

## **PLANNING COMMITTEE**

**26 May 2022 at 5.30 pm**

**In the Council Chamber, Council House, Walsall**

### **Present:**

Councillor M. Bird  
Councillor B. Allen  
Councillor B. Bains  
Councillor H. Bashir  
Councillor S. Cheema  
Councillor S. Cooper  
Councillor N. Gandham  
Councillor A. Hussain  
Councillor K. Hussain  
Councillor R. Larden  
Councillor J. Murray  
Councillor A. Nawaz  
Councillor S. Samra  
Councillor M. Statham  
Councillor V. Waters

### **In attendance:**

R. Ark	Senior Environmental Protection Officer
M. Brereton	Group Manager – Planning
E. Cook	Assistant Democratic Services Officer
K. Gannon	Developmental Control and Public Rights of Way Manager
N. Gough	Democratic Services Officer
J. Grant	Environmental Protection Manager
A. Ives	Head of Planning & Building Control
I. Jarrett	Principal Environmental Protection Officer
K. Moreton	Head of Highways & Transport
J. Price-Jones	Planning Solicitor
A. Sargent	Principal Solicitor
D. Smith	Senior Legal Executive
S. Wagstaff	Principal Planning Officer
L. Wright	Principal Planning Officer

69/22

### **Election of Chair:**

### **Resolved:**

That in the absence of the Chair and Vice-Chair of the Committee, that Councillor Nawaz be appointed to act as Chairman.

70/22

### **Apologies**

Apologies for absence were submitted on behalf of Councillors P. Bott, I. Hussain, G. Perry, and A. Underhill.

71/22

### **Declarations of Interest**

There were no declarations of interest.

72/22

### **Deputations and Petitions**

There were no deputations introduced or petitions submitted.

73/22

### **Local Government (Access to Information) Act 1985 (as amended)**

#### **Exclusion of the Public**

#### **Resolved:**

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

74/22

### **Application list for permission to develop**

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

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

75/22

### **Plans List Item 3 – 22/0127 Brush Garage, 86 Lichfield Road, Walsall, WS4 1PY.**

The report of the Head of Planning and Building Control was submitted (annexed) and was presented to the Committee by the Group Manager (Planning). The context of the application was explained, including giving comparative examples of similar sites within the Borough; an overview of the planning history of the application; and, an overview of objections received from the public. The crux of objections received from the public is that the proposed alternative mitigations are not sufficient to meet noise concerns. The proposal before the Committee is for a variation of a previous planning

condition, which has proved difficult to implement and enforce, and which uses a non-current version of British Standard 4142.

Two speakers were heard against the application: Councillor Worrall, and Mr Tim Green, an Acoustics Consultant. Councillor Worrall expressed concerns that the report provided insufficient mitigation measures and does not adequately consider that it was an open-door business. Furthermore, the 'background noise' was dramatically different at the rear of the property to the front, nor was it a mixed residential area. As such, the proposed changes run counter to the spirit of the Inspector's decision.

Mr Green expressed that BS 4142 had not fundamentally changed in its provisions from the previous version used in the initial decision, (to apply the current conditions) and as such the conditions can be met. The proposed amendments would be insufficient and only address parts of the concerns about noise levels. Furthermore, there was a lack of quantifiable evidence provided as to what effects the proposed amendments would have on noise levels.

There then followed a period of questioning, firstly to the Speakers. Mr Green outlined that what was being discussed was noise 'level difference' mitigation, but there was nothing to define what the 'level' was. Given the nature of the site, there were practically two different 'levels', namely, to the front (on the road) and the rear (fields) of the address. As the activity would be taking place closer to the rear, there needed to be a way of taking this difference into account. BS 4142 adapted to the environment it was being applied in, so was relevant and provided an exceedance level. Without using BS 4142 there was no data on what the effects of proposed alternative mitigation measures would be.

Responding to a question on the 5dB limit being very low, Mr Green explained that this was based on data that indicated 5dB to be the level above which annoyance was caused to humans. There had been previous applications which had restrictions of -5dB and the limit was set lower to avoid annoyance. Furthermore, some noises caused greater annoyance, such as those associated with tyre fittings. BS 4142 did not define the mitigations to be used but was used to provide the information required for possible mitigation measures to be assessed and best applied.

There then followed a period of questioning to Officers. The Environmental Protection Manager explained that the changes to BS 4142 from the 1997 version used in the original decision, had been significant, no longer using +5 or +10 dB limits due to a lack of substantive evidence behind these numbers. Planning policy did not require numerical levels to be set and as the 'background sound' was constantly variable, applying a fixed +5dB increase limit was problematic and unreasonable. The business the application related to was a legitimate operation which had been approved and had applied mitigation measures, but it had been impossible to meet the condition.

