



DEVELOPMENT MANAGEMENT - PLANNING COMMITTEE  
REPORT OF HEAD OF PLANNING, ENGINEERING AND TRANSPORTATION,  
ECONOMY AND ENVIRONMENT DIRECTORATE ON 17<sup>TH</sup> JUNE 2019

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**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 17-Jun-2019

**Plans List Item Number: 1.**

**Reason for bringing to committee: Major application**

**Location:** STENCILS FARM, ALDRIDGE ROAD, WALSALL, WS4 2JW

**Proposal:** RESERVED MATTERS TO OUTLINE PLANNING PERMISSION 17/0155 TO SEEK APPROVAL FOR SCALE, APPEARANCE, LANDSCAPING AND LAYOUT FOR 12 DWELLINGS.

**Application Number:** 19/0400

**Applicant:** Mr Andrew Cockayne

**Agent:**

**Application Type:** Reserved Matters: Major Application

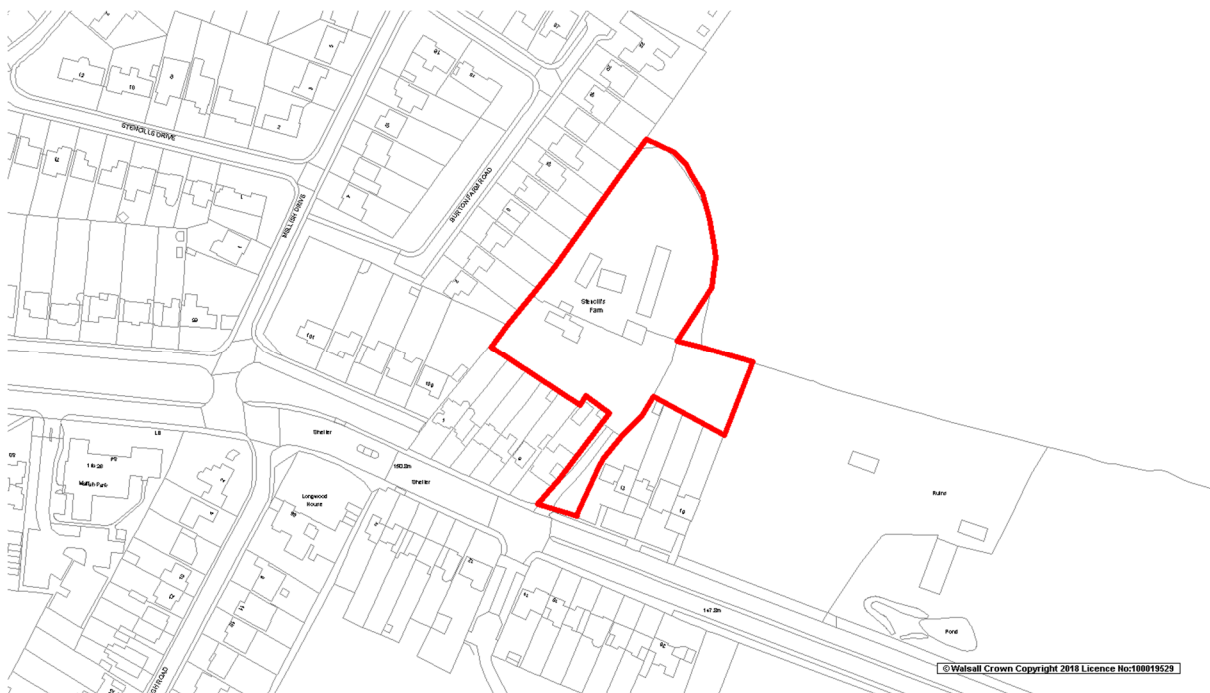
**Case Officer:** Karon Hulse

**Ward:** St Matthews

**Expired Date:** 27-Jun-2019

**Time Extension Expiry:**

**Recommendation Summary:** Planning Committee resolve to Grant Planning Permission Subject to Conditions



## Proposal

This application follows outline consent (17/0155) for the demolition of existing buildings and the erection of 12 dwellings with access to an area of land at the rear of Stencils Farm, Aldridge Road, Walsall approved 22/3/18.

This reserved matters application seeks to determine the outstanding matters; 'layout' for 12 dwellings, 'scale', 'appearance' and 'landscaping'.

This application includes the following information:

### *'Layout'*

The outline application approval included an indicative layout plan which showed 12 x three and four bedroom houses with garages and vehicle parking spaces with the rear garden areas adjoining existing rear gardens serving houses along Aldridge Road and Burton Farm Road.

This reserved matters application also includes 12 dwellings, with the layout amended, proposing two plots (3 and 4), rear facing and abutting the shared boundary between the application site and the rear gardens of houses along Burton Farm Road and which were previously side facing.

Plots 11 and 12 will adjoin the open land (former Territorial Army Centre site) to the east. Proposal continues to incorporate a swale in the north-east corner which is an area of landscaping being included within the green belt boundary.

### *Scale and Appearance:*

The appearance of the proposed houses is two storey large detached dwelling 7 x four bedrooms and 5 x five bedroom houses, either with a single or double garage, providing between 3 and 7 parking spaces for each dwelling.

The density of the proposed development would be 16 dwellings per hectare.

### Materials Options:

Option 1 : Brickwork - Ibstock Calderstone Claret  
Marley Edgemere

Roof Tiles: Smooth Grey

The proposed materials include:

- Exposed brickwork up to DPC
- Feature bricks to be incorporated to sills, arches, verges and gables
- Stonework: Reconstructed stone – colour: Portland
- Render: Mono-couche render: White Smooth finish
- Roof tiles: Marley roof products
- Joinery: all windows, French frames, fascias and soffits to be white UPVC
- Entrance doors: composite faced door
- Rear access doors: white UPVC four panel half glazed doors
- Rainwater Goods: Black UPVC

External finishes within the application site include:

- Tarmac driveway with footpath along the eastern verge
- Block paved driveways
- Shared tarmac drives
- Granite rumble strips

#### *Landscaping:*

The submitted landscaping and ecology details are as follows:

- Tree protection areas - 2mt high heras fence panels
- Removal / retention of trees
- Schwegler 2F Bat Boxes erected on larger trees around boundary of site. At least 4 to 5m above ground level and clear of any overhanging branches or wires and position in a direction facing between south east and south west. (3 No. provided).
- Schwegler 2H Open fronted nest boxes. (2 No. provided).
- Schwegler 1B (26mm) Tit Nest Box. (2 No. provided).
- Schwegler 1B (32mm) Sparrow Nest Box. (2 No. provided). All to be placed between 2-4m high mounted in a north to east direction unless shaded
- New hedgerow planting
- Areas of additional planting
- Turfed areas
- Boundary treatments to boundaries with houses on Aldridge Road and Burton Farm Way to be close boarded fencing,
- post & rail stock proof fence to application site boundary with green belt
- Additional tree planting proposed

The application also includes additional information to satisfy conditions of the outline planning permission:

- Electric vehicle charging point positions and details
- Refuse collection points
- Carry distance to collection stands

- Proposed lighting column positions
- Proposed illuminated bollards
- Auto track layout demonstrating access/egress for refuse vehicle

The application is supported by the following documents:

*Energy Statement* - This analyses the energy and CO savings that can be achieved by installing renewable or low-carbon technologies at the proposed development. It also looks at energy efficiency measures that could be implemented at the development to make energy and CO savings beyond current building regulations.

*Construction method statement* – This outlines how the works will be carried out and what measures will be incorporated in order to mitigate against any potential noise and nuisance to neighbouring occupiers.

*Flood Risk Assessment and drainage strategy* - The site is classified as Flood Zone 1 (Low Probability of Flooding). The proposed development is classified as 'More Vulnerable' types of land use. This land use type is acceptable in Flood Zone 1, therefore it is considered that the Sequential Test is satisfied. Flood risk from a range of sources has been taken into account, including infrastructure failure, groundwater flooding, sewer flooding and overland flow. The development is not considered to be at undue risk of flooding. Surface water runoff from the site has been examined and existing surface water runoff rates have been calculated. Sustainable Drainage Systems (SuDS) will be put in place to control and attenuate surface water runoff. This will ensure that runoff will not increase as a result of the development and is in fact likely to be reduced. There will be no significant increase in flood risk due to the construction of the proposed development and there should be no reason to refuse the planning application on grounds of flood risk

## **Site and Surroundings**

The application site is Stencils Farm, located and accessed off Aldridge Road between Numbers 11 and 13. The application site is an area of 0.74 hectares of land currently comprising a residential dwelling, outbuildings, areas of concrete hardstanding and largely used as open caravan storage. The site is bounded by residential properties to the south (Aldridge Road) and west (Burton Farm Road) along with open greenbelt land to the north and east.

The outline permission granted consent for improvements to the access off the A454 (Aldridge Road) with a right-hand filter lane from the main road to allow westbound vehicles to safely make a right turn into the site.

The indicative layout plan submitted with the outline planning application showed 12 x three and four bedroom houses with garages and vehicle parking spaces with the rear garden areas adjoining existing rear gardens serving houses along Aldridge Road and Burton Farm Road.

With the exception of plots 11 and 12 which would also adjoin the open land (former Territorial Army Centre site) to the east. The indicative layout plan also shows a swale in the north-east corner and landscaped areas within the site.

The area surrounding the site is predominantly rural however there are a small number of residential dwellings set either side of site access fronting the Aldridge Road and to the rear along Burton Farm Way.

Local facilities include:

- The Dilke Public House (A454)
- Calderfields Golf & Country Club (A454)
- Star Groceries & Convenience Store (Butts Road)
- The White House Public House (Bosty Lane)
- Walsall Business Park (Walsall Road)
- Aldridge School (Bosty Lane)

A comprehensive range of wider facilities including retail and leisure are available in and around Walsall Town Centre and are accessible via foot and existing bus routes which run along the A454 at regular intervals.

Vehicular and pedestrian access to the site will be taken from the A454 (Aldridge Road) utilising an improved access position and junction. The A454 joins with the A461 (Lichfield Road) on the Western outskirts of Walsall provides a direct route into the town centre.

## Relevant Planning History

17/0155 - Outline Application: Demolition of existing buildings and erection of up to 12 dwellings. Access only, all other matters reserved. Grant subject to conditions 22/3/18

## Relevant Policies

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

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/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*".

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**



- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **Reducing Inequalities**

The Equality Act 2010 (the ‘2010 Act’) sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes

removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

### **Local Policy**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Black Country Core Strategy**

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM5: Resource Management and New Development

### **Saved Unitary Development Plan**

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- ENV2: Control of Development in the Green Belt
- ENV3: Detailed Evaluation of Proposals within the Green Belt
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites

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- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV24: Wildlife Corridors
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- T7 - Car Parking
- T8 – Walking
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis

**Walsall Site Allocation Document (SAD)** and Walsall Town Centre Area Action Plan (AAP) was adopted by Walsall council on 7<sup>th</sup> January, 2019. The key policies are as follows:

- HC1: Land Allocated for New Housing Development
  - HO208: Stencils Farm (Caravan Storage Area, Mellish Road, Walsall)
- HC2: Development of Other Land for Housing
- GB1: Green Belt Boundary and Control of Development in the Green Belt
- EN1: Natural Environment Protection, Management and Enhancement
- EN3: Flood Risk
- OS1: Open Space, Sport and Recreation

## **Supplementary Planning Document**

### **Conserving Walsall's Natural Environment**

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

## Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW6 Legibility
- DW9 High Quality Public Realm

## Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

## Consultation Replies

**Pollution Control** – no objections

**Transportation** – no objections subject to conditions regarding engineering details of adoptable highway works, consolidation of parking areas and construction in accordance with the Construction Method Statement.

**Police Architectural Liaison Officer** – support subject to secure by design advice

**Strategic Planning Policy** – no objections. The site is allocated for residential development in the SAD.

**Environment Agency** – no objections

**Fire** – no objections

**Severn Trent** - no objections subject to foul sewage to discharge to the public foul sewer, and surface water is to discharge to the public combined sewer at an agreed discharge rate of 2litres/second

**Housing standards** – no comments

## Representations

A total of 10 objections have been received from residents on the following grounds:

- plans have changed since initial plans (*The original outline approval only approved access. The current reserved matters application is to fill in appearance, scale, layout, landscaping, consequently, there is likely to be an evolution of the proposal*)
- much larger properties and less landscaping
- potentially more cars/noise and pollution
- Virtually all trees are being felled
- paving creating more surface water.
- flooding issue / less trees to soak it up
- Will a fence put up against the bottom of all our boundaries?

- take away a lot of light and greenery
- de-value our properties(*this is not a material planning matter*);
- current views from back garden will be effected by new buildings (*this is not a material planning matter*)
- More cars using drive pulling on to dual carriageway
- speeding cars along Mellish Road
- cars parked in front of our property or neighbouring properties lack of visibility on Mellish Road
- more noise.
- entrance is so close to the dual carriage way.(*access to the site was agreed at the outline planning stage*)
- inappropriate development on land which should remain green belt. (*Built part of the development is not within the green belt. Outline planning approval plus the Council has allocated the site for residential use in the Sites Allocation Document*)
- No updating wildlife surveys on the land since this application was granted over a year ago.
- houses are too large in scale and will overshadow neighbouring properties. Landscaping and boundary provisions are wholly inadequate and will not ameliorate the impact on neighbours of this development.
- The access to be constructed from Aldridge Road will cause serious traffic delays and safety issues. (*access was agreed at the outline planning stage*)
- The impact on the environment, quiet enjoyment of neighbour's properties, and the appearance of the area will be completely negative.
- The council should not be approving sites of this nature which do nothing to address the actual housing problems in the borough but just fill greedy developer's pockets.
- Plot 12 is at the rear of my garden (*Plot 12 would have a 30 mts separation to the objectors house*)
- Can you ensure trees at the bottom of my garden within my boundary will not be touched (*any trees which over hang a neighbour can be pruned, there is no legislation which prevents this*)
- Too close to current houses on Burton Farm Road
- Very big houses with minimum garden space.
- Burton Farm Road not tall houses.
- new development will have big visual impact.
- new development shouldn't have tall houses and may even include bungalows( in-keeping with area).
- existing trees be removed.
- effect wildlife birds, bats, foxes to mention but a few.
- removing trees will effect water table
- lot of concrete and tarmac in new development. Where will all water run to.
- 4 parking spaces?
- rear gardens of new development should back onto rear gardens of current homes so less visual impact.
- access to the new development is very dangerous spot (*access was agreed at the outline planning stage*)
- Turning right onto new development coming from Aldridge, cars will block traffic fast. Turning right from the development heading towards Walsall, cars will not be seen by traffic on dual carriageway. (*access was agreed at the outline planning stage*)

- Incorrect plans.....doesn't show approved rear extension (*Each application benefits from a site visit and an assessment of the relationship to neighbouring houses. Applicants don't have to illustrate all of the neighbours extensions and changes they may have made to their properties*)
- Loss of light to habitable rooms
- Close proximity of the buildings
- Height of the buildings
- Width of the buildings
- Closeness of the buildings to each other
- right to light (*The Council uses its Design SPD and the 45 degree code to assess impact on light. There is third party right to light legislation that residents can pursue, this is outside the scope of the planning system*)
- 20ft high x 60ft – 80ft wide brick wall with 4 tiny bathroom windows breaking it up) at the end of our garden
- impact to our garden sunlight
- Overshadowing/overbearing on our property and garden:
- impacts on our garden privacy
- proposed properties are not in keeping with the area / neighbourhood: 60s style houses: Burton Farm Road and 50s-60s style semi-detached and small detached on Aldridge Road.
- The road is too meandering (*access was agreed at the outline planning stage*)
- proposed buildings too close to those opposite .
- No manoeuvring, loading and unloading... bin collections
- No Passing Points on the road
- No Footpaths
- No open nature and visual amenity for both the house and security.
- Aldridge Road will need extra traffic calming (*access was agreed at the outline planning stage*)
- Garages only accommodate small sized vehicles (*Applicants only need to provide parking spaces that are 4.8metres by 2.4metres*)
- Parking provision extremely limited to that provided in the plans... no room on the roadway for visitors, or other additional vehicles.
- reduction in mature trees is no way sympathetic to the environment
- token offer of bat box installations
- multitude of birds using these trees from woodpeckers, nut hatches and starlings to Owls and Birds of Prey
- boggy nature of the ground we get in our garden
- amount of run-off from large scale development.
- Increase in pollution
- Noise pollution
- Light pollution

## Determining Issues

- Principle of Development
- Vehicle Access
- Residential Amenity
- Ecology
- Natural Environment and Land Conditions
- Conditions
- Local Finance Considerations

## **Assessment of the Proposal**

### **Principle**

The principle of redevelopment of this site for residential and the access to the site was previously considered at the outline planning stage and approved.

The application site contains previously developed land and is allocated for new housing in the adopted Site Allocation Document reference HO208 under policy HC1. The capacity of the site has been accounted for in helping towards the delivery of sufficient housing numbers to meet the Boroughs future housing need. The Government requires all Council's to provide a rolling programme of sufficient housing numbers as part of the Council's development plan. The Site Allocation Document has recently been through Public Examination and carries significant weight in the decision making process.

The current proposal is supported in principle on planning policy grounds. The principle of the housing development is in accordance with the NPPF, saved UDP policies GP2, ENV27, ENV35, ENV29, ENV32, H3, T7, T8, T9, T10, T11, T12 and T13, plus the recently adopted Sites Allocation Document (HO208), in so far as the proposal would support and promote an emerging character within this area and is to be encouraged.

The proposed layout of the application site respects the greenbelt boundary by excluding any built development from the green belt. The strip of greenbelt land in the north-corner of the application site will accommodate a natural swale to store surface water run-off from the development.

In view of the above an on balance, it is considered that the proposed principle of residential use is acceptable.

### **Vehicle Access**

The outline planning application was supported by a Transport Statement, which concluded that the proposed modified access point along with the removal of an existing hedge in the central reservation would provide a 2.4m x 120m visibility splay in an easterly direction. The Transport Statement also concluded that the proposal would not result in any material risk to highway safety and that vehicle trips associated with up to 12 dwellings is unlikely to result in any significant additional highway impacts.

Whilst neighbours' have raised concerns regarding highway safety, the Local Highway Authority maintains its support for the application and concurs with the evidence presented in the previously submitted Transport Statement. It is maintained that in the absence of any evidence to the contrary, it is considered the development

would not result in severe transportation implications and is in accordance with NPPF Paragraph 32.

Conditions would be included to ensure the vehicle access and associated highway works are fully implemented prior to first occupation of any dwellings in the interest of highways safety.

Neighbours have concerns regarding number of parking spaces. The layout plan and supporting information shows between a minimum of 4 spaces (including garages) up to a maximum of 7 spaces. This parking provision for four or five bedroom houses exceeds the 3 parking spaces per plot required by UDP Policy T13. The application also provides one electric vehicle charging point within each garage in accordance with condition 6a of the outline planning permission (17/0155).

The main access road is to adoptable standards. The private shared drive beyond the adoptable access road includes elements of segregated footways to improve accessibility for all users.

Weighing the material planning matters including concerns of residents, the Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2018 paragraph 109 and consequently, the development can be recommended for approval regarding the highway elements.

### **Residential Amenity**

The siting of the dwellings has been designed in order to meet the Designing Walsall Supplementary Planning Document standard regarding space around dwelling and to reflect the indicative outline layout.

Houses to the west of the application site, Burton Farm Road, have rear gardens between 15.6 metres long, where rear extensions have been added and 21.5 mts. The proposed layout of the houses along the boundary with Burton Farm Road takes into account the relationship with those houses. Plots 3 and 4 have non-habitable rooms windows therefore the distance of 23.2mts between the rear elevation of plots 3 and 4 and the rear elevations of no's 2 to 6 Burton Farm Road is in excess of the 13 metre separation between habitable windows and blank walls exceeding 3m in height required by the Designing Walsall Supplementary Planning Document.

Plots 9 and 10 of the proposed layout have rear habitable room windows facing the rear of houses no. 10 to 16 Burton Farm Road. The window to window separation distance would be XX metres, which exceeds the 24 metres in Designing Walsall SPD annex D. There is in excess of 30 metres window to window separation



between any rear elevation of houses along Aldridge Road and the elevation of any proposed dwelling (plots 1, 2, or 3).

The proposed layout would exceed the recommended minimum distances of 24m between habitable to habitable room windows and 13 metres separation between habitable windows and blank walls exceeding 3m in height in accordance with Appendix D, Designing Walsall SPD.

A neighbour has again raised concerns that the plans have been drawn incorrectly and do not take into account rear extensions that have been carried out on houses in Burton Farm Road. This issue appears to be because the Ordnance Survey base map has not yet been updated. In any case, none of the extensions bring the first floor rear facing habitable windows any closer towards the development site than existing bedroom windows serving houses along Burton Farm Road. On balance, it is considered the proposal would not result in any significant additional impacts on existing neighbours amenity.

Surrounding neighbours have repeated their comments regarding loss of outlook and loss of rear views. However and on balance, it is considered the proposed layout whilst bringing plots 3 and 4 closer to the boundary with houses on Burton Farm Road would not result in any significant additional loss of outlook and again would not be significantly worse than views of existing buildings and caravans being stored at the site. Limited weight can be afforded to loss of countryside views in planning terms, particularly due to the extant use of the site for caravan storage, the fact the proposed physical development lies outside of the current greenbelt boundary, and the site has an emerging allocation for housing development.

Objections in respect of increased opportunities for crime was previously raised and it was considered that the potential for activity from additional housing in this location, would offer positive passive surveillance to the immediate vicinity which is considered would help mitigate concerns of crime.

The Police Architectural Liaison Officer has advised of measures to be incorporated within the development to ensure security of the proposed houses and security of rear boundaries to Burton Farm Road.

Neighbour's concerns around light pollution have been considered and whilst it is recognised some additional vehicle movement is likely to occur from the residential use of the site, it is not considered would result in any significant additional impacts over and above the extant use of the site and associated comings and goings from occupiers of the existing dwelling house and from the arrival and departure of caravans.

## **Ecology**

The outline application included submitted ecological surveys which concluded that the site currently offers bat foraging opportunities in the barn. The survey also set out a number of recommendations to protect and enhance local bat populations and other wildlife including clearance activity outside of bird nesting season (March to August) and provision of bat boxes in trees and these could be included as conditions. The application includes a number of measures to safeguard and ensure the protection and enhancement of bat populations, nesting birds and small

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mammals. These will be reinforced by imposing conditions on any planning permission.

### **Natural Environment and Land Conditions**

Neighbours raised concerns regarding additional flooding issues as a result of the development. The proposal includes on-site sustainable drainage in the form of permeable paving, rainwater harvesting tanks, underground attenuation tank and a swale to deal with surface water arising from the development. These measures are considered acceptable and conditions would be included to ensure the development is carried out in accordance with the submitted Flood Risk Assessment as recommended by the Lead Local Flood Team.

Obligations would also be included within a Section 106 Agreement to require a management company to maintain the operation of the proposed swale and flood related equipment, along with maintenance of all landscaped areas which fall outside of individual house plots and the pruning of tree (T1) in line with the recommendations of the Lead Local Flood Team and Fire Authority.

The proposed removal of 5 x C class (lower quality) trees and 1 x U class (poor condition) tree along with compensatory re-planting within the application site is considered acceptable and meets the aims of the Natural Environment SPD. Furthermore, if the replacement trees were located in the north-east section of the site as recommended in the submitted arboricultural survey, this may aid the effectiveness of the proposed swale as the trees would help to soak up excess surface water. This would require further consideration at more detailed reserved matters stage and a re-planting scheme and protection measures for retained trees would be required by condition.

Neighbours objected to the harm to the appearance of the tree lined boulevard along Mellish / Aldridge Road. The submitted 'Access Junction' plan within the Transport Statement shows that none of the trees along Mellish / Aldridge Road would be removed, only removal of a section of low level hedge to the central island to provide the necessary visibility splay. This is considered acceptable and would not result in any significant harm to the visual amenity of the area.

Further conditions would be included regarding potential contaminated land, air quality mitigation and construction management in line with the recommendations of Pollution Control.

Neighbour's concerns around energy consumption from new street lights within the site are noted. BCCS Policy ENV7 sets out the requirement for a development of the proposed size to provide on-site renewable energy and a condition could be included to seek these details at a later reserved matters stage.

### **Conditions**

Details have been submitted in respect of the following conditions:

- Materials (5)
- Electric vehicle charging facilities (6)
- Parking and manoeuvring (7)
- External lighting (9)

- Energy consumption savings (10)
- Trees to be retained, removed, replacement planting and protection (11)
- Ecology (12)
- Construction management plan (13)
- Drainage (14)
- Visibility splays etc. (15)

The details submitted are considered acceptable in order to discharge those conditions subject of the outline planning permission. As such safeguarding conditions will be imposed on the reserved matters consent requiring 'implementation' of the approved details only.

The only outstanding conditions relate to ground contamination and highway engineering details which are required prior to commencement of any works on the site. The applicant is aware and accepts these.

### **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 the erection of up to 12 dwellings.

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.

### **Planning Obligations**

As the proposal is for up to 12 dwellings it triggers a requirement for an off-site contribution towards improvement and maintenance of existing open space within the locality. This has previously been secured by a S106 Agreement at the time of the outline planning permission. The section 106 agreement required a financial contribution to be paid prior to first occupation of the development.

The obligation also includes the requirement for a management company to maintain the operation of the proposed swale and flood related equipment, along with maintenance of all landscaped areas which fall outside of individual house plots and the pruning of tree (T1) in line with the recommendations of the Lead Local Flood Team and Fire Authority.

## **Conclusions and Reasons for Decision**

The key material planning considerations, neighbour comments and consultee responses have been weighed in assessing the reserved matters application and it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, Black Country Core Strategy policies CSP1, CSP2, CSP4, CSP5, DEL1, HOU1, HOU2, HOU3, HOU5, TRAN4, ENV1, ENV3, ENV5, ENV6 and ENV8, Walsall Site Allocation Document (SAD) policies HC1(HO180), HC2, EN1, EN3 and OS1, Saved Unitary Development Plan policies GP2, GP3, ENV10, ENV11, ENV17, ENV18, ENV23, ENV32, ENV33, H3, T7, T13, LC1, LC5 and LC6, Supplementary Planning Documents: Conserving Walsall's Natural Environment, Designing Walsall, Open space, sport and recreation, Affordable Housing and Air Quality and on balance is considered to be acceptable.

The use of safeguarding conditions requiring the submission of details in respect of ground contamination and highway engineering details will ensure the development is constructed without any detriment to the environment, neighbouring residents, and highway safety, details approved by this reserved matters approval will be conditioned to be implemented and will ensure that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are met.

Taking into account the above factors, there are no objections from significant consultees or the community, which could be considered to be contrary to the recommendation, it is considered that the application should be recommended for approval.

## **Positive and Proactive Working with the Applicant**

Officers have spoken with the applicant's agent and additional information has been submitted which enables full support to be given to the scheme.

## **Recommendation**

Planning Committee resolve to Grant Planning Permission Subject to Conditions

## **Conditions and Reasons**

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. This development shall not be carried out other than in conformity with the following plans and documents, unless otherwise stated in other conditions or approved as part of a Reserved Matters application:

- Site plan 367-01-01 received 29/3/19
- Site layout plan 367-02-100 P1 received 29/3/19
- Landscaping & boundary Treatment Layout (367-02-106 P3) received 20/3/19
- External Finishes & Kerbing Layout (367-02-106 P3) received 21/5/19
- Transport Plan (367-02-400 P2) received 17/4/19
- Autotrack layout (367-00-401 P1) received 20/3/19
- Streetscenes 367-01-02 received 20/3/19
- Trees removed/retained and tree protection plan 367-02-600 P1 received 20/3/19
- Retained access plan 367-02-700 P1 received 29/3/19
- Plot 1: Elevations 367-04-02 received 20/3/19
- Plot 1: Floor Plans 367-04-01 received 20/3/19
- Plot 2: Elevations 367-05-02 received 20/3/19
- Plot 2: Floor Plans 367-05-01 received 20/3/19
- Plot 3 & 4: Elevations 367-06-02 received 20/3/19
- Plot 3 & 4: Floor Plans 367-06-01 received 20/3/19
- Plot 5 & 11: Elevations 367-07-02 received 20/3/19
- Plot 5 & 11: Floor Plans 367-07-01 received 20/3/19
- Plot 6: Elevations 367-08-02 received 20/3/19
- Plot 6: Floor Plans 367-08-01 received 20/3/19
- Plot 7 & 8: Elevations 367-09-02 received 20/3/19
- Plot 7 & 8: Floor Plans 367-09-01 received 20/3/19
- Plot 9 & 10: Elevations 367-10-02 received 20/3/19
- Plot 9 & 10: Floor Plans 367-10-01 received 20/3/19
- Plot 12: Elevations 367-11-02 received 20/3/19
- Plot 12: Floor Plans 367-11-01 received 20/3/19
- Plot 1 & 2 garages: plans and Elevations 367-12-01 received 20/3/19
- Construction method statement received 20/3/19
- Energy statement received 20/3/19
- Finishes schedule received 20/3/19
- Flood risk assessment and drainage strategy received 20/3/19
- Wallpod EV data sheet received 20/3/19

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

3. The agreed schedule of facing materials to be used in external walls and roofs shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure the satisfactory appearance of the development and to accord with UDP Policy ENV32.

4. The agreed details and location for electric vehicle charging facilities for each of the proposed dwellings shall be fully implemented in accordance with the approved details prior to first occupation of development and retained for the life of development.

Reason: In the interest of Air Quality and in accordance with UDP Policy ENV10 and Air Quality SPD.

5. Prior to the first occupation of any dwelling on the development, all highway works associated with modified access approved under Outline permission 17/0155 (Condition 15a ), shall be fully implemented in accordance with the approved details and to the satisfaction of the Highway Authority.

Reason: To ensure the safe and satisfactory operation of the access in accordance with UDP Policy GP2 and in the interests of highway safety.

6a. Prior to the commencement of the development, full engineering details of all adoptable highway works and works within the existing highway, including the access works in Condition 5 above, shall be submitted to and receive technical approval in writing from the Local Planning Authority in consultation with the Highway Authority. The details shall include layouts, alignments, widths and levels, together with all necessary drainage arrangements. All adoptable street lighting shall be with the agreement in writing with Walsall Council's street lighting partner Amey.

6b. Prior to the first occupation of any dwelling on the development, the highway infrastructure works required under Condition 2(a) above shall be fully implemented to the satisfaction of the Highway Authority or fully implemented in accordance with a phasing agreed in advance with the Highway Authority.

Reason: To ensure the safe and satisfactory operation of the development in accordance with UDP Policy GP2 and in the interests of highway safety.

7a. Prior to the first occupation of any dwelling on the development, the parking areas and vehicle manoeuvring space serving that dwelling fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

7b. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2, T7 and T13.

8. The development shall be constructed in accordance with the submitted Construction Method Statement of the 20th March 2019.

Reason: In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety.

9a. Prior to any construction works or demolition of existing buildings and structures on the site commencing, findings of a ground contamination survey together with an assessment of identified and/or potential hazards arising from any land contamination shall be submitted (see Note for Applicant CL1 & CL2).

