



## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28/06/2012

### Reason for bringing to committee: Major application

**Application Number:** 07/1535/FL/E11

**Application Type:** Full application

**Applicant:** Ian Cox

**Proposal:** Demolition of former Public House and construction of 58 Flats.

**Location:** FORMER WARRENERS ARMS PUBLIC HOUSE, HIGH STREET/OGLEY ROAD, BROWNHILLS, WALSALL

**Ward:** Brownhills

**Case Officer:** Alison Ives

**Telephone Number:** 01922 652492

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Louise Brooke Smith or Keir Price

**Expired Date:** 20/06/2012

**Recommendation Summary:** Grant Subject to conditions, subject to the District Valuer's advice on viability and subject to a S106 Agreement if viable.



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## **Status**

The application was deferred by Planning Committee on 26<sup>th</sup> April 2012 to enable the following: -

- 1) A solution to the traffic problems at the junction of Ogley Road and High Street as requested by the Project Reference Group.
- 2) Confirmation from the Fire Service that there is acceptable access by emergency vehicles to the rear car park and blocks B and C of the proposed development.

The developer has reviewed the implications the development may have on highway safety in light of the Project Reference Group concerns and has considered the potential for incorporating a traffic island or traffic signals at the junction. They state that a proposed traffic island is not feasible given the physical constraints of the site and that the land take for including such would significantly reduce the size of the site and render the development unviable. The potential cost would be in the region of £150-£200K and would lead to longer timescales in drawing up a scheme, particularly if third party land needed to be acquired, that would further impact upon viability.

In terms of potential for traffic signals the Transportation officer considers that although this option is feasible it is not deemed necessary as a result of the proposed development. Again, the financial impact of such provision would be in the region of £100K plus commuted sums, and CCTV would cost a further £30K plus commuted sums.

In summary the developer states there is no evidence to support the assertion of a highway safety or capacity problem at the junction, the indicative costs for implementing the measures suggested would render the proposals unviable and the physical constraints of the site would not allow for installation of a traffic island.

The Fire Service has confirmed that satisfactory emergency access to blocks B and C and the rear car parking area can be achieved.

The report that was considered in April 2012 now follows and has been updated to incorporate items referred to in the Supplementary Paper for that committee. A new policy section has been inserted in light of the National Planning Policy Framework. The District Valuer advice will be reported in the Supplementary Paper. Updates are shown in italics.

## **Background**

The proposals were first considered by Committee in November 2007 when it was intended to convert and substantially extend the former public house building and redevelop the site to create 58 flats. The Committee resolved to grant permission subject to conditions and a planning obligation to secure ten shared ownership units (equivalent to 17% affordable housing) and contributions towards provision for urban open space and education totalling £128,283.32.

The S106 Agreement has not yet been completed so the decision has not been issued.

The landowner has recently negotiated sale of the site to Thomas Vale Construction in conjunction with Trident Housing Association (a Registered Social Landlord), subject to planning permission, and has requested that the application is pursued through them and their agents.

The proposals have been amended as discussed below but the principal change is to demolish the former public house building rather than retain it. There are still 58 flats proposed.

### **Application and Site Details**

The application seeks residential redevelopment of the former Warreners Arms public house site, located at the junction of the A452 High Street and the A461 Ogley Road. The proposal involves demolition of the public house building and erection of 58 flats with associated parking, servicing, amenity space and access. There are 40 x 2 bed flats and 18 x 1 bed flats proposed.

The existing building is two storeys in height and is located on the back of footway at the front corner of the site adjacent to the highway junction. The remainder of the site comprises the car parking areas and an overgrown garden. There is currently a temporary hand car wash operating from the premises. The site is bounded to the north and east by residential properties ranging from two to four storeys in height. There is also a single storey building to the west of the site which accommodates an accountants practice and on the opposite side of High Street is a Church and Motor garage. The character of the area is predominantly residential with commercial uses increasing to the west. The existing building was previously adapted by McDonald's Restaurant.

