles including detached houses and bungalow of varying design. The application house is near to the corner with Greaves Avenue.

The existing front gable would be reduced in width by 2.5 metres, the rear gable and an existing side gable roof extension defining the shared boundary would be replaced with a new hipped roof with front facing velux window, two rear facing dormer windows and would measure the same eaves height as the original roof with a roof ridge in line with the existing gable.

The proposed first floor rear extension would extend 3.4 metres deep above the footprint of the existing single storey rear extension. The rear garden length would be 13 metres.

No. 18 is in the same ownership as the application house. The first floor front elevation of no. 18 is positioned 1 metre forward of the first floor front elevation of the application house and the rear elevations are in line. No. 18 has front and rear habitable room windows next to the application house.

No. 22 is a bungalow with a garage to the side next to no. 20 and front and rear facing habitable room windows.

No. 7 Connaught Close is a bungalow with rear facing habitable room windows to the rear of the application house and is at an angle in relation to the rear of no. 20. There is a separation distance of approx. 30 metres between the application house and the nearest rear habitable room windows in no. 7.

No. 27 Greaves Avenue is a bungalow with rear facing habitable room windows at right angles to the application house.

Relevant Planning History

12/1582/FL - Retrospective - single storey side extensions to 18 & 20 to provide access to both properties. Elsewhere on this agenda

12/1106/FL - Two storey rear and side house extension with first floor alteration at the front of 18 Athlone Road. Elsewhere on this agenda

12/0738/FL - Two storey rear extension and front first floor extension with first floor link bridge to 20 Athlone Road, Refused 16/08/12 for the following reason:

The proposed flat roofed first floor link bridge, connecting to no. 20 Athlone Road would introduce an incongruous feature in the street and by closing the first floor gap would create a terracing effect. The development represents poor design which would have a detrimental impact on the appearance of the existing house and would be out of character with the street scene and the immediate vicinity.

12/0733/FL - First floor rear extension and loft extension with first floor link bridge to 18 Athlone Road, Refused 16/08/12 for the following reasons:

The design of the proposal would have a detrimental impact on the appearance of the existing house, the existing amenity of neighbours and the character of street scene because of;

- the cumulative increase in building mass of the proposed first floor extension, the changes to the roof (hips/front to back ridge to full size gable and the ridge running the full width) and the rear dormer plus the additional depth of the finished property.
- The rear dormer/first floor extension/gable roof and overall depth of final house extension would introduce a prominent and incongruous feature which would be visible from Greaves Avenue seen above 22 Athlone Road and is considered would have a detrimental impact on the views from Greaves Avenue.
- The height and close proximity of the rear dormer to the rear garden of 27 Greaves Avenue would have an unacceptable impact on the privacy of neighbours using their rear garden.
- The proposed roof extension to larger gables is an increase in size which would have an unacceptable impact on the existing daylight and sunlight available to the occupiers of no's 18 and 22 because of the combined height, scale and mass of the proposal.

BC36435P – Kitchen and lounge extension to rear with 2 additional bedrooms at first floor to side and canopy to front – granted permission subject to conditions on 30/7/92

BC38858P – Covered way, laundry and storeroom, pitched roof over existing rear extension – granted permission subject to conditions – 14/10/93

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*”.

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

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.

11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

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.

Decision-taking

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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered that the relevant RS policy is;

QE3: Creating a High Quality Built Environment for All

Creation of high quality built environment through use of architecture, urban design and landscape design which respects local character.

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

Local

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 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*”.

It states that the councils will create cohesive, healthy and prosperous communities with equal access to a mix of affordable and aspirational housing.

The relevant policies are:

ENV2: Historic Character and Local Distinctiveness

States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

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

Walsall's Unitary Development Plan (UDP) (2005)

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: 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. This policy will be applied to all development but will be particularly significant in the following locations:-

- Areas with a special character arising from the homogeneity of existing development in the neighbourhood.
- (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.
 - Community safety and security.
 - 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

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 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 the NPPF policy. The relevant SPD's are;

Designing Walsall (Feb 2008)

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 E (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.

- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

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

Consultations

Fire Officer – Confirmed that they have no input in relation to the internal layout of houses, a matter for building control.

Public Participation Responses

The neighbour at number 7 Connaught Close has objected on the following grounds:

- Would result in a three storey property
- Would be a blot on the landscape
- The cinema room would be a fire risk, there are no details about fire evacuation and there are no proposed fire escapes.
- Would result in a loss of privacy
- Will be the largest on the estate
- Would never have been allowed before
- Not in keeping with other properties
- Too large for the plot
- Overshadows other properties
- Would be intimidating
- Loss of privacy to habitable room windows

The neighbour at number 22 Athlone Road has objected to the proposal on the following grounds:

- The increase in roof size and additional windows will result in a loss of privacy to rear gardens.

Determining Issues

- Whether the proposal overcomes the previous reasons for refusal.
- Material considerations raised during consultation

Observations

Whether the proposal overcomes the previous reasons for refusal.

The cumulative increase in building mass of the proposed first floor extension, the rear dormer plus the additional depth of the finished property, which has been reduced from the previous refused application is considered to be an insufficient reduction and would still have a detrimental overbearing impact on the existing amenity enjoyed by neighbours in relation to their private garden areas. It would also be detrimental to the appearance of the existing house, which would be visible from the rear of at least 6 other houses and from the street. The rear dormer/first floor extension/gable roof and overall depth of final house extension would introduce a prominent and incongruous feature which would be visible from Greaves Avenue seen above 22 Athlone Road and is considered would have a detrimental impact on the views from Greaves Avenue.

The reduction in height and proximity of the rear dormer to the rear garden of 27 Greaves Avenue would minimise the potential of the proposal to have an unacceptable impact on the privacy of neighbours using their rear garden.

The proposed roof extension which now includes a hipped design would not have an unacceptable impact on the existing daylight and sunlight available to the occupiers of no's 18 and 22.

Material considerations raised during consultation

No. 7 Connaught Close is angled in relation to the application house and it is considered this would limit the impact on the existing privacy of the occupiers of this bungalow to the rear. The separation distance of 27 metres between the proposed new rear first floor habitable room windows and rear facing habitable room windows of no. 7 would limit the impact of this extension on this property and would comply with the recommended minimum separation distances referred to in the Councils Designing Walsall SPD, Annexe E.

The existing house has a loft conversion, and has three levels. The proposal would be the same in this respect.

Whether the application house would be the largest house on the estate is not considered sufficient reason to refuse the application, the design of the proposal in relation to the original house and the character of the area has been considered above.

Other non-determining issues raised through consultation

The proposed cinema room would have to be ancillary to the house and can be conditioned accordingly. Fire and means of escape are matters dealt with via building regulations and are not material to the consideration of this application.

Historic planning policy and the original ideology of the estate are not material considerations of this current application.

Recommendation: Refuse

1. The design of the proposal would have a detrimental impact on the appearance of the existing house, the existing amenity of neighbours and the character of street scene because of;

- The cumulative increase in building mass of the proposed first floor extension, the rear dormer plus the additional depth of the finished property would have a detrimental impact on the existing amenity of neighbours and on the appearance of the existing house.
- The rear dormer/first floor extension/gable roof and overall depth of final house extension would introduce a prominent and incongruous feature which would be visible from Greaves Avenue seen above 22 Athlone Road and is considered would have a detrimental impact on the views from Greaves Avenue.

The development would be contrary to the National Planning Policy Framework, the Black Country Core Strategy policies ENV2 and ENV3, and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document, Designing Walsall.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on
07/03/2013

Plans list item no: 17.

Reason for bringing to committee: Delicate Judgement Regarding Character of Area

Application Number: 12/1106/FL
Application Type: Full application

Case Officer: Stuart Crossen
Telephone Number: 01922 652608
Email: planningservices@walsall.gov.uk
Agent: Integrated Designs & Associates Limited

Applicant: Mr B. Verma

Proposal: Two storey rear and side house extension with first floor alteration at the front of 18 Athlone Road.