9b. 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 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).

9c. The remedial measures as set out in the 'Remediation Statement' required by part b) of this condition shall be implemented in accordance with the agreed timetable.

9d. 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 a) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part b) of this condition has been amended to address any additional remedial or mitigation works required and submitted to and agreed in writing by the Local Planning Authority.

9e. 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 agreed in writing by the Local Planning Authority prior to the first occupation of development (see Note for Applicant CL3).

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

10. The agreed external lighting details as submitted with the Reserved Matters application (19/0400) shall be fully implemented prior to the first occupation of the development and retained in working order thereafter.

Reason: In the interests of residential amenity and community safety, to safeguard local bat populations and to accord with NPPF 11, BCCS Policy ENV1 and UDP Policies ENV23 & GP2.

11. The agreed details demonstrating energy consumption savings of 10% of the overall on-site energy demand for the development, as submitted with the Reserved Matters application (19/0400), shall be implemented in accordance with the approved details and retained as such for the life of the development.

Reason: To encourage sustainable development and reduce impacts on the environment and to accord with NPPF 10 and BCCS Policy ENV7.

12a. The agreed tree protection measures submitted with the Reserved Matters application (19/0400) shall be implemented prior to any demolition or construction works are commenced. They shall be maintained at all times during demolition or construction and any replacement planting shall be carried out in accordance with the agreed details prior to the first occupation of the development.

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

Reason: To safeguard trees with high visual amenity value, to ensure a satisfactory level of visual amenity is retained and to safeguard and enhance ecology and to accord with NPPF 11, BCCS Policy ENV1, UDP Policies ENV18 & ENV23 and NE2, NE3, NE8 & NE9 of the Natural Environment SPD.

13a. Prior to demolition of the existing structures, 3 x Schwegler 2F bat boxes shall be erected on retained trees as shown on plan drawing number 367-02-610 (P1) dated 20<sup>th</sup> March, 2019. They shall be positioned to be at least 4 - 5 metres above ground level and clear of any overhanging branches or wires facing anywhere between a south east and south west direction installed and thereafter retained for the life of the development.

13b. The demolition of all existing structures on site shall be progressed under a Precautionary Working Method Statement (PWMS) which shall cover the following:

- i. hand removal of all roof tiles from all existing structures (beginning at the ridge and working downwards);
- ii. soft demolition of all other roof parts;
- iii. to be undertaken between April and October (inclusive) under the supervision of a bat licenced ecologist;
- iv. A Tool Box Talk, outlining what bats look like, where they could be found, their legal protection and what to do in the event of finding a bat; and
- v. methods to be adopted for sensitive removal of vegetation to avoid impacts upon nesting birds and small mammals, including options for timings and the various need for pre-works checks, finger-tip searches, staged approaches to cutting and supervision, according to when the work is undertaken.

13c. Should any nesting birds be discovered, clearance works shall cease and not re-commence until the young have fledged.

13d. Any small mammals disturbed or uncovered shall either be caught by hand and relocated to a place of safety, or shall be left to vacate the work site in their own time.

13e. Escape routes for wildlife shall be provided to any on-site trenches during clearance and construction works. This includes branches or boards placed on the bottom of the trench, with their upper ends above ground level and touching the sides, or sloping ends left in trenches.

Reason: To safeguard and enhance wildlife and protected species and to accord with NPPF 11, BCCS Policy ENV1 and UDP Policy ENV23.

14. The agreed Construction Management Plan details, as submitted with the Reserved Matters application (19/0400), shall be fully implemented upon commencement of any works, including demolition and shall be maintained until the site construction works are completed.



Reason: In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety, to protect local amenity and to accord with UDP Policy GP2.

15. The agreed details for disposal of foul sewage to discharge to the public foul sewer and surface water is to discharge to the public combined sewer at an agreed discharge rate of 2 litres/second shall be implemented details before first occupation of the development.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

16. The development shall be carried out in accordance with the hereby approved Flood Risk Assessment (FRA)/Drainage Strategy and the following mitigation measures detailed within the FRA:

- i. Limiting the surface water run-off generated by the site so that it shall not exceed 5l/s and shall not increase the risk of flooding off-site.
- ii. Provision of an appropriate volume of attenuation flood storage on the site to a 100 year + climate change standard.
- iii. The use of rain garden planters, water butts and a shared swale within the detailed surface water system design.
- iv. Finished floor levels shall be set no lower than 150mm above local ground level.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to accord with NPPF 10 and BCCS Policy ENV5.

17. The development shall be constructed to meet the following minimum security measures and retained as such:

- All doors and accessible windows should meet PAS 24 – 2016.
- It is recommended that all door locks to external, patio, French doors and bi folding doors are 3 star rated anti-snap locks which meet TS007.
- Letter plates should have a maximum aperture of 260mm x 40mm to prevent anyone attempting to remove keys from inside with either their hand or other objects. The Door and Hardware Federation (DHF) technical specification TS 008:2012 have shown to meet these requirements.
- All main doors for entering a dwelling should have a door viewer unless clear glass is installed within the door itself or a window is next to the doorset. All main doors should also have door chains or limiters fitted.
- Lighting in public places should conform to BS 5489 – 2013.

- All exterior security lighting on all dwellings should be white LED dusk to dawn lighting, as  
Per SBD standards as set out in Lighting against Crime 2011.
- If intruder alarm systems are to be installed they should meet the requirements of BS EN 50131 (wired and wire free systems).
- The West Midlands suffers from lead theft, I recommend the use of lead substitute where possible.
- All new planting of shrubs when mature should not exceed 1 metre in height and trees when mature should be pruned so that there are no branches or foliage hanging below 2 metres. This will ensure that natural surveillance is maintained and the field of vision is not obstructed. All planting should have a structured maintenance plan to ensure good surveillance is maintained to clearly signal that the area is well cared for.
- All side gates/fencing are bought forward to become flush with the fronts of the dwellings, this negates dead areas.
- Removal of the integral doors leading into the main dwellings from the garages, this area suffers badly with vehicle crime and residential burglaries.

Reason: To ensure the safety and security of the development and its occupiers, in the interests of visual and residential amenity and to accord with UDP Policy GP2.

### **Notes for the Applicant:**

#### **Highways**

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to either enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.
3. All adoptable street lighting shall be with the agreement with Walsall Council's street lighting partner Amey.

#### **Fire Authority**

Suitable water supplies for firefighting should be provided. This shall be subject to consultation with West Midlands Fire Service once a Water Scheme plan has been produced and approved by the relevant Water Company.

Vehicle access route to meet the requirements of ADB Volume 2, Table 20, noting that WMFS appliances require a carrying capacity of 15 tonnes.

The approval of Building Control will be required with regard to Part B of the Building Regulations 2010.

**Pollution Control 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 +A1:2013 '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 and within 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. Records and results of any post remediation ground gas testing should be included in Validation Reports, where relevant. This note is not prescriptive and any Validation Report must be relevant to specific remedial measures agreed with the Local Planning Authority.

**Hours of operation** - 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 07:00 to 18.00 Monday to Friday, 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)*

**Trees** - The approved tree protection measures shall be carried out by a tree surgeon or a person who is appropriately insured and competent in such operations.

**End of Officers Report**



**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 17-Jun-2019

**Plans List Item Number: 2.**

**Reason for bringing to committee:** Major application and called in by Cllr Jeavons on the grounds of public interest.

**Location:** LAND CORNER OF ARKWRIGHT ROAD/EDISON ROAD, WALSALL

**Proposal:** ERECTION OF A THREE STOREY BLOCK OF FLATS TO ACCOMMODATE 10 SELF CONTAINED FLATS, 8NO, 2BED AND 2NO 1 BED WITH AMENITY, BOUNDARY TREATMENT, PARKING AND ACCESS OFF ARKWRIGHT ROAD

**Application Number:** 18/1282

**Applicant:** M Josebury and Partners

**Agent:** Sueshire Services

**Application Type:** Full Application: Major Use Class C3 (Dwellinghouses)

**Case Officer:** Devinder Matharu

**Ward:** Birchills Leamore

**Expired Date:** 18-Jan-2019

**Time Extension Expiry:** 30-Jun-2019

**Recommendation Summary:** Refuse



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## Proposal

Erection of 10 self-contained flats, 8 x 2bed and 2 x 1 bed with amenity, boundary treatment, parking and access off Arkwright Road.

The proposed building is irregular in shape and fronts both Arkwright Road and Edison Road. The building would be set 1.6m off the side boundary with number 36 Arkwright Road and would be two storeys high fronting Arkwright Road for 8.2m in length. The part of the development at the junction of Arkwright Road and Edison Road would also be two storeys high. Part of the development fronting Edison Road would be two storeys high for 8.5m in length. The three-storey development would extend 18.2m along Edison Road. The proposed development would be set 2.8m further forward of 36 Arkwright Road.

The two storey part of the development would measure 4.9m to the eaves and 7.5m to the pitch, the three storey element would measure 7.5m to the eaves and 10.5m to the pitch.

The proposed building would be set back into the site along Arkwright Road by 1.4m and along Edison Road by approximately 2m.

A communal amenity area of 116 square metres would be provided towards the rear of the flats adjacent 36 Arkwright Road. The bin area would also be located adjacent the amenity area.

The proposed vehicular would be 4.5m wide and located to the western part of the site adjacent to the public footpath. A total of twelve parking spaces have been provided. Pedestrian access points to the flats from Arkwright Road and Edison Road are also included.

The existing trees to the rear of the site along the boundary with 46 Edison Road and 36 Arkwright Road would be retained. The proposal would include planting within the frontage of the site and western and north western corners adjacent to the public footpath and number 46 Edison Road.

A dwarf boundary is proposed along Edison Road and Arkwright Road frontage. A new 2m high close board fence will be erected along the public footpath to the west of the site and the existing 2m high fence along the northern boundary of the site will remain.

A coal mining risk assessment has been submitted which identifies the area of the site could be affected by previous coal mine workings.

A Design and Access Statement has been submitted which states:

- Planning permission was granted in 2007 for 11 flats
- One parking space per dwelling

A previous application for development of 12 flats on the site was refused in 2018, reference 18/0497. The difference between that refusal and the current application are as follows:

- Car parking spaces have been increased from 11 to 12.
- The car parking area has been redesigned to relocate it to the western part of the site and set the car spaces away from the boundary with 36 Arkwright Road and 46 Edison Road.
- The bin store has been repositioned from the rear boundary with 36 Arkwright Road adjacent the existing trees along the boundary with 36 Arkwright Road and the proposed amenity area for residents.
- The amenity area has been repositioned from the north western corner of the site to the northern part of the site adjacent 36 Arkwright Road.
- The building has been set back into the site along the frontage of both Edison Road and Arkwright Road and repositioned to form a corner building.
- The building has been reduced in height from a three storey building to a part 2 storey building adjacent 36 Arkwright Road and three storey building fronting Edison Road.
- The proposal provides dual aspect to each flat.
- Balconies have been introduced on the front elevation.
- The access has been repositioned from Arkwright Road to Edison Road.

## Site and Surroundings

The site is an irregular shaped parcel of land fronting Edison Road and Arkwright Road. Parts of the site fronting Arkwright Road is hard surfaced. The rest of the site is overgrown and there are some trees in the middle of the site and at the northern part of the site adjacent 36 Arkwright Road. There is a lamp post at the back of pavement outside of the site on Arkwright Road. There is a telegraph pole outside of the site on the grass verge on Edison Road. A low level boundary wall fronts Edison Road. Part of the fence along the public footpath on Edison Road has been removed with the fence posts remaining.

Vehicular access to the site is from Arkwright Road.

The application site slopes upwards from west to east towards the junction with Arkwright Road and north to south towards Edison Road.

To the western boundary of the site is a public footpath that connects the numbers 46 to 56 Edison Road to the main street.

The site extends to the northern boundary adjacent numbers 36 Arkwright Road and 46 Edison Road. These houses front the main street and the private rear gardens sit parallel with the application site. A 1.8m high close board fence forms the site boundary with these neighbouring properties. Both these neighbouring properties have windows in the side gable elevations facing the application site.

To the west of the site is Rock Church, a single storey building set back into the site from the side and front boundaries.

The area is residential in character with main two storey semi-detached and terraced houses with front gardens and drives. The designs of the houses are mainly gable roofs set down with the gradient of the land with open and low front boundary treatments.



Opposite the site on Edison Road is public open space.

Beechdale local centre is located the other side of the public footpath that runs to the western part of the application site.

### **Relevant Planning History**

05/0297/OL/W1- Outline: Erection of 13 no. 2 bedroom self-contained flats. Refuse permission 2005-07-20 for the following reasons:

1. *The layout shows with 13 flats the site is largely filled by the combination of parking and buildings. This is inherent of any realistic design for the proposed development and represents overdevelopment of the site for the following reasons:*
  - *amenity areas for the residents, one is very small, and divorced from the flats into a random corner of the site that cannot otherwise accommodate parking, due to its shape, while the other area is also small, between the two blocks, and walled off from the road to create privacy but is as a result oppressive, and limited in value as outdoor space.*
  - *The storage area for the bins is immediately adjoining the rear of one flat block of flats likely to lead to unreasonable degree of impact to those flats*
  - *The size of the building leads to a narrow access to the car park, inadequate space intended to serve so many cars*

05/2009/OL/W1- Outline: Erection of 11 no. 2 bedroom self contained flats (including approval of siting and means of access). Grant Permission Subject to Conditions 2007-07-27

07/1186/RM/W6- Proposed erection of 11 two-storey and three-storey flats. Refuse Permission 2007-09-28 for the following reasons:

1. *The proposed development is sited differently and the access to the site is also sited in a different position from that approved 05/2009/OL/W1. The proposed reserved matters is therefore unauthorised by the outline consent.*
2. *The development would by the continuous ridgeline and uninterrupted length of elevation at 21m, be out of scale, have inappropriate massing, and present bland and uninteresting elevations of poor design at a visually significant location in Beechdale. The proposal would be a poor response to the site circumstances in that changes in level, opportunities from aspect, context and location fail to be represented in the design. The proposal would present an inactive street frontage from where there is no pedestrian access and which would be out of character with the locality. The proposed entrance across the car park at the northern most rear entrance would be insecure and fail to provide a safe access for pedestrians using the site, as well as rendering the rear of the properties similarly insecure.*
3. *The proposal fails to provide adequate private amenity areas for future occupiers of the site, fails to provide adequate landscape for buffer treatments to the adjoining private garden areas of 36 and 46 Edison Road close to areas of rear garden space where they would have a reasonable expectation of peace and quiet, and proposed boundary treatment and bin store on the western boundary with the footpath that would be of poor design, dominant and incongruous in the street scene and obstructive to view.*

4. *The proposed development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area.*
5. *The proposed development provides a 900mm high wall to Edison Road frontage and returning along the right of way on the western boundary of the site, obstructing the required pedestrian visibility.*
6. *The proposal does not provide for cycle provision to serve the proposed development*
7. *The development would place unacceptable demand on limited educational capacity and public open space provision in the locality in the absence of any financial contributions to address the shortfalls.*

08/0522/RM- Reserved Matters to 05/2009/OL/W1 - design and appearance and landscaping. Refuse Permission 2008-06-23 for the following reasons:

1. *The development would by the continuous ridgeline and uninterrupted length of elevation at 22m, be out of scale, have inappropriate massing, and present bland and uninteresting elevations of poor design at a visually significant location in Beechdale. The proposal would be a poor response to site circumstances in that changes in level, opportunities derived from aspect, context or location fail to be represented in the design. The proposal would present an inactive street frontage for a significant part of the elevations, which would be out of character with the locality. The proposed entrances to the rear elevation would be insecure and fail to provide a safe access for pedestrians using the site, as well as rendering the rear of the properties similarly insecure and subject to noise and loss of amenity because of the proximity of the pathways available for use by the public.*
2. *The proposal fails to provide adequate private amenity areas for future occupiers of the site, fails to provide adequate landscape for buffer treatments to the adjoining private garden areas of 36 and 46 Edison Road close to areas of rear garden space where they would have a reasonable expectation of peace and quiet, and proposed boundary treatment and bin store on the western boundary with the footpath that would be of poor design, dominant and incongruous in the street scene and obstructive to view.*
3. *The revised siting of the building reducing the depth of the frontage space between 1.7m and 1m fails to provide for effective landscaping. The locality is characterised by street frontages that have wide verges containing hedges, lawns, shrub planting as well as trees in the street scene. The proposed development would therefore be in marked contrast to this character, to the detriment of the amenity of the area.*
4. *The proposed planting areas indicated for the frontage of the site would be inadequate to enable a visually significant high quality landscape scheme.*
5. *The proposed development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area.*
6. *The proposed development provides a wall to Edison Road frontage and returning along the right of way on the western boundary of the site, for which there are no details.*

18/0497 - Erection of a three storey block of flats to accommodate 12 self-contained flats, 6no, 2bed and 6no 1 bed with amenity, boundary treatment, parking and access off Arkwright Road. Refused 06-08-18 for the following reasons:

1. *No Coal Mining Risk Assessment Report has been submitted as part of the application to demonstrate whether there are any underlain uses or activities which may affect the stability of the land and which identifies the hazards and the level of risk to the development and strategies and timescales for dealing with them.*
2. *The proposed three storey development will be out of character with the existing single storey and two storey developments in the area along Edison Road and Arkwright Road. Furthermore, the positioning of the proposed three storey development would result in overlooking and loss of privacy of the rear gardens of numbers 36 Arkwright Road and 46 Edison Road.*
3. *The proposed three storey development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area. The development would by the continuous ridgeline and uninterrupted length of elevation at 22m, be out of scale, have inappropriate massing, and present bland and uninteresting elevations of poor design at a visually significant location in Beechdale. Furthermore, the proposed three storey development would be visually prominent and visually obtrusive in the street scene, and especially given the gradient of the site and that the site slopes upwards towards the junction with Arkwright Road.*
4. *The isolated amenity space fails to provide adequate private amenity areas for future occupiers of the site, and furthermore, it is very unlikely that occupiers of the proposed flats will utilise this amenity space adjacent where vehicles will park in with no enclosure to provide privacy for potential occupiers.*
5. *The proposal fails to provide adequate landscape for buffer treatments to the adjoining private garden areas of 36 Arkwright Road and 46 Edison Road close to areas of rear garden space where they would have a reasonable expectation of peace and quiet as well as providing ineffective space for planting along the site perimeters and frontage. The positioning and use of the bin and cycle stores would unduly harm the amenities of neighbouring residential occupiers of 36 Arkwright Road by the positioning and use of these structures.*
6. *The proposed car parking abutting the boundaries of both 36 Arkwright Road and 46 Edison Road would result in loss of amenity by way of noise and general disturbance from the use of this parking area by the comings and goings together with car doors banging, car radios etc to these neighbouring occupiers.*
7. *The proposed development would result in unacceptable demand on limited public open space provision in the locality in the absence of any alternative provision to address these shortfalls.*

## Relevant Policies

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

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/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*".

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **National Planning Policy Guidance**

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

### **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- T7 - Car Parking
- T8 – Walking
- T13: Parking Provision for Cars, Cycles and Taxis

## **Black Country Core Strategy**

- CSP1: The Growth Network
- CSP4: Place Making
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

## **Walsall Site Allocation Document 2019**

HC1: Land allocated for new housing development  
HC2: Development of Other Land for Housing  
T4: The Highway Network

## **Conserving Walsall's Natural Environment**

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

## **Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

## **Open space, sport and recreation**

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

## **Air Quality SPD**

- ***Section 5 – Mitigation and Compensation:***
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

## **Consultation Replies**

Archaeology – No objection

Coal Authority – No objection subject to a planning condition regarding remedial works.

Community Safety – No objection but refers to secure by design as this area is known historically to have issues with crime and ASB with a number of properties being targeted particularly in close proximity to the Right of Way.

Fire Officer – No objection subject water supplies for firefighting to be in accordance with national guidance.

Flood Risk Officer – No objection subject to tests to be carried out to ascertain whether infiltration as a means of surface water disposal is possible and subject to SuDS.

Highways England – No objection

Historic England – No objection

Housing Standards – No objection

Public rights of way – No objection

Pollution Control – No objection subject to planning conditions on air quality, contaminated land and development activity.

Police- No objection subject to secure by design.

Natural England – No objection

Network Rail – No objection

Severn Trent Water – No objection subject to a drainage condition in relation to foul and surface drainage.

Strategic Policy – No objection

Sport England – No objection but makes comments in line with the Government's NPPF (including Section 8) and PPG (Health and wellbeing section), consideration should also be given to how any new development, especially for new housing, will provide opportunities for people to lead healthy lifestyles and create healthy communities. Sport England's Active Design guidance can be used to help with this when developing or assessing a proposal. Active Design provides ten principles to help ensure the design and layout of development encourages and promotes participation in sport and physical activity.

Transportation – Objection on the grounds of car parking provision, bicycle storage provision and access visibility splay.

## **Representations**

Five letters from four residents have been received objecting to the proposal on the following grounds:

- Proposal fails to overcome previous reasons for refusal

- Design issues including: Out of character, High rise flats not consistent with other development, All buildings have front and rear gardens and communal areas, no open space to the front of the premises
- Sink mines have appeared in Arkwright Road due to old mine shafts
- Three storey development results in overlooking of neighbouring properties
- Development squeezed onto site
- Plot is too small for development
- Too many properties on a small plot
- Residents want to be kept informed of progress of application
- No space around buildings to minimise noise pollution
- Fly tipping of waste
- Parking issues including never enough space for residents who currently reside, congestion, parking problems both night and day, one space per flat not enough, entrance to the proposed car park has minimal visibility of nearby roads, vehicle visibility, parking on unsecure car park will result in anti social behaviour

Cllr Jeavons has called the application in for the following reason:

- Significant public interest
- Anti-social behaviour
- Fly tipping
- Proposed development would resolve above issues

## **Determining Issues**

Whether the proposal overcomes the previous reasons for refusal in respect of:

- Land stability
- Character of the area and impact upon neighbouring occupiers in respect of overlooking and loss of privacy
- Design
- Amenity
- Landscape and position bin and cycle stores
- Car parking and impact upon neighbouring occupiers
- Public open space provision.

Other matters:

- Principle of development
- Loss of trees
- Impact upon neighbouring and potential occupiers
- Access and parking
- Local finance considerations

## **Assessment of the Proposal**

Whether the proposal overcomes the previous reasons for refusal in respect of:

### **Land stability**

The planning agent has submitted a coal mining risk assessment. The Coal Authority have withdrawn their original objection to the scheme and have no



objection to the proposed scheme subject to a planning condition for site investigations.

The proposal overcomes this previous reason for refusal.

**Character of the area and impact upon neighbouring occupiers in respect of overlooking and loss of privacy**

The height of the building has been reduced from a three storey building to a part 2 storey building adjacent 36 Arkwright Road and three storey building fronting Edison Road.

The extent of the proposed three storey development along Edison Road is still out of character with the existing single storey and two storey developments along Edison Road.

The positioning of the proposed three storey development would result in overlooking and loss of privacy to the rear gardens of numbers 36 Arkwright Road and 46 Edison Road.

The proposal fails to overcome this previous reason for refusal

**Design**

The design of the scheme has been amended where the building has been set back into the site along the frontage of both Edison Road and Arkwright Road and repositioned to front Arkwright Road and Edison Road to provide a corner building. The proposal provides dual aspect to each flat and balconies have been introduced on the front elevation.

The amended scheme whilst it shows sections of two and three storey development has a continuous ridgeline 19.2m in length for the proposed two storey element and the ridgeline with gables in the three-storey element is 18m in length. As such, the proposal, by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area. This is contrary to policies DEL1, ENV2 and ENV3 of the BCCS, saved policies GP2, ENV14, ENV17, ENV33 and ENV32 of the UDP and policies DW1 to DW10 of Designing Walsall SPD.

Whilst balconies have been incorporated into the front elevation in order to break up the massing, the overall scheme by way of the continuous ridgeline and uninterrupted elevation length of 19.2m and 18m would be out of scale with surrounding properties. The inappropriate massing with the overall design at a visually significant location in Beechdale together with the three storey development would be visually prominent and visually obtrusive in the street scene, and especially given the gradient of the site which slopes upwards towards the junction with Arkwright Road.

As such, the proposal fails to overcome this previous reason for refusal.

## **Amenity**

The amenity area has been repositioned from the north western corner of the site to the northern part of the site adjacent 36 Arkwright Road.

The Council's Residential Standards recommends 20 square metres of amenity space per flat. The amended plan shows 116 square metres of communal amenity space for the proposed ten occupiers, which equates to 11.6 square metres of amenity space per flat, contrary to the Council's residential standards. The proposed amenity area is an open communal area, where occupiers from different flats using the amenity area adjacent the ground floor habitable rooms will result in overlooking and loss of privacy for these ground floor occupiers.

Whilst the amenity space is not isolated, it would fail to provide an adequate private useable amenity area for potential occupiers without compromising the amenity of ground floor occupiers. Furthermore, the private amenity area is adjacent the bin store, pathway in close proximity to the car parking area and to the northern side of the site which would be shaded through the majority of the site by the three storey building.

The amenity space fails to provide adequate private amenity areas for future occupiers of the site, and furthermore, it is very unlikely that occupiers of the proposed flats will utilise this amenity space adjacent the bin store, adjacent the parking and pathway areas to the car park with no enclosure to provide privacy for potential occupiers. The proposed amenity area would be in shade for the majority of the day due to it being located towards the northern part of the site.

As such, the proposal fails to overcome this previous reason for refusal and is contrary to policies DEL1, ENV2 and ENV3 of the BCCS, saved policies GP2, ENV14, ENV17, ENV33 and ENV32 of the UDP and policies DW1 to DW10 of Designing Walsall SPD.

## **Landscape and position bin and cycle stores**

The amended plan illustrates the retention of some existing planting along the boundaries with numbers 46 Edison Road and 36 Arkwright Road.

In parts, there is no landscape buffer between the application site and the boundaries of numbers 46 Edison Road and 36 Arkwright Road. The frontage of the site shows some planting but not an effective landscaped buffer that would add character to the overall development and enhance the site. The amended plan also shows car park space 8 extending into the existing planting area. Whilst the bin stores have been set off the boundary with number 36 Arkwright Road, it is still in close proximity to the boundary with this neighbouring property.

The proposal fails to provide adequate landscape for buffer treatments to the adjoining private garden areas of 36 Arkwright Road and 46 Edison Road close to areas of rear garden space where they would have a reasonable expectation of peace and quiet as well as providing ineffective space for planting along the site perimeters and frontage. The positioning and use of the bin and cycle stores would

unduly harm the amenities of neighbouring residential occupiers of 36 Arkwright Road by the positioning and use of these structures.

As such the proposal fails to overcome this previous reason for refusal and is contrary to policies DEL1, ENV2 and ENV3 of the BCCS, saved policies GP2, ENV14, ENV17, ENV33 and ENV32 of the UDP and policies DW1 to DW10 of Designing Walsall SPD.

### **Car parking and impact upon neighbouring occupiers**

The proposed car parking area has now been relocated from the northern part of the site adjacent the boundaries of 36 Arkwright Road and 46 Edison Road. Car parking spaces 7 and 8 are still in close proximity to the rear boundaries of these properties however.

As such the proposed car parking spaces 7 and 8 adjacent the boundaries of both 36 Arkwright Road and 46 Edison Road would result in loss of amenity by way of noise and general disturbance from the use of this parking area by the comings and goings together with car doors banging, car radios etc to these neighbouring occupiers.

As such the proposal fails to overcome this previous reason for refusal and is contrary to policies DEL1, ENV2 and ENV3 of the BCCS, saved policies GP2, ENV14, ENV17, ENV33 and ENV32 of the UDP and policies DW1 to DW10 of Designing Walsall SPD.

### **Public open space provision.**

The proposed development would result in unacceptable demand on limited public open space provision in the locality in the absence of any alternative provision to address these shortfalls.

As such, the proposal fails to overcome this previous reason for refusal and is contrary to HOU2 and HOU3 of the Black Country Core Strategy and saved policies GP3 and LC1 of the Walsall Unitary Development Plan, Policies OS1, OS2, OS3, OS4, OS5, OS6, OS7 and OS8 of the Urban Open Space Supplementary Planning Guidance. .

### **Principle of development**

The site is allocated for residential development as site HO205 under policy HC1 of Walsall's adopted Site Allocation Document (SAD). Policy HC1 states that the design of developments should take account of the site's context and surroundings, and help to create places where people choose to live. Each site should achieve a density of at least 35 dwellings per hectare, except where part of the site is needed to provide open space or other facilities in accordance with other policies of this Plan. The site is also included as a site suitable for residential development on the Brownfield Land Register.



In 2007 and 2008 planning permission for reserved matters were refused for a number of reasons outlined in the history section of the report. In 2015, the planning agent engaged in discussion to submit an amended scheme on this site and was made aware of the previous reasons for refusal. Despite officer negotiations with the developer and agent the current scheme has failed to address the earlier reasons for refusal.

The submitted Design and Access Statement is incorrect as it refers to a different number of flats proposed.

### **Loss of trees**

The site has self-set Sycamores, Elder and Rowan none of which would merit retention or protection and as such the arboricultural officer has no objections to the application.

### **Impact upon neighbouring and potential occupiers**

Car parking space 12 is located adjacent the rear ground floor habitable rooms. The positioning of this car parking space in close proximity to the ground floor occupiers of the proposed development would result in loss of amenity by way of noise and general disturbance from the use of this parking area by the comings and goings together with car doors banging, car radios etc to these proposed occupiers.

The ground and first floor flats of the three-storey development fail to meet the 45-degree code from the kitchen windows. Kitchen windows are classed as habitable rooms. The same would apply to the kitchen windows of the two storey flats at both ground and first floor adjacent 36 Arkwright Road. As such, the proposal would result in loss of light to the kitchens of these flats detrimental to future occupiers residential amenities contrary to policy.

### **Access and parking**

Saved policy T13 of the UDP requires 1.5 spaces per dwelling for a development of this nature where spaces are unallocated which would require 15 car parking spaces and 2no disabled parking spaces. Only 10 spaces are proposed. As such, the proposal fails to provide adequate car parking in accordance with this UDP policy.

The Highway Officer also refers to secure bicycle storage, the amended plans shows bicycle storage within the proposed development.

The proposal fails to provide a visibility splay of 2.4m by 43m from the proposed access; as such the proposal is contrary to highway safety and policy GP2 of the UDP and Policy T4 of the SAD.

### **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 10 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

## **Conclusions and Reasons for Decision**

The Coal Authority have withdrawn their original objection to the scheme and have no objection to the proposed scheme subject to a planning condition for site investigations.

The proposed three storey development along Edison Road is still out of character with the existing single storey and two storey developments along Edison Road. The positioning of the proposed three storey development would result in overlooking and loss of privacy to the rear gardens of numbers 36 Arkwright Road and 46 Edison Road. The proposal fails to overcome this previous reason for refusal.