Other than the change to demolish the public house building nominal changes have been made to the layout, parking and landscaping. The proposed replacement building extends along both highways with parking and landscaping at the rear. The building facing Ogley Road has been relocated further back so as not to encroach on a strip of land outside their ownership (highway land). This has required some reconfiguration to the car park and landscaping at the rear of the building. The building is between 2 and 4 storeys high and is designed to match the design of the former public house.

There are 43 parking spaces located at the rear of the building including 3 disabled parking spaces with gated access. There are also 8 secure covered bicycle spaces and 1 motor cycle space. The vehicular access is off Ogley Road. Pedestrian access is available from High Street and Ogley Road.

The public house has been vacant since 2004 and has since fallen into disrepair to such an extent that retention and conversion is no longer viable. Its demolition is therefore proposed.

The site area is 0.36 hectares which equates to a density of 161 dwellings per hectare.

The site will be promoted by a registered social landlord as open market rented properties which are in demand in the area. For this reason they request that the scheme is considered in the same light as a scheme for 100% affordable housing.

No contribution towards urban open space provision is offered. The applicant has provided details of the scheme viability that demonstrates the developer would make a loss if an open market sales scheme were considered but that a marginal profit (4.38%) is possible with the investment sales scheme proposed based on nil S106 contributions.

**The Planning, Design & Access Statement** – Describes the site and planning history, explains the proposed development, relevant planning policies and guidance, viability of the scheme, design, transport and noise issues. It concludes that the proposals represent minor alterations to the scheme already approved by Committee and will bring forward the opportunity to re-use the site and provide sustainable, appropriate development, which appropriately reflects other land uses in the neighbourhood.

**The Desk Study Report** – Concludes that the environmental setting is sensitive and the history of the site and adjacent areas indicates a low to moderate potential for contamination

in relation to the nature of any imported material onto the site from contaminated sources and potential issues relating to the nature of building fabric present. The presence of a landfill site to the southwest of the site is considered to pose a low to moderate risk to the site.

The Noise Assessment – Considers the noise from traffic in High Street and Ogley Road. It highlights traffic noise measurements from High Street and Ogley Road and makes recommendations for noise mitigation, glazing and acoustic ventilation.

The Residential Travel Plan – Identifies the policy context, travel plan co-ordinator role and management, existing public transport services and infrastructure and proposes travel plan measures and monitoring. It summarises that the site is well located for access by sustainable modes of transport and sets out a long-term strategy to reduce dependence on travel by private car including provision of travel packs to residents on first occupation and secure covered cycle parking.

### **Relevant Planning History**

11/1542/ND – Screening opinion for residential development of 58 apartments with access, car parking and landscaping – EA not required - January 2012.

06/0766/FL/E3 – Redevelopment and conversion of former Warreners Arms building to accommodate 38 flats with parking – Refused July 2006 for six reasons broadly relating to (1) dominance of the proposed buildings within the site (2) over-dominance of parking areas detrimental to the outlook of occupiers and visual amenities of the area (3) incorporation of single aspect units detrimental to residential amenities (4) poorly defined public and private space and lack of surveillance to the street (5) unacceptable alterations to the existing building (6) unacceptable demand on education and public open space in the absence of contributions to address the shortfalls.

The original proposals for 07/1535/FL/E11 were considered to address these reasons for refusal.

### **Hand Car Wash**

08/1604/FL – Temporary consent for a maximum of 3 years to change use of site to hand car wash – granted subject to conditions in December 2008 until 31 December 2011.

10/0892/FL – Temporary three year planning approval for hand car wash – granted subject to conditions in December 2010 until 31<sup>st</sup> December 2013.

12/0361/AD – Two revolving signs – No decision yet.

There was a temporary consent granted to use the site for car sales but this has not been implemented.

### **Approved development opposite in Ogley Rd/High Street**

11/0852/FL – 33 new dwellings – granted subject to conditions – October 2011.

There have been two subsequent permissions to make minor changes to the layout and change the tenure of the approved dwellings granted in September 2011 and March 2012.