Whilst it was inevitable that such a facility would produce noise, all that can be done to mitigate this was follow best practices. There must be a balance between mitigating noise and the viability of the site to be used. Measures

such as restricting operating hours and restricting the use of external tools would likely make the business unfeasible. According to the proposals, condition 2 would not be removed but replaced by new measures including those set out in the applicant's reverberation report.

There then followed a period of debate. It was **Moved** by Councillor Nawaz and **Seconded** by Councillor K. Hussain:

That Planning Committee resolve to delegate to the Head of Planning & Building Control to grant planning permission for application 22/0127 subject to conditions. A vote took place and the motion failed.

It was **Moved** by Councillor Samra and **Seconded** by Councillor Waters, and upon being put to the vote was:

**Resolved** (11 in favour and 1 against):

That, contrary to the recommendation in the officer report, Planning Committee refuse permission for application 22/0127, for the following reasons:

- Sound levels can be mitigated via BS4142;
- The applicant can implement those mitigating factors which would ensure that the conditions could be achieved as per the spirit of the Inspectors decision;
- There was a lack of additional base data to justify another decision.

*After the conclusion of the item Councillor Bird and Councillor Harris entered the room and Councillor Bird took the seat as Chair.*

76/22

#### **Plans List Item 4 – 20/1575 2 Walsall Road, Willenhall, WV14 2EH.**

The Report of Head of Planning and Building Control was submitted (annexed) and presented to the Committee by the Principal Planning Officer. The context of the application was explained, with an overview of the location, layout and the concerns which have been raised. There were concerns surrounding parking, which was likely to cause disputes due to a shared access with a neighbouring commercial building; cramped gardens smaller than set out in the 'Designated Walsall SPD'; step-access which was not inclusive; a lack of an air quality assessment; and highways safety concerns. The main objections were concerning the form of the layout, not the physical appearance of the application.

Two speakers were heard from, Mr Richard Jukes (a planning agent) and Mr Singh, both in favour of the application. It was explained that the application was submitted in 2020 and a decision should have been received several months previously; the concerns around parking were not a problem as drivers would be able to access all the spaces safely by doing a three-point turn and there was good public transport locally; gardens were similar in sizes to neighbouring properties and the air quality assessment had not yet been submitted as this was not a requirement when the original application was submitted in 2020. In July 2021 a meeting was held with the planning officer,

during which concerns were addressed and it was claimed it was suggested the proposal would be put forward for approval, but after a change in Planning Officer, these same concerns re-surfaced.

There then followed a period of questioning. The design was largely the same as was originally proposed, although the fence had been added at the request of Secured by Design. The Developmental Control and Public Rights of Way Manager elaborated on the Highways objections, citing the lack of control over the shared access due to gates owned by the neighbouring commercial property and it being unclear which land would be shared and which not. The number of parking spaces was not an issue of objection, but rather their location and layout, which was not inclusive nor safe, and was considered detrimental to the wellbeing of residents. Approval would not be granted if there was no parking, but this parking must be fit for purpose.

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

**Resolved** (unanimously):

That a decision on application 20/1575, be deferred to the meeting of Planning Committee due to take place on 21 July 2022, to enable the applicant to negotiate with officers to secure a design which was acceptable, with a suitable parking arrangement.

77/22

**Plans List Item 1 – 22/0100 Former McKechnie Brass Ltd., Middlemore Lane, Aldridge, Walsall, WS9 8SP.**

The Report of the Head of Planning and Building Control was submitted (annexed) and was presented to the Committee by the Principal Planning Officer. An overview was provided of the site, including description of the layout, the capacity of the proposed facility and the explanations behind the proposal. Objections were noted, including from the Canal and River Trust and Inland Waterways concerning discharges into the canal, and local objections largely focussed on increased traffic and road safety.

Two speakers were heard from, Councillor Worrall against the application, and Mr. Chris Bean in support of the application. Councillor Worrall's objections concerned the increased traffic and lack of mitigations in place to handle this, such as reduced speed limits. There were concerns about the lack of enforcement of 20mph limits already in place. Mr. Bean explained that many of the vehicles which would be using the site were already operational on the roads, and assessments had shown that nearby junctions could cope. Furthermore, HGVs would be diverted to avoid the Middlemore Road junction.

There then followed a period of questioning by Members.

Mr Bean explained that this was a modern, sealed facility mostly for dry recycling, there should not be an issue with smells, and that this would be assessed in the Environment Agency's permit-issuing process and would

require best practice to be followed. Ensuring the appropriate routing of vehicles once the site was operational would also be a condition for licensing.

The Developmental Control and Public Rights of Way Manager explained that the current consented use of the land combined with the reduction in journeys elsewhere due to the closure of the Merchants Way HWRC, would probably result in a minimal or negligible impact on traffic. Extra trips would mostly be due to weekend operations. Journeys to and from the proposed development would largely fall outside of peak times, further reducing impact.

At this point, the Chair **Moved** that Council Procedure Rule 9 of the Council's Constitution be suspended to enable the meeting to continue past three hours. This was **Seconded** by Councillor Nawaz and approved by the Committee.