The amended scheme whilst it shows sections of two and three storey development across the development, the continuous ridgeline of the two storey is 19.2m and the ridgeline with gables in the three-storey element is 18m. As such, the proposal, by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area. The inappropriate massing with the overall design at a visually significant location in Beechdale would be visually prominent and visually obtrusive in the street scene, and especially given the gradient of the site and that the site slopes upwards towards the junction with Arkwright Road. The proposal fails to overcome this previous reason for refusal.

The level of shared amenity space is considered inadequate as it equates to just 11.6sqm per flat contrary to the Council's residential standards. The design of the proposed amenity area is an open communal area, where occupiers from different flats using the amenity area adjacent the ground floor habitable rooms will result in overlooking and loss of privacy of these ground floor occupiers. In the circumstances the proposals fail to provide an adequate private useable amenity area for potential occupiers without compromising the amenity of ground floor occupiers. Furthermore, the private amenity area is adjacent the bin store, pathway in close proximity to the car parking area and to the northern side of the site which would be shaded through the majority of the site from the three storey development. The proposal fails to overcome this previous reason for refusal.

The proposal fails to provide adequate landscape for buffer treatments to the adjoining private garden areas of 36 Arkwright Road and 46 Edison Road close to areas of rear garden space where they would have a reasonable expectation of peace and quiet as well as providing ineffective space for planting along the site perimeters and frontage. The positioning and use of the bin and cycle stores would unduly harm the amenities of neighbouring residential occupiers of 36 Arkwright

Road by the positioning and use of these structures. As such the proposal fails to overcome this previous reason for refusal.

The proposed car parking spaces 7 and 8 adjacent the boundaries of both 36 Arkwright Road and 46 Edison Road would result in loss of amenity by way of noise and general disturbance from the use of this parking area by the comings and goings together with car doors banging, car radios etc to these neighbouring occupiers. As such, the proposal fails to overcome this previous reason for refusal.

The proposed development would result in unacceptable demand on limited public open space provision in the locality in the absence of any alternative provision to address these shortfalls. As such, the proposal fails to overcome this previous reason for refusal.

The positioning of car parking space 12 in close proximity to the ground floor occupiers of the proposed development would result in loss of amenity by way of noise and general disturbance from the use of this parking area by the comings and goings together with car doors banging, car radios etc to these proposed occupiers.

The ground and first floor flats of the three-storey development fail to meet the 45-degree code from the habitable room kitchen windows of adjacent flats. The same would apply to the kitchen windows of the two storey flats at both ground and first floor adjacent 36 Arkwright Road. As such, the proposal would result in loss of light to the kitchens of these flats detrimental to residential amenity and contrary to policy.

The proposed development would result in unacceptable demand on limited public open space provision in the locality in the absence of any alternative provision to address these shortfalls.

The proposal fails to provide adequate car parking in accordance with UDP policy T13. Secure bicycle storage is provided within the building.

The proposal fails to provide a visibility splay of 2.4m by 43m from the proposed access; as such, the proposal is contrary to highway safety and policy GP2 of the UDP and Policy T4 of the SAD.

The proposal is contrary to policies DEL1, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2, GP3, ENV14, ENV17, ENV32, ENV33 and ENV40 of the Walsall Unitary Development Plan, Policy T4 of the SAD, Policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9 and DW10 of Designing Walsall SPD, Policies OS1, OS2, OS3, OS4, OS5, OS6, OS7 and OS8 of the Urban Open Space Supplementary Planning Guidance.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

## **Positive and Proactive Working with the Applicant**

### **Refuse**

Despite negotiations with the developer and their agent and provision of a comprehensive letter outlining why the proposal fails to overcome the previous

reasons for refusal officers are unable to support the proposals as they fail to address earlier reasons for refusal or comply with policy.

## **Recommendation**

Refuse

## **Reasons for Refusal**

1. The proposed three storey development will be out of character with the existing single storey and two storey developments in the area along Edison Road and Arkwright Road. Furthermore, the positioning of the proposed three storey development would result in overlooking and loss of privacy of the rear gardens of numbers 36 Arkwright Road and 46 Edison Road. As such, the proposed development would be contrary to the aims and objectives of the National Planning Policy Framework, Policies DEL1, ENV2 and ENV3 of the Black Country Core Strategy and Saved Policies GP2, ENV14, ENV17, ENV32 and ENV33 of the Unitary Development Plan, Policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9 and DW10 of Designing Walsall SPD.
2. The proposed three-storey development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area. The proposed development by reason of the continuous ridgeline and uninterrupted length of elevations at 19.2m and 18m would be out of scale, have inappropriate massing, and the overall design at a visually significant location in Beechdale would be visually prominent and visually obtrusive in the street scene, and especially given the gradient of the site and that the site slopes upwards towards the junction with Arkwright Road. As such, the proposed development would be contrary to the aims and objectives of the National Planning Policy Framework, Policies DEL1, ENV2 and ENV3 of the Black Country Core Strategy and Saved Policies GP2, ENV14, ENV17, ENV32 and ENV33 of the Unitary Development Plan, Policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9 and DW10 of Designing Walsall SPD.
3. The proposed amenity space fails to meet the Council's residential standards. The use of the proposed amenity area in close proximity to ground floor habitable rooms would result in overlooking and loss of privacy to these ground floor occupiers. Furthermore, the position of the proposed amenity space adjacent the bin stores and car parking area to the north of the site would be shaded for the majority of the day and unlikely that occupiers of the flats will utilise this space with no enclosure for privacy. As such, the proposed development would be contrary to the aims and objectives of the National Planning Policy Framework, Policies DEL1, ENV2 and ENV3 of the Black Country Core Strategy and Saved Policies GP2, ENV14, ENV17, ENV32 and ENV33 of the Unitary Development Plan, Policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9 and DW10 of Designing Walsall SPD.
4. The proposal fails to provide adequate landscape for buffer treatments to the adjoining private garden areas of 36 Arkwright Road and 46 Edison Road close to areas of rear garden space where they would have a reasonable expectation of peace and quiet as well as providing ineffective space for

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planting along the site perimeters and frontage. The positioning and use of the bin and cycle stores would unduly harm the amenities of neighbouring residential occupiers of 36 Arkwright Road by the positioning and use of these structures. As such, the proposed development would be contrary to the aims and objectives of the National Planning Policy Framework, Policies DEL1, ENV2 and ENV3 of the Black Country Core Strategy and Saved Policies GP2, ENV14, ENV17, ENV32 and ENV33 of the Unitary Development Plan, Policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9 and DW10 of Designing Walsall SPD.

5. The proposed car parking spaces 7 and 8 adjacent the boundaries of both 36 Arkwright Road and 46 Edison Road would result in loss of amenity by way of noise and general disturbance from the use of this parking area by the comings and goings together with car doors banging, car radios etc to these neighbouring occupiers. Furthermore, the positioning of car parking space 12 adjacent the rear ground floor habitable rooms would result in loss of amenity by way of noise and general disturbance from the use of this parking area by the comings and goings together with car doors banging, car radios etc to these proposed occupiers. As such, the proposed development would be contrary to the aims and objectives of the National Planning Policy Framework, Policies DEL1, ENV2 and ENV3 of the Black Country Core Strategy and Saved Policies GP2, ENV14, ENV17, ENV32 and ENV33 of the Unitary Development Plan, Policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9 and DW10 of Designing Walsall SPD.
6. The proposed development fails to meet the Council's 45 degree code from the ground and first floor flats of both the three storey and two storey part of the development from habitable room windows and would result in loss of light and amenity to these proposed occupiers. As such, the proposed development would be contrary to the aims and objectives of the National Planning Policy Framework, Policies DEL1, ENV2 and ENV3 of the Black Country Core Strategy and Saved Policies GP2, ENV14, ENV17, ENV32 and ENV33 of the Unitary Development Plan, Policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9 and DW10 of Designing Walsall SPD.
7. The proposed development fails to provide adequate car parking provision for the development and fails to provide adequate vehicle visibility from the proposed access. As such, the proposal is contrary to Policies GP2 of the UDP and Policy T4 of the SAD.
8. The proposed development would result in unacceptable demand on limited public open space provision in the locality in the absence of any alternative provision to address these shortfalls. As such, the proposal is contrary to policies HOU2 and HOU3 of the Black Country Core Strategy and saved policies GP3 and LC1 of the Walsall Unitary Development Plan, Policies OS1, OS2, OS3, OS4, OS5, OS6, OS7 and OS8 of the Urban Open Space Supplementary Planning Guidance.

### **End of Officers Report**

**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 17-Jun-2019

**Plans List Item Number: 3.**

**Reason for bringing to committee: Significant Community Interest**

**Location:** NEW INN, BLAKENALL LANE, WALSALL, WS3 1HU

**Proposal:** GROUND FLOOR EXTENSION AND CHANGE OF USE OF GROUND FLOOR FROM CLASS A4 PUBLIC HOUSE TO CLASS A1 RETAIL RETAINING FIRST FLOOR AS RESIDENTIAL.

**Application Number:** 18/1041

**Applicant:** Pal Singh

**Agent:** Rev-A Associates

**Application Type:** Full Application: Change of Use

**Case Officer:** Devinder Matharu

**Ward:** Blakenall

**Expired Date:** 30-Oct-2018

**Time Extension Expiry:** 30-Jun-2019

**Recommendation Summary:** Grant permission subject to conditions



## Proposal

The application proposes the change of use of the premises from Class A4 public house to Class A1 retail with a ground floor extension retaining the first floor as residential.

The ground floor extension squares off the southern (rear) corner of the building adjacent to 140 Blakenall Lane. It is a maximum of 7.5m wide at the rear and 2m wide where it adjoins the former kitchen and toilets and 10.8m in overall length with a flat roof 3.5m high. A window and personnel door are proposed in the side elevation facing 140 Blakenall Lane and two windows in the rear elevation. A new shop entrance doorway is also incorporated replacing the lounge and function room entrances and window between with a central shop door flanked by two windows that have a brick stall riser (900mm high) and ramped entrance. (5.9m long x 2m wide with handrail 1.2m high). The proposal includes infilling a further doorway to the right hand side of the front elevation with brickwork to match the existing building.

Three car parking spaces including one disabled space are provided on the frontage of Blakenall Lane. Deliveries take place on Chapel Street. Three cycle hoops are illustrated near to the shop entrance. Bollards are located around the perimeter of the site from the entrance returning along Chapel Street.

The first floor accommodation currently comprises three bedrooms, lounge, kitchen and bathroom. An area of 71sqm is retained at the rear of the site for amenity space. The drawing illustrates access to residential flats above but there is no proposal to convert the first floor accommodation to a greater number of flats.

## Site and Surroundings

The premises are located at the junction of Blakenall Lane and Chapel Street and comprise a prominent two storey building constructed of brick and tiles with render panels and mock Tudor features to the double fronted gable facing Blakenall Lane and side gable facing Chapel Street.

The site is located in Blakenall local centre and fronts a local distributor road, there are residential properties adjacent fronting Blakenall Lane and commercial premises adjacent on Chapel Street. The adjacent residential property 140 Blakenall Lane has a two storey rear wing and single storey extension beyond with no windows directly overlooking the site or in the rear elevation.

## Relevant Planning History

None relevant for site.

### 140 Blakenall Lane

19/0192 - Demolition of existing derelict garages and erection of 4 studio apartments together with associated drainage and external works – Refused 16/04/19.

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

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/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"*.

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **consultation** the NPPF makes clear that statutory consultees should provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs. Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days. Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice.

## **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

## **Local Policy**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Black Country Core Strategy**

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services
- CEN8: Car Parking in Centres
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

## **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S6: Meeting Local Needs
- S9: Amusement Centres and Arcades
- S10: Hot Food Take-Aways, Restaurants and Other A3 (Food and Drink) Outlets
- S15: Banking & Cashpoint Facilities
- S17: Shopmobility
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users

- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC8: Local Community Facilities

## **Walsall Site Allocation Document 2019**

SLC1: Local Centres (Site LC3)

SLC2: Local Centres Development Opportunities

M1: Safeguarding of Mineral Resources

T2: Bus Services

T4: The Highway Network

## **Supplementary Planning Document**

### **Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

## **Consultation Replies**

**Community Safety** – Recommends security measures.

**Environmental Health** - No adverse comments but recommends hours of opening to match those in the vicinity, no deliveries outside the hours of 07.00am to 10.00pm and adequate facilities for storage/disposal of waste.

**Fire Service** – Support.

**Police** – No objections in principle. Measures are recommended to secure the development against future crime through adopting the principles of Secure by Design. Measures include restricting opening hours to coincide with others in the area, any replacement windows and doors to meet a specified standard, internal store monitoring and security systems including CCTV, appropriate security lighting,

**Pollution** – Support.

**Transportation** – No objections subject to implementation of boundary treatments to shop forecourt to prevent vehicle incursion and provision of cycle stands. The level of parking is acceptable in this local centre location.

## Representations

4 representations in objection including a petition with 381 signatures and an objection forwarded by Eddie Hughes MP relating to the following:  
(*officer comments in italics*)

- No more shops required in Blakenall
- Competition for existing businesses (*this is not a material planning consideration*)
- Possibly attract anti-social behaviour (*this is a police matter*)
- If pub closes could remain vacant before work commences posing a potential for vandalism and anti-social behaviour at the site
- Already 8 shops in a 0.6mile radius
- Shouldn't be a shop with off-license as there are several in the area and may encourage binge drinking (*the premises are currently operating as a licensed premises*)
- Already ample variety of shops in the vicinity open longer hours
- Already a mini-market opposite and vacant shops in the vicinity
- Keep the pub
- Loss of public house as a community hub serving the elderly and those less able (including providing hot meals)
- Pub does charity work and caters for local funerals and so will be a loss to the community
- Pub should become an Asset of Community Value (*the pub is not listed as an ACV*)
- Told by applicant that the conversion would retain part of the pub as well as the retail shop (*this is not part of the proposals and is not shown on the drawings*)
- Told by applicant that first floor was to be converted to 4 flats (*this is not part of the proposals and would require separate planning permission*)
- Existing resident of first floor has a long lease to remain (*this is a civil law matter relating to a tenancy agreement*)
- Existing resident is the former landlady and could end up homeless and jobless (*this is a civil law matter relating to the tenancy agreement and employment law*)
- Loss of jobs for pub staff (*the conversion offers other employment opportunities*)
- Existing tenant and their family is well thought of in the community and set up a judo club in the 1980's (*this is not a material planning consideration*)
- Lack of parking as already little parking for residents
- Better protected parking for residents needed
- Parking congestion when deliveries are made
- Traffic regulation orders in place restricting parking at the junction plus a raised table and disabled crossing make access difficult
- Exacerbates access difficulties due to conflict of large delivery vehicles to premises in the vicinity
- Exacerbates congestion/conflicts with deliveries and refuse collections/emergency services
- Inconvenience caused during construction from traffic congestion
- Traffic hold-ups

- What are hours of trading?
- Blakenall Community had little time to make representations (*the consultations were carried out in accordance with Article 15 of the Town & Country Planning (Development Management Procedure) (England) Order 2015*)

The front page of the petition is appended to this report.

## Determining Issues

- Principle of change of use to a retail shop
- Design of extensions and alterations
- Impact on adjoining occupiers
- Access and parking

## Assessment of the Proposal

### Principle of change of use to a retail shop

The site is allocated in Blakenall Local Centre and as such is covered by SAD policy SLC1 which encourages provision for day-to-day convenience shopping and service needs. Within these centres retention, enhancement and further development of shops, services and other town centre uses will be encouraged, in accordance with SAD policy SLC2 and BCCS policy CEN5. BCCS policy CEN5 encourages individual convenience retail development of up to 500sqm where they satisfy local requirements and are appropriate to the scale and function of the particular centre. The proposal results in a retail store with a net tradeable area of 366sqm, 85sqm increase from the public house. This is considered to represent an appropriate scale to serve the existing local centre and only a marginal increase in floor space from the existing public house.

Whilst objectors are concerned that there is no need for any further retail store in Blakenall local centre and highlight that there are already adequate shops within the vicinity the proposals accord with the above policies so there is no justification to refuse permission on the basis that it introduces a further retail store into the local centre. The scale of the resulting retail store is considered appropriate to serve the needs of the local centre and is only nominally larger than the existing pub premises.

Saved UDP policy S3 seeks to ensure new development is *sensitively integrated in functional and visual terms with the primary shopping area and other land uses, pedestrian routes, car parking provision etc.* This is an existing premises and the proposal retains the main building with minimal changes but including enhancements to the entrance thus integrating well visually and in terms of relationship to the surrounding shopping area.

Saved UDP policy S6 in referring to meeting local needs specifies *the Council will take account of the particular significance of local shops, services and facilities (including the accessibility of alternative provision) when considering applications for changes of use of these premises to other activities. Where they are judged to serve an important local need, the Council may restrict such changes of use.*

Saved UDP policy LC8 states loss of community facilities including public houses should demonstrate the following:

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- (i) *There are other existing facilities, in an equally or more convenient location, which could accommodate any community activities displaced by the proposed development; or*
- (ii) *A replacement facility could be provided in an equally or more convenient location; or*
- (iii) *There is no longer a need for the facility, or for any other community use which could be appropriately provided on the site in accordance with other policies of this Plan; or*
- (iv) *It would not be possible to retain the facility, or provide an alternative community facility because, despite all reasonable efforts, this would not be viable.*

Whilst an objector has demonstrated how they consider the pub offers an important community facility the types of benefits described such as meeting place for the elderly and vulnerable and provision of hot meals could be provided elsewhere in the local centre and it is considered that the retail shop also offers opportunities for the community to meet and interact, albeit in a different way. Also despite the fact the proposal would result in the loss of the public house there is an alternative pub (Kings Head) approximately 190m away from the site and in terms of community provision there are other shops and facilities in the local centre and Blakenall Community Centre is just over 100m away. The proposals therefore are considered to comply with SAD policy SLC1, BCCS CEN5 and saved UDP policies S3, S6 and LC8.

The pub is not listed as an Asset of Community Value so there is no reason to withhold determination of the proposals.

The site is within the mineral safeguarding area but does not exceed the threshold (5 hectares) for requiring supporting evidence to demonstrate how non mineral proposals will safeguard the mineral resource as required by BCCS policy MIN1.

### **Design of extensions and alterations**

The proposed extension at the rear of the premises is not prominent in the street scene and is of a scale that is appropriate given the size of the existing building. The insertion of the new shop entrance and bricking up of the doorway to the right hand side of the Blakenall Lane elevation is sympathetic to the design of this prominent characteristic building. Although shop signs are indicated on the drawings they will require separate advertisement consent.

On the basis of the minimal changes to the visible street elevations of the building the proposals are considered acceptable in design terms in accordance with saved UDP policies ENV32 and ENV35.

The Police and Community Safety team recommend incorporation of safety and security measures and these have been added as a note for applicant. A condition to secure details of any new boundary treatment is also added in order to assess the security implications of any new fencing. Incorporation of roller shutters to the external façade of the building as suggested by Community Safety officers would require planning permission so has not been included, also they would detract from the character of the existing building so are not supported. Comments that the shop may attract anti-social behaviour is considered to be a matter for the operators and

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the police to monitor and are considered no greater risk than other shop premises in the area. Also consideration is made that the premises are located at a prominent highway junction and are well observed thus reducing the potential for anti-social behaviour.

### **Impact on adjoining occupiers**

The proposed extension to the rear of the premises is single storey with a flat roof and squares off the rear corner of the building. The nearest residential property is 140 Blakenall Lane and this has a two storey rear wing with single storey element beyond the rear within which there are no rear or side facing windows overlooking the site. In the circumstances the proposed single storey extension at the site will not be prominently visible from the residential property. Also there is a buttressed brick wall along the boundary between the site and this neighbour providing additional screening. The window and personnel door proposed in the side elevation of the extension will not create any greater potential for overlooking or loss of privacy to this neighbour as they face the brick wall.

Similarly the proposed extensions will not be prominently visible from the property at 2 Chapel Street which is in part commercial use. The existing boundary treatment will screen views from this property.

No hours of opening are indicated in the application although Environmental Health and the Police recommend that hours are limited to match those of surrounding premises in the locality. Environmental Health also request conditions to restrict delivery hours and provide storage facilities for storage/disposal of waste. Many of the existing shops in the area have an extant use with no hours of operation restrictions. In the circumstances and given that this is in a local centre where levels of amenity are not the same as those expected in an entirely suburban area it is considered appropriate to use hours recommended for restricting uses such as hot food take-away's, banking facilities and amusement arcades specified in saved UDP policies S9, S10 and S15 as the applicant has not proposed any hours of opening. Also bearing in mind this was a former public house with licensing hours allowing later opening the hours of opening to the public the hours are recommended between 07.00 and 23.00 Sundays to Fridays and 07.00 and 23.30 hours on Saturdays. A condition to restrict deliveries as recommended by Environmental Health is also included (between 07.00 and 22.00 hours on any day).

The occupier of the residential flat above the pub premises is concerned that they may be evicted as the owner has indicated to them that they intend to create four flats above the proposed shop. The drawings also indicate "*access to residential flats above*". Whilst tenancy agreements are not a material planning consideration in terms of changing the use of the upper floor to four flats this would require separate planning permission. Whilst normally there are permitted development rights under Class G of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to convert the upper floors of Class A1 retail premises to two flats, this right can only be exercised on vacant space above the shop. In this case, the existing flat is considered separate to the shop and so the shop does not benefit from the rights prescribed in Class G. If the owner wished to undertake further conversion works to the upper floor of the building, a separate planning permission will be required for the sub-division of the existing first

floor flat into two or four flats. A note for applicant is recommended to highlight this to the applicant.

Given that there are no significant impacts on amenity of nearby residents in terms of loss of privacy or outlook and further measures to protect amenity are included by restricting hours of opening and delivery it is considered that the proposals accord with saved UDP policies GP2 and ENV32.

### **Access and parking**

The present Class A4 public house has a GFA of 281sqm and the proposed Class A1 retail shop has a GFA of 366sqm. For comparison purposes, in terms of saved UDP policy T13 parking provision for the extant pub use requires a maximum of 17 spaces and the proposed shop a maximum of 31 spaces. The existing pub has limited car parking on site for 3 or 4 spaces. Whilst the proposed use has a significantly higher parking demand than the extant use, the site is located in the local centre where there is both on street and off street parking close by. It is also likely that many customer trips will be linked to shops nearby reducing parking demand. On balance, the Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with NPPF 2018 paragraph 109.

The Transportation officer requests that bollards are incorporated around the front of the site near the junction and Chapel Street to prevent unauthorised parking in this area. A condition is recommended. Also to require provision of the cycle storage on the front of the site.

Although residents are concerned there is already little parking available in the area for residents the proposal is located in a local centre where there is access to alternative provision for parking such as in the car park opposite in Chapel Street. There is also opportunities to access the site by alternative means of travel other than the private car. The proposal does not displace any parking for residents. Parking congestion in the area when deliveries are made will not be dissimilar to when the public house had deliveries and the existing Traffic Regulation Orders in place around the junction continue to apply to control parking. There is ample space at the side of the premises in Chapel Street for storage of waste as occurs with the public house. Whilst there may be some disruption to traffic during deliveries for construction of the extensions this will be for a limited period and will be managed by the developer to comply with existing Traffic Regulation Orders in the vicinity. The raised table mentioned by objectors is not directly outside the public house premises and the proposals do not interrupt pedestrian crossing points.

Saved UDP policy S17 refers to shopmobility and gives priority to the needs of disabled people and to promoting activities that break down barriers. The proposal includes provision for a disabled access ramp to the shop front and also a disabled parking space to the frontage to promote use of the premises by disabled customers in accordance with this policy.

In light of the above it is considered that the proposals would not have severe transport implications and the level of parking is acceptable in this local centre location. The proposals accord with the NPPF and saved UDP policy T7.

## Conclusions and Reasons for Decision

The principle of conversion of the public house to a retail shop are considered to comply with SAD policy SLC1, BCCS CEN5 and saved UDP policies S3, S6 and LC8. The premises are not listed as an Asset of Community Value and there are other community facilities in the locality to compensate for the loss of the public house.

On the basis of the minimal changes to the visible street elevations of the building the proposals are considered acceptable in design terms in accordance with saved UDP policies ENV32 and ENV35.

Given that there are no significant impacts on amenity of nearby residents in terms of loss of privacy or outlook and further measures to protect amenity are included by restricting hours of opening and delivery it is considered that the proposals accord with saved UDP policies GP2 and ENV32.

The proposals would not have severe transport implications and the level of parking is acceptable in this local centre location. The proposals accord with the NPPF and saved UDP policy T7.

Taking into account the above factors it is considered that the application should be recommended for approval.

## Positive and Proactive Working with the Applicant

### Approve

Officers have spoken with the applicant's agent and in response to concerns raised regarding the design of the new entrance and provision for cycle parking and prevention of parking on the forecourt amended plans have been submitted which enable full support to be given to the scheme.

## Recommendation

Grant permission subject to conditions.

## Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. This development shall not be carried out otherwise than in accordance with the following approved plans: -

- Site Location Plan (SHR18046-RevA-DR-A-001) received 25/09/2018

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- Proposed Site Plan (SHR18046-RevA-DR-A-005) received 21/01/2019 (except in so far as the parking illustrated is superseded by that illustrated on drawing SHR18046-RevA-DR-A-003)
- Proposed Block Plan (SHR18046-RevA-DR-A-003) received 04/03/2019
- Existing Layout & Elevations (SHR18046-RevA-DR-A-002) received 04/03/2019
- Existing & Proposed Plans (SHR18046-RevA-DR-A-003) received 04/03/2019
- Design & Access Statement prepared by Rev-A Associates (dated 02/08/19) received 25/09/2018

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

3. The premises shall not be open to the public otherwise than between the hours of 07.00 and 23.00 hours on Sundays to Fridays and 07.00 and 23.30 hours on Saturdays.

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

4. No loading and unloading of goods shall take place outside the curtilage of the site otherwise than between the hours of 07.00 and 22.00 hours on any day.

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

5a. Prior to commencement of the development hereby approved details of all walls, fences gates or other means of enclosure to be erected in or around the development shall be submitted to and approved in writing by the Local Planning Authority.

5b. The development hereby approved shall not be occupied otherwise than in accordance with the agreed details and shall thereafter be retained.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan

6a. Prior to commencement of the development hereby approved details of waste storage/containment and disposal shall be submitted to and approved in writing by the Local Planning Authority.

6b. The development hereby approved shall not be occupied otherwise than in accordance with the agreed details and shall thereafter be retained.

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

7. The walls and roof of the extension and new windows and doorway and infill doorway shall comprise facing materials that match, in size, colour and texture, those which are used in the existing building and shall thereafter be retained.

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

8. Prior to the development first coming into use, the boundary treatment measures around the shop forecourt and entrance to prevent vehicle incursion together with the cycle stands shown on the proposed block plan drawing (SHR18046-RevA-DR-A-003 received 4/3/19) shall be fully implemented in accordance with the approved details and thereafter retained.

Reason: To minimise conflicts between pedestrians and vehicles in the vicinity of the shop entrance, in the interests of the safe and satisfactory operation of the development and in accordance with UDP Policy GP2, BCCS TRAN4 and the NPPF 2018.

9. Prior to the development first coming into use, the existing dropped kerb footway crossing at the corner of Blakenall Lane and Chapel Street made redundant by the development, shall be reinstated back to full kerb height.

Reason: To ensure the satisfactory completion and operation of the development and in the interests of highway safety and in accordance with saved UDP Policy GP2, BCCS TRAN4 and the NPPF 2018.

### **Notes for Applicant**

#### **Creation of flats at upper floor**

Whilst normally there are permitted development rights under Class G of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to convert the upper floors of Class A1 retail premises to two flats, this right can only be exercised on vacant space above the shop. In this case, the existing flat is considered separate to the shop and so the shop does not benefit from the rights prescribed in Class G. If you intend to undertake further conversion works to the upper floor of the building, a separate planning permission will be required for the sub-division of the existing first floor flat into two or four flats.

#### **Police**

I would strongly recommend that due to the high overall crime experienced in this area that the developer is made aware of the specifications and guidelines that can help secure this development against future crime and the benefits that can be achieved on this site through adopting the principles of Secure By Design. Information can be found at

[http://www.securedbydesign.com/wp-content/uploads/2015/05/SBD\\_Commercial\\_2015\\_V2.pdf](http://www.securedbydesign.com/wp-content/uploads/2015/05/SBD_Commercial_2015_V2.pdf)

I recommend the developer seeks the accreditation on the full scheme.

I recommend the opening times are limited to the same as any surrounding retail units to avoid residents being disturbed. There is adequate parking to accommodate any use of this establishment both on site and in neighbouring car park.

If the premises were to undertake any replacement of doors or windows during the refurbishment then I recommend all ground floor windows and any accessible windows are fitted with BS EN 356 grade P1A glass and I recommended the developer to be made aware of and fit the PAS 24:2016 doors.

To assist with anti-social behaviour or robbery/thefts that may occur on the premises of the store consideration should be given to the Sensortech Starbox system which is a form of monitoring to assist staff or managers when dealing with groups of rowdy offenders.

I also recommend some form of Fogging device is fitted as this will assist in any Robbery type offence as this Neighbourhood has a high proportion of this type of crime.

Make sure staff can both see and be seen, displays and posters should not obscure the line of vision, staff need to be able to see if anyone is acting suspiciously outside the premises and anyone outside should be able to see if there is a problem occurring inside.

Consideration also needs to be given to cash handling on site keep as little cash as possible on the premises with a minimum in each till, put notices up to this effect so offenders are aware the risks far out way the rewards. Do not count cash in view of the public always do it in a back office and use drop boxes from the tills rather than removing money trays containing large amounts of cash. The safest method of cash collection is through recognised cash carrying companies.

I recommend the access to the staff only areas are fitted with access control system to stop offenders gaining access to this area when staff are distracted as this will be where staff may be storing personal possessions.

CCTV is an excellent deterrent as offenders do not want to be identified or caught. Sight the cameras covering entrances/exits, and till areas but also install a covert CCTV camera linked to the main recording system at the entrance door as offenders do not normally put their masks or facial coverings on until in the doorway so as not to arouse suspicion from passers-by by which time a full facial picture has been captured. Cameras can also alert any backroom staff to problems arising in the store. Site recording equipment should be stored away in a locked cabinet so that offenders cannot destroy the evidence during the robbery.

Panic alarms can be placed at till counters (unfortunately these can be pressed by staff for the wrong reasons ending up with withdrawal of a response by the Police) however there are systems available for staff to have panic alarms placed in name badges which can be pressed for the monitoring company to open a recording of events and check if there is a problem. They will then in turn call Police avoiding false activations.

Place spyhole viewers in rear service doors to avoid staff being surprised by offenders. The Doors must remain locked when not in use however they must still comply with fire regulations

Ensure the premises is well lit both internally and externally, boost interior lighting if only by increasing wattage of bulbs. Lighting is needed outside and for storage areas as criminals and youths do not like to work in areas where they can be seen and identified.