### **Relevant Planning Policy Summary**

#### ***National Planning Policy Framework (NPPF)***

*The NPPF was published on 27<sup>th</sup> March 2012. It cancels and replaces all PPG's and PPS's (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:*

- Building a strong, competitive economy*
- Promoting sustainable transport*
- Delivering a wide choice of high quality homes*
- Requiring good design*

***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 21 of the NPPF states that in drawing up Local Plans, local planning authorities should:*

- set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth;*
- set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;*
- support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances;*
- identify priority areas for economic regeneration, infrastructure provision and environmental enhancement.*

*Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing. Policies for provision of affordable housing should be sufficiently flexible to take account of changing market conditions over time.*

*Paragraph 58 supports high quality design and highlights several criteria including the need for development that will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to accommodate development, and are visually attractive as a result of good architecture and appropriate landscaping.*

*Paragraph 173 specifies developments should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. Paragraph 205 states obligations should take account of market conditions.*

*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 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.

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.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

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

All developments will aim to achieve a minimum density of 35 dph, except where higher densities would prejudice historic character and local distinctiveness

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.

### **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 existing woodlands, 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.

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.

T7 – Car Parking

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Advises on access for pedestrians, cyclists and wheelchair users

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 parking 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 & Welcoming Places - all new development must contribute to creating places that feel safe.

DW3: Character - all new development must be designed to respect and enhance local identity

DW4: Continuity - Well defined streets with a continuity of built form are important.

DW5: Ease of Movement – connections to existing routes

DW6: Legibility - new development should contribute to creating a place that has a clear identity

DW7: Diversity – contribute to creating living places that offer a mix of activities to the widest range of possible uses



*DW8: Adaptability – contribute to creating flexible and adaptable places that can easily change over time.*

*DW9: High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality.*

*DW 10: Well Designed Sustainable Buildings - 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 and garden/shared amenity space dimensions. 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)**

*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 secure parking and access improvements. The current proposal has 43 parking spaces, including 3 disabled bays, plus secure cycle storage for 8 bikes and 1 secure motorcycle space. The previously approved scheme had 47 parking spaces, four parking space more. The proposed level of parking is 74% which taking account that the site is in a relatively sustainable and accessible location together with the applicants commitment to the development of a residential travel plan to encourage modal shift to sustainable modes of transport, the level of parking is considered acceptable.

The level of predicted vehicle trips generated by the development in peak traffic periods has been considered within the submitted updated Transport Statement and is unlikely to have any significant detrimental impact on the local highway network. It has been demonstrated that extant public house use could in fact generate significantly more vehicle trips in the pm peak hour than the proposed development.

**Pollution Control (Scientific Team)** – No objections but recommend a condition to control working hours and to secure implementation of the recommendation in the noise report.

**Pollution Control (Contaminated Land)** – No objections.

**Housing Strategy** – The site is a strategically important gateway into Brownhills. The development is fully supported.

**Landscape** – Full landscaping plans showing planting details are required. This should give consideration to planted areas that are small and may be difficult to maintain and the compatibility between trees and some parking spaces. Boundary treatment details are required to prevent misuse of planted areas.

**Greenspace Services** - A significant amount of S106 funding will be lost if this development is approved and the obligations waived. Investment in Brownhills green spaces is key if improvements are to take place and the previously agreed S106 funding is crucial to raise external match funding basis for projects.

*If the S106 is waived, then Greenspaces opposes this application on the grounds that greenspace facilities for the additional residential population to be housed cannot be provided, improved or serviced adequately without additional resources.*

**Fire Service** – Access into Blocks B and C is via the staircases at the rear of the apartments so the only way the Fire Service can gain access to within 45 metres of these staircases is by having suitable access through the bin store. A condition is recommended to ensure that fire service access is available at all times through the bin store.

**Police Architectural Liaison Officer** – The area has historically been a hot spot for crime and anti-social behaviour. The rear parking court should have secure perimeter fencing 2.4m high and robust access control measures. Adequate lighting and access control measures for all pedestrian gates are also recommended. Design of doors and windows should be secure. It is recommended that areas of defensible space are included at the rear of the building and appropriate planting to maintain surveillance and prevent unauthorised access.