There then followed a period of debate by Members. Concerns were expressed with regards to highways safety due to increased traffic and heavy vehicles on Stubbers Green (Nature Reserve). Other concerns raised included noise and odour-pollution and that the development was not in keeping with the area.

It was **Moved** by Councillor Statham and **Seconded** by Councillor Nawaz, and upon being put to the vote was:

**Resolved** (14 in favour and 1 against):

That Planning Committee Delegate to the Head of Planning & Building Control to grant planning permission for application 22/0100 subject to conditions and subject to:

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Overcoming the outstanding objections raised by Inland Waterways Association (Lichfield Branch), The Lead Local Flood Authority, Canal and River Trust and Environmental Protection.

In addition, Planning Committee agreed that the Local Highway Authority should bring a report back to Planning Committee within 6 months of the opening of the new development, to monitor traffic and any related required mitigations, and to relay traffic routing requirements to all those required to follow them.

There followed a ten minute adjournment. Councillor Harris left the meeting.

78/22

**Plans List Item 2 – 22/0105 Fryers Road Household Waste and Recycling Centre, Fryers Road, Bloxwich, Walsall, WS2 7LZ.**

The Report of the Head of Planning and Building Control was submitted (annexed) and was presented to the Committee by the Principal Planning Officer. An overview was provided of the proposed general arrangements and

layout of the site, and of the neighbouring environment. No objections have been received and there would be no cumulative impact on highways and highways safety.

A speaker, Mr Bean, was heard in support of the application. He informed the Committee that there would be a net reduction in vehicles, combined with a more modern facility with increased capacity. There then followed a period of questions and debate.

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

**Resolved** (unanimously):

That Planning Committee Delegate to the Head of Planning & Building Control to grant planning permission for application 22/0105 subject to conditions and subject to:

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- Overcoming the outstanding objections raised by the lead Local Flood Authority.

79/22

**Plans List Item 5 – 20/0522 Former Allotments Rear of 1 to 9, Cricket Close, Walsall.**

The Update Report of the Head of Planning and Building Control was submitted (annexed) was presented to the Committee by the Principal Planning Officer. Since the previous report being presented to Planning Committee, there had been a Policy update (March 2022) with material importance upon this case. The size of the required housing demand had increased. An overview of the application was provided, including the access arrangements. No changes had been made to the proposal since it was last presented to the Committee.

Two speakers, Ms Jane Wilding, a resident of Cricket Close, and Mr Keith Thorley, were heard from, in opposition to the application. The speakers addressed the Committee to state that their objection was to use Cricket Close as an access road, as it was a narrow road with a blind bend and a dangerous junction onto the very busy A34. The new A34 Sprint Bus would further exacerbate traffic problems. Ms Wilding argued that the proposed development and resulting traffic increases would be a risk to highways safety.

There then followed a period of questioning. Mrs Wilding claimed that there were currently approximately 60 cars on Cricket Close, which would be more than doubled by the addition of the proposed development. Presently, it was dangerous turning out of Cricket Close onto the A34 due to the high volume and speed of vehicles on this road, and there was a great problem turning right into Cricket Close, with regular over-taking of cars waiting to turn, which would be further exacerbated by the A34 Sprint Bus. On Cricket Close, there was

little space for cars to pass each and this was exacerbated by parked cars and traffic. It was the opinion of residents that the application would make the road unsafe.

The Developmental Control and Public Rights of Way Manager explained that an alternative access was proposed from Broadway, however there was found to be insufficient width to allow for a two-way road and footway. According to the TRICS database the addition of 27 dwellings would add 1 trip every 4 minutes onto the local highway network at peak times and the A34 Sprint bus was expected to provide a service every ten minutes, not greatly affecting traffic. It was noted that most accidents on the A34 happened near the roundabout, not by Cricket Close. There was therefore no evidence that the proposal would lead to severe disruption or highway hazards.

There then followed a period of debate. It was argued that the reasons for the previous refusal still remained and Members spoke from personal experience as to the problems experienced in the area and which would likely arise from the proposed development.

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

**Resolved** (unanimously):

That, contrary to the recommendation in the officer report, the resolution would remain to refuse planning permission for application 20/0522 had the non-determination appeal have not been lodged, on the following grounds:

- The loss of amenities of residents of Cricket Close and the detrimental effects of these losses;
- The increase of traffic within Cricket Close and the known dangers of accidents in the area, already further exacerbated by the onset of the A34 Sprint Bus.

80/22

## **Private Session**

### **Exclusion of the Public**

**Resolved:**

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



**Enforcement Report**

The Planning Committee considered the enforcement report (annexed), and the salient points were highlighted.

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

**Resolved** (unanimously):

That authority is granted to the Head of Planning and Building Control to pursue legal action for failure to comply with obligations in relation to planning permission.

**Termination of meeting**

There being no further business, the meeting terminated at 9:19 pm

Signed .....

Date .....