

## Planning Committee

Report of Head of Planning and Building Control on 15 January 2024

Plans List Item Number: 4

### Reason for bringing to committee

Called in by Councillor Sohal on the grounds that redevelopment offers an improvement to the character/amenities of the surrounding area to outweigh any potential harm and the planning application requires careful judgement.

### Application Details

**Location:** 89, BELVIDERE ROAD, WALSALL, WS1 3AU

**Proposal:** PROPOSED 6 NO. BEDROOM DETACHED DWELLING WITH LOFT ROOMS AND A DETACHED TRIPLE CAR/STORAGE GARAGE TO FRONT. RAILINGS, 1.8 METRES HIGH GATES AND A 1.5 METRES HIGH FRONT BRICK BOUNDARY WALL, , A NEW DRIVEWAY AND NEW DROPPED KERB ALONG BELVIDERE ROAD AND EXTENDED EXISTING DROPPED KERB ALONG HIGHGATE AVENUE BY 1M ON EACH SIDE (RE-SUBMISSION OF PLANNING APPLICATION REFERENCE NO. 22/1651).

**Application Number:** 23/1097

**Case Officer:** Helen Smith

**Applicant:** Aneet Khambay

**Ward:** St Matthews

**Agent:** My Arch1tect Ltd

**Expired Date:** 27-Dec-2023

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

**Time Extension Expiry:**



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## Recommendation

Refuse

## Proposal

This is an amended planning application following an earlier refusal of planning consent. (re-submission of planning application reference no. 22/1651).

The current proposal is for a proposed 6 no. bedroom detached dwelling with loft rooms and a detached triple car/storage garage to the front. The proposal includes railings, 1.8 metres high gates and a 1.5 metres high front brick boundary wall, a proposed new driveway and new dropped kerb along Belvidere Road and an extended existing dropped kerb along Highgate Avenue by 1 metre on each side.

The proposed new dwelling would be:

- 8.9 metres high
- 2.5 storeys high
- Ground floor area of 179.8m<sup>2</sup>.
- Includes 3 no. 2.5 storeys front gable features with a large area of glazing installed in the centre gable.
- Includes 2 no. 2.5 storeys rear gable features.
- Part gable, part hipped and part flat main roof design.
- Red colour facing brick with smooth grey plain roof tiles.
- Side gaps of 0.4 metres and 0.6 metres wide between the new dwelling and the side elevations of 88 Belvidere Road and 22 Highgate Avenue respectively.

The proposed new dwelling would be 1.8 metres further forward than the neighbouring dwellings at 88 Belvidere Road and 22 Highgate Avenue, and existing building line in both streets. It would also be 2.3m higher than the ridgeline of 88 Belvidere Road.

The proposed detached 3 vehicle garage would sit on the front corner of the application site fronting Highgate Avenue and Belvidere Road. No elevation drawings of this have been provided with the submission. No chimneys are proposed.

An in-out driveway from each of these two roads is proposed and new dropped kerbs would be required at the proposed access off Belvidere Road. The garage building would be 3.9 metres high with an angled and hipped roof design. The floor area of the garages would be 68m<sup>2</sup>.

The design of the initial proposal has been revised to include 3 no. 2.5 storeys high gable features fronting Belvidere Road with a gable roof to the rear of these and the elevation fronting Highgate Road would have 2 no. wider 2.5 storeys high gable features.

The proposal includes new front 1.5 metres high walls around the front garden topped with 0.3 metres high railings and two sets of 1.8 metres high gates.

The private amenity space for the new dwelling would be a 24m<sup>2</sup> paved patio area at the rear. The landscaping and planting on the existing front garden area has already mostly been cleared and the proposal includes a small front lawn area and a front hedgerow to the rear of the new front boundary wall.

The planning application is supported by the following:

- Bat survey
- Design and Access Statement
- Heritage and Impact Assessment

## Site and Surroundings

The existing house that would be replaced is a two-storey detached dwelling, built in the 1930s and occupying a corner position at the road junction with Belvidere Road and Highgate Avenue. The dwelling is set back into the site.