**District Valuer** – Comments will be reported at Committee.

### **Public Participation Response**

One letter of support and one letter of objection have been received. *The Brownhills Project Reference Group (PRG) has also raised objections.* These are summarised as follows: -

#### **Objection**

- loss of daylight/sunlight and overshadowing by the buildings
- loss of privacy from overlooking houses opposite
- loss of outlook from adjoining gardens
- there are already ugly high rise flats nearby this proposal increases the density and is oppressive for adjoining houses
- Additional traffic will add to noise pollution
- A park or open space with trees would be a more favourable option for the site
- *Ogley Road / High Street junction – the visibility and the increase in vehicle numbers on this junction both from the proposed development and the WHG High Street site is cause for concern.*
- *The loss of the former public house building.*
- *If for viability reasons the former public house building has to be demolished, then to assist with junction visibility, the building should be rebuilt further back on the site.*

#### **Support**

- The proposals would tidy up the area and improve security for adjoining neighbours who have suffered break ins whilst the site has remained vacant over the years
- The building is in a state of disrepair and would be better redeveloped

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

### **Determining Issues**

- Principle of demolition of the public house building
- Layout and Design
- Relationship to adjoining properties
- Access and Parking

- Affordable Housing
- Provision for Urban Open Space
- Provision for Education/Healthcare/Public Art
- *Local Finance Considerations*

## **Observations**

### **Principle of demolition of the public house building**

The principle of redevelopment of the site for 58 flats by converting the former public house building and constructing new building extensions along High Street and Ogley Road was approved by Committee previously. The key change is that the developer now wishes to demolish the public house building and construct an entirely new building. They have explained that the existing public house building is in such a state of disrepair that it is not economical to retain and would not provide a satisfactory internal layout to meet the requirements for a modern residential development. Although the building is a key gateway into Brownhills its continued deterioration detracts from the area, particularly as there are major regeneration developments taking place on behalf of Walsall Housing Group at adjacent sites along the High Street. The temporary hand car wash is also considered to detract from the area and redevelopment of this site is considered to offer major regenerative benefits.

*Given the above circumstances it is considered that the developer has satisfactorily justified demolition of the building and this outweighs concerns regarding demolition raised by Brownhills PRG.*

A letter of support has been received that highlights the poor state of repair of the building and the benefits redevelopment would offer in terms of improved security for surrounding neighbours. These are considered further valid reasons for supporting the redevelopment involving loss of the public house building.

The elevations of the proposed replacement building at the junction are designed to match the former public house and are considered will provide a new gateway building.

On objector considers a park or open space would have been a more favourable use for the site. Nevertheless, given the current and former use and the fact that this is a developed site already there is no justification for resisting this proposal in order to retain it for open space.

On balance it is considered that the demolition of the public house and replacement with a new building of similar design is acceptable and will allow the developer to bring forward the development which has regenerative benefits for the area.

### **Layout and Design**

The layout of the building is broadly the same as that previously approved by Committee with minimal set back from High Street and greater set back to Ogley Road to respect the adjacent housing. This also allows for maximisation of space at the rear of the building for parking and landscaping. The concerns raised by the Police regarding boundary treatment and security issues can be secured through appropriate conditions. *The Brownhills PRG have requested that if the building is demolished then the replacement building should be repositioned further back from the highway to achieve improved visibility at the junction. This has been considered by the applicant but dismissed as unviable as it would take too much land from the site, has further cost implications and there is no justification from a highway safety or junction visibility perspective for requiring such improvements.*

The scale and height of the building has been increased along High Street and Ogley Road taking the opportunity to reflect the greater height and scale of new flats in the vicinity. The

design incorporates projecting gables, timber cladding to the gables and a mix of brick and render which helps break up the massing of the building and reflects the previously approved design. The design of the building at the junction seeks to replicate the design of the former public house. On balance, the design is considered appropriate at this important gateway site on the approach to Brownhills District Centre.