Fire Exits should be linked to the CCTV and alarm system to identify breaches and deter/prevent staff using exit for comfort break/crime opportunities. It should be closed/locked at all times to prevent anonymous entry to 'private' area

To reduce theft by staff it might be beneficial to have a room whereby security officers/managers can 'search' staff on a random basis. This could reduce theft by staff, there should be rigorous recruitment measures in place with full vetting and all staff to be given crime prevention training

The residency should be separate from the retail unit and should have PAS 24:2016 doors fitted. Where euro profile cylinder locks are proposed in doors, shutters etc. consideration should be given to the ever increasing trend in lock snapping as a means of forcing entry to a building. To reduce such risk a minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond

Standard certification should be used instead of the standard 1 Star cylinder. Also where thumb turn locks are to be installed considerations should be given to the use of the 'BY Pass' method of entry by offenders. There are thumb locks on the market that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.

I would like to recommend that the architects and developers consider the principles of Crime Prevention Through Environmental Design (CPTED) when considering the development layout and that 'Secured by Design' (SBD) specifications be considered for any any buildings and their fixtures and fittings. Information on SBD can be found on the internet at <http://www.securedbydesign.com>

Crime prevention advice is given free without the intention of creating a contract. The Police Service does not take any legal responsibility for the advice given. However, if the advice is implemented, it will reduce the opportunity for crimes to be committed.

### Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

2. The applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the reinstatement of the dropped kerb footway crossing within the public highway. For further information please contact the Traffic Management Team on 01922 654675.



**Petition to stop the proposal of planning permission  
of the NEW INN, blakenall lane, ws31hu which is  
currently a public house downstairs with  
residential accommodation upstairs to be turned  
into a full retail shop downstairs and 4 residential  
accommodation flats upstairs.**

*Petition is conducted by Mrs S Law which is currently landlord of  
the New Inn, blakenall lane, WS31HU.*

Date	Name	Address & postcode	Signature
20/3/19		34 Foster St	
20/3/19		9 Booth close	
20/3/19		68 Norton Rd	
20.3.19		88 GUILD AVE	
20.3.19		6 Bell busch close	
20.3.19		18, chapel street	
20-3-19		68 Seaton Road	
11.3.19		9 FOUNTAIN RD	
20.3.19		29 Ingram Road	
20.3.19		41 Shearwater Rd	
20.3.19		41 Shearwater Rd	
20.3.19		1 SEVERN RD	
20.3.19		13 Goldsmith Rd	
20.3.19		44 Keats Rd	
20/2/19		Boonysr	
20.2.19		59 Green Rock Lane	
20.2.19		Hedley Way	
20.2.19		Sharncliffe	
21-3-19		Stanley ST	
20-3-19		Church Place	
20-3-19		Church Place	
		Chaple St.	

**End of Officers Report**



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 17-Jun-2019

**Plans List Item Number: 4.**

### Reason for bringing to committee: Significant Community Interest

**Location:** MANOR PRIMARY SCHOOL, BRIAR AVENUE, STREETLY, SUTTON COLDFIELD, B74 3HX

**Proposal:** 1 X CLASSROOM EXTENSION TO EXISTING SCHOOL BUILDING.

**Application Number:** 19/0167

**Applicant:** Mrs Karen Tomkins

**Agent:** Miss Bonnie Carswell

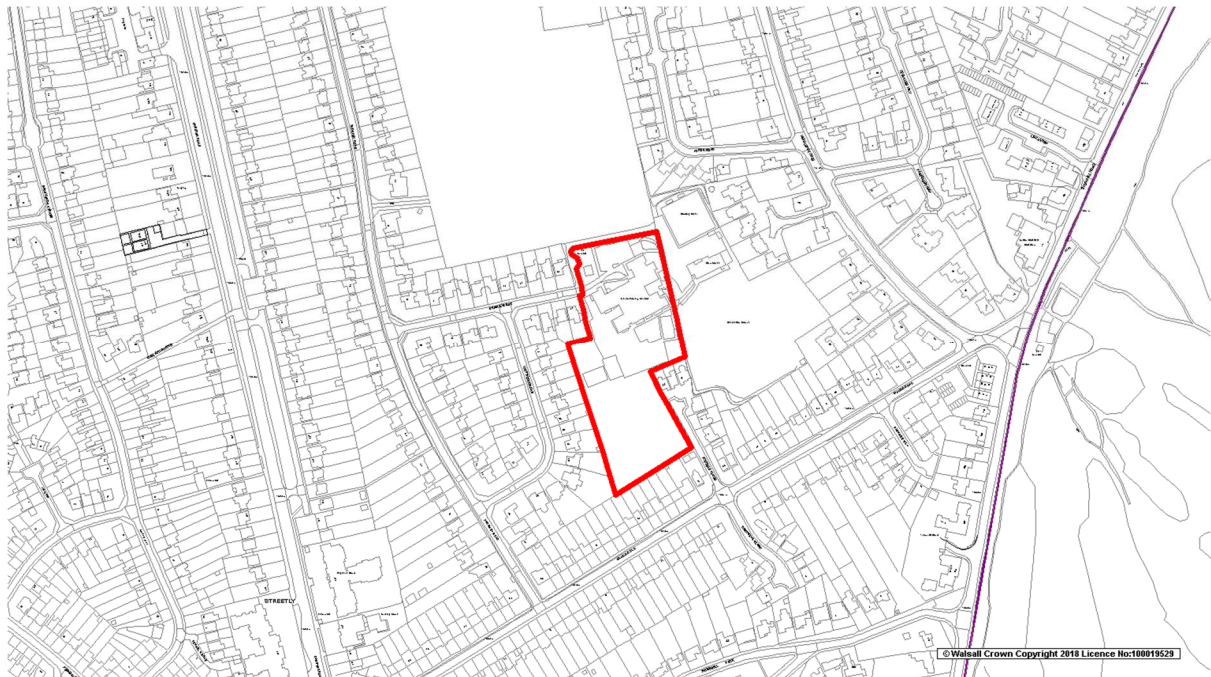
**Application Type:** Full Application: Minor Use Class D1 (Non-Residential Institutions)

**Case Officer:** Devinder Matharu

**Ward:** Streetly

**Expired Date:** 30-Apr-2019

**Time Extension Expiry:** 30-Jun-2019



## Recommendation Summary:

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission 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

## Proposal

The application proposes the erection of a classroom extension to an existing school building.

The classroom would be single storey with a flat roof given the ground levels and would measure 6.9m by 11.3m and 3.8m high at the lowest point and 4.1m high at the highest point.

The classroom would be located off the main corridor.

A plan has been submitted which shows existing soft and hard informal and social play areas including the sports pitch.

The proposal would also include a ramped access to the classroom located by the playground.

A design and access statement has been submitted addressing the proposal.

A transport statement has been submitted which highlights:

- The school currently operates as a 1.5 form entry (FE) primary school catering for 340 pupils and 38 staff (15 teaching and 23 supporting) together with a 52-place nursery.
- Vehicular access to the main buildings of the school, caretaker's house, car park and internal circulation areas is via a gated driveway situated at the far eastern end of Briar Avenue.
- Pedestrian access to the school, pupils and teachers currently enter and exit the site via a gate located adjacent to the vehicular entrance off Briar Avenue.
- Within the vicinity of the site, single yellow line restrictions that prohibit parking between 08:00 to 09:30 and 14:30 to 16:00 are present on both sides of Briar Avenue.
- The car park contains 28 spaces including 25 available to staff, 1 visitor and 1 disabled bay, separated from the playgrounds / playing fields, to provide a safe environment for all users.
- The existing car park takes the form of formal bays distributed through a courtyard between the main school building and Streetly Sports Club, with a further parking courtyard located between the existing Vicarage and caretaker's house.

- All parent / pupil drop-off and pick-up activity takes place at the Streetly Sports Club car park and the adjoining local highway network.
- The site's proximity to the Little Explorers Day Nursery, located along the B4151 Foley Road East to the north, provides opportunities for parents with other younger siblings to undertake linked trips, thereby reducing the overall impact along the local highway network.
- The development proposals specifically comprise the provision of a classroom block containing a teaching room / stores with a combined Gross Internal Area (GIA) of 63.5 sqm, ramped access and associated hard landscaping.
- The Caretaker's house would be demolished to facilitate the expansion of the car park thereby increasing the total to 34.
- The proposed extension would enable the site to operate as a 2 FE primary school capable of accommodating a total of 370 pupils (aged 5 to 11), 52 nursery pupils (aged 3 to 4), and 16 teaching staff.
- There will be no increase in the number of children attending the nursery.
- Manor Primary School would continue to operate as per the existing arrangements with the school day commencing at 08:45 and finishing at 15:15. The before and after school activities that are currently in place would also continue, with the breakfast club commencing at 07:45 and the after-school activities continuing to 18:00. The on-going implementation of breakfast / extra-curricular activities at the beginning and end of each school day would continue to assist in staggering the arrival and departure times of pupils, in turn alleviating the demand for on-street car parking on the local highway network.
- The purpose of this TS is to establish the multi-modal trip generating potential of the development proposals in comparison with the site's current operation (i.e. 340 pupils and 38 staff), to establish the net impact on the local highway and transport networks during the weekday AM (08:00 – 09:00) and PM (15:00 – 16:00) peak hour periods. The results of a pupil 'hands-up' and staff travel survey have been used to inform the multi-modal trip generation assessment. Further, the TS assesses the potential impact of additional parent / pupil drop-offs and pick-ups along the local highway network before and after the start and finish times of the school.
- In addition to this document, a School Travel Plan and Transport Management Plan have been prepared to accompany the planning application, both of which place significant emphasis on the need for parents/guardians to adopt considerate behaviour when undertaking pupil drop-offs and pick-ups along the local highway network before the start and finish times of the school.
- The school serves a predominantly local catchment area with the majority of current children attending from within an approximate 1.5 – 2.0-kilometre catchment area and is provided with a single point of access in the form of a gated access to Briar Avenue.
- The gates are closed during the school drop off and pick up periods in order to prevent parents entering the premises. In addition, local parking restrictions on Briar Avenue aim to restrict the use of this section of the highway during drop off and pick up times.

Ecology survey which states the daytime survey of the parts of the school buildings and former caretaker's house revealed no signs of bats and have negligible potential for bats.

## **Site and Surroundings**

Manor Primary School is located at the eastern end of Briar Avenue. The school is set back within the site. The single storey school buildings cover the majority of the northern part of the site adjacent number 14 Briar Avenue with the playing field to the south. The school site is irregular in shape where it extends beyond the rear of number 12 and 14 Briar Avenue and along the rear of numbers 7 to 11 Icknield Close and forms the boundary with numbers 1 to 21 Hawthorn Road, 25 to 39 Manor Road and 21 Briar Avenue. To the eastern part of the school site is Streetly sports club, playing field and tennis courts.

The caretaker's house is a two storey house located to the north of the school and permission has been recently granted for the demolition of this.

The eastern part of Briar Avenue is a cul de sac with single yellow lines and parking restrictions of no parking between 8am until 9.30am and 2pm until 4pm. The properties along this part of Briar Avenue are Bungalows which have off road parking facilities and low boundary treatments fronting Briar Avenue. There is a raised table within the highway outside number 12.

At the end of Briar Avenue to the north is a driveway that provides vehicular access to Streetly sports club. The driveway runs parallel to the school boundary.

Briar Avenue is located off the eastern side of Thorney Road. Hawthorn Road is accessed from the southern side of Briar Avenue where Briar Avenue becomes a cul de sac.

The area is residential in nature.

## **Relevant Planning History**

Various extensions approved between 1999 and 2006, plus more recently:

14/0154/FL - Erection of a dance studio and extension of external canopy. Grant subject to conditions 2014.

14/0579/FL- Condition 5 of 14/0154/FL for the dance studio to be used from 7.45am to 6pm Monday to Friday with music played in dance studio between 9am to 5pm. Grant subject to conditions 2014.

18/0097 – single storey extensions to provide 1no classroom and 1no new teaching block, comprising 2no classrooms and demolition of vacant caretaker's house and change of use to car parking. Under consideration

19/0154- Change of use to car parking (demolition of existing caretaker's house).  
GSC 24-04-19

## Relevant Policies

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

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/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*".

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **National Planning Policy Guidance**

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

### **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection

- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- T7 - Car Parking
- T8 – Walking
- T13: Parking Provision for Cars, Cycles and Taxis
- LC3: Children's Play Areas
- LC6: Sports Pitches

### **Black Country Core Strategy**

- CSP4: Place Making
- DEL1: Infrastructure Provision
- HOU5: Education and Health Care Facilities
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV6: Open space, sport and recreation

### **Walsall Site Allocation Document 2019**

T4: The Highway Network

### **Supplementary Planning Document**

#### **Conserving Walsall's Natural Environment**

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

#### **Designing Walsall**

- DW3 Character

## Consultation Replies

Arboricultural Officer – No objection (verbal comments 16-05-19)

Fire Officer – No objections

Police – No objections

Pollution Control – No objection subject to planning condition regarding hours of work and measures for controlling dust, noise etc. They also state the acoustic requirements of building bulletin 93 are relevant to teaching space.

Public Health – No objection but makes comments that consideration is given to the availability of active space for pupils and the impact of the development on the active space and the provision of space to allow pupils to interactive and be physically active. The transport statement and travel plan should consider road safety during and after construction as well as supporting sustainable travel options.

Sport England – No objection

Transportation – No objection subject to planning condition seeking details of construction vehicle parking and turning areas.

## Representations

Eight letters from six neighbouring residents have been received objecting to the proposal on the following grounds:

- Travel plan includes errors including incorrect site address
- School have had no communication with residents
- Increasing education establishment in an inappropriate area
- Pupil numbers have increased
- Noise pollution
- Health issues including: 1 in 5 children suffer asthma from vehicle exhaust fumes, Manor school high volume contributor as cars are parked with engines running, local residents suffer breathing and health problems
- Parents/guardians are threatening when confronted about parking
- Parents have disregard for the safety of their children with near hit misses with vehicles
- Highway issues including increase in traffic, parking issues, roads are grid locked, parents parking across residents driveways making it difficult for residents to enter/exit driveways, neighbours blocked in on their driveways by parents, cars continually drive around looking for parking spaces, increase in number of cars to the school, alternative access from Icknield Close should be considered, increase in pedestrian and vehicular traffic since September 2018, parents/guardians park along Briar Avenue, Thorney Road, Icknield Road, Hawthorn Road, Astor Road and the community centre, no improvement in parking situation, school trying to enforce a one way system for Briar Avenue and Hawthorn Road which needs to be enforced by the Police, considered whether emergency services will observe unofficial traffic management, information in traffic statement incorrect as parents/guardians take up parking positions an hour before the start and end of the school day,

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Briar Avenue is not suitable for coaches, severe impact if emergency services needed to attend an incident in Briar Avenue, highway code ignored by parents/guardians, photographs taken too far from school and does not show congestion on Briar Avenue/Thorney Road, extend parking restrictions along Briar Avenue and Thorney Road, parking issues worsen during school trips, on street parking restricts emergency vehicles, CCTV used to enforce parking

- school travel plan submitted under 18/0097 mentions a one way system
- neighbours have to ask for deliveries and transport for disabled residents to be made outside school times due to parking issues
- 

## **Determining Issues**

- Principle of development
- Design
- Impact upon neighbouring occupiers
- Impact on trees and ecology
- Parking and access

## **Assessment of the Proposal**

### **Principle of development**

Policy HOU5 of the Black Country Core Strategy supports the enhancement of existing educational facilities. In this case, the proposed classroom would accommodate an increasing number of pupils joining the school in the forthcoming term, September 2019 and as such, the proposal would be supported.

Neighbouring objectors have stated that the school is located in an inappropriate area and pupil numbers keep increasing. The school is located in a residential area where families with school age children reside and where it should be located. Schools located outside of residential areas would raise issues of sustainability and accessibility. The increase in pupil numbers at the school, would be over a seven year period and not with immediate effect.

A planning application for a new teaching block, demolition of the caretakers home and an additional classroom were submitted under 18/0097. As part of this application, a transport statement was submitted. This document was incorrect. However, under the current application for the single classroom, the submitted transport statement has been updated to refer to Manor School.

Public Health have raised concerns that the proposal should have consideration of active space for pupils. The application is accompanied with a plan that identifies hard and soft informal social and play areas as well as a playing pitch within the school boundary. It is considered that the loss of a small part of the playground would not deprive children of outdoor play space, as there appears to be ample space for outdoor play and recreation.

### **Design**

The design of the proposed classroom extension is considered acceptable as the design blends into the existing school building. The proposed ramp in the

playground will allow access into the classroom for pupils and as such would not detract from the character and setting of the existing school buildings.

The proposal would result in the loss of light to one of the classrooms, however, the proposal seeks to include roof lights to provide additional light into the classroom for amenity purposes, which would provide natural light for pupils.

Pollution Control have referred to design bulletin. This is a matter to address under Building Control and not planning legislation.

### **Impact upon neighbouring occupiers**

The proposed classroom is set away from the neighbouring properties on both Briar Avenue and Hawthorn Road. The classroom would be set in between two existing classrooms as an infill extension. It is considered that the proposed classroom would not unduly harm the amenities of these neighbouring properties to warrant refusal of the application.

Neighbouring occupiers have raised concerns over noise pollution with the additional children that would be accommodated at the school. The level of noise from any additional pupils would not be significant over and above any existing noise levels. Furthermore, the site is a school where some noise from children playing outdoors during school hours would be expected.

Neighbouring occupiers have stated children suffer from asthma from vehicle exhaust fumes and as a result, local residents suffer breathing and health problems. There is no evidence to suggest that the classroom will increase health and breathing problems with children and local residents.

Neighbouring occupiers have also stated that the school have had no communication with them. This is an issue for local residents, the school and ward members. This application was publicised in the correct manner.

Pollution Control have sought an hours of work condition for the proposed works at the school. Any issues regarding work related noise is a matter to be dealt with under Environmental Health legislation and as such would not be conditioned.

### **Impact on trees and ecology**

The area where the classroom would be erected is within a hard surfaced area of the school. There are no trees within this area that would be affected. As a result, the Arboricultural Officer has no objection to the proposal. There is also no impact on ecology.

### **Parking and access**

The purpose of the application is to facilitate the school increasing from the current 1.5 form entry, catering for 340 pupils plus 35 staff, together with a 52 place Nursery, to 2-form entry with up to 370 pupils. This would result in the increase of up to 30 pupils and the nursery element staying the same. Staff levels associated with the proposals would increase by one member of staff from the current 35 staff made up of both full time and part time roles (comprising 18 teaching staff, 17 teaching

support staff and 1 office / site staff). The increase would be incremental over the coming years.

Under application, 19/0154 planning permission has been granted for the demolition of the former Caretakers House. The planning agent has verbally confirmed that the caretakers home will be demolished during the forthcoming half term holidays. The demolition of the caretaker's home would create additional on-site parking, from 28 spaces to 34 spaces. The overall parking spaces would comply with UDP T13 parking policy requirement, which is based upon two additional spaces per classroom.

A Transport Statement has been submitted to support the application setting out the transportation implications of the development. In summary, based upon existing school travel patterns it is predicted that the proposed expansion from 1.5 form entry to 2.0 form entry will result in additional 100 two-way multi-modal trips 50 in the am and 50 in the pm to the school during the school hour peak traffic periods. This increase would be incremental over the forthcoming seven years and will not be from day one. To reduce the above predicted increase in car borne trips, the school has a Travel Plan which seeks to encourage parents to use breakfast clubs to stagger car borne journeys and adopt sustainable travel patterns. As part of the Travel Plan, the school are actively encouraged to continue to pro-actively participate with the Council's A-Stars Programme for 3 years minimum. The aim of the A stars programme is to annually produce and actively implement an A\*STARS Action Plan, achieve a minimum of bronze level and reduce car usage year on year by promoting sustainable travel via the A\*STARS action plan. This is managed with the Road Safety team and is not a material planning matter.

Neighbouring occupiers have raised a number of concerns regarding threatening and inconsiderate behaviour of parents and guardians when picking up and dropping children off including blocking access to properties. These matters are not material planning considerations but should be raised with the school or Police.

Neighbouring occupiers also raise concerns about increase in traffic, existing parking issues, roads are grid locked, parents continually drive around looking for spaces, parents ignore the highway code and on street parking restricts emergency vehicle access. They also state CCTV would alleviate parking problems.

To try to minimise and address any parking problems associated with the school with residents in the immediate vicinity of the school, double and single yellow parking restriction measures are already in place close to the school entrance in Briar Avenue and Thorney Road. These are enforceable by the Council's Civil Parking Enforcement Officers. Parking issues in the surrounding streets, whilst acknowledged are not material to the consideration of this application as sufficient parking is provided to comply with policy. Neighbouring occupiers have raised concerns about parents having disregard for the safety of children with near misses. The safety of schoolchildren is the responsibility of parents and the school to ensure they are able to attend and leave the school in a safe manner.

Neighbouring occupiers also raise concerns over increase in number of cars to the school since September 2018, alternative access from Icknield Close should be considered, Briar Avenue is unsuitable for coaches, the parking worsens on school trips and the extension of parking restrictions should be considered along Briar

Avenue and Thorney Road. They also state the travel plan refers to a one way system. Traffic regulations are a matter for the highways department to consider, should residents wish they could raise the matter with highways, as would the issue regarding a one way system for vehicles. The construction of an alternative access off Icknield Close is a matter for the school and highways to consider, there is no evidence to suggest this would alleviate any existing on street parking problems for a short period during the day, in fact it may result in creating further problems elsewhere. Coaches would only be parked on Briar Avenue on the odd occasion and not an everyday occurrence that would cause significant amenity issues for neighbouring occupiers.

There is a demand for the school to increase its capacity and, to help mitigate the predicted increase in traffic associated with the expansion the school, the school will proactively work with the Council's Road Safety Team to minimise the traffic impact. On balance, the Highway Authority considers the development will not have severe road safety or transportation implications and is acceptable in accordance with NPPF.

### **Conclusions and Reasons for Decision**

The proposal is in accordance with Policy HOU5 of the BCCS.

The design of the proposed classroom is considered acceptable and blends into the existing school. The proposal would still allow for outdoor informal soft and hard surfaced play areas including a playing pitch.

The proposal would not unduly harm the amenities of neighbouring residential occupiers.

There is a demand for the school to increase its capacity and, to help mitigate the predicted increase in traffic associated with the expansion the school, the school will proactively work with the Council's Road Safety Team to minimise the traffic impact. On balance, the Highway Authority considers the development will not have severe road safety or transportation implications and is acceptable in accordance with NPPF 2018 para 109.

The proposal complies with the NPPF, policies DEL1, HOU5 and ENV3 of the BCCS, Saved Policies GP2, ENV14 and ENV32 of the UDP, Policy T4 of the SAD and Policy DW3 of Designing Walsall SPD.

Taking into account the above factors it is considered that the application should be recommended for approval.

### **Positive and Proactive Working with the Applicant**

#### **Approve**

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

### **Recommendation**

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission 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

## Conditions and Reasons

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

- Location plan drawing number (P)01 submitted 05-03-19
- Existing site plan drawing number (P)02 submitted 05-03-19
- Proposed elevations drawing number (P)05 submitted 26-02-19
- Proposed plans drawing number (P)06/A submitted 13-05-19
- Drawing number (MP)500/B entitled proposed section 77 site plan submitted 13-05-19
- Transport statement submitted on 13-05-19
- Design and access statement submitted 05-02-19
- Ecological walk over survey and day time bat assessment submitted 05-02-19

Reason: To define the permission

3a. Prior to the commencement of development, a Construction Logistics Plan (CLP), as stated in paragraph 4.11 of the submitted Milestone Transport Statement dated May 2019, shall be submitted to an approved in writing by the Local Planning Authority. The CLP shall include details of where the parking and turning facilities for site operatives and construction deliveries will be located and including full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.

3b. The provisions approved under part (a) of this condition shall be retained during construction in accordance with the approved details.

Reason: In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety in accordance with Policy GP2 of the UDP.

4a. Prior to the commencement of development, construction management plan (CMP) shall be submitted to an approved in writing by the Local Planning Authority. The CMP Shall include measures for controlling noise, dust, flying debris, and drag-out from engineering and construction activities at the site.

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4b. All agreed measures shall be implemented and maintained throughout the duration of demolition operations and construction activities.

Reason: To minimise environmental impact during development in accordance with Policies GP2 and ENV32 of the UDP.

5. The walls and roof of the extension hereby approved shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building and shall be retained as such after completion of the extension.

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

**Notes for the Applicant: Highways**

1. The applicant will be expected to continually monitor, review and develop it's School Travel Plan in accordance with the details as set out in Section 7 of the submitted Milestone Transport Statement dated May 2019, together with pro-actively participating in the Council's A-Stars Programme for 3 years minimum, with the aim to; annually produce and actively implement an A\*STARS Action Plan, achieve a minimum of bronze level and reduce car usage year on year by promoting sustainable travel via the A\*STARS action plan.
2. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

**End of Officers Report**





## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 17-Jun-2019

**Plans List Item Number: 5.**

**Reason for bringing to committee: Contrary to the provisions of the development plan**

**Location:** BEACON DAIRY FARM, DOE BANK LANE, GREAT BARR, WALSALL, WS9 0RQ

**Proposal:** DEMOLITION OF EXISTING FARM, COMMERCIAL AND FARMHOUSE BUILDINGS AND THE ERECTION OF 14 DWELLING HOUSES.

**Application Number:** 18/1267

**Applicant:** Brian Wassall

**Agent:** Stephen Locke

**Application Type:** Full Application: Major Use Class C3 (Dwellinghouses)

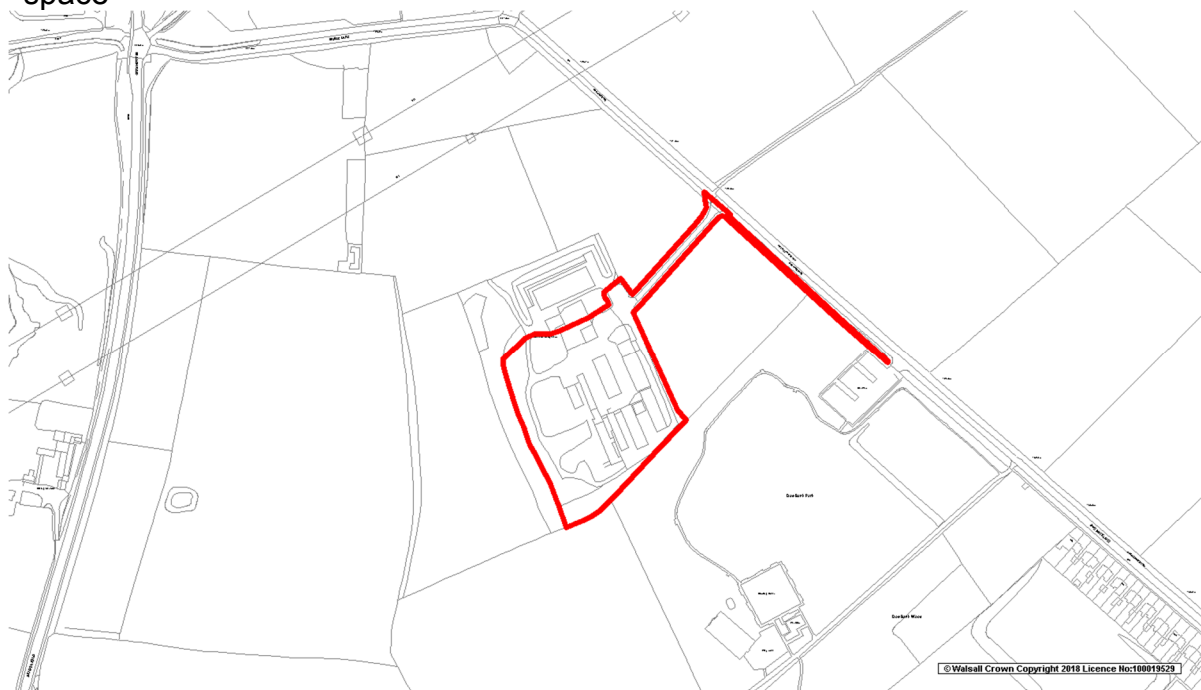
**Case Officer:** Paul Hinton

**Ward:** Pheasey Park Farm

**Expired Date:** 30-Apr-2019

**Time Extension Expiry:**

**Recommendation Summary:** Grant Planning Permission Subject to Conditions and a s106 agreement in regard to securing a financial contribution towards urban open space





## Proposal

This application seeks planning permission for the demolition of the existing farm, commercial and farmhouse buildings and the erection of 14 dwelling houses at Beacon Dairy Farm.

A new four bedroom dwelling would be erected in the same location as the existing three bedroom farmhouse retaining the same length rear garden. The new dwelling would have 5.1m high eaves and 6.8m high ridge compared to the existing 5m high eaves and 8m high tile pitched roof. The new house would have an L shape footprint with front projecting gable.

To the side of the house four blocks of development are proposed, arranged with two blocks facing across a courtyard to two other blocks. Each block includes three houses of 3 and 4 bedrooms, two storeys in height, 5.2m high eaves and 6.8m high ridge. Enclosing the courtyard to the south a detached house of the same height and appearance is proposed. The courtyard includes 16 garages in four blocks and vehicle parking areas. Each property would have a generous rear gardens of between 15m to 35m in length enclosed by timber post and rail fences. Metal railings are proposed to the front boundaries of the houses.

The architecture of the proposed houses follows a modern barn theme with the houses having a low pitched slate tile roof, elongated grey aluminium frame window openings with traditional brick finish and timber cladding. Metal rainwater goods are proposed. The courtyard would be finished with consolidated chippings.

The site would be accessed by the existing 125m long single width drive from Doe Bank Lane, but proposes passing places and a separate hardsurfaced footpath along the drive. The application also proposes a 185m long hardsurfaced 2m wide footway along Doe Bank Lane connecting the site to Doe Bank Park.

The access would continue to be shared with the existing livery and stables to the north which would be retained and which use the existing fields to the north, east and west of the site.

The following information has been submitted in support of the application:

### *Planning Statement*

- The proposed is a small farm extended to 28 acres which has struggled to be viable.
- Historically the farm was used as a chicken unit and as a dairy farm with milk deliveries to the local community; these have gradually ceased.
- More recently the owners have let out some of the redundant farm buildings for commercial use, including vehicle repairs, storage, wood-working and timber processing.
- There is are range of equestrian stables to the north operated on a livery basis which uses the remaining grassland.

- Scheme aims to benefit the Great Barr Conservation Area by providing high quality development to replace the unsightly set of farm buildings and the existing house which generally has low architectural merit.
- Design will associate with rural setting as the units will make use of traditional materials such as slate roofs, traditional bricks, timber cladding and large casement style window openings.
- The use will provide low-key use compared to previous uses of the site.
- The existing access will be retained and allow for two-way traffic for the first 15m and single track with passing places for the rest of the drive.
- Applicants willing to fund a public footway link from the road entrance to the public part off Doe Bank Lane.
- Regarding traffic, a small scale residential scheme is seen as being more suitable than an alternative commercial/industrial use. With approximately 28 movements in and out each day.
- Units will include grey water recycling and electric vehicle charging points.
- Roof design has been kept clean and uncluttered to match the style of traditional farm buildings.
- Features such as chimneys have been excluded to minimise the domestic appearance.
- All main entrances will have virtually level access and suitably sized accessibly toilets.
- The proposed buildings would be no higher than the highest farm building.
- The proposed footprint is smaller than the existing giving an overall reduction in openness of the Green Belt.
- The scheme will improve the character of Great Barr Conservation Area by removing unsightly and old farm buildings and by building a scheme which makes a positive contribution to the character of the wider area.
- A new native hedgerow will be planted along the eastern side of the site.