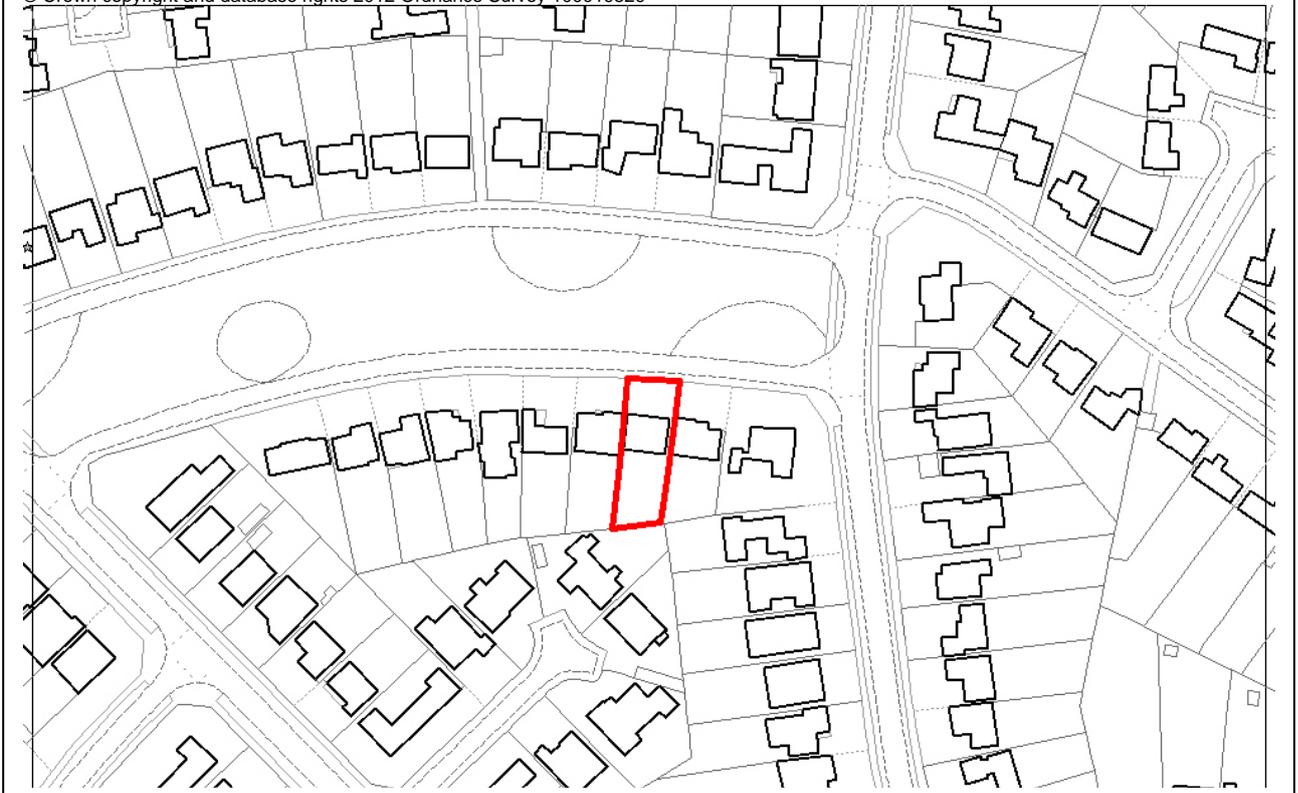
Location: 18 ATHLONE ROAD, WALSALL, WS5 3QX

Ward: Paddock

Expired Date: 29/10/2012

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The application proposes two storey side and rear extensions to a 1960's front gable detached house in a row of individually designed but similar styled houses to provide an enlarged lounge and kitchen, to provide en-suites to 3 existing bedrooms and provide a loft store.

The application is a resubmission of a similar refused application which was refused because of a proposed first floor link bridge between 18 and 20 Athlone Road, this proposal is for the same extension minus the first floor link bridge.