The applicant confirms that fire service access will be available at all times through the bin store area between blocks B and C. Subject to confirmation as to how this will be managed by the landlord the Fire Service confirm that this is acceptable in principle. *A condition is recommended to ensure fire service access is available at all times through the bin store which is acceptable to the Fire Service as it enables them to gain access to Blocks B and C and the rear car park. This addresses previous Committee concerns.*

There is very limited shared amenity space at the rear of the building but this does provide useable outdoor space for residents to sit outside and is similar to that already approved by Committee. It is considered that as the site is in close proximity to Brownhills District Centre there are alternative amenity benefits on offer for future residents. Although the design does not incorporate individual private space for each apartment, for example balconies, it is considered that in this location at a busy highway junction the introduction of balconies would not create a satisfactory outdoor space for the occupiers due to potential noise and pollution.

The proposed layout does create an intimate relationship between blocks B, C, D and E where the building turns the corner but the design attempts to position the buildings so that there are no directly facing habitable room windows. The majority of flats are dual aspect offering the occupiers an alternative outlook. The incorporation of pedestrian access and shared lobbies directly from the street will also help create an active frontage.

The landscape officer is concerned that some of the landscaped areas may be difficult to maintain or may be overridden by vehicles. A condition is recommended to secure appropriate planting. There are timber arbours proposed above some parking spaces to break up the parking and allow further planting to grow up them. The layout is similar to that already approved by Committee.

The scheme is high density but given the sustainable location and the major regeneration opportunity the scheme offers, the high density is considered acceptable. Although one neighbour objects to the density as they consider it would be oppressive for adjoining houses the principle of a development of this scale and height has already been approved and is considered acceptable for this key site on the approach to Brownhills.

### **Relationship to adjoining properties**

The position of the proposed building is almost identical to the layout considered previously with the building facing the road and parking at the rear.

The objector's concerns regarding potential loss of daylight/sunlight, overshadowing and loss of privacy to their homes opposite (Lindon Drive) and loss of outlook from adjoining gardens due to the height and scale of the buildings have been taken into consideration. The nearest properties in Lindon Drive have back gardens facing High Street that are 14m away from the proposed flats. The flats are north east of these gardens so should not significantly adversely affect daylight or overshadowing. In terms of outlook and potential loss of privacy the proposed flats are over 28m away from the nearest houses in Lindon Drive and at least 15m away from the houses in Lindon Drive which face sideways on to High Street and do not directly face the proposed flats. These distances are adequate and are considered to have no significant impact on the outlook or privacy of neighbouring properties.

The nearest property on High Street is an accountants firm but the proposed building is positioned so as not to adversely affect the outlook from these premises. Similarly the proposed flats are positioned so they do not appear obtrusive to the outlook or affect the privacy of the nearest house in Ogley Road as the buildings are continued broadly in line. There are bungalows at the rear in Warren Place but these are over 25m away from the proposed flats. Although the parking areas are nearest these are separated by close board fencing (2.1m high) and some landscaping. The proposals will not have any significant impact on the occupiers of new properties soon to be erected on the opposite the site in Ogley Road/High Street as these are set back behind a service road and there is adequate distance between the dwellings. In the circumstances the proposals have no significant impact on residential amenities in terms of outlook or loss of privacy or daylighting.

The objector is concerned that additional traffic will add to noise pollution in the area but considering that the premises were formerly occupied as a public house, then a fast food restaurant and more recently a hand car wash the potential for increased traffic to create noise pollution is not significantly different. A condition to restrict construction times is recommended to protect neighbours amenities from noise and measures are also to be secured to protect future occupiers from traffic noise.

### **Access and Parking**

The proposed vehicular access is off Ogley Road leading to a gated secure parking area at the rear of the buildings. Visibility splays of 4.5m X 25m are achievable in both directions from this access which provides adequate visibility. Separate vehicular and pedestrian gates are located across the access providing added security and clearly defined public and private space. The design of the access also allows two vehicles to pass to aid highway safety.