### *Tree Survey*

- Principle trees are sited along the entrance drive into the farm and around the site perimeter.
- The site has young woodland to the west and south but this is not affected by the proposed development.
- The scheme proposes to remove a small number of poorer quality trees and some of the young trees planted on soil bunds to the west of the farm buildings.
- Given the proposed layout, some ground works encroach into Root Protection Areas of the trees. These trees should be protected during the development.

### *Preliminary Ecological Appraisal March 2018*

- Closest pond (400m to the south) would have below average suitability for Great Crested Newts.
- Due to the poor quality of habitats being developed and distance from waterbodies, impacts on terrestrial phase amphibian are considered to be extremely unlikely.
- Further nocturnal bat surveys are recommended.

- Primary foraging and community routes for bats are considered to be the wider site including trees to the west and south of the site that will remain unaffected.
- A lighting strategy for the site is recommended.
- Due to the potential for nesting birds demolition and vegetation clearance/tree pruning should be completed outside of the bird nesting season.
- Site considered to be of very limited value for reptiles, consisting largely of hard standing. Precautionary approach should be adopted during vegetation clearance and dismantling of rubble or log piles.
- No badger evidence was found. Best practice should be followed.
- Retention and enhancements of the scattered trees and scrub habitat through implementing of additional native planning would benefit local flora and fauna.

#### *Bat Emergency Survey September 2018*

- Brown long eared bats, Common and Soprano pipistrelle were recorded foraging on the site
- A new bat loft can be created in the roof space of the new garage and six bat boxes within the new buildings.
- Retention of trees and shrub boundary to the site will retain the forage opportunities
- Should be no illumination of the trees and shrubs and lighting around the site should be designed to ensure dark corridors around the boundaries.
- Method of working for contractors should be put in place.
- The A grade trees will not be affected.
- A tree protection scheme is proposed.

#### *Urban Open Space Statement*

- The applicants (or successors in title) are happy to agree to the payment of a contribution which will help boost funds for the maintenance and the improvement of urban open spaces for all residents.

#### *Drainage Technical Note*

- Surface water to discharge via infiltration to the ground via SuDS with permeable paving and soakaways.
- Porous sub-base will store rainwater during storms with no overground flooding for 1 in 100 year storm events plus 40% climate change.
- Foul water to connect via gravity to the nearby public foul water sewer network.

### **Site and Surroundings**

Beacon Dairy Farm is a collection of seven former farm buildings and existing occupied farm house. The buildings have not been in use for farming purposes for some time and in recent times the buildings have been used for other temporary uses including vehicle repairs, storage, wood-working and timber processing. The site is generally flat with a bund to the western boundary. There are trees along the driveway, between the farm house and the livery and to the southern and western boundaries.

The farm holdings includes five fields to the north, east and west. There is a livery business to the north of the farm buildings that includes stables, ménage and storage building. Directly to the south of the site is Doe Bank Park with the residential area of Pheasey further to the south. To the wider east and west are open fields used for agriculture and keeping of horses. Barr Beacon is to the north. The site is part of the West Midlands Green Belt and Great Barr Conservation Area.

## **Relevant Planning History**

BC35781P – Section 63; Retention of Block of 20 Stables for Horses, Associated Windbreak Mound. GSC 10/9/92

BC44069P – Replacement of storm damaged poultry house. GSC 5/6/95

## **Relevant Policies**

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

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/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*".

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

### **Local Policy**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Black Country Core Strategy**

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM5: Resource Management and New Development

## **Saved Unitary Development Plan**

- GP2: Environmental Protection
- 3.6 and 3.7: Environmental Improvement
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV27: Buildings of Historic or Architectural Interest
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- T7 - Car Parking
- T8 – Walking
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC8: Local Community Facilities

## Site Allocations Document

- HC2 – Development of Other Land for Housing
- GB1 – Green Belt Boundary and Control of Development in the Green Belt
- EN1 – Natural Environmental Protection, Management and Enhancement
- EN3 – Flood Risk
- EN5 – Development in Conservation Areas

## Supplementary Planning Document

### Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

### Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW6 Legibility
- DW9 High Quality Public Realm

### Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL

- 5.22 - Viability

## **Open space, sport and recreation**

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

## **Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.**

In determining any planning application, special attention shall be paid to the desirability of preserving listed buildings and preserving or enhancing the character or appearance of conservation areas as set out in sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **Consultation Replies**

**Planning Policy** – assuming this is previously developed land, this would not be inappropriate development in the Green Belt. If not, very special circumstances would need to be demonstrated.

**Highways** – no objection subject to the use of recommended conditions in regard to details of new footpath and access drive and provision of a Construction Methodology Statement.

**Conservation Officer** – objects due to the number, size, design and arrangements of the residential units.

**Pollution Control** – no objection subject to use of recommended conditions in regard to investigating and remediating ground contamination and ground gas, installation of electric charging points and low NOx boilers and control over construction working hours.

**Ecology** – no objection. Concurs with the findings and recommendations of the reports which if followed it is considered unlikely that the proposed development will have a negative impact on any protected/notable species or habitat and the development is capable of delivering a net gain to biodiversity.

**Flood Risk Manager** – no objection subject to use of recommended drainage condition.

**Police Designing Out Crime** – no objection subject to the use of recommended security measures for, window and door standards, height of boundaries, security alarm and natural surveillance of parking area.



**Fire Services** - no objection subject to provision of suitable water supplies.

**Environment Agency** – no objection. Former use of site was a historic landfill, recommend that investigations are carried out in order to assess risks to controlled waters. Condition is recommended.

**Friends of the Earth** – no increase in land take which must be secured by condition, increase in height needs to be avoided, additional pedestrian facilities could be provided, would sufficient buildings remain for management of the retained land.

**Housing Standards** – no objection.

**Severn Trent Water** – no objection subject to use of recommended drainage condition.

**Waste Management** – no comments received.

**Tree Officer** – no comments received.

**Clean and Green** – no comments received.

**Environmental Health** – no comments received.

## **Representations**

Surrounding occupiers notified by letter, site notice displayed and advertised in the local newspaper.

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

- Building on the Green Belt should not be allowed.
- Green Belt dwellings should be replaced only with that same footage of building that is already there.
- People need green spaces for their wellbeing and sanity
- Would set precedent for other development (*each application is considered on its merits*).
- Impact upon wildlife and bats in the farm.
- Additional vehicle movements and congestion would cause safety issues.
- Impact upon the appearance of the area.
- No footpath along Doe Bank Lane
- Will be luxury homes and not starter homes
- Where are the extra spaces to be found in local schools and doctors that are already over subscribed.
- Severe lack of Police. (*This is outside the scope of the planning system*)
- Not much countryside left
- Footpath would destroy character of the area.
- Should be used as a forest school, community space or extension to the park (*the Council must assess the application on the merits of the submission*)

- Impact from demolition and construction traffic (*this would not be a reason to sustain a reason for refusal*).
- Plenty of other land for housing.
- Will bring more immigrants to the area and more crime. (*No evidence has been submitted to substantiate this claim*)
- Will cause more pollution
- Local roads used for horse riding
- Will give rise to noise.
- Will not be affordable homes.
- Farm should not be demolished.
- People would have nowhere to keep their horses locally (*the proposal does not impact upon the on-going use of the livery and stables*)
- Density
- Impact on landscape
- Effect on listed buildings and archaeology (*none of the buildings are listed and there is no evidence that demonstrates archaeological impacts*)
- Effect on Conservation Area.
- Potential asbestos.
- Impacts on the cultivation of local crops

Following re-consultation on amended plans, 11 letters have been received raising the following additional objections:

- Should be no higher than the existing development
- Bridle Lane should be made wider to accommodate this development
- Would be intrusive development out of context
- Would encroach upon the open countryside
- Insufficient consultation (*surrounding occupiers notified by letter, site notice displayed and advertised in local press in line with the national planning legislation*)
- Beacon dairy farm is a grade 2 listed building (*this is not a Listed Building*)
- Great potential to become a community farm (*current application must be considered on its merits*)

## Determining Issues

- Whether the development is appropriate development in the Green Belt
- Very special circumstances
- Impact upon the historic environment
- Ecology
- Impact on the character and appearance of the area
- Layout and design
- Access and Parking
- Local Finance Considerations

## Assessment of the Proposal

### Whether the development is appropriate development in the Green Belt

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The application site is part of the West Midlands Green Belt. The NPPF explains that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to state that the construction of new buildings is inappropriate development in the Green Belt. There are some exceptions to this presumption, with two relevant to this application:

*‘The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces’.*

The proposal does not meet this exception as the proposal would not be in the same use.

*‘Complete redevelopment of previously developed land which would not have a greater impact on the openness than the existing development’*

The NPPF defines previously developed land as land that was occupied by a permanent structure, but excludes land that was last occupied by agricultural buildings. The definition of agriculture includes dairy farm and keeping of livestock. While it is understood some of the buildings have been used for non-agricultural purposes in recent times, no evidence has been presented to confirm these have become lawful by the passage of time. Therefore on the balance of probabilities the with the exception of the existing farm house, the lawful use of the land and buildings would be for agriculture.

Accordingly the site is not previously developed land, the proposal does not meet the exceptions test of the NPPF and would be inappropriate development in the Green Belt.

### **Very Special Circumstances**

The NPPF explains that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.

The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness is commonly taken to mean the absence of built or otherwise urbanising development. However, the Green Belt serves five purposes;

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

The site is set back 110m from the Doe Bank Lane behind existing fields and consists of a collection of five existing farm buildings and the existing farm house. The farm buildings span the width of the site and are generally compacted to the front

of the site with areas of hard standing around the buildings used for access and unrestricted external storage. To the rear there is some peripheral landscaping.

The farm complex was historically used as a dairy and poultry farm. The applicant has explained that due to the increase in mechanisation and commercial practises due to the size of the holding it could no longer compete with the industry and slowly the business was closed as it became unviable. In recent times some of the buildings have been let for commercial use, including vehicle repairs, storage, wood-working and timber processing, though there are no planning records that authorise these uses.

The site does not appear to have a future for farming, therefore in the interests of good planning consideration should be given to the future of this land. Alternative uses could include general industrial or warehousing and distribution. Due to its location in the countryside with immediate access from country lanes, long operational hours and possible external storage, such a use could lead to environmental harm and would not be suitable. Leisure or community uses would be resisted due it being away from an established centre and not well served by public transport. Similarly offices would be contrary to the town centre first approach. Based on this residential would be the most suitable use of the land.

The table 1 below is an assessment of the existing buildings and the proposal. This confirms that the existing footprint of the buildings is 2633sqm, the proposal would have a footprint of 1670sqm resulting in a reduction of 963sqm. Regarding volume, the existing substantially completed buildings (*there are a number of other buildings/structures across the site that cannot be used as part of the calculation*) are 12,835 cubic metres. The proposal would have a total volume of 9897 cubic metres, a reduction of 2938 cubic metres.

The six existing buildings are of a variety of sizes with eaves height of between 2m and 8m and roof height of between 4m and 10.4m. The proposed eaves of 5.1m and roof height of 6.8m, would be viewed in the context of this existing variety.

The footprint of the proposed would not exceed the existing building dispersal across the site, to protect the openness of the Green Belt.

The proposed development, reducing the footprint would result in an increase in openness in the Green Belt.

	Area (sqm)	Volume (cubic metres)
<b>Existing</b>		
1.Deep litter poultry shed	575	4091
2.Poultry barns 2 and 3	713	1805
3.Storage barns	670	3194
4.Steel barn	83	673
5. Dairy and storage building	456	2423

6. Existing house	136	649
<b>Total existing</b>	<b>2633</b>	<b>12,835</b>
<b>Proposed</b>		
New farm house	122	735
New houses (x 13)	1120	7514
New garages	428	1648
<b>Total proposed</b>	<b>1670</b>	<b>9897</b>

**Table 1 – existing and proposed openness**

The layout of the proposal ensures there would be a reduction in hardstanding and removal of the existing open storage elements. The proposed houses would have generous rear gardens that would result in an increase in the greening of the site.

The proposal would continue to meet the four of the five purposes of the Green Belt. It would not create sprawl any further than the existing boundaries, it would not result in towns merging into one another, it would not encroach any further into the countryside and it is not part of a historic town. The fifth purpose is to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. It is recognised that the alternative to developing this site would be developing a brownfield site. As discussed above the lack of alternative uses for this site could result in dereliction of this land. Weight is given to the avoidance of this scenario.

Based on the above it is considered that very special circumstances exist to outweigh the harm the development would have on the Green Belt.

On the grounds that very special circumstances have been demonstrated and the proposal does not result in the creation of additional floorspace in the Green Belt. The application would not need to be referred to the Secretary of State for consideration on whether to call the application before a public inquiry.

### **Impact upon the historic environment**

SAD policy EN5 explains developments should preserve or enhance the character and appearance of the Conservation Area.

The NPPF explains that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

The Conservation Officer explains that the proposals would intensify development on this elevated site by increasing the amount of residential units, replacing single storey agricultural sheds with two storey dwellings with replicated facades, windows and cladding appearing generic.

As discussed above the proposal would result in a physical reduction of built form across the site. The current buildings are a collection of farm buildings that offer little in architectural merit. Most of the larger barns have a blockwork finish with profiled

sheeting to the sides and roof. The existing farm house is a two storey pitched roof building with large single storey front extension in a render finish. Conservation Areas exist to manage and protect the special architectural and historic interest of a place. As discussed the architectural interest is limited.

The loss of the farm buildings would alter the historic interest of the site but the design by virtue of its layout and appearance would be an enhancement over the existing buildings. The architecture of the proposed houses follows a modern barn theme with the houses having a low pitched slate tile roof, elongated grey aluminium frame window openings with traditional brick finish and timber cladding. Metal rainwater goods are proposed. The courtyard would be finished with consolidated chippings. Roof design has been kept clean and uncluttered with chimneys excluded to match the style of traditional farm buildings and minimise the domestic appearance.

On balance the development would preserve the setting and character of the Conservation Area.

Whilst objectors consider the farm building should be retained, the Council has to consider the proposal before it. As discussed above the limited historical merits of the building in this instance mean its loss would not be detrimental in heritage terms.

### **Ecology**

The supporting reports confirm that the site had below average suitability for Great Crested Newts and there were no badgers. The site is considered to be of very limited value for reptiles, consisting largely of hard standing. Precautionary approach should be adopted during vegetation clearance and dismantling of rubble or log piles. Due to the potential for nesting birds demolition and vegetation clearance/tree pruning should be completed outside of the bird nesting season.

No bats were identified within the buildings but they were recorded foraging on the site. Retention of trees and shrub boundary to the site will retain the forage opportunities and bat boxes should be installed. A lighting strategy should be provided.

The Council's consultant Ecologist concurs with the findings and recommendations of the reports which if followed it is considered unlikely that the proposed development will have a negative impact on any protected/notable species or habitat and the development is capable of delivering a net gain to biodiversity.

Conditions to address the above are recommended.

Objectors raise concerns about the impacts on the cultivation of local crops, the development would not be at the expense of existing agricultural land. The additional vehicle movements from the development would not have a material impact on local crops.

### **Impact on the character and appearance of the area**

The NPPF says that developments should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new

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development into the built environment. Permission should be refused for development of poor design that fails to take the opportunities available to preserve or enhance the character of the area. Policies CPS4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3.6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed/influenced by their context and reinforce locally distinctive elements.

The proposed houses would not have a greater dispersal across the site than the existing buildings. The buildings would be sited within a courtyard arrangement more akin to buildings in the countryside than a suburban cul-de-sac. The architecture of the houses are informed by modern barn styles. Whilst this design is not an immediate feature of the area, it would not provide a scheme that was detrimental to the character of the area that warrants refusal of the planning application.

The NPPF states that decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative. Decisions should optimise the potential of the site to accommodate development and permission should be refused for development of poor design that fails to take the opportunities available for improving the character of quality of an area.

The residential development would significantly improve the appearance of the surrounding countryside by replacing these vacant farm buildings and their associated activities that detract from the character and appearance of the area with more attractive buildings grouped in a more coherent manner. The overall massing of the site would be reduced increasing the openness of the Green Belt.

Saved UDP policy ENV33 requires full landscape details to be provided with an application. Landscaping in such locations needs to be an integral part of the design process and not left as an afterthought. The layout show retention of most of the trees along the driveway and those to the southern and western boundaries. Additional hedgerow planting is proposed around the gardens of the houses which will be laid to lawn. The design approach allows for landscaping, full details can be secured by condition.

The appearance, scale and massing of the houses is an improvement upon the present buildings and while the layout results in a more conspicuous development due to a continual roof height compared to the variety of building shapes and sizes currently on site, on balance it is not considered to have such harm on the character and appearance of the area to sustain refusal of the application.

It is recommended that permitted development rights for extensions, alterations to the roofs, porches, outbuildings, hard surfacing and means of enclosure are removed to enable control over future development at the site that may reduce the openness of the Green Belt or adversely affect the character of the area and conservation area.

Full materials schedule is also required to ensure integration into both the Conservation Area and Green Belt. This can be secured by condition.

Objection about the dwellings being luxury homes and not starter homes. Whilst the Council is required to determine the application before it, the supporting justification to policy HOU2 of the BCCS states the Black Country suffers from a lack of housing

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choice, which limits its ability to attract more households in Social Groups A and B and goes on to state that it will be important to achieve a level of transformation necessary to attract A/B households. The development proposed would seek to contribute towards this choice of housing.

Whilst there is an objection about not being affordable homes, the relevant policy requires affordable homes at 15 units and above, therefore the Council cannot require affordable provision as part of this submission.

Neighbours object to additional housing due to local schools and doctors being oversubscribed and lack of police. Consultation has been undertaken and none of the consultees have raised issues with existing capacity issues

Whilst there are objections about immigration and crime, the objections have not provided clear evidence of how the proposed housing scheme will create this and the Police have no objection to the proposal plus there is no evidence that this development would give rise to crime.

### **Ground conditions**

The Environment Agency explain that the former use of this site was a historical landfill which has the potential to have caused contamination which may currently be impacting 'Controlled Waters' receptors of the groundwater in the underlying Principle and Secondary Aquifers. Furthermore there is potential for re-mobilisation of any contaminants during site development. Prior to any built development commencing investigations are required to be carried out in order to assess risks to controlled waters from all areas of the site. A condition has been recommended which officers consider is necessary.

Pollution Control also explain that due to the previous uses of the site it has the potential for being a source of contamination. A desk study is required to inform whether an intrusive site investigation and mitigation will be required. This can be secured by condition. An asbestos survey is also required.

To mitigate against potential air quality impacts the development would require electric vehicle charging points and low NOx boilers. These can be secured by condition.

Pollution Control also seek a condition to control construction working hours, as any harm arising from such activities is controlled by other legislation, this conditional request would not meet the government's tests.

### **Flood risk and drainage**

The site is within flood zone 1m with minor ponding identified to the south of the site for the 1 in 1000 year event. The Drainage Technical note submitted with the application confirms surface water would discharge via infiltration to the ground via SuDS with permeable paving and soakaways. Rainwater would be stored within the porous sub-base during a 1 in 100 year storm events plus 40% climate change to ensure overland flow is managed. Foul water would be connected via gravity to the nearby public foul water sewer network.



The Flood Risk Manager raises no objection subject to use of recommended conditions defining the use of the measures above. Part of the recommended condition relates to confirmation of who will be responsible for the surface water system over its lifetime. This requirement would not meet the condition tests.

Severn Trent Water raise no objection subject to provision of full drainage details. This can be secured by condition.

Accordingly the development would not be at risk of flooding or give rise to flooding subject to a satisfactory drainage design.

## **Highways**

Saved UDP policy T11 explains residential development should be within easy walking/cycling distance of a range of facilities which meet local needs. The maximum will normally be regarded as 1000m. Doe Bank Park is 220m walking distance, Meadow View Primary School is 970m walking distance and a local parade of shops and public house on Queslett Road East are 1250m walking distance away. Pheasey Local Centre is 1.6km walking distance away.

Saved UDP policy T12 explains residential development should be within 400m walking distance of the nearest bus stop. In this case the nearest bus stop is on Frampton Way, 840m walking distance away.

Whilst the walking distance to some amenities are outside of the walking distance prescribed in the UDP, weight must be given to whether the residual cumulative impacts would be severe. As discussed earlier consideration is also given to alternative uses for this site and which would be more sustainable. A place of employment, leisure or community use would be less sustainable than residential. The scheme includes provision of a new footway which links the site to Doe Bank Lane Park and the existing paths that connect to the pavement along Doe Bank Lane. This would assist with the promotion of sustainable travel. While this distance is not the most sustainable, looking at the development as a whole, it would be difficult to sustain a reason for refusal on these grounds alone.

13 additional residential properties would not give rise to such a level of vehicle movements that would be harmful. Sufficient visibility from the access is provided and sufficient off-street parking for each of the houses is also proposed.

Highways raise no objection to the application subject to the use of recommended conditions in regard to details of new footpath and access drive and provision of a Construction Methodology Statement. These conditions are necessary, would meet the Government's six tests and are recommended.

Objectors explain that the local roads are used for horse riding and Bridle Lane should be made wider to accommodate the development. The additional vehicle movements from the development would not be significant given the existing use of the local roads and would not require widening of the carriageway.

## **Trees**

The identified poor quality trees within the site will be removed and the two A grade trees will not be affected. A tree protection scheme is proposed for the duration of works. Three fir trees are proposed to be removed which have been rated as category C. While the replacement farm house would be within part of the roof protection area of a group of 10 scots pine and a silver birch tree (A category trees) the building would be outside of this zone. By implementing the proposed tree protection measures these trees would not be unduly affected by the development.

There are trees within the highway verge next to where the new footpath is proposed. A no dig construction method would be required.

Overall there would be limited arboricultural impact.

## **Residential and neighbouring amenity**

The proposal provides sufficient internal and external space and layout for potential residential occupiers and provides a good level of privacy. The site is 500m away from the nearest house and therefore would have no impact.

## **Planning obligations**

BCCS policy DEL1 and saved UDP policies GP3 and LC1, require, where appropriate, provision and improvements to or provision of urban open space within the proximity of the application site on qualifying developments above the threshold of 10 units. Utilising the Urban Open Space SPD would seek a financial contribution of £42,548.00 from this scheme for improvements to urban open space in the locality, which the applicant has agreed to provide this contribution in full. Clean and Green strategic works have been asked to identify some improvement projects in the locality.. This contribution would be secured through a S106 agreement which forms part of the recommendation.

## **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 13 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

## Conclusions and Reasons for Decision

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, the development would be inappropriate development in the Green Belt. Very special circumstances have been demonstrated which include a built form that has less impact on the openness of the Green Belt than the existing development and considering the existing development complies with the purposes of including land within the Green Belt. Weight has been given to alternative uses to the site given that continuation of the agricultural use has been found to be unviable. On balance very special circumstances have been demonstrated to outweigh any perceived harm on the Green Belt.

The proposal would preserve the character and appearance of the Conservation Area and would not have an adverse impact upon the visual amenities of the area. The proposal would not impact up adjoining occupiers and ground conditions and drainage can be address by condition. The development would not have an adverse impact upon ecology and existing good value trees can be retained. The development would not give rise to conditions prejudicial to highway safety. Sufficient residential amenity would be provided for potential occupiers and the amenity of nearby residents would not be affected.

Safeguarding conditions in regard to asbestos, land contamination, landscaping, tree protection, drainage, construction methodology, local bird populations, local bat populations, materials, boundary treatment, electrical vehicle charging, badgers and reptiles, highway works, air quality, security measures, external lighting and removing permitted development rights are necessary and meet the six tests. Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP4, DEL1, HOU1, HOU2, TRAN2, ENV1, ENV2, ENV3, ENV5 and ENV8 of the Black Country Core Strategy, policies HC2, GB1, EN1, EN3 and EN5 of the Walsall Site Allocation Document; saved policies 3.6, 3.7, GP2, ENV10, ENV11, ENV18, ENV23, ENV32, ENV40, T7 and T13 of Walsall Unitary Development Plan and Supplementary Planning Documents Air Quality, Conserving Walsall's Natural Environment, Designing Walsall, and Open Space.

## Positive and Proactive Working with the Applicant

Officers have worked with the applicant's agent securing amended plans and clarification over the proposal to enable support to be given.

## Recommendation

Grant Planning Permission Subject to Conditions and a s106 agreement in regard to securing a financial contribution towards urban open space

## Conditions and Reasons

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Location plan received 23/5/19
- Tree and site plan existing received 20/9/18
- Site plan proposed received 23/5/19
- Existing barn plans received 23/5/19
- Proposed units 1-6, 8-13 and garages received 23/5/19
- Proposed unit 7 received 23/5/19
- Replacement dwelling plans received 23/5/19
- Swept Path Analysis received 29/1/19
- Site survey 1 of 2 received 20/9/18
- Site survey 2 of 2 received 20/9/18
- Preliminary Ecological Appraisal received 20/9/18
- Bat Emergence Survey received 20/9/18
- Tree Survey, Arboricultural Impact Assessment and Tree Protection Scheme received 20/9/18
- Drainage Technical Note received 28/1/19

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

3a. Prior to the commencement of any an intrusive pre-demolition asbestos survey in accordance with HSG264 supported by an appropriate mitigation scheme to control risks to future occupiers and detailing method of removal and disposal shall be submitted for written approval of the Local Planning Authority.

3b. The demolition shall be undertaken in accordance with the approved details.

3c. The development shall not be occupied until a Validation Report confirming the mitigation measures have been implemented that has been submitted to and agreed in writing with the Local Planning Authority.

Reason: To ensure the proper investigation and risk mitigation of the site, to protect amenities of the locality and the future occupants of the site.

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

I. prior to any built development commencing a desk study and site reconnaissance shall be conducted to identify the potential for contaminants and/or ground gases to present a likely risk to proposed structures or future occupants of the development. Results of the desk study and site reconnaissance shall be submitted for written approval of the Local Planning Authority. (see Note for Applicant CL 4)

II. 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, in the event that the desk study and site reconnaissance indicates a potential presence of contamination and/or ground gases on site.. (see Note for Applicant CL1)

III. 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 submitted for written approval of the Local Planning Authority. (see Note for Applicant CL2)

IV. Prior to built development commencing a 'Remediation Statement' setting out details of remedial measures to deal with 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 for written approval of the Local Planning Authority. (see Note for Applicant CL2)

V. 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.

VI. 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 ii) 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.

VII. prior to the development being brought into use 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 for written approval of the Local Planning Authority. (see Note for Applicant CL3)

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

5a. Notwithstanding the details provided and prior to the commencement of development a detailed landscaping scheme for the site including its phased implementation shall be submitted for written approval of the Local Planning Authority. These details shall include:

- correct botanical names
- numbers/planting densities for each block of planting proposed
- size supplied of all proposed tree and shrubs at time of planting
- details of proposed turf/seeded areas and sowing rates
- topsoil and mulching depths and specifications
- staking details for proposed trees
- Ground preparation measures to be adopted.

5b. The approved scheme shall be implemented in accordance with the approved phasing and retained for 5 years from the phased implementation. Within this period:

- (i) grassed areas shall be maintained and any areas that fail to establish shall be reinstated;
- (ii) 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;
- (iii) any damage to protective fences shall be made good.

*Reason:* To ensure the satisfactory appearance of the development and protect wildlife.

6. Prior to any equipment, materials or machinery first being brought onto the site in connection with the development, protective fencing and ground protection such as geo-membrane or scaffold boards shall be installed around all retained trees. Such protection shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition nor shall any fires be started, no tipping, refuelling, disposal of solvents or cement mixing carried out and ground levels within those areas shall not be altered.

*Reason:* To preserve and enhance the visual amenities of the locality in accordance with saved policy ENV18 of the Walsall UDP 2005, and Policies NE8 and NE9 of the Walsall SPD 'Conserving Walsall's Natural Environment'.

7a. Prior to the commencement of development hereby approved, full details of the proposed levels of the site, roads, access routes and finished floor levels for the dwellings hereby approved shall have first been submitted for written approval of 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.

7b. The development shall be carried out in accordance with these approved details.

*Reason:* In the interests of the amenity of the area and to ensure satisfactory development of the site.

8a. Prior to the commencement of development drainage plans for the disposal of foul and surface water flows shall have first been submitted for written approval of the Local Planning Authority and shall be informed by Drainage Technical Note received on 28/1/19 and to include the following mitigation measures detailed within the document:

- Provision of adequate soakaway volume on the site to a 100 year + 40% Climate Change Standard.
- Provision of permeable paving as indicated in submitted Indicative Drainage Layout BDF-AWP-ZZ-XX-DR-C-0100 Rev P1 to provide first flush treatment and to prevent contamination through to the ground below.

8b. The approved details shall be implemented before the development is brought into use

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

9. Prior to the commencement of development a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall be submitted for written approval of the Local Planning Authority:

- a. A preliminary risk assessment which has identified:
  - all previous uses;
  - potential contaminants associated with those uses;
  - a conceptual model of the site indicating sources, pathways and receptors; and
  - potentially unacceptable risks arising from contamination at the site.
- b. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- c. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- d. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: To protect the underlying aquifer from contamination present in the ground in line with paragraph 109 of the NPPF.

10a. Prior to the commencement of the development, a Construction Methodology Statement shall be submitted for written approval of the Local Planning Authority detailing where the parking and turning facilities for site operatives and construction deliveries will be located and including full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.

10b. The approved details shall be implemented and retained during construction.

Reason: In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety.

11a. Prior to the commencement of development above damp proof course a schedule of facing materials to be used in the external walls, roofs, windows, doors, rainwater goods and surfacing shall have first been submitted for written approval of the Local Planning Authority.

11b. The approved scheme shall be implemented in accordance with the approved details.

*Reason:* To ensure the satisfactory appearance and functioning of the development

12a. Prior to the commencement of development above damp proof course details of boundary treatment shall have first been submitted for written approval of the Local Planning Authority.

12b. The approved details shall be fully installed prior to first occupation of the premises and shall be retained thereafter.

*Reason:* In the interests of visual amenity and securing the development.

13a. Prior to the commencement of development above damp proof course details for an electric vehicle charging point, to be provided for each dwelling house shall have first been submitted for approval of the Local Planning Authority.

13b. Prior to first occupation of the each dwelling house the electric vehicle charging point shall be fully installed in accordance with the approved details and shall be retained and maintained for the life of the development.

*Reason:* In the interests of creating a sustainable form of development and to encourage the use of ultra low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.

14. Prior to the first occupation of any part of the development hereby approved, a scheme for the provision of bat roosting sites as set out on pages 23-25 of the Bat Emergence Survey received 20/9/18 shall have been installed and retained thereafter with access openings maintained free of obstructions at all times.