The front garden sits parallel with both Belvidere Road and Highgate Avenue. The front boundary of the site is defined by a low red brick wall with blue coping bricks along the site perimeter along both Highgate Avenue and Belvidere Road with hedge behind. The side garden included a number of trees, both evergreen and deciduous, most of which have been removed and a laurel hedge adjacent the vehicular driveway on Highgate Avenue. Pedestrian access to the property is from Belvidere Road. The existing private rear amenity space serving the existing house is 22m<sup>2</sup>.

The current dwelling sits within a row of other 1930s two storey dwellings along both Highgate Avenue and Belvidere Road with common building lines on the two frontages. The dwellings along southern side of Belvidere Road vary in design and character and are set back within plots and have soft landscaped large front gardens. The application site is in close proximity to the Highgate Conservation Area and the area is covered by an Article 4 Direction restricting development.

There are Locally Listed Buildings at 6 and 8 Belvidere Road. The application site is within a Coal Development Low Risk Area and is not within Flood Zones 2 or 3. The application site does not fall within the Cannock Chase Special Area of Conservation 15km Zone of Influence.

Access to the site is currently available via Highgate Avenue, on the west boundary of the site, and benefits from existing dropped kerbs which are proposed to be extended as part of the development. The existing access provides access to a driveway and off-street parking area to the front of the dwelling. There is currently a low brick wall along the front boundary and a set of inset vehicle access gates leading off Highgate Avenue.

No. 88 Belvidere Road sits to the east of the application plot and has front and rear facing habitable room windows. 22 Highgate Avenue sits to the south of the application plot and has front and rear facing habitable room windows.

Houses on the opposite side of Belvidere Road and Highgate Avenue would have habitable room window to window separation distances of 35 metres.

## Relevant Planning History

22/1651 - Proposed 6-bedroom detached dwelling with loft rooms and a detached triple car/storage garage to front. Railings to be added to existing brick boundary wall, a new driveway and new dropped kerb along Belvidere Road and extended existing dropped kerb along Highgate Avenue by 1m on each side – refused permission on 27/4/23 on the following grounds:

- 1. The proposed scheme fails to reflect, enhance and respect the local historic character and townscape quality of the area and would fail to provide an attractive quality-built development that would be reflective of the existing dwellings along Belvidere Road and Highgate Avenue. The proposal would fail to reflect the existing character of the area where pockets of open space are retained between dwellings. Furthermore, the proposal would have an element of harm to the immediate setting of Highgate Conservation Area. The proposal would be contrary to Paras. 130, 134 [now para 135] of the NPPF, Saved Policies GP2, ENV18, ENV17, ENV32 and ENV33 of the UDP, policies ENV2 and ENV3 of the BCCS and Policies DW1 to DW3 of Designing Walsall SPD*
- 2. No Statement of Heritage Significance has been submitted, therefore the proposal would fail to meet Unitary Development Plan Policies ENV27, ENV28, ENV32, together with Chapter 16 of the NPPF Conserving and enhancing the historic environment.*
- 3. Insufficient information has been submitted which accurately describes the overall appearance and design of the proposal and specifically the appearance of the boundary treatment which do not have their own set of plans. The application form relates to a Design and Access statement to describe the materials schedule, but this has not been submitted. The lack of clarity and information therefore renders the LPA unable to make an accurate and judgement over the materials and finish of the proposal and appearance of the boundary treatment and its visual impact on the character and appearance of the locality. The proposal would be contrary to Paras. 130, 134 [now para 135] of the NPPF, Saved Policies GP2, ENV18, ENV17, ENV32 and ENV33 of the UDP, policies ENV2 and ENV3 of the BCCS and Policies DW1 to DW3 of Designing Walsall SPD.*
- 4. Insufficient information has been submitted that demonstrates that vehicles can manoeuvre on site and leave the site in a forward gear, and that the proposed garage will not cause detrimental harm to other road users, given its location and bulk/scale causing potential visibility issue and highway safety impacts. The proposal is therefore contrary to Policy T7 Car Parking and Policy T13: Parking Provision for Cars, Cycles and Taxis of the UDP.*
- 5. The significant height, scale and bulk of the proposed new dwelling would result in significant shading and loss of light to 88 Belvidere Road and 22 Highgate Avenue. This is considered to be detrimental to their residential amenity over and above the existing situation and would create a living environment that would be harmful to occupants and fail to provide a healthy and optimal living environment, and is therefore contrary to the aims and objectives of DW10 Well Designed Sustainable Buildings and Appendix D of the Designing Walsall SPD Saved Policy GP2 of the Unitary Development Plan, ENV3 of the BCCS, and*