There are 46 parking spaces, including 3 disabled spaces, plus 8 cycle stands and 1 motorcycle parking stand. Although this is one space fewer than previously approved and offers only 80% car parking account has been taken of the sustainable location of the site within walking distance of the District Centre, on a well served bus route. The developer has also made a commitment to encourage residents to use sustainable modes of transport in their Travel Plan and in the circumstances the level of parking is considered acceptable.

The Transportation officer has requested that the developer enter into an agreement under S278 of the Highways Act to secure improvements to the access design, inclusion of tactile paving, improvements to the crossing point in High Street and removal of the redundant footway crossings in High Street. *An appropriate condition has been recommended to secure this.* The Transportation officer has also requested the developer funds a Traffic Regulation Order along the length of the visibility splay on Ogley Road. Nevertheless, the Transportation officer has no objections to the access visibility and these measures are matters for the highway authority to consider and are not material planning issues. A note to applicant is recommended to draw attention to these highway requirements.

*Brownhills PRG are concerned about the increase in the number of vehicles at this junction from the proposed development and the WHG High Street site. The level of predicted vehicle trips generated by the development in peak traffic periods is unlikely to have any significant detrimental impact on the local highway network. It has also been demonstrated that extant public house use could generate significantly more vehicle trips than the proposed development. The PRG concerns have been reviewed by the developer who has investigated potential for a traffic island or signalised junction. In light of the above comments there is no justification for requiring junction improvements as a result of the proposed development and the developer has stated that to do so would jeopardise the viability of the scheme.*

On balance the means of access and parking provision is considered adequate and will not have any adverse impact on highway safety.

### **Affordable Housing**

Policies DEL1 and HOU3 of the BCCS and the Affordable Housing SPD seek to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable. The developer proposes nil provision of affordable housing at this site as they consider such provision would make the development unviable. Although the developer is working on behalf of Trident Housing, a Registered Social Landlord, the proposal is for all 58 units to be open market rent.

The developer has provided a financial assessment to demonstrate the scheme viability. This is being reviewed by the District Valuer. Subject to the District Valuer agreement that the viability of the scheme would be in jeopardy if the affordable housing provision were included it is recommended that planning permission is granted on the basis of nil affordable housing provision.

### **Provision for Urban Open Space**

Policy DEL1 of the BCCS, policy LC1 of the UDP and the Urban Open Space SPD seek to secure provision of new, or the improvement of existing urban open spaces where residential developments would place increased demands on existing provision. On the basis of the SPD advice the proposed development would attract the need for a contribution of £82,124 towards open space provision in the vicinity. The developer is proposing nil contribution towards open space provision in light of the viability of the scheme as referred to previously in this report. Again, it is recommended that subject to the District Valuer agreement that the viability of the scheme would be in jeopardy if the urban open space contribution were included it is recommended that planning permission is granted on the basis of nil contributions towards provision of urban open space.

### **Provision for education/healthcare/public art**

Since the proposals were first considered by Committee the SPD's for Education and Healthcare and Appendix D of Designing Walsall SPD (relating to public art) have been revoked because they are no longer consistent with the legal requirements for planning obligations, and cannot be applied in their current form.

The Council could still seek planning obligations towards education or healthcare infrastructure pending the introduction of CIL, where it was justified. Nevertheless the Committee previously resolved not to collect the healthcare contribution in order to bring the site forward for 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 58 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 792 new homes during 2010-2011 the award of £1,095,219 (which included a premium for affordable housing but also a deduction for an increase in vacancies) 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.*

### **Recommendation**

Grant conditional planning permission subject to receipt of the District Valuer's advice and also enter into a S106 Agreement, unless the District Valuer confirms that the viability of the scheme is such that provision for affordable housing and urban open space would render the scheme unviable.

### **Summary of Reasons for Granting Planning Permission**

The principle of redevelopment of the site for 58 flats was supported by Committee previously. The key change to demolish the public house building and construct an entirely new building is considered acceptable as the existing building is in a state of disrepair that is not economical to retain and detracts from the area. *Objections to the loss of the building are considered to be outweighed by this reasoning.* The proposals also offer the opportunity to develop this key gateway site into Brownhills and assist the regeneration of the Borough.