*Reason:* To conserve local bat populations.

15a. Prior to the first occupation of any dwelling on the development, the main access road and all parking and vehicle manoeuvring areas serving that dwelling shall be available for use by the occupiers and visitors of the future development. The main access road and turning facility shall be hard surfaced and constructed to specification capable of accommodating a 26 tonne refuse wagon and shall be drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

15b. These areas shall thereafter be retained and used for no other purpose.

*Reason:* To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2, T7 and T13.

16a. Prior to the first occupation of any dwelling on the development full engineering details of the approved footpath from the site entrance to Doe Bank shall be submitted for written approval of the Local Planning Authority. This shall include no-dig construction measures within the Root Protection Area of the tree adjacent to the proposed path.



16b. The approved details shall be fully implemented prior to the development first being brought into use.

Reason: To improve accessibility to the site in accordance with UDP Policy GP2, T10-12, and to retain the health and stability of the adjacent trees.

17. To avoid the risk to nesting birds, site clearance of vegetation and clearance works should be undertaken outside the bird nesting season. The bird nesting season extends between mid February and September inclusive but is weather dependant and nesting may take place outside this period. If site clearance unavoidably takes place within the nesting season the site shall be checked by a qualified and experienced ecologist immediately prior to works commencing. 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.

18. To avoid the risk to hibernating bats, site clearance of vegetation and clearance works should be undertaken outside the bat hibernation season, November to March. If site clearance unavoidably takes place within the hibernation season the site shall be checked by a qualified and experienced ecologist immediately prior to works commencing. If hibernating bats are discovered clearance works should be delayed and advice sought from the ecologist or Natural England.

Reason: To protect local bat populations

19. During any vegetation clearance and during the construction of the development hereby permitted the precautionary measures in regard to reptiles and badgers as set out in the Preliminary Ecological Appraisal received 20/9/18 shall be undertaken.

Reason: To protect any reptiles and badgers that be on site.

20. Bat survey work has found a low risk that bats may be present in the buildings within the site (as identified in the bat report by S Christopher Smith dated 18/9/18) and the following precaution shall be taken when implementing the planning permission:

- a) 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 26-27.

If no bats or evidence of bats are found during these operations, the approved works can continue.

- b) 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 conserve local bat populations

21. No boilers shall be installed and used in the development hereby approved, save for boilers which have maximum NO<sub>x</sub> emissions no greater than 56 mg/kWh for gas and liquefied petroleum gas (LPG) boilers and a maximum of 120 mg/kWh for oil-fired boilers.

*Reason:* To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

22. The development shall be constructed to meet the following minimum security measures and thereafter retained as such;

-All ground floor windows and any accessible windows should be fitted with BS EN 356 grade P1A glass this includes French doors and patio doors

-PAS 24:2016 doors should be on all entrance and exit doors.

-A minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond standard certification should be used on all door locks

-Where thumb turn locks are to be installed these should be those that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.

-No Lead or metal should be used on the ground floor, this includes outside taps to the front of properties as the West Midlands is suffering high levels of metal theft where possible lead substitute products should be used.

- Garage doors must be certificated to one of the following standards - Loss Prevention Certification Board standard LPS1175 security rating 1 or WCL 2 BR 1

- Suitable intruder alarm, with a siren box front and back, and should have dual or quad technology sensors and auto dialler function.

- All gates should have access control measures, be self-closing with hinges mounted to the rear of the public side and located as close as possible to the front building line.

*Reason:* To ensure the safety and security of the development and its occupiers in accordance with BCCS policy ENV3.

23a. No external lighting to the development hereby approved shall be installed until a 'lighting design strategy for biodiversity' including the location, positioning, level of illumination and management of lighting in accordance with the guidance of Preliminary Ecological Appraisal received 20/9/18 and Bat Emergence Survey

received 20/9/18 shall have first been submitted for written approval of the Local Planning Authority. The strategy shall:

- i) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging / commuting; and
- ii) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding and resting places.

23b. The approved light(s) shall be installed in accordance with the approved details and retained in accordance with these details.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and in the interests of nature conservation.

24. Notwithstanding the provisions of the Town and Country (General Permitted

Development) Order 2015 or succeeding Orders, the dwellings hereby permitted shall not be altered or enlarged to deprive them of an existing garage, drive or parking area as approved.

*Reason:* To ensure the satisfactory provision of off-street parking.

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors other than those approved by this permission, and no enlargements, additions or other alterations, as defined by Classes A to F of Part 1 of Schedule 2 of the Order, shall be constructed.

*Reason:* To ensure the Local Planning Authority has control over the development in the interests of retaining the openness of the Green Belt and the amenity of occupiers of adjacent dwellings.

26. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or succeeding orders, no gates, fences, walls or other means of enclosure other than those expressly approved by this permission shall be constructed.

*Reason:* In the interests of the visual amenities of the Green Belt.

### **Notes for Applicant**

#### **Notes for Applicant – Asbestos**

HSG264 – ‘Asbestos: The survey guide’, Health and Safety Executive ISBN 978 0 7176 6502 0

## **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+A2:2017 '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 and within 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.

**CL4** - The desk study and site reconnaissance shall have regard to previous unknown filled ground and materials used and processes carried on. A further detail on the matters to be addressed is available in 'Model Procedures for the Management of Contamination' (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

## **Note to Applicant Air Quality SPD**

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle

Charging Equipment Installation. Ultra-low NOx boilers discharge NOx at or below 40mg/kWh. The latest models are futureproofed to the European Union's Energy-related Products Directive 2018 NOx levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NOx, and are eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

## **Highways**

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to either enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.

## **End of Officers Report**



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 17-Jun-2019

**Plans List Item Number: 6.**

### Reason for bringing to committee: Significant Community Interest

**Location:** 12, SKIP LANE, WALSALL, WS5 3LL

**Proposal:** REPLACEMENT DWELLING.

**Application Number:** 18/1288

**Applicant:** Mr Surinder Grewal

**Agent:** Mr G Johal

**Application Type:** Full Application: Minor  
Use Class C3 (Dwellinghouses)

**Case Officer:** Karon Hulse

**Ward:** Paddock

**Expired Date:** 21-Nov-2018

**Time Extension Expiry:** 18-Jun-2019

**Recommendation Summary:** Grant subject to conditions



## **Officers Report**

Reason for bringing to committee: Significant Community Interest

### **Proposal**

This application seeks to demolish the existing three bedroom, two storey house at no 12 Skip Lane, replacing with a four bedroom, two and half storey house. The amended application and now propose the following details:

#### *The proposed house*

The proposed house will provide; at ground floor a large front porch, gallery, lounge, great room, children's play room / dining room, snug and kitchen. On the first floor there will be four bedrooms (one master ensuite, two double bedrooms each with an ensuite and a double bedroom), family bathroom with a Pyjama lounge within the two storey front gable feature)

There are no windows or openings proposed for the roof space.

The proposed replacement house measurements are:

- 4.3 mts to the eaves along the boundary with no 10 Skip Lane
- 4.9 mts to the eaves along the boundary with no 14 Skip Lane
- 8.0 mts to the ridge which is hipped along each side
- 8.4 mts to the top of the chimney
- 16.3 mts wide
- 18.25 mts deep (including the front two storey gable feature with porch below and a rear two storey gable feature)
- gap of 3.5 metres to the eastern boundary (with no 14 Skip Lane) which also has a gap of 7.5 metres, in total 11mts between the side elevations (at ground and first floor) of the existing application house and no 14 Skip Lane.
- gap of between 1.4 mts and 1.9 mts to no. 10

It is proposed to use the following schedule of materials in the construction of the new house:

- Taylor Maxwell Gormeley Grey facing brickwork,
- Marley Hawkins plain grey clay roof tiles,
- Granny bonnet hip ridge tile
- Aluminium black casement window with stanchion & saddle bars
- Oak framed gable end
- Oak framed mullion and transom
- Plain clay vertical tiles
- Soldier course with one dental course
- Stepped semi-circular arched brick detail surround to oak framed door.

- Herringbone feature brick details

### *Supporting Documents*

#### *Preliminary bat roost assessment*

It concludes that there are some features identified that could potentially be used by bats, including:

- warped wooden cladding on porch;
- dislodged/missing roof tiles;
- gaps under ridge tiles;
- lifted lead flashing around base of chimney; and,
- poorly fitted lead flashing on dormer windows.

The proposed works have the potential to disturb or destroy a bat roost if bats are found to be roosting within the building. Further survey, in the form of a nocturnal emergence or dawn re-entry bat survey, is required to establish the presence/absence of roosting bats within the building.

There is also the potential for any new lighting, either temporary or permanent, at the site to impact foraging and commuting bats. Therefore, a recommendation regarding sensitive lighting is made.

It is understood that the majority of existing trees are to be retained, and therefore the impact on foraging and commuting habitat is likely to be temporary. To increase the value of the site for bats it is recommended that suitable plant species be incorporated into the soft landscaping to attract night flying insects.

#### *Heritage Statement*

Concludes that the proposals will replace an existing building with another building whose bulk is of the same order of magnitude. The proposed building being of brick construction will be less dominant than the existing white colour rendered house. The importance and significance of Walsall Lodge will remain the same. The same is also true of both the historic park and the Merriens Wood local nature reserve, Great Barr Conservation Area Conservation Area.

Visibility analysis has been used to establish the extent to which the current and proposed buildings can or cannot be seen due to the topography and the presence of buildings and protected trees. It can be seen the current and proposed buildings are not visible from the vast majority, 99%, of the Conservation Area including the top of Barr Beacon. Within an area of under 4Ha in some locations glimpses of the proposed building's upper storey and roof will be seen through gaps in the tree and leaf cover. The same is true for the historic park with the current and proposed buildings not being visible over 94% of the area. When the true boundary of the park is considered the impact is even less. It is thus suggested that there will be no harm to the way the historic assets are experienced. Indeed it can be argued that the proposals are a conservation positive as the proposed building will not be painted white. The purpose of consulting Historic England and the Gardens Trust is stated



on the following Historic England website (<https://historicengland.org.uk/listing/what-is-designation/registered-parks-and-gardens/pag-faqs/>)

To make sure that local planning authorities have the appropriate professional advice when considering such applications, they are required to consult us where the application affects a Grade I or II\* registered site, and the Gardens Trust on all applications affecting registered sites, regardless of the grade of the site. In the case of Walsall Metropolitan Council they have that expertise in the form of external consultants - Jacobs. It has been stated by the case officer WMC "The Council's Conservation Officer has not objected to the application and has stated that the proposal will have negligible setting impact on the two heritage assets and the proposed style of the new building will not jar with the existing character of the building stock in the area." While the comments of consultees should be considered in relation to their expertise they should follow accepted methodologies. It is noted that external consultees do not have the power of veto over democratically elected Councils.

## Site and Surroundings

### *The existing site/house*

The application house (No.12 Skip Lane) is a medium size "Arts and Craft" house of white render finish and roof tiles that have aged to a brown colour.

It is set back from Skip Lane highway edge by 13 metres.

The application plot measures 21.6mts wide by 48 mts long (23.5mt rear garden). There is in excess of 30 mts to the rear elevations of houses along Beacon Road.

This existing main dwelling comprises of three bedrooms and a bathroom at first floor, with ground floor Lounge/dining room, Kitchen, large hall, utility and an integrated double garage. It has a single access/egress point on to Skip Lane. It is of a traditional design incorporating dormer windows in the roof with a cat slide roof in part at the front to create the first floor.

The existing house measurements are:

- 7.0 metres high to the roof ridge
- 4.5 metres high to the eaves
- 2.2mts to the eaves of the cat slide roof above part of the ground floor
- 16 metres wide (including the garage)
- between 6.5mts and 9.3 metres deep
- set 1.5mts in from the boundary with no 10 (to the west)
- set 4.2mts in from the boundary with no 14 (to the east)

The frontage of properties is open with no defining boundary treatment. There is a 2mt high brick wall and gate across the boundary to no 14 which indicates the extent of the ownership of the applicant to that side. There is a levels difference of approximately 2 metres between the application site and no 12 skip lane (east) and one metre between the application site and no 10 (west).

14, Skip Lane – is a two storey detached ‘Arts and Crafts’ style design dwelling incorporating dormer windows in the roof, set back from the main highway (Skip Lane) by 13 metres, the plot measures 24mts wide by 40 mts long. From the application house there is a gap of 3.5 metres to the eastern boundary (with no 14 Skip Lane) which also has a gap of 7.5 metres, in total 11mts between the side elevations (at ground and first floor) of the existing application house and no 14 skip lane.

10, Skip Lane –is a bungalow situated at a lower ground level (between 1 and 2 metres) and positioned more or less along the front building line as the existing house on the application site. There is a gap of 1.5mts and 3.5mts between side elevations, this will be maintained by the proposed replacement house.

#### *The area/streetscene*

The application site is at the edge of a large suburban estate and faces open fields and parkland opposite, known as Merrions Wood local nature reserve (LNR), part of the Great Barr Conservation Area, Great Barr Hall Park, a grade II Registered Park and Garden and further to the south east is the Great Barr golf club.

The immediate area benefits from a mixed character of individually designed detached houses and bungalows many with individual features, with gaps between the houses to create a spacious character.

Skip Lane and nearby streets are generally characterised by large, two-storey detached dwellings, many of which occupy significant proportions of their plot widths, with gaps between their two-storey building frontages.

Most of the houses along Skip Lane are set along a similar building line with mature front gardens and being set in large plots in width and depth. The houses on this part of Skip Lane are also generally laid out with open space or planting to the side of the buildings, or with lower, single storey projections between the two storey parts of the buildings and their side boundaries. This layout maintains the impression of gaps between the individual buildings as they step gradually uphill along this section of Skip Lane. It also allows views between the houses and into their large, landscaped rear gardens. Combined with the soft landscaping and, in some cases, the absence of hard enclosure to front gardens, creating a spacious character to this part of Skip Lane, distinctive from the more regularly-aligned and closely-spaced two-storey building frontages which characterise much of the wider area.

Skip Lane rises from Birmingham Road towards its junction with Woodlands Avenue. The junction with Birmingham Road sits at 138.7mts above sea level whereas at its junction with Woodlands Avenue it is at 155.5 mts above sea level. The rise of Skip Lane over approximately 275 metres is 17 metres.

## Relevant Planning History

*The application site:*

18/0513 – Replacement house. Withdrawn 26/6/18

*Planning history at 14 Skip Lane:*

17/1638 – Replacement dwelling. Refused 26/1/18 for the following reasons:

1. Proposed house would infill almost the entire width of the house plot, not in keeping with neighbouring properties which are characterised by gaps at first floor level...have a harmful visual appearance on Skip Lane and fails to integrate into the character of the area
2. By virtue of its excessive size, length, height, massing and proximity to neighbouring properties at no. 12 and no.16 Skip Lane, would have an overbearing and dominant impact on their outlook and result in loss of light to those properties. Furthermore, would appear cramped, at odds with the immediate spacious character of Skip Lane... the proposed modern and incongruous design does not reflect any other traditional styled and proportioned houses in Skip Lane.... prominent elevated position above no.10 and 12 Skip Lane, would have a significant impact on the streetscene.
3. Unduly prominent development resulting in significant harm to the character of the area, including the local nature reserve and green belt opposite

An appeal was lodged and was subsequently dismissed by the planning inspector for the following reasons:

*“....The proposed dwelling would be significantly wider than the existing house at No 14 and the immediate neighbours to either side, and would fill almost the full width of the plot. It would extend significantly further back into the site than the existing building...overall ridge height would be taller...width the house would be a full two-storeys high and third floor of accommodation evident in the top of the front gable.... As a result of its width, depth and height, the proposed house would have a significant scale, mass and bulk, which would not reflect the more modest scale and proportions of the existing building and its neighbours. It would therefore appear as a highly discordant and unduly dominant feature in its context, and would significantly erode the sense of openness and space which characterises this small part of the Skip Lane street scene. Furthermore, the proposed house would appear as an unduly prominent feature in the wider street scene due to the site's elevated position on this part of the Skip Lane road frontage.*

*The site is adjacent to Great Barr Conservation Area (the CA) and Great Barr Hall Park, a grade II Registered Park and Garden (the RPG). The open land opposite the site is also within the Green Belt. Merriens Wood Local Nature*

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*Reserve (LNR) is within part of the Park close to the site, although its boundary is further from Skip Lane....houses on Skip Lane are visible from nearby public footpaths within the RPG and the LNR. However, the stretch of Skip Lane forms a very small part of the extensive boundary of the RPG and CA, and the proposed development would only be seen from a limited range of vantage points within those wider landscapes.... the site is separated from nearby public vantage points to some degree and are screened to some degree by trees and hedges*

*the larger building proposed would harm its immediate surroundings and the Skip Lane street scene. However, it would not encroach into the adjacent open land, or beyond the existing residential frontage of which it forms a part. Therefore, and as views of the building from the wider RPG and CA would be very limited, the proposed development would not detract from the way in which the RPG parkland landscape or the CA were experienced as a whole...in conclusion the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG. Nor, for the same reasons, would it harm the character and appearance of the LNR. The site is not within the Green Belt and, for the reasons given, the development would not harm the character of that adjacent open land. Consequently, I also conclude that the proposal would not result in harm to the openness of the Green Belt.*

*The decision also concluded that the proposed development would not harm the character or appearance of the CA or the RPG which form the setting for those listed buildings identified and given the degree of separation between the site and those buildings, and as views of the site from those buildings would be limited, I conclude that the proposed development would not result in harm to those nearby listed buildings, their settings, or any features of special architectural or historic interest which they possess.*

*The proposed house would be significantly closer to the boundary with No 12 ...as a result of its height in relation to this neighbouring property, its depth, and its proximity to the boundary, it would appear as an unduly dominant and overbearing feature when viewed from the rear garden of that neighbouring property, even if the existing boundary vegetation was retained...would also result in an unacceptable reduction in the amount of sunlight and daylight reaching that neighbouring garden at certain times...In conclusion the proposed development would cause significant harm to the living conditions of existing and future occupants, and to their enjoyment of their private garden area.*

*The proposed house would be slightly further from the boundary with No 16 than the existing. However, the part closest to No 16 would be two storeys high, with further accommodation in its roofspace. Its roof would slope away from the boundary with No 16....Given its height, its proximity to the boundary, and the depth of its projection alongside the front garden of No 16, the proposed dwelling would appear as an unduly dominant feature when viewed from the front windows and front garden of that neighbouring house.... result in a reduction in light to the front windows and front garden area of No 16 at certain times of the day. The proposed development would therefore*

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*detract significantly from the enjoyment of those spaces by neighbouring occupants.*

*In conclusion the proposed development would have a significant adverse effect on the living conditions of the occupants of 12 Skip Lane and 16 Skip Lane with regard to outlook and light.”*

16/1911 – Construction of a new dwelling. Withdrawn 19/6/17

## Relevant Policies

### National Planning Policy Framework (NPPF) [www.gov.uk](http://www.gov.uk)

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

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions**, the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act’) sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment

- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

### **Local Policy**

**[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)**

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

**Walsall Site Allocation Document (SAD)** was adopted in January 2019. The policies detailed below have not been replaced by the SAD and full weight can be given to these policies.

### **Saved Unitary Development Plan**

- GP2: Environmental Protection
- ENV8: Great Barr Hall and Estate and St. Margaret’s Hospital
- ENV18: Existing Woodlands, Trees and Hedgerows ENV32: Design and Development Proposals
- ENV23: Nature Conservation and New Development
- ENV29: Conservation Areas

- ENV30: Registered Parks and Gardens
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- T13: Parking Provision for Cars, Cycles and Taxis

## **Supplementary Planning Document**

### **Designing Walsall**

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall SAD, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF.

**Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)**

## **Consultation Replies**

**Transportation** – no objections

**Pollution Control** – no objections

**Seven Trent Water** – no objections

**Police Architectural Liaison Officer** – recommends Secure by Design initiatives

**Gardens Trust** – objects for the following reasons:

- We still have difficulty relating the heights of Nos 10, 12 & 14 Skip Lane as shown in the amended 'Existing and Proposed Street Scene' dated 14.3.19
- height of the bottom of the roof at No 12 in relation to No 14 comes up a short way from the bottom window of No 14. In the amended drawing this comes almost to the top of the same window. Equally, the roof height of No 12 is pretty much level with the bottom of the dormer window in No 14. In the amended drawing it comes halfway up the pointed roof of the dormer.
- clear discrepancy and the amended drawing still exaggerate the height of No 12 compared to No 14.
- scale of amended drawing is also incorrect... new building would be approx. 4m tall and somewhere over 8m wide. That cannot be correct as the amended 'Front and Side Elevations of No 12' clearly shows the height of the new No 12 as being 8m. Using the scale from this drawing the width of the new building will be pretty nearly 16.3m (53') wide, which is extremely large and does not seem to tally with the size of the existing building as seen on Google Street View.
- the footprint of the proposed new house is much larger than the present building in relation to No 10, and especially to the rear of the property, towers over the bungalow at No 10 Skip Lane in height and floor area.

- Appeal decision - concluded that 'the proposed development would not cause harm to ... the setting of the RPG' or the setting of the listed buildings and that a proposed new larger house in this part of Skip Lane, cannot be refused solely on heritage grounds – the Gardens Trust disagree with this.
- appeal refusal reasons should be applied to current application: 'significant adverse effect on the character and appearance of the appeal site and its surroundings', 'the proposed house would result in an unacceptable reduction in the amount of sunlight and daylight reaching neighbouring garden' and '...cause significant harm to living conditions of existing and future occupants, and to their enjoyment of their private garden area.'
- Despite the appeal decision quoted above, the GT maintains its objections to application on heritage grounds

**Tree Officer** - a TPO was made on the semi mature Oak tree at the front of the site in November 2017 (TPO title no. 13/2017). If the entrance to the proposed new dwelling is to remain the same the Oak tree can and should be retained. Adequate protection of the tree in accordance with BS 5837: 20102 can be secured by conditions.

**Conservation Officer** – although the proposed dwelling house is a substantial structure, in terms of heritage impacts on the Great Barr Registered Park and Garden and the Great Barr Conservation Area, replacing one dwelling house with another in this location will have a negligible setting impact on these two landscape scale heritage assets.

The existing building is sited on a large private plot which in my view can accommodate a larger building. The proposed new building is not going to be taller than the existing building and the proposed style of the new building with hipped roofs and timber framed elements will not jar with the existing character of the building stock in the area.

**Strategic Planning Policy, Waste Management (Clean and Green) or Park Hall Residents Association** - No comments received. (NPPG confirms; *'consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice'*, which is the case in this instance.

## Representations

Five letters of objection following re-consultation based on the following grounds:

- new building be visually overbearing and too large for the plot,
- over-massing of site due to excessive length, depth, height and proximity to the neighbouring properties.
- dominant impact on the neighbouring properties in Skip Lane and Beacon Road.
- Massive flat roof area (11m x 9.5m), significant increase of 1.0 metre in height.



- Plans are inaccurate: proposed building – written height of 8000mm, plans are not to scale, as proposed dwelling 7.7 metres. There's a window missing west elevation but shown on plan, all very misleading.
- 4.0 metres in front of the existing building line causing overshadowing and loss of light to no. 10 Skip Lane.
- loss of character to the street scene
- impact on root system of oak tree in front garden protected by a TPO (13/2017),
- impact on the provision for six car parking spaces
- trees root system need to be excavated for a driveway and footings for the large structure of the building
- Root Protection Area required by tree is a minimum of 15 metres... any change to building line would involve excavation for footings in root protection area
- The crown/mansard roof design is out of character with existing properties
- building appears bulky and too large
- flat roof would be size of half a tennis court
- design is incongruous and impacts on street scene and Registered Park and Garden and Merrions Lodge... would have a significant harm to the character of the area, namely the Registered Park and Garden, Green Belt and the nearby Merrions Lodge.
- The site can clearly be seen from both Merrions Lodge and the RPG
- infill almost entire width of house plot... not in keeping with neighbouring properties which are characterised by spacing at first floor level
- harmful visual impact on the appearance of Skip Lane
- fail to integrate into the special character of the area
- increase height have overbearing effect on bungalow (no.10)
- jarring effect of roof lines
- woodland and parkland opposite are important habitats to rare species of bat, birds and other wildlife.
- Planning Appeal Decision APP/V4630/W/18/3207169 at 14 Skip Lane: reasons given by Inspector in dismissing the appeal apply to this application.
- no planting of any new trees and shrubs, existing ones removed contrary to policy ENV17 of the Walsall's saved Unitary Development Plan - *planting scheme could be conditioned*
- discrepancy in council's conservation consultant who wrote "proposed building is not going to be any taller than the existing building, hipped roofs and timber framed will not jar with existing character of the area" –the proposed height is not the same as existing and therefore at odds with the conservation recommendations...roof different to hipped being a large flat or crown which is very untypical of this area

## Determining Issues

- Principle
- Green belt/conservation area/ heritage asset
- Design, Character and appearance of the Area and Streetscene
- Neighbouring Amenity
- Protected species / ecology

- Parking
- Inaccuracy of the drawings

## Assessment of the Proposal

### Principle

The site is situated within an established residential area within easy walking distance (maximum of 1000m defined in paragraph 7.51 of the UDP) of shops on Birmingham Road to the south (within Birmingham City Council area) and (Park Hall local centre approximately 1km to the north) and regular bus services along Birmingham Road. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP.

The principle of a replacement dwelling is considered appropriate in this location, subject to design, character, amenity, ecology, heritage assets and parking.

### Green Belt / Conservation Area / Heritage Asset

Great Barr Hall Park (the Registered Parks and Gardens - RPG) is an 18th century landscape park which is associated with the listed Great Barr Hall. The Great Barr Conservation Area includes the RPG, and both draw their character and significance principally from the open parkland landscape, which is distinct from the residential estates and other developed areas surrounding it.

In the summing up of the planning inspectorate appeal for 14 Skip Lane, directly adjacent to the current planning application, the inspector made the following observations:

*“...the appeal site and other houses on Skip Lane are visible from nearby public footpaths within the RPG and the LNR. However, the stretch of Skip Lane which includes the appeal site forms a very small part of the extensive boundary of the RPG and CA, and the proposed development would only be seen from a limited range of vantage points within those wider landscapes.*

*Even from the parts of the CA, RPG, Green Belt and LNR closest to Skip Lane, the site is separated from nearby public vantage points to some degree.... public views towards Skip Lane from those points are screened to some degree by trees and hedges within the RPG, even when many of those trees are not in leaf... From those nearby public vantage points, the site is viewed within the context of other suburban houses on Skip Lane, which is one of a number of areas of housing which surround the boundaries of this large, open parkland landscape.”*

Whilst the planning inspector found that the proposed replacement house at no 14 would harm its immediate surroundings and generally the Skip Lane street scene the inspector also concluded that it would not encroach into the adjacent open land, or beyond the existing residential frontage of which it would have formed part of.

In this instance the currently proposed dwelling will not appear as dominant, being smaller and a similar width to the existing compared to that proposed in the appeal

application. It is considered, the current proposal would better complement and reflect the character (Arts and Craft) and design of other nearby houses along Skip Lane. It will be.

Based on the council's assessment and the material planning comments of the planning inspectorate, views of the proposed building from the wider RPG and CA would be limited, the proposed development would not detract from the way in which the RPG parkland landscape or the CA would be experienced as a whole.

As such and on balance it is concluded that the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG. Nor, for the same reasons, would it harm the character and appearance of the LNR.

The site is not within the Green Belt and would not result in harm to the openness of the Green Belt or harm the character of the adjacent open land. Weighing the material planning considerations of Green Belt / Conservation Area / Heritage Asset, it is considered the proposal can be supported.

### **Design, Character and Appearance of the Area and Streetscene**

The NPPF says that decisions should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the built environment. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character. Policies CPS4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3,6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed/influenced by their context and reinforce locally distinctive elements.

A common characteristic of the houses on Skip Lane is that they are traditionally styled with feature gables and other architectural elements. The proposed design of the replacement house, reflects the traditional styled houses on this part of Skip Lane whilst internally providing an internal accommodation to support modern living.

The design of the proposed house would incorporate contemporary interpretations of the Arts and Crafts style reflecting the existing house and neighbouring housing, the applicant has suggested the use high quality materials which will be sympathetic to its surroundings. Whilst the proposed schedule of materials is to be supported details of colours will be required by way of a safeguarding condition.

The overall height to the ridge, whilst being one metre higher than the ridge of the existing dwelling, will provide a natural stepped line decreasing in height along Skip Lane towards Birmingham Road.

The application proposes a smaller replacement house than that was subject of the appeal at no. 14. The width of the proposed house (16 mts) also reflects a similar width of the existing house (16mts including the ground floor side bay).

The applicant's interpretation of the "arts and craft" design is considered reflects the character of the existing street scene and existing vernacular, provides an opportunity to reinforce the overall quality of the streetscene.

The replacement house will not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG. Nor, for the same reasons, would it harm the character and appearance of the LNR. Furthermore, on the basis that the site is not within the Green Belt, the development would not harm the character of that adjacent open land and would not result in harm to the openness of the Green Belt.

In weighing the material planning consideration, for the above reasons the proposal would not result in significant harm to the character of the area, streetscene or local area and as such is considered in accordance with both local and national policy.

### **Neighbouring Amenity**

The rear of the proposed house extends 3.5mts beyond the existing rear elevation of no 10. This part of no 10 consists of a garage to the front with what appears to be a utility room with a door to the rear area along the boundary with the number 12.

The footprint and layout of the house has been designed so as to comply with the council's 45 degree guidance to both adjacent houses and Designing Walsall SPD space standards.

There will be 11 metres in total between the side elevations of the proposed house and the existing side elevations of no's 14 and between 1.4mt and 1.9mts to the side of no. 10. The gap to no 10 is exaggerated by the difference in ground levels (no 10 being approx. 1.5mts lower) and therefore it is considered sufficient to safeguard against future potential adjacent developments which could result in a terracing design being created.

The proposed rear central two storey projection of the proposed dwelling has full height, side facing windows to habitable rooms (snug and master bedroom). These face directly towards the side facing habitable room windows of number 10's rear wing with a 15 metre window to window separation. It is proposed to obscurely glaze the proposed side facing windows of the proposed two storey rear projection facing no. 10. A safeguarding condition requiring the proposed side facing windows of the proposed two storey rear projection facing no. 10 to be obscure glazed to Pilkington (or equivalent) privacy level 4 and no opening parts lower than 1.7 metres from the floor level of the rooms they serve at the time of installation. This is considered would protect the occupiers of no 10 when the replacement house becomes occupied.

Due to the gap of 11 metres to the east (no 14), it is not considered there will be any detrimental impact on the amenities of number 14's existing occupiers.

Objectors are concerned the new building will be visually overbearing, over-massing of site due to excessive length, depth, height and proximity to the neighbouring properties and have a dominant impact on the neighbouring properties in Skip Lane and Beacon Road. As set out above the replacement house will occupier a similar footprint to the existing house in terms of width and whilst being higher by approximately one metre at the central ridge, the use of lower hipped roofs either side of the central ridge further reduces any potential impact on the streetscene.