An amended plan has been received which has omitted the proposed single storey flat roof side extension.

The first floor front elevation of no. 18 is positioned 1 metre forward of the first floor front elevation of no. 20 and the rear elevations are in line. No. 18 has front and rear habitable room windows next to the application house.

The proposed first floor front extension would be above the existing sloping roof with a hipped roof design, 0.8 metres lower than the existing ridge. Loft windows would be installed in the front and rear elevations of the house and roof lights would be fitted facing no. 20. The total number of bedrooms would remain as four with the addition of a loft store. An existing conservatory would be demolished.

The two storey rear extension would extend 3.8 metres across the full width of the existing rear elevation with the ground floor extending 1 metre beyond the side elevation next to the rear garden boundary with no. 20. The proposed first floor would be stepped in to 2.5 metres deep near to house no. 16 and would have a part hipped and part gable roof design. The length of the rear garden would be 13 metres with the proposed rear extension.

No. 20 is in the same ownership as the application house and has front and rear habitable room windows near to no. 18. There is an existing single storey extension to the rear of no. 20.

No. 16 has a first floor bedroom window near to the rear garden boundary with the application house and an extension and conservatory below extending 7.4 metres to the rear.

No. 7 Connaught Close is a bungalow with rear facing habitable room windows to the rear of the application house and is at an angle in relation to the rear of no. 18. There is an existing separation distance of approximately 28 metres between the proposed rear extension and the nearest rear habitable room windows in no. 7.

No. 27 Greaves Avenue is a bungalow with rear facing habitable room windows at right angles to the application house.

Relevant Planning History

12/1582/FL - Retrospective - single storey side extensions to 18 & 20 to provide access to both properties. Elsewhere on this agenda

12/1365/FL - Ground floor side extension, roof extension and first floor rear extension at 20 Athlone Road. Elsewhere on this agenda

12/0738/FL – 18 Athlone Road Walsall - Two storey rear extension and front first floor extension with first floor link bridge to 20 Athlone Road. Refused 16/08/12 for the following reasons:

The proposed flat roofed first floor link bridge, connecting to no. 20 Athlone Road would introduce an incongruous feature in the street and by closing the first floor gap would create a terracing effect. The development represents poor design which would have a detrimental impact on the appearance of the existing house and would be out of character with the street scene and the immediate vicinity.

12/0733/FL – 20 Athlone Road Walsall - First floor rear extension and loft extension with first floor link bridge to 18 Athlone Road, Refused 16/08/12 for the following reasons:

The design of the proposal would have a detrimental impact on the appearance of the existing house, the existing amenity of neighbours and the character of street scene because of;

- the cumulative increase in building mass of the proposed first floor extension, the changes to the roof (hips/front to back ridge to full size gable and the ridge running the full width) and the rear dormer plus the additional depth of the finished property.
- The rear dormer/first floor extension/gable roof and overall depth of final house extension would introduce a prominent and incongruous feature which would be visible from Greaves Avenue seen above 22 Athlone Road and is considered would have a detrimental impact on the views from Greaves Avenue.
- The height and close proximity of the rear dormer to the rear garden of 27 Greaves Avenue would have an unacceptable impact on the privacy of neighbours using their rear garden.
- The proposed roof extension to larger gables is an increase in size which would have an unacceptable impact on the existing daylight and sunlight available to the occupiers of no's 18 and 22 because of the combined height, scale and mass of the proposal.

BC36435P – Kitchen and lounge extension to rear with 2 additional bedrooms at first floor to side and canopy to front – granted permission subject to conditions on 30/7/92

BC38858P – Covered way, laundry and storeroom, pitched roof over existing rear extension – granted permission subject to conditions – 14/10/93

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*".

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

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.

11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

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.

Decision-taking

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.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered that the relevant RS policy is;

QE3: Creating a High Quality Built Environment for All
Creation of high quality built environment through use of architecture, urban design and landscape design which respects local character.

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

Local

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 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*”.

It states that the councils will create cohesive, healthy and prosperous communities with equal access to a mix of affordable and aspirational housing.