Objections stating a preferred option would be to develop a park or open space are not justified given that this is an existing developed site.

The layout of the building allows for maximisation of space at the rear of the building for parking and landscaping. The Police concerns regarding boundary treatment and security issues can be secured through appropriate conditions. The design is considered acceptable and reflects the height and scale of new flats in the vicinity. Appropriate fire service access can be secured. Despite very limited shared amenity space at the rear of the building this is a useable space for residents and there are alternative amenity benefits from being close to Brownhills. Appropriate landscaping can also be secured by conditions bearing in mind the layout is not dissimilar to that supported previously. Despite neighbour concerns regarding density it is considered acceptable for this key site on the approach to Brownhills.

The proposal maintains adequate distance between existing and proposed dwellings to address concerns raised by the objector in relation to potential loss of daylight/sunlight, overshadowing and loss of privacy. In the circumstances the proposals will not have any significant impact on adjoining occupiers. In response to the objection additional traffic noise will not be significantly different to the existing and previous uses of the site and are not sufficient to warrant refusal. *A condition is recommended to secure appropriate access improvement measures.*

The proposed vehicular access is off Ogle Road is adequate and has no adverse impact on highway safety. Although parking provision is below that recommended in policy T13 it is considered sufficient bearing in mind the sustainable location and developer's commitment to a Travel Plan to encourage alternative means of travel. In the circumstances the level of parking is considered acceptable. The level of predicted vehicle trips is unlikely to have any significant detrimental impact on the local highway network. *The developer has considered the potential for repositioning the building further back from the highway, provision of a traffic island or signalised junction as requested by objectors. These options are not justified by the proposed development and the developer has proven that they would render the development unviable so in the circumstances the reasons are considered to outweigh the objections.*

The proposed units are all for open market rent. Although nil affordable housing is proposed the developer is a Registered Social Landlord. Similarly the developer proposes nil contributions towards urban open space. If the District Valuer agrees the viability of the scheme would be in jeopardy if these provisions were included it is recommended that this is acceptable in order to bring forward the development to regenerate this vacant site. There are no requirements for provision of Education, Healthcare or Public Art given the previous resolution and lack of justification in this case.

*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, TRAN2, HOU2, ENV2 and ENV3, the aims and objectives of the Walsall Unitary Development Plan saved policies GP2, GP3, H3, ENV14, ENV18, ENV23, ENV32, ENV33, 3.116, 3.117, T7, T8, T10, T11, T13, 8.8 and LC1 and Supplementary Planning Documents: Designing Walsall, Conserving Walsall's Natural Environment and Urban Open Space.*

**Recommendation: Grant Subject to conditions, subject to the District Valuer's advice on viability and subject to a S106 Agreement if viable.**

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. No development shall be carried out until a schedule of facing materials to be used in external walls and roofs of the development and the surrounding garden walls and other structures and boundary treatments (including details of the gates to the secure parking areas), has been approved in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.

3a. No development shall be carried out until full details of existing and proposed levels of the site, access way and floor levels for the proposed dwellings, have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site and any drainage or other works necessary to facilitate this development.

3b. The development shall be carried out and retained in accordance with the approved details.

*Reason:* In the interests of the amenity.

4. No development shall be carried out unless and until arrangements have been made for the satisfactory drainage of the site, in accordance with details to be first submitted to and agreed in writing by the Local Planning Authority.

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

5. Prior to the commencement of the development full planting plans and hard landscaping details shall be submitted for approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and all planting shall be maintained for a period of 3 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:* In order to safeguard the visual amenity of the area.