The proposed dwelling also includes a mansard roof, which planning committee have accepted at other properties in the surrounding area. It is a design which allows the potential use of the roof space without visually creating a third floor. The existing dwelling is a part dormer property, using some of the roof space currently as is the case for some of the other properties in the street. The current application proposal reflects this feature and considered would reflect the street scene and its local characteristics.

The increased depth of the building accords with the 45 degree guidance.

The objectors have commented on the proposed house being 4.0mts in front of the existing house which would cause overshadowing and loss of light to no. 10 Skip Lane. There is an existing cat slide roof on the side nearest to no 10 which covers a recessed garage entrance and forms a canopy above. This is approximately 1.7 mts in front of no.10. The proposed house encloses the area below the canopy into its design but does not come forward of that part of the existing building line. It therefore remains in accordance with the 45 degree guidance. Notwithstanding the above the building running along that boundary between the application site and no 10 is a non-habitable room.

The proposed house would come forward of the existing front elevation of no 14 by 4 metres. There is a gap in excess of 10 metres to the side of no. 14 from the proposed dwelling, in addition to the proposed dwelling being directly to the west of no. 14, it is considered there will be no overshadowing of the front of no 14. As such and on balance the proposed frontage will not impact on the amenities of those occupants on either side.

A two storey feature entrance porch will be forward of the proposed principle front elevation by 2 metres, this being centrally located within the plot will not have any detrimental impact on residential amenity of properties on either side given the orientation and the distances to both numbers 10 and 14.

The distance to properties at the rear in Beacon Road as a result of the proposed house being constructed will be in excess of 25 metres and therefore accords with the window to window distance required by Designing Walsall Supplementary Planning Document.

### **Protected Species / Ecology**

A Preliminary bat roost assessment has been carried out, it concludes that whilst no evidence of bats and/or bat usage was found it recommends conditions to be imposed on any planning permission requiring at least three dusk emergence and/or dawn re-entry surveys to be undertaken during the bat emergence/re-entry survey season. This will then confirm the presence/absence of bats at the application site. It is also recommended that at least two of the surveys to be undertaken between May and August.

An updated bat report required the provision of bat boxes being installed in the building, furthermore, conditions in respect of controlling lighting should also be included. These can be secured by way of appropriate planning conditions should an approval be given.

The semi mature oak tree at the front of the application site benefits from a tree preservation order (TPO title no. 13/2017). It is considered that provided the entrance to the proposed new dwelling remains the same as the existing dwelling, the oak tree can and should be retained. Adequate protection of the tree in accordance with BS 5837: 2012 can be secured by conditions.

In addition to the above, whilst the rear garden has been cleared of existing trees, these were not protected and as such the applicant can remove trees without requiring any consent. Details of the boundary treatment to the frontage of the site will be required as a condition of any planning permission, although in this location, it should be either a low wall or a hedgerow to reflect the local characteristics.

### **Access and Parking**

UDP policy T13 requires three off-street parking spaces for a four bedroom dwelling. The proposals will provide a double width garage and there is ample space at the front of the house to accommodate this level of off road parking. Any frontage boundary treatment would need to be low and provide a pedestrian visibility splay, gates set back 5m from the highway edge, surfacing of drive and retain the garage. Any planning permission should include conditions requiring details of front boundary and surfacing of the drive. Unless the driveway is proposed to be replaced, then the council would be unable to condition the driveway to be surfaced. The remaining elements can be secured by way of a safeguarding condition.

### **Inaccuracy of the drawings**

Objectors have challenged the accuracy of the plans and provided annotated measurements on photographs. As part of the Council's ongoing negotiation to amend the proposal, the applicant employed an independent surveyor to carry out measurements of the heights of the existing property. The overall height of the proposed house has been reduced and better reflects the rise along Skip Lane and the relationship with neighbouring buildings/houses. Notwithstanding this, objectors are still concerned that this does not accurately portray the existing levels along this part of Skip Lane and in particular the levels and relationship between the application site and the two properties either side. The Gardens Trust has also raised concerns regarding the inaccuracies in the street view plans.

The plans when printed at A3 size show the existing house as being 7 mts to the ridge and the proposed house at the central ridge to be 8 mts as such no discrepancy can be found. Based on the Council's assessment of the latest submitted plans, it is considered the accuracy of the drawings is sufficient to be able to determine the application as it better reflects the streetscene.

### **Comments on objections**

- new building be visually overbearing and too large for the plot. *This has been addressed above*
- over-massing of site due to excessive length, depth, height and proximity to the neighbouring properties. *This has been addressed above*
- dominant impact on the neighbouring properties in Skip Lane and Beacon Road. *This has been addressed above*

- Massive flat roof area (11m x 9.5m), significant increase of 1.0 metre in height. *This has been addressed above*
- Plans are inaccurate: proposed building – written height of 8000mm, plans are not to scale, as proposed dwelling 7.7 metres. There's a window missing west elevation but shown on plan, all very misleading. *This has been addressed in the paragraph above*
- 4.0 metres in front of the existing building line causing overshadowing and loss of light to no. 10 Skip Lane. *This has been addressed above*
- loss of character to the street scene *This has been addressed above*
- impact on the provision for six car parking spaces *the Unitary Development Plan does not require 6 parking spaces on the application site.*
- impact on root system of oak tree in front garden protected by a TPO (13/2017), trees root system need to be excavated for a driveway and footings for the large structure of the building, Root Protection Area (RPA) required by tree is a minimum of 15 metres... any change to building line would involve excavation for footings in root protection area. *A condition requiring protection measures will satisfactorily address this*
- The crown/mansard roof design is out of character with existing properties
- building appears bulky and too large, flat roof would be size of half a tennis court. *Recent planning permission include this type of design and is considered acceptable*
- design is incongruous and impacts on street scene and Registered Park and Garden and Merrions Lodge... would have a significant harm to the character of the area, namely the Registered Park and Garden, Green Belt and the nearby Merrions Lodge. *This has been addressed above*
- The site can clearly be seen from both Merrions Lodge and the RPG *agreed*
- infill almost entire width of house plot... not in keeping with neighbouring properties which are characterised by spacing at first floor level. *An area to the side next to 14 will ensure terracing is not an issue*
- harmful visual impact on the appearance of Skip Lane *This has been addressed above*
- fail to integrate into the special character of the area *This has been addressed above*
- increase height have overbearing effect on bungalow (no.10) *This has been addressed above*
- jarring effect of roof lines *This has been addressed above*
- woodland and parkland opposite are important habitats to rare species of bat, birds and other wildlife. *A condition requiring further bat surveys will be required .*
- Planning Appeal Decision APP/V4630/W/18/3207169 at 14 Skip Lane: reasons given by Inspector in dismissing the appeal apply to this application. *Determination of this application has been based on the conclusions of the planning inspector report*
- no planting of any new trees and shrubs, existing ones removed contrary to policy ENV17 of the Walsall's saved Unitary Development Plan - *planting scheme can be conditioned*
- discrepancy in council's conservation consultant who wrote "proposed building is not going to be any taller than the existing building, hipped roofs and timber framed will not jar with existing character of the area" –the

proposed height is not the same as existing and therefore at odds with the conservation recommendations...roof different to hipped being a large flat or crown which is very untypical of this area. *This has been addressed above.*

## **Conclusions and Reasons for Decision**

The key material planning considerations, neighbour comments and consultee responses have been weighed in assessing the planning application and it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, BCCS policies CSP4, ENV2 and ENV3, Saved Unitary Development Plan policies GP2, ENV8, ENV18, ENV23, ENV29, ENV30, ENV32, ENV33, T13 and Air Quality SPD and Designing Walsall SPD and on balance is considered to be acceptable.

It is considered that the proposals will not cause harm or adversely impact on the character, appearance and identity of the local area, adjacent CA, or the setting of the RPG or LNR. The site is not within the Green Belt and consequently it is also concluded that the proposal would not result in harm to the openness of the Green Belt or character of the adjacent open land. The proposal is considered to be consistent with advice in the NPPF. An appropriate level of private amenity will be retained for all neighbouring occupiers, the development is in accordance with the 45 degree guidance and will continue the character of the street frontage along Skip Lane.

The use of safeguarding conditions in respect of the materials, protected species, construction works and hours, glazing, car parking, security and boundary treatments will ensure that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

Taking into account the above factors, the objections from consultees and the community, it is considered that the application should be recommended for approval.

## **Positive and Proactive Working with the Applicant**

Following discussions with the applicant amendments have been made to accommodate the following issues which had been raised:

- Reduction in front gable feature to be reduced in line with the proposed ridge height
- chimney reduced so that the main body is at the same height as the proposed ridge.
- Removal of gable above the right hand side two storey height bay
- The roof hips on either side need to be straight (no upwards kicks)

Officers have confirmed to the applicant's agent that the substantially amended details that have been submitted are now acceptable and no further changes have been requested.



## Recommendation

Grant subject to conditions

## Conditions and Reasons or Reasons for Refusal

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Location plan & Site plan (P100) received 26/9/18
- Proposed site plan (PP101 Rev A) received 14/3/19
- Existing elevation1 (PP300 Rev A) received 14/3/19
- Existing elevation2 (PP301 Rev A) received 14/3/19
- Existing GA plans (P200 Rev) received 26/9/18
- Proposed Front & Side elevation (PP302 Rev C) received 14/3/19
- Proposed Rear & Side elevation (PP302 Rev C) received 14/3/19
- Proposed GA Floor Plans (PP201 Rev A) received 14/3/19
- Proposed Roof Plan (PP202 Rev C) received 14/3/19
- Streetscene (PP304 Rev C) received 14/3/19

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

3a. Prior to the commencement of any building or engineering operations including demolition of the existing house, tree protection fencing in accordance with '*BS 5837: 2012 Trees in relation to design, demolition and construction – Recommendations*' shall be erected around the Oak tree at the front of the site and maintained throughout the demolition and construction until completion.

3b. The area enclosed by the fencing shall be kept clear of contractors materials and machinery at all times.

Reason: To safeguard the semi mature Oak tree at the front of the site adjacent Skip Lane.

4a. The building has been identified as having high potential to support roosting bats. Bat Surveys: Good Practice Guidelines published by the Bat Conservation Trust (Collins, 2016) recommends that for buildings with high bat roosting potential at least three dusk emergence and/or dawn re-entry surveys be undertaken during the bat emergence/re-entry survey season to determine the presence/absence of roosting bats within the building. The bat emergence/re-entry survey season extends from May to September. At least two of the surveys should be undertaken during the peak season for emergence/re-entry surveys between May and August and one of the three surveys should be a dawn re-entry survey. If a roost is discovered during these surveys, a Natural England licence application may be required.

- i) Contractors undertaking demolition works shall be made aware that bats may be present and the steps to be taken if bats are discovered.
- ii) All cracks and crevices on the building, under roof tiles, behind stonework etc. shall be dismantled carefully using hand tools.
- iii) If development does not commence within 12 months of this decision the Local Planning Authority will require the submission of an updated bat survey report for approval in writing by the Local Planning Authority before any development commences.

If no bats or evidence of bats are found during these operations, the approved works can continue.

4b. If bats or evidence of bats are found during these operations:

- i) bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.
- ii) no further destructive works shall be carried out to the building until the need for Natural England licence has been established.
- iii) 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
- iv) 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 conserve local bat populations and in accordance with Conserving Walsall's Natural Environment SPD.

5. Prior to the first occupation of any part of the development hereby approved the provision of two bat roosting boxes shall be fully incorporated within the built fabric of the dwelling and thereafter be retained with access openings maintained free of obstructions at all times, without direct illumination from any artificial light and at least

4-5 metres above the natural ground level. The two bat boxes shall thereafter be retained for the life of the development.

*Reason:* To conserve local bat populations and in accordance with UDP saved policy GP2 and ENV23.

6a. notwithstanding the details submitted and prior to the commencement of any building works above the damp proof course details of any proposed frontage boundary treatment including any proposed gates shall be submitted to and approved in writing by the local planning authority. Any boundary frontage treatment shall be no more than 450mm high.

6b. The agreed measures shall be fully implemented prior to occupancy and thereafter retained.

*Reason:* To ensure the satisfactory appearance, functioning of the development and in accordance with UDP saved policy ENV 32.

7a. Prior to the commencement of any building works above the damp proof course of the dwellings hereby approved details of an electric vehicle charging point, shall have first been submitted to and agreed in writing of the Local Planning Authority.

7b. Prior to first occupation of the development hereby approved the agreed electric vehicle charging points shall be installed in accordance with the approved details and shall be retained and maintained for the life of the development.

*Reason:* In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 and DEL1 of the Black Country Core Strategy

8a. Prior to the first occupation of any part of the development hereby approved, the frontage parking and vehicle manoeuvring area shall be consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

8b. These areas shall thereafter be retained and used for no other purpose.

*Reason:* To ensure the safe and satisfactory operation of the development and in accordance with UDP saved policy GP2, T7 and T13.

9a. Prior to commencement of the development hereby approved details of all walls (including retaining walls) fences gates or other means of enclosure to be erected in or around the development shall be submitted to and approved in writing by the Local Planning Authority.

9b. The development hereby approved shall not be occupied until all walls fences gates and other means of enclosure have been erected in accordance with the approved details and shall thereafter be retained.

*Reason:* To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan

10. No external lighting scheme shall be installed other than in accordance with the requirements set out below:

- There shall be no direct illumination of the new bat roosts installed or other potential bat access points.
- 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
- Any lighting, either temporary or permanent, along the site boundaries should be kept to a minimum and directed away from the boundary features to maintain dark areas and corridors.
- Lighting should be designed in accordance with the principles of 'Landscape and urban design for bats and biodiversity' as published by the Bat Conservation Trust (Gunnell *et al*, 2012).
- Materials used under lights, such as floor surfaces, should be materials that have a minimum reflective quality to prevent light reflecting upwards into the sky.

*Reason:* To conserve local bat populations, ensure bats using the site and surrounding area to roost/forage/commute are not affected by illumination and to limit the impact of light pollution on bats through the careful use of lighting in critical areas only and at a low level with minimum spillage.

11. No boilers shall be installed and used in the dwelling hereby approved, save

For:

- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh
- Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

*Reason:* To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1

*Reason:* To conserve and enhance the natural environment.

12a. Notwithstanding the details as submitted, the development shall be constructed to meet the following minimum security measures and thereafter retained as such;

- 2m high close boarded fence to boundary, constructed so that the smooth face faces outwards, shall include 0.3m high anti-climb (Criss Cross) trellis topping. Where concrete post and panels are to be used the fence panels shall be secured together using galvanised metal straps, so that the panels cannot be lifted. The fencing shall be treated wood with a guaranteed life span of 25yrs;
- All fencing/gates shall be flush with frontages;
- Side access gates shall be self-closing and lockable on both sides;

- A minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond standard certification should be used on all door locks;
- Where thumb turn locks are to be installed these should be those that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks; and
- The houses shall have a suitable intruder alarm, with a siren box front and back, with dual or quad technology sensors and auto dialler function.

12b. Prior to first occupation of the hereby approved development, a written independent validation report confirming the security measures have been installed throughout the development shall be submitted for the written approval of the Council. The security measures shall thereafter be retained for the life of the development.

*Reason:* To ensure the safety and security of the development and its occupiers and compliance with saved policy ENV32 of Walsall's Unitary Development Plan.

13. The disposal of surface water and foul sewage shall be to the main drainage system only.

*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.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or succeeding Orders, no additional side facing windows or doors other than those approved by this permission, and no enlargements, additions or other alterations, as defined by Classes A, B, C, D and E of Part 1 of Schedule 2 of the Order, shall be constructed.

*Reason:* In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

15. Notwithstanding the submitted details and prior to any works being carried out above ground level, full details of facing materials, including texture, size and colours to be used in the external walls, roofs, windows, doors, rainwater goods and surfacing shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details

*Reason:* To ensure the satisfactory appearance, functioning of the development and in accordance with UDP saved policy GP2 and ENV32.

### **Notes for Applicant**

**Air Quality SPD** - The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

**Bats** - In general, bats seek warm places and for this reason boxes should be located where they will receive full/partial sun, although installing boxes in a variety of orientations will provide a range of climatic conditions. Position boxes at least 3 m above ground to prevent disturbance from people and/or predators. The planting of species which attract night flying insects is encouraged as this will be of value to foraging bats, for example: evening primrose *Oenothera biennis*, goldenrod *Solidago virgaurea*, honeysuckle *Lonicera periclymenum* and fleabane *Pulicaria dysenterica*

**Hours of operation** - 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)

## **End of Officers Report**



**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 17-Jun-2019

**Plans List Item Number: 7.**

**Reason for bringing to committee: Significant Community Interest**

**Location:** 39, NOOSE LANE, WILLENHALL, WV13 3BX

**Proposal:** ERECTION OF 2 BEDROOM DETACHED BUNGALOW ON THE REAR GARDEN OF 39 NOOSE LANE, WITH ACCESS FROM ASTON ROAD.

**Application Number:** 18/0728  
**Applicant:** THOMAS HIGGINS  
**Agent:** AK INNOVATIVE DESIGN SOLUTIONS LTD

**Case Officer:** Stuart Crossen  
**Ward:** Willenhall South  
**Expired Date:** 16-Aug-2018

**Application Type:** Full Application: Minor Use Class C3 (Dwellinghouses)

**Time Extension Expiry:** 24-Jun-2019

**Recommendation Summary:** Grant permission subject to conditions.





## Proposal

The application proposes to subdivide a garden of a bungalow, number 39 Noose Lane, to provide a new two bedroom detached hipped roof bungalow. The proposed dimensions are as follows:

13.2m wide

6.7m in depth

Set 3.3m away from the boundary with 165 Aston Road

Set 1m away from the boundary with 39 Noose Lane

Set between 4.1m and 5.2m away from the boundary with the garden of 37 Noose Lane

5.1m high to the ridge

The accommodation comprises a lounge, bathroom, 2 bedrooms, hallway and kitchen diner.

The front driveway would have space for two cars utilising an existing access. The original house 39 Noose Lane would retain three car parking spaces to the front.

The proposed garden would have a 5 metre deep garden with 91m<sup>2</sup> of space and number 39 would have a minimum 6.5 metre deep garden with 172m<sup>2</sup> of space.

The application has been amended since original submission from two dwellings to a single dwelling and the dwelling subsequently reduced in scale from proposed 3 bedrooms with first floor dormer roof to 2 bedrooms single storey accommodation.

## Site and Surroundings

The application site is a corner plot on Aston Road and Noose Lane. The houses here are a mix of traditional styled detached bungalows, 2 storey houses and traditional semi-detached houses.

The rear of number 39 would face the side of the proposed house. Opposite the application site is number 41 Noose Lane where a new dwelling 60 Aston Road has been created with a similar relationship as proposed by this application and similar plot size.

Number 165 Aston Road would be the other neighbouring house, the rear elevation of this house is in line with the current side boundary of number 39 and this house would be further back than the proposed house. Number 163 Aston Road beyond is set further back from the highway.

The density of houses in this part of Noose Lane/ Aston Road is 15dph, the application proposes 29dph. The average garden length here is 20m and shortest garden is 13 metres deep (163 Aston Road). The area is characterised by detached houses on generous plots with off street parking.

## Relevant Planning History

06/1940/FL/W2 - Retrospective Application for a Change of Use from a Rear Garden to a Car Sales Site for up to 12 Vehicles. Refused 11/01/07

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/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*".

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

### Development Plan

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV32: Design and Development Proposals
- T7: Car Parking

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- T13: Parking Provision for Cars, Cycles and Taxis

## **Black Country Core Strategy**

- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

## **Walsall Site Allocation Document 2019**

HC2: Development of Other Land for Housing  
T4: The Highway Network

## **Supplementary Planning Documents**

### **Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW5 Ease of Movement
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

### **Air Quality SPD**

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

## **Consultation Replies**

**Coal Authority** – No objections subject to conditions for further investigation and remediation.

**Fire Officer** – No objections

**Severn Trent** – No objections subject to drainage condition

**Pollution Control** – No objections subject to conditions for nox boiler and electric car charging and contaminated land conditions.

**Police** – No objections subject to secure by design.

## **Representations**

14 Objections from 5 households have been received on the following grounds (officers comments in italics)

Overlooks rear garden of neighbouring houses but not 39 Noose Lane (*In relation to the original dormer window which has been removed*).

Noise

Congestion getting out of Aston Road onto Noose Lane  
 Not enough parking  
 Highway safety due to parking near to corner  
 Out of character  
 Doesn't meet the 45 degree rule to number 165  
 Access should be on Aston Road (*The access is on Aston Road*)  
 Should be detached (*It is detached*)  
 Construction disruption (*Not a material consideration*)  
 A precedent will be set for developing gardens (*each case is determined on its own merits*)  
 Overshadowing  
 High density out of character  
 No space for wheelie bins  
 Forms inaccurate in relation to waste water (*The application is determined on the basis that the scheme is for a house which requires drainage*)  
 Amended scheme does not include amended forms which are now incorrect. (*The amended plans are clear and supersede the details on the forms*)  
 Bus stop is close to access.  
 Side windows overlooking  
 Loss of light to front of neighbouring bungalow  
 Too close to neighbouring house to allow for maintenance. (*This is a matter for interested parties and not a determining issue of a planning application*)  
 Nowhere for surface water to drain.  
 Permission not given to connect to existing main sewage pipe. (*This is a matter for interested parties and not a determining issue of a planning application*)

## Determining Issues

- Principle of Development
- Coal High Risk
- Design and Character of Area
- Amenity
- Parking and Highway Safety
- Local Finance Considerations

## Assessment of the Proposal

### Principle of Development

The application site is within a residential area. Paragraph 70 of the NPPF states "Plans 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." In this instance the proposal has a street frontage, rear garden and parking in common with the existing character of houses in the area. The assessment of harm is considered below, subject to those material considerations being acceptable the principle is also acceptable.

### Coal High Risk

The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to

development in order to establish the exact situation regarding coal mining legacy issues on the site.

In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

A condition is recommended prior to the commencement of development:

- The undertaking of a scheme of intrusive site investigations which is adequate to properly assess the ground conditions and the potential risks posed to the development by past coal mining activity;
- The submission of a report of findings arising from the intrusive site investigations, including details of any remedial works necessary for approval; and
- Implementation of those remedial works.

### **Design and Character of Area**

Opposite the application site is number 41 Noose Lane and 60 Aston Road the relationship between these dwellings and plot sizes are the same as proposed by this application and reflects the existing character of this part of Aston Road. In addition although the house sits further forward than 165, this is similar to the existing relationship between 161, 163 and 165 which are all staggered in relation to one another.

The scale of the proposal has been reduced and the previously proposed dormer removed, a hipped roof bungalow on this site is similar to the existing style of houses and would integrate well having little impact on the character of the area.

### **Amenity**

The rear garden would only be approximately 5 metres deep but it would have an area of 91m<sup>2</sup> which is considered to provide sufficient amenity for occupants and accords with the Council's garden space standards set out in Designing Walsall SPD.

The rear windows would face the boundary fence to number 37 which ensures there would be no opportunity for overlooking.

Permitted development rights can be removed for all extensions and outbuildings to ensure satisfactory amenity for occupiers and existing residents is maintained.

The scheme accords with the Council's 45 degree rule in relation to number 165 and would be to the West so would only result in some loss of light towards the end of the day and little shadowing.

The proposed side windows are at ground floor and would face shared boundary treatment ensuring there would be no significant potential for overlooking.

The remaining garden space to number 39 would be in excess of 100m<sup>2</sup> which is considered to provide adequate amenity for occupiers.

## **Parking and Highway Safety**

Conditions can be attached to ensure surface water to the hard surfaces drains within the site and not onto the highway.

It is recognised that the bus stop is close to the access, however the Highways Officer has raised no objections and raises no concerns about potential congestion onto Moose Lane or parking near to the junction.

The proposed parking complies with the requirements of UDP policy T13.

## **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 1 new home.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

## **Conclusions and Reasons for Decision**

The application site is within a residential area, the proposal has a street frontage, rear garden and parking in common with the existing character of houses in the area. The assessment of harm is considered below, subject to those material considerations being acceptable the principle is also acceptable and accords with NPPF paragraph 70.

The scale of the proposal has been reduced and the previously proposed dormer removed, a hipped roof bungalow here is similar to the existing style of houses and would integrate well having little impact on the character of the area which accords with UDP policy ENV32.

The rear garden would only be approximately 5 metres deep but it would have an area of 91m<sup>2</sup> which is considered to provide sufficient amenity for occupants and accords with the Council's garden space standards set out in Designing Walsall SPD, the relationship to neighbouring houses is considered acceptable and is considered to comply with UDP policy GP2.

The remaining garden space to number 39 would be in excess of 100m<sup>2</sup> which is considered to provide adequate amenity for occupiers and accords with the Designing Walsall SPD.

It is recognised that the bus stop is close to the access, however the Highways Officer has raised no objections and raises no concerns about potential congestion onto Moose Lane or parking near to the junction.

The proposed parking complies with the requirements of UDP policy T13 and raises no severe highway concerns, conditions can be attached for drainage of the parking areas to be within the application site.

Taking into account the above factors it is considered that the application should be approved.

### **Positive and Proactive Working with the Applicant**

Officers have spoken with the applicant's agent and in response to concerns raised regarding the scale of the development amended plans have been submitted which enable full support to be given to the scheme.

### **Recommendation**

Grant Permission Subject to Conditions

### **Conditions and Reasons**

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Location Plan (A103) received 21/02/19
- Block Plan (A102) received 21/02/19
- Proposed Plans (A100) received 21/02/19
- Proposed Elevations (A101) received 21/02/19
- 3D Views (A104) received 21/02/19

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

3a. Prior to commencement of the development a scheme of intrusive site investigations which is adequate to properly assess the ground conditions and the potential risks posed to the development by past coal mining activity shall be carried out.

3b. Prior to commencement of the development a report of findings arising from the intrusive site investigations, including details of any remedial works necessary for approval shall be submitted to and approved by the Local Planning Authority.

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3c. The remedial works shall be carried out in accordance with the approved report.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

4a. Prior to commencement of any building or engineering operations above damp proof course of the development hereby approved, full details of materials for facing brickwork and roof tiles shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

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

5. Prior to the use commencing a vehicle crossover shall be installed and the footway shall be reinstated in accordance with the approved plans.

Reason: In the interests of pedestrian safety and accessibility and to comply with UDP policy GP2.

6. The hard surface for parking hereby approved shall be made of porous materials, or provision made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.

Reason: To ensure satisfactory surface water drainage and to comply with UDP policy ENV40.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no extensions or additions as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house; -Class A (enlargement, improvement or other alterations), -Class B (additions to the roof), -Class C (other alterations to the roof), -Class E (building incidental to the enjoyment of a dwelling house), shall be installed in any part of this hereby approved development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.



### **Notes for the Applicant:**

1. The attention of the Applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. Measures must be implemented by the Applicant to ensure that, so far as is reasonably practicable, surface water from the private land flowing on to, or over, the footway of the highway is prevented.
3. The Applicant will be expected to either enter into an agreement under Section 278 of the Highways Act 1980 with the Local Highway Authority or obtain a Road Opening Permit from the Local Highway Authority for all works within the existing public highway. For further advice please contact the Highway Development Control Team on 01922 655 927.
4. The Applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information please contact the Traffic Management Team on 01922 654675.

### **5. General Information for the Applicant**

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. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

[www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property)

### **Disclaimer**

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information (such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.

*In formulating this response The Coal Authority has taken full account of the professional conclusions reached by the competent person who has prepared the Coal Mining Risk Assessment or other similar report. In the event that any future claim for liability arises in relation to this development The Coal Authority will take full account*

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*of the views, conclusions and mitigation previously expressed by the professional advisers for this development in relation to ground conditions and the acceptability of development.*

## **End of Officers Report**



**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 17-Jun-2019

**Plans List Item Number: 8.**

**Reason for bringing to committee: Requiring delicate judgement and entering into a S106/S111 agreement.**

**Location:** THREE CROWNS INN, SUTTON ROAD, WALSALL, WS5 3AX

**Proposal:** PROPOSED NEW FIELD ACCESS TO LAND ADJACENT TO THE FORMER THREE CROWNS PUBLIC HOUSE

**Application Number:** 19/0373

**Applicant:** c/o agent

**Agent:** Mike Lapworth

**Application Type:** Full Application: Minor  
Use Class Sui Generis

**Case Officer:** Paul Hinton

**Ward:** Aldridge Central And South

**Expired Date:** 03-May-2019

**Time Extension Expiry:**



## Recommendation Summary:

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and a S106/S111 agreement to tie the current planning application to planning application 18/0550 to provide access for maintenance of the Three Crowns Site of Importance for Nature Conservation and referral to the Secretary of State for consideration of whether to 'call in' the application.

## Proposal

This applications seek planning permission for the formation of a 4.8m wide vehicle access into an agricultural field. The access would span 18m from the carriageway of Sutton Road and across the existing grassed highways verge. Part of the existing hedge would be removed and replaced with a 5 bar gate opening into the field. The access would be hard surfaced in accordance with the statutory requirements.

This application has been considered along with planning application 18/0550 for the redevelopment of the adjacent Three Crown Public House for 7 houses which includes the maintenance of the adjacent Site of Importance for Nature Conservation (SINC). Within that application the SINC is shown to be accessed through a field to the east which is outside of the ownership of the applicant. In the current application it is explained this alternative access would provide an owned access to the whole SINC land.

The following information has been submitted in support of the application:

### *Design and Access Statement*

- In order to provide a safe private access to the Three Crowns Pasture to enable the SINC to be successfully maintained into the future this application seeks planning consent for a new dedicated access to the fields.

## Site and Surroundings

The application site is a grassed part of the Council's highway verge to the northern side of Sutton Road and 60m to the east of the Three Crowns Public House within the Green Belt and adjacent to the Great Barr Conservation Area. To the rear of the site is the Three Crowns Pasture Site of Importance for Nature Conservation Site of Importance for Nature Conservation ("SINC") to which the proposal would provide access to. There is a mature hedge that forms the boundary between the highway verge and the field.

## Relevant Planning History

18/0550 - Demolition of the existing 'The Three Crowns Public House' and erection of 7 no. detached dwellings (Site affects the setting of public rights of way Wal98)

including the formation of a vehicle access to the adjacent field. Planning committee resolved to grant planning permission, subject to conditions, the signing of a Section 111 and Section 106 for a SINC management and landscape management. This has been referred to the Planning Casework Unit to consider whether this is to be called before the Secretary of State to make the decision.

## **Relevant Policies**

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

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/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*".

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

## **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

## **Local Policy**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Black Country Core Strategy**

- CSP4: Place Making
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development

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- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

### **Saved Unitary Development Plan**

- GP2: Environmental Protection
- 3.6 and 3.7: Environmental Improvement
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

### **Site Allocations Document**

- GB1 – Green Belt Boundary and Control of Development in the Green Belt
- EN1 – Natural Environmental Protection, Management and Enhancement
- EN5 – Development in Conservation Areas
- T4 – The Highway Network

### **Supplementary Planning Document**

#### **Conserving Walsall's Natural Environment**

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order



## Designing Walsall

- DW3 Character
- DW4 Continuity

## Consultation Replies

**Highways** – no objection subject to a condition requiring full engineering details and defining the use.

**Conservation Officer** – no objection.

**Police Designing out Crime** – no objection.

## Representations

Surrounding occupiers notified by letter and site notice displayed.