The relevant policies are:

ENV2: Historic Character and Local Distinctiveness

States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

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

Walsall’s Unitary Development Plan (UDP) (2005)

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: 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. This policy will be applied to all development but will be particularly significant in the following locations:-

- Areas with a special character arising from the homogeneity of existing development in the neighbourhood.

(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.
- Community safety and security.
- 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

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 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 the NPPF policy. The relevant SPD's are;

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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 E (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.

- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

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

Consultations

None

Public Participation Responses

The neighbour occupying the bungalow to the rear has objected to the proposal on the following grounds

- it is out of character,
- would allow numbers 18 and 20 to be connected,
- is for commercial gain,
- oversized extensions should not be allowed, the design does not fit that which was required for building when the estate was created in the 1960's, overshadowing,
- loss of privacy.

Determining Issues

- Whether the proposal overcomes the previous reason for refusal
- New material considerations since previous refusal

Observations

Whether the proposal overcomes the previous reason for refusal

The removal of the first floor link bridge in this current proposal ensures there would be limited potential for terracing and that the proposal would have little impact on the character of the area overcoming the previous refusal reason.

New material considerations since previous refusal

Number 20 has re-submitted a planning application, which includes a roof extension. The design of the proposed first floor extension was considered in the previous application to reflect the design of the existing house and neighbouring houses. It is considered that this development if approved would not preclude an extension at number 20 which will be considered on its own merits and in the context of other neighbouring extensions.

The proposed extensions when viewed from the public realm, are considered would not be oversized. The change of the existing low roof at the side of the main gable to a hipped roof can be considered subservient to the main gable feature.

National and local Planning Policies have changed since the 1960's, new development is assessed against current national and local policies.

No. 7 Connaught Close is angled in relation to the application house and it is considered this would limit the impact on the existing privacy of the occupiers of this bungalow to the rear. In addition the separation distance of 24.8 metres between the proposed new rear first floor habitable room windows and rear facing habitable room windows in no. 7 would limit the impact of the proposed extension on the neighbour, meeting the recommended minimum separation distances set out in the Council's Designing Walsall SPD, Annexe E.

Other non-determining issues raised through consultation

Whether the extension is for commercial gain is not material to the consideration of this planning application.

Summary of Reasons for Granting Planning Permission

The removal of the first floor link bridge from the previous proposal would ensure there would be limited potential for terracing and that the proposal would have little impact on the character of the area overcoming the previous refusal reason.

Number 20 has re-submitted a planning application which includes a roof extension. The design of the proposed first floor extension was considered in the previous application to reflect the design of the existing house and neighbouring houses, it is considered that this development if approved would not preclude an extension at number 20 which will be considered on its own merits and in the context of other neighbouring extensions.

The proposed extensions when viewed from the public realm are considered would not be oversized, the change of the existing low roof at the side of the main gable to a hipped roof would still be subservient to the main gable.

National and local Planning Policies have changed since the 1960's, new development must be assessed against current national and local policies.

No. 7 Connaught Close is angled in relation to the application house and it is considered this would limit the impact on the existing privacy of the occupiers of this bungalow to the rear. In addition the separation distance of 24.8 metres between the proposed new rear first floor habitable room windows and rear facing habitable room windows in no. 7 would limit the impact of this extension on this property meeting the recommended minimum separation distances set out in the Council's Designing Walsall SPD, Annexe E.

Whether the extension is for commercial gain is not material to the consideration of this planning application.

The proposed development is considered to be consistent with the National Planning Policy Framework and meets the aims and objectives of the Black Country Core Strategy policies in particular ENV2, the Walsall Unitary Development Plan policies in particular GP2, ENV32, T7 and T13, and the Supplementary Planning Documents "Designing Walsall".

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: The walls and roof of the extension shall be completed with facing materials that match those used in the existing building as it exists at the time of this application, and shall be retained thereafter.

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

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

Amended plans (AL/509/01) Deposited 25 February 2013.

Reason: For the avoidance of doubt and in the interests of proper planning.