***6a. Prior to the commencement of the development, full engineering details of the following works within the public highway required as a result of the development shall be submitted to the local planning authority for approval in writing and an agreement under S278 of the Highways Act 1980 will be required to include the following:***

Regeneration, Planning and Building Control, Civic Centre, Darwall Street, Walsall, WS1 1DG  
Website: [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning), Email [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk), Telephone (01922) 652452,  
Textphone 0845 111 2910, Fax (01922) 623234



- i. *Improvements and realignment of the existing bellmouth access point in Ogleby Road to include tactile paving and pedestrian access to the site on the northern side of the access,*
  - ii. *Improvements to the existing pedestrian crossing point across High Street outside the site to include tactile paving,*
  - iii. *The removal and reinstatement of the existing redundant vehicle footway crossing to the site in High Street back to full kerb height.*
- 6b. *The approved details shall be fully implemented to the satisfaction of the local highway authority prior to the first occupation of any residential unit on the development.*

*Reason: To improve pedestrian access links to the development in accordance with policies T8 and T11.*

7a. Prior to the development first coming into use, all car parking, access ways and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and drained and the parking bays shall be clearly demarcated on the ground.

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. Visibility splays on driveways and access roads must be kept clear of landscaping over 600mm in height from carriageway level.

*Reason: To maintain highway safety.*

9. The development shall be constructed in accordance with the Code of Sustainable Homes '3 stars' or Eco Homes 'good' standard relating to energy efficiency / CO<sub>2</sub>, water efficiency, surface water management, site waste management, household waste management and use of materials.

*Reason: In order to provide high performance sustainable homes and protect the environment.*

10. Prior to the occupation of the building, the location of a communal satellite dish to serve the apartments units shall be submitted to and agreed by the Local Planning Authority.

*Reason: To ensure the satisfactory appearance of the building, to ensure amenities of future residential occupiers, to prevent a proliferation of satellite dishes on the building and to ensure satisfactory functioning of the development*

11. The noise mitigation measures recommended in the noise assessment report by Acoustic Associates Leicestershire, Report No. AAL/BS12002, dated 18 January 2012, shall be implemented prior to occupancy of the development and shall be maintained thereafter.

*Reason: In the interests of the amenity of future occupiers.*

12. 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 only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 on Saturdays unless otherwise permitted in writing by the Local Planning Authority. 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 amenity of the surrounding residents of the proposed development.

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

- Site Location Plan/Site Survey (2178-01 Rev A) received 21/3/12
- Proposed Site Layout (2178-21 Rev D) received 18/04/12
- Proposed Ground Floor Plans (2178-05 Rev F) received 21/3/12
- Proposed First Floor Plans (2178-06 Rev F) received 21/3/12
- Proposed Second/Third Floor Plans (2178-07 Rev F) received 21/3/12
- Proposed Elevations Sheet 1 of 2 (2178-08 Rev B) received 21/3/12
- Proposed Elevations Sheet 2 of 2 (2178-09 Rev A) received 21/3/12
- Sketch View of re-built Warreners Arms PH (2178:03 Rev A) received 21/3/12
- Planning, Design & Access Statement prepared by Brooke Smith Planning March 2012 (BSA.1544.5078) received 21/3/12
- Desk Study Report prepared by RAW Consulting October 2005 (05rm295) received 21/3/12
- Noise Assessment prepared by Acoustics Associates January 2012 (AAL/BC12002) received 21/3/12
- Residential Travel Plan prepared by Royal Haskoning February 2012 (9X1554) received 21/3/12

*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 - Highways**

If the developer wishes to consider future maintenance and enhancements (subject to limitations and restrictions) to the highway grassed verges fronting the development either side of the access point in Ogley Road, the Highway Authority may consider entering into a licence with the developer under Section 142 of the Highways Act 1980. For further information the applicant should contact the Traffic Management Section in this respect 01922 652558.

A revised Traffic Regulation Order (TRO) to extend the existing parking restrictions in Ogley Road from the junction of High Street to the northern site boundary on both side of the road will be required.

#### **Note for applicant –Sound Mitigation**

It should be noted that Pollution Control Officers cannot verify that the proposed sound mitigation measures will be or have been implemented; this should be verified by an independent suitably qualified third party with appropriate qualifications, such as a Building Control Inspector and/or a person or organisation certified for the purposes of sound insulation testing by either by the Association of Noise Consultant (ANC) or the United Kingdom Accreditation Service (UKAS).