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

- Objects if access is for more buildings
- Access already exists to the east of the proposed site that would not require bisecting of the grass verge with a road or cutting down hedge.
- Site location plan is incorrect
- Footpath close to the hedge should be retained.

## Determining Issues

- Whether the development is appropriate development in the Green Belt
- Impact upon the setting of the Conservation Area
- Ecology
- Impact upon the character and appearance of the area
- Relationship with planning application 18/0550
- Impact upon highway safety

## Assessment of the Proposal

### Whether the development is appropriate development in the Green Belt

The NPPF explains that engineering operations are not inappropriate development within the Green Belt provided they preserve the openness and do not conflict with the purpose of the including land within it. The laying of 18m of hard surface within the grass verge is an engineering operation and would preserve the openness of the Green Belt. The proposed access would not conflict with any of the five purposes of the Green Belt. Accordingly the field access would be appropriate development in the Green Belt. To ensure the access across the verge remains open and no means of enclosures (fences/walls) are erected a condition removing permitted development rights for such developments is considered necessary.

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Whilst residents have concern about this being an access for more buildings, the proposal would provide access to the existing agricultural field and for maintenance of the SINC.

### **Impact upon the setting of the Conservation Area**

Great Barr Conservation Area is 68m to the south of the application site. The NPPF explains that in regard to the setting of a heritage asset its extent is not fixed and may change as the asset and its surroundings evolve. SAD policy EN5 explains developments should preserve or enhance the character and appearance of the Conservation Area. The field access is considered would preserve the character of the Conservation Area.

### **Ecology**

The proposal would result in the loss of 4.5m of mature hedge. The hedge is approximately 140m in length. Subject to the works to remove the hedge taking place outside of the bird, bat and hedgehog nesting/hibernation period, or being subject to supervision of a qualified ecologist during the works, which could be a planning condition, the development would not have an adverse impact upon ecology.

### **Impact upon the character and appearance of the area**

The laying of a hard surface and removal of 4.5metre length of hedge would cause limited harm to the visual amenities of the area. The proposed five bar timber gate is typical of field accesses and is acceptable. A condition that secures this style of gate and defines a suitable height (no more than 1m to the top rail and 1.4m to the stile feature) would ensure the access integrates into the character of the area.

### **Relationship with planning application 18/0550**

The resolution of the 21/3/2019 Planning Committee to approve the redevelopment of the Three Crowns Public House for seven houses included the formation of a vehicle access to the adjacent field and required entering into a S106 agreement to maintain the SINC. That field access and neighbouring field while part of the application boundary was not in the applicant's ownership. The current application would provide direct access from the highway, across the highway verge into a field owned by the applicant.

This would in effect provide two options to access the SINC and to ensure maintenance can be undertaken. This current application would need to form part of the S106/S111 agreement with the previous application 18/0550 to ensure an access is provided to the SINC in perpetuity for maintenance. This forms part of the recommendation. As the National Planning Casework Unit (NPU) are currently assessing planning application 18/0550 and whether this needs to be 'called in' for determination by the Secretary of State, this current application would also have to be referred for the NPU to consider as part of the 18/0550 planning application.

## **Impact upon highway safety**

The application is to create a new field access from Sutton Road which is a classified road (B4151) and a District Distributor. Whilst SAD policy T4 seeks to regulate direct frontage access, the reason for the new access is to provide continued access to the SINC fields for maintenance purposes avoiding the Third Party land issues associated with the present access.

Adequate visibility splays can be achieved in both directions at the new access point. Also there is adequate separation with the existing road junction opposite taking into account the expected extremely low usage of the new access. Highways have no objection to the application subject to a condition requiring full engineering details of the access and defining the use to agriculture and associated maintenance.

It is considered that the development will not have severe transportation implications.

Objectors comment that there is an existing access that would not require bisecting of the grass verge with a road or cutting down hedge. As discussed above, on its merits the proposal would be acceptable. Whilst there is an alternative access, this would not be a reason alone to sustain a reason for refusal.

Whilst a neighbour objects on the grounds that the location plan is incorrect, for the purposes of this field access the submitted drawings are sufficient.

Reference has been made to an existing footpath close to the hedge should be retained. Whilst this is no longer in use due to the growth of the hedge, the proposal would not prevent it being used in the future should the hedge be cut back.

## **Conclusions and Reasons for Decision**

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, this would be an appropriate development within the Green Belt that would preserve the character and appearance of the Conservation Area. The proposal would not have an adverse impact upon local ecology and would not impact upon the visual amenities of the area. It has been demonstrated that the highway impacts would be less than severe.

Safeguarding conditions in regard to engineering details, nesting birds, means of enclosure and use are necessary and meet the six tests. Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP4, TRAN2, ENV1, ENV2, and ENV3 of the Black Country Core Strategy, policies GB1, EN1 and EN5 of the Walsall Site Allocation Document; saved policies GP2 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Conserving Walsall's Natural Environment.

## **Positive and Proactive Working with the Applicant**

Due to the nature of the application it has not been necessary to undertake positive or proactive working.

## **Recommendation**

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and a s106 agreement to tie the application to planning application 18/0550 in regard to providing access to retain maintenance to the Three Crowns Site of Importance for Nature Conservation and referral to the Secretary of State for consideration of whether to 'call in' the application.

## **Conditions and Reasons**

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Site location plan as existing received 1/3/19
- Site location plan as proposed received 1/3/19
- Site block plan as proposed received 1/3/19

Reason: For the avoidance of doubt and in the interests of proper planning.

3a. Prior to the commencement of construction of the new access, engineering details of the field access crossing, including appropriate drainage measures to prevent surface water from discharging onto the public highway or into any public highway drain, shall be first submitted to and agreed in writing with the Local Planning Authority.

3b. The development shall be completed in accordance with the approved details prior to its first use and retained thereafter for the life of the development.

Reason: To ensure the satisfactory completion and operation of the access, in accordance with saved UDP policy GP2 and T4 and in the interests of highway safety.

4. To avoid the risk to nesting birds, site clearance of vegetation and clearance works should be undertaken outside the bird nesting season. The bird nesting season extends between mid February and September inclusive but is weather dependant and nesting may take place outside this period. If site clearance unavoidably takes place within the nesting season the site and hedgerow shall be

checked by a qualified and experienced ecologist immediately prior to works commencing. 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 and to comply with policy ENV1 of the Black Country Core Strategy, policy EN1 of the Walsall Site Allocation Document and saved policies ENV18 and ENV23 of the Walsall Unitary Development Plan.

5. To avoid the risk to hibernating hedgehogs, site clearance of vegetation and clearance works should be undertaken outside the hedgehog hibernation season, November to March. If site clearance unavoidably takes place within the hibernation season the site and hedgerow shall be checked by a qualified and experienced ecologist immediately prior to works commencing. If hibernating hedgehogs are discovered clearance works should be delayed and advice sought from the ecologist or Natural England.

Reason: To protect local hedgehog populations and to comply with policy ENV1 of the Black Country Core Strategy, policy EN1 of the Walsall Site Allocation Document and saved policies ENV18 and ENV23 of the Walsall Unitary Development Plan.

6. To avoid the risk to hibernating bats, site clearance of vegetation and clearance works should be undertaken outside the bat hibernation season, November to March. If site clearance unavoidably takes place within the hibernation season the site and hedgerow shall be checked by a qualified and experienced ecologist immediately prior to works commencing. If hibernating bats are discovered clearance works should be delayed and advice sought from the ecologist or Natural England.

Reason: To protect local bat populations and to comply with policy ENV1 of the Black Country Core Strategy, policy EN1 of the Walsall Site Allocation Document and saved policies ENV18 and ENV23 of the Walsall Unitary Development Plan.

7. For the avoidance of doubt the proposed gate hereby approved as shown in the position on the site block plan received on 1/3/19 shall be a timber 5 bar gate with top rail not exceeding 1m in height from the natural ground level and stile feature not exceeding 1.4m in height from the natural ground level.

Reason: In the interests of visual amenity and to comply with policies ENV2 and ENV3 of the Black Country Core Strategy, GB1 of the Walsall Site Allocation Document and saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

8. The access shall be used solely for vehicles associated with the agricultural use of the land and Three Crowns SINC maintenance and shall be used for no other purpose.

Reason: To control the use of the access in accordance with UDP Policy T4, to the free flow traffic along the public highway and to highway safety.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or succeeding orders, no gates, fences, walls or other means of enclosure other than those expressly approved by this permission shall be constructed or installed.

Reason: In the interests of the visual amenities of the Green Belt and to comply with policy GB1 of the Walsall Site Allocation Document.

### **Notes for Applicant**

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

2. The applicant will be expected to either enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.

### **End of Officers Report**



**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 17-Jun-2019

**Plans List Item Number: 9.**

**Reason for bringing to committee: Significant Community Interest**

**Location:** THE HAWTHORNS, ERDINGTON ROAD, ALDRIDGE, WALSALL, WS9 8UH

**Proposal:** DISPLAY OF TWO ADVERTISEMENT BANNERS : 1.0 M X 3.0 M (1 METRE ABOVE GROUND LEVEL).

**Application Number:** 19/0180

**Applicant:** Michelle Barron

**Agent:**

**Application Type:** Advertisement Consent

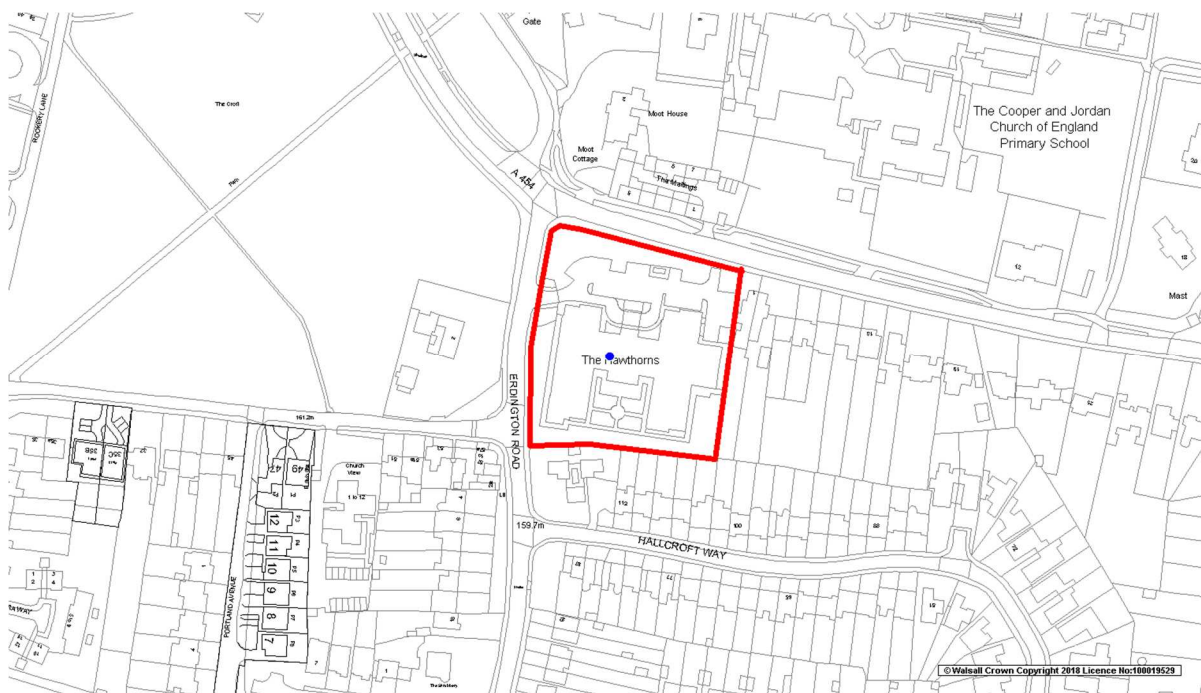
**Case Officer:** Sally Wagstaff

**Ward:** Aldridge Central And South

**Expired Date:** 02-May-2019

**Time Extension Expiry:** 21-Jun-2019

**Recommendation Summary:** Approve Advert for 5 years





## **Proposal**

The proposal relates to the consent to display two advertisement banners 1.0 metre in height by 3 metres in width (1 metre above ground level) attached to the boundary railings of The Hawthorns care home.

Banner A would be located on the junction of Little Aston Road and Erdington Road and Banner B on Erdington Road facing the junction with Portland Road.

The purpose of the banners are to advertise various events taking place throughout the year and for recruitment and business advertising in connection with the lawful use of the premises as a care home. Only two banners will be in place at any one time and are to be the same size and positioned in the same location for each event/need for advertisement.

A photo example of the advertisement has been provided by the applicant.

## **Site and Surroundings**

The application site is a care home located on the corner of Little Aston Road and Erdington Road and is sited in Aldridge Conservation Area. To the north of the site are the 'The Maltings' a courtyard complex of terraced properties which are locally listed buildings, to the east and southern boundaries are residential properties and to the west is The Cottage, no. 2 Erdington Road which is Grade II Listed Building. Beyond this is large area of open space called The Croft.

The care home is a modern H shaped building with the main entrance facing Little Aston Road. The boundary of the site is constructed of a low level brick wall and metal railings approximately 2 metres in height, allowing views into the site. The care home has three existing advertisement boards on posts advertising the name and contact number, these are located on three corners of the site visible from Little Aston Road and Erdington Road.

## **Relevant Planning History**

12/1400/FL - Application for new 3 storey care home with associated car parking, roof gardens, landscaping and tree works following demolition of existing day centre. Granted Subject to Conditions 24/12/12

14/0467/MA - Non-material amendments to permission 12/1400/FL to include repositioning of 2 staircases, amended window positions, additional lounge windows, removal of high level canopy, smaller louvres to plant room, lift overrun on roof, amended car parking layout and extension of canopy over front entrance. Approve Non-Materials Amendments 25/04/14.

**Part 3 (Express Consent) of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (As amended).**

**Applications for express consent**

9.— (1) An application for express consent shall be made to the local planning authority.

(2) Subject to paragraphs (6) and (7), the application shall be made electronically or in hard copy on a form published by the Secretary of State or a form substantially to the same effect.

(3) The applicant shall—

(a) include the particulars specified in the form; and

(b) send with the application (whether electronically or otherwise) a plan which—

(i) is drawn to an identified scale,

(ii) shows the direction of North,

(iii) identifies the location of the site by reference to at least two named roads, and

(iv) identifies the proposed position of the advertisement.

(4) Unless an application is made electronically or the local planning authority indicates that a lesser number is required, three copies of the completed form and the plan shall accompany the application.

(5) Where the application is one to which directions given by the Secretary of State under regulation 11 apply, the applicant shall send with the application (whether electronically or otherwise) such particulars, plans or information specified or referred to in those directions as may have been notified to the applicant by the local planning authority.

(6) An application made on or after 6th April 2007 and before 1st October 2007, may be made in writing on a form devised by the local planning authority.

(7) An application made after 30th September 2007 and before 1st November 2007

otherwise than by a local planning authority or an interested planning authority, may be made in writing on a form devised by the local planning authority.

(8) Where an application is made electronically, the applicant shall be taken to have agreed—

(a) to the use by the authority of electronic communication for the purposes of his application;

(b) that his address for that purpose is the address incorporated into, or otherwise logically associated with, his application; and

(c) that his deemed agreement under this paragraph shall subsist until he gives notice in writing—

(i) withdrawing any address notified to the authority for that purpose, or

(ii) revoking that deemed agreement, and such withdrawal or revocation shall be final and shall take effect on a date specified by the person in the notice but not less than seven days after the date on which the notice is given.

(9) An application made electronically shall, unless the contrary is proved, be treated as having been delivered at 9 a.m. on the next working day after the day on which it is transmitted.

(10) This regulation applies to applications for renewal of consent as it applies to applications for consent.

(11) An application for the renewal of an express consent may not be made more than 6 months before the date on which the consent is due to expire.

## **Power to deal with applications**

**14.—** (1) Where an application for express consent is made to the local planning authority, the authority may—

(a) grant consent, in whole or in part, subject to the standard conditions and, subject to paragraphs (6) and (7), to such additional conditions as it thinks fit;

(b) refuse consent; or

(c) in a case to which paragraph (2) applies, decline to determine the application.

(2) This paragraph applies where the application relates to an advertisement to which section 70A of the Act, as modified as mentioned in paragraph (3), applies.

(3) For the purposes of this regulation, section 70A of the Act shall apply subject to the modifications specified in Part 1 of Schedule 4; and the provisions of that section as so modified are set out in Part 2 of that Schedule.

(4) Express consent may be granted—

(a) for the display of a particular advertisement or advertisements with or without illumination;

(b) for the use of a particular site for the display of advertisements in a specified manner, whether by reference to the number, siting, size or illumination of the advertisements, or the structures intended for such display, or the design or appearance of any such structure, or otherwise; or

(c) for the retention of any display of advertisements or the continuation of the use of a site begun before the date of the application.

(5) The conditions imposed under paragraph (1)(a) may, in particular, include conditions—

(a) regulating the display of advertisements to which the consent relates;

(b) regulating the use for the display of advertisements of the site to which the application relates or any adjacent land under the control of the applicant, or requiring the carrying out of works on any such land;

(c) requiring the removal of any advertisement or the discontinuance of any use of land authorised by the consent, at the end of a specified period, and the carrying out of any works required for the reinstatement of the land.

(6) In relation to the display of an advertisement within any class specified in Part 1 of Schedule 3, the local planning authority shall not impose any condition more restrictive than those imposed by regulation 6(1)(b) in relation to advertisements of that class.

(7) Subject to paragraph (6), an express consent shall be subject to the condition that it expires at the end of—

(a) such period as the local planning authority may specify in granting the consent; or

(b) where no period is so specified, a period of 5 years.

(8) The local planning authority may specify, as the date on which the period under paragraph (7)(a) is to begin, whichever is the earlier of—

- (a) the date of the commencement of the display; and
- (b) a specified date not later than 6 months after the date on which the consent is granted.

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

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/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*".

**Key provisions** of the NPPF relevant in this case:

### **NPPF 2 – Achieving sustainable development**

- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **Local Policy**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

### **Saved Unitary Development Plan**

- GP2: Environmental Protection

- ENV27: Buildings of Historic or Architectural Interest
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals

## **Supplementary Planning Document**

### **Designing Walsall**

- DW3 Character
- DW9 High Quality Public Realm

### **Shop Front**

- Policy SF6: Advertisements

## **Consultation Replies**

**Transportation** – No objection to the proposals  
**West Midlands Police** – No comments

## **Representations**

7 objections have been received from neighbouring residents with concerns regarding:

- Need for the type advertisement proposed
- Nature of what the banners would be advertising
- Impact the banners would have upon the character of the residential area/ character of Aldridge Conservation Area
- Banners being a distraction to motorists
- Public Safety being compromised
- Precedent set for other advertisements of this type within the Conservation Area

## **Determining Issues**

- Visual Appearance
- Highways and Public Safety

### Visual Appearance

The two banners would be located on the boundary railings around the perimeter of the site. An example image of one of the advertisements has been provided from the applicant nevertheless the image on the banners are subject to change depending on the event/ reason for advertisement. The size and material of the banners are typical in appearance for this type of advertisement.

A number of the objections received raised concerns that the banners would be detrimental to the appearance of Aldridge Conservation Area. It is acknowledged that the care home is sited within a Conservation Area and the local planning authority must also pay special attention to the desirability of preserving or enhancing the character of appearance of that area. The two banners are located on the railings of a modern building with little historical value in close proximity to existing advertisements. It is considered in this context that the siting of two banners are not excessive and in relation to the visual amenity of the site the signage does not significantly affect the visual appearance of the building. It is considered that the two banners in terms of size, siting would cause 'less than substantial' harm to the character and appearance of the Conservation Area.

Banner A would be sited approximately 40 metres from the boundary of The Cottage, Grade II Listed Building and Banner B, 30 metres. The hedge to the boundary of the site screens the building from Erdington Road. It is considered that the design, materials, positioning, number, type and scale of advertisements would not detract from the setting of the nearby listed building.

The Maltings, opposite the site are locally listed. Banner A is the closest advertisement at approximately 20 metres from the non-designated heritage asset. It is considered that the design, materials, positioning, number, type and scale of advertisements would not affect the special interest of the locally listed building.

It is considered this scheme would not set a precedence for more of this type of advertisement with the Conservation Area as any other advertisements would need to be considered on their own merits.

Comments have been raised regarding the necessity for this type of advertisement in relation to the care home having other means of advertising such as underneath the existing advertisements or through the use of the internet. The advertisements are considered acceptable in terms of visual appearance Highway and Public safety therefore it is not necessary to ask that the applicant to consider other means of advertisement.

### Highways and Public Safety

A number of neighbouring residents have expressed concern that the banners would be positioned on busy junctions – Erdington Road/Little Aston Road and Erdington Road/Portland Road causing a distraction to motorists. The Highway Officer has assessed the application and has not expressed concerns regarding Highway and Public Safety. The advertisements are not illuminated. It is considered there are no reasons to refuse advertisement consent on Highway and Public Safety Grounds.

## Conclusions and Reasons for Decision

The scheme would have little if any impact on the visual appearance of the area or highway safety.

Taking into account the above factors the application is recommended for approval.

## Positive and Proactive Working with the Applicant

### Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

## Recommendation

Approve Advert for 5 years

## Conditions and Reasons

1. The development shall not be carried out otherwise than in accordance with the following documents and drawings:

Proposed Site Plan, drawing no. 2832-01 Rev B, deposited 07/03/19

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

2. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

*Reason:* It is a requirement of the Regulations that the site owner's permission be obtained before any advertisement is displayed.

3. No advertisement shall be sited or displayed so as to-

- Endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
- Obscure, or hinder the ready interpretation of, any traffic sign, railway signal, or aid to navigation by water or air; or
- Hinder the operation of any device used for the purpose of securing or surveillance or for measuring the speed of any vehicle.



*Reason:* In the interest of public safety.

4. Any advertisement displayed, and any site used for the displaying of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

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

5. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

*Reason:* In the interest of public safety and amenity

6. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair on visual amenity.

*Reason:* In the interest of public safety and amenity

### **End of Officers Report**



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 17-Jun-2019

**Plans List Item Number: 10.**

**Reason for bringing to committee: Contrary to Policy - Does not meet the Council's required separation distances between blank walls over 3 metres in height and habitable room windows (13m)**

**Location:** 39, VICTORIA ROAD, PELSALL, WALSALL, WALSALL, WS3 4BH

**Proposal:** TWO STOREY SIDE AND SINGLE STOREY SIDE EXTENSIONS.

**Application Number:** 19/0079

**Applicant:** Mr & Mrs Robathan

**Agent:** Mr Stuart Taylor

**Application Type:** Full Application:  
Householder

**Case Officer:** Sally Wagstaff

**Ward:** Pelsall

**Expired Date:** 18-Mar-2019

**Time Extension Expiry:** 21-Jun-2019

**Recommendation Summary:** Grant permission subject to conditions



## Proposal

The application relates to erection of a two storey side extension to create a new ground floor entrance and reading area with coat cupboard and bathroom with a first floor library and bathroom and single storey side extension to create a larger kitchen and garage.

The proposed two storey side extension measures:

- 2.4 metres in width
- 9.9 metres in length
- 4.5 metres to the eaves

The single storey rear extension measures:

- 12 metres in depth
- 5.2 metres in width
- 2.5 metres to the eaves
- 4 metres to the top of the ridge

The property will be rendered, the two storey extension incorporates two full length windows and timber cladding to the front elevation.

The application has been amended, the first floor rear extension has been omitted from the scheme due to officer concerns that extension would block the indirect light to the dining room at no. 40 Victoria Road.

The agent has provided Site Plans with dimensions, (drawing no. 0000-14) to clarify the separation distances between the proposed extension and the front elevation windows within no. 38 Victoria Road.

## Site and Surroundings

The property is located within Pelsall Common Conservation Area.,It is a two storey detached dwelling house set at an angle to the highway in Victoria Road within an irregular shaped plot. To the south of the property is vehicular access into the site and the existing garage and to the west is an area of hardstanding for vehicles to be parked off road. To the west of the site is a large mature tree which is protected as it is sited within a Conservation Area.

The property is L shaped, the end gable which faces Victoria Road is the principal elevation, it has only one window at ground floor and access into the property is through a porch area. The rear garden wraps around the side and front of the property.

The neighbouring property no.40 Victoria Road is a bungalow orientated at an angle to the application house approximately 1.4 metres from the boundary with the application site. No. 40 has a circular secondary obscurely glazed window to the lounge which faces into the application site, the principal window to the lounge is

within the front elevation. There is also a dining room window which faces the blank wall of the garage.

The neighbouring property no. 38 is one of a pair of semi-detached properties, the front elevation of no 38 faces towards the gable of the application site at a distance of 15 metres. The property has three habitable room windows at ground floor and three at first floor which face into the application site. There is a marginal change in land levels between the two properties with the first floor of no. 38 being approximately 450 mm higher in level, the hose is slightly angled to the application house.

Between no. 38 and 39 is an outbuilding within is approximately 3.8 metres in height, which is positioned near to the boundary of the application site.

## Relevant Planning History

None

## Relevant Policies

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

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/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*".

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

## **National Planning Policy Guidance**

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

## **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

## **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

## **Black Country Core Strategy**

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

## **Supplementary Planning Document**

### **Designing Walsall**

- DW1 Sustainability
- DW3 Character

## **Consultation Replies**

None

## **Representations**

None

## **Determining Issues**

- Design and Character of the Conservation Area
- Impact upon neighbouring amenities
- Parking and access

### Design and Impact on the Character of the Conservation Area

It is considered that the application site has the capacity to accommodate the level of development proposed. The single storey rear wing would be rebuilt and made larger than the existing structure. It is considered that the rear extension would integrate with the existing property and would not be a dominant addition to the property.

The two storey side extension is considered subordinate to the main dwelling house, it is set back from the front elevation and the gable design would integrate with the existing property. The street scene is mixed in character, properties on Victoria Road differ in size and design, some are brick, and some have been rendered. It is acknowledged that the use of timber cladding is not a common feature within the Conservation Area, nevertheless it is considered that the use of cladding is sympathetic and the extensions significant setback from the highway means that it would not be prominent within the Conservation Area. A condition is recommended for materials to be submitted and approved before the damp course to ensure the satisfactory appearance of the development.

It is considered the proposal would not have a detrimental impact upon the character and appearance of the Conservation area.

There is a large mature tree to the west of the site within the front of the driveway. The proposed extensions are not any nearer to the tree than the main house. It is considered the proposal would not have a negative impact upon the health of the tree. No comments have been received from the Tree Officer.

### Impact upon neighbouring amenity

The front elevation of no. 38 faces the gable of the application house. The proposed side extension would bring the built form closer to the front elevation of the neighbouring property. The agent has surveyed the neighbour's site and has provided dimensions between the habitable rooms within this property and the proposed gable albeit the bay window measurement is taken from the opening rather than the external bay. The property angles slightly away from the application house, the separation increases towards the far end of the property. The proposal does not meet the required 13 metre separation distance as outlined within Appendix D of Designing Walsall between habitable rooms and blank walls over 3 metres in height.

The extension is sited approximately 12 metres (measured from outside of the bay) from the nearest ground floor habitable room window within the front elevation of this property and 12.905 metres from the first floor habitable room window. Due to the angle of the property, the availability of other habitable room windows within the front of no 38 property meet the required separation distance.

it is considered that whilst there is a shortfall in the required separation distance, nevertheless it is considered that there are mitigating factors which mean that the extension is acceptable in terms of the impact upon the amenity of this property.

The room affected is dual aspect lounge with a large window to the side elevation of the property. This is a secondary window nevertheless it allows for light and outlook into this room.

To add, the neighbouring property is elevated slightly above the application site with the first floor level being approximately 450 mm higher, this minimises the potential for the extension to be overbearing on the amenity of this property.

The existing outbuilding between the two properties is 3.8 metres in height, this currently screens part of the application house and screen part of the new gable wall.

The neighbouring property is south facing, it is acknowledged that the proposal would lead to an element of shading to the front amenity area which is a driveway, and nevertheless it is considered that this would not be unduly harmful to the light received to habitable room windows within this property.

It is considered that the shortfall in the separation distance between two habitable room windows would not unduly limit the light and outlook from the habitable room as to warrant refusal of this application for this reason alone. There are no windows proposed within the side elevation of the extension, the proposal would not lead to a loss of privacy enjoyed by the occupiers of this property.

The proposed extension to the garage complies with the 45 degree code measured from the lounge window within no. 38. It is considered the proposal would not lead to a loss of light nor outlook to this habitable room. No windows are proposed within the side elevation of the extension facing the neighbour, it is considered the proposal would have a limited impact upon the privacy of the occupiers of this property.

### **Parking and access**

The property currently has a garage and two parking. The development seeks to extend the property increasing the number of bedrooms from 3 to 4. UDP parking policy T13 requires 3 parking spaces for 4 bedroom dwellings. The development retains 2 frontage parking spaces and a garage space which accords with the policy requirement. Means of access is unchanged.

## **Conclusions and Reasons for Decision**

On balance, the amended design of proposal is considered to be acceptable in terms of size, height and materials and on balance would not harm the character of the area. The proposal complies with saved policies GP2 and ENV32 of Walsall's UDP and Designing Walsall SPD DW3 Character.

The development has a limited impact upon the amenity of neighbouring properties in terms of light, outlook and privacy. The proposal complies with saved policies GP2 and ENV32 of Walsall's UDP and Designing Walsall SPD Appendix D.

There is sufficient parking to accord with saved policies T7 and T13 of Walsall's UDP. Taking into account the above factors it is considered that the application should be recommended for approval.

Taking into account the above factors it is considered that the application should be recommended for approval.

## **Positive and Proactive Working with the Applicant**

### **Approve**

Officers have spoken with the applicant's agent and in response to concerns raised regarding the first floor rear extension amended plans have been submitted which enable full support to be given to the scheme.

## **Recommendation**

Grant Subject to Conditions

## **Conditions and Reasons**

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Site Plans, with Dimensions, drawing no. 0000-14, deposited 31/05/19  
Proposed Site Plan, drawing no. 0000-02 Rev E deposited 25/03/19  
Proposed Ground Floor Plan, drawing no. 0000-04 Rev B deposited 21/01/19  
Proposed First Floor Plan, drawing no. 000-06 Rev C deposited 25/03/19  
Proposed Roof Plan, drawing no. 0000-08 Rev B deposited 21/01/19  
Proposed Elevations 1, drawing no. 0000-11 Rev C deposited 25/03/19  
Proposed Elevations 2, drawing no. 0000-12 Rev C deposited 25/03/19

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

3: Prior to commencement of any building or engineering operations above the damp proof course of the development hereby approved until a schedule of facing materials to be used in external walls that includes details of the colour, size, texture and specification of the materials shall be submitted to and approved in writing by the Local Planning Authority.



3b: The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

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

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

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

### **End of Officers Report**