*Chapter 12 of the National Planning Policy Framework in Achieving well designed places.*

6. *The proposal would introduce three side facing windows which would directly overlook the habitable rooms and private amenity area of 88 Belvidere Road. The proposal would result in direct overlooking and loss of privacy that would be detrimental to the residential amenity of occupiers of 88 Belvidere Road and would be contrary to the aims and objectives of DW10 Well Designed Sustainable Buildings and Appendix D of the Designing Walsall SPD Saved Policy GP2 of the Unitary Development Plan, ENV3 of the BCCS, and Chapter 12 of the National Planning Policy Framework in Achieving well designed places.*
7. *The proposal would only offer 24sqm of private amenity space for future occupiers. For a property of such scale, this is considered significantly inadequate and would be well below the LPA's 68sqm requirement. The proposal would therefore lead to inadequate levels of private amenity for any future occupants creating a constrained living environment that would be harmful and fail to provide a healthy and optimal living environment and is therefore contrary to the aims and objectives of DW10 Well Designed Sustainable Buildings and Appendix D of the Designing Walsall SPD Saved Policy GP2 of the Unitary Development Plan, ENV3 of the BCCS, and Chapter 12 of the National Planning Policy Framework in Achieving well designed places.*
8. *The complete removal of all trees and vegetation from the front curtilage is to the detriment of the local environment and has removed mature and semi-mature trees which provided a significant contribution to the overall appearance of the street scene, setting of the Conservation Area, offered significant amenity value to local residents whilst contributing to the mitigation of the impacts of climate change. Any plans would have sought their retention and the proposal in its current form is therefore contrary to Paras. 130, 134 [now para 135] of the NPPF, Saved Policies GP2, ENV18, ENV17, ENV32 and ENV33 of the UDP, policies ENV2 and ENV3 of the BCCS and Policies DW1 to DW3 of Designing Walsall SPD.*
9. *The applicant has not submitted a bat survey to support the application. The demolition of the existing building has the potential to detrimentally harm roosting bats which is contrary to SPD; Conserving Walsall's Natural Environment, and Section 15 of the NPPF.*

## **Relevant Policies**

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

[www.gov.uk/guidance/national-planning-policy-framework](https://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 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 (para 56) 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 in the process and can speed up decision making. 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.

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.

## **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
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

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

HC2: Development of Other Land for Housing

EN1: Natural Environment 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

#### **Designing Walsall**

- DW1 Sustainability
- DW3 Character



- DW4 Continuity
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings
- Appendix D

### **Air Quality SPD**

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points

## **Consultation Replies**

**Strategic Planning Policy** – No objections on strategic planning policy terms however design concerns have been raised.

**Conservation (Heritage) Officer** – No objections

**Ecology Officer** – Objects to the proposal. The additional landscaping proposed is not deemed adequate to compensate for the loss of mature and semi-mature trees.

Accept the Internal / External Bat Survey report dated October 2023 - existing building is of negligible roosting potential for bats and no evidence of birds nesting was found. Therefore, no further survey work is required but conditions relating to the discovery of bats and a requirement for bat and bird boxes would be required in the case of an approval.

**Environmental Protection** – No objections subject to the inclusion of a planning condition requiring the submission of a Construction Environmental Management Plan, desktop contaminated land investigation and noise survey as the house would be closer to the road than the existing dwelling.

**Fire Officer** – No objections subject to the inclusion of an informative note requiring the implementation of Approved Document B.

**Local Highways Authority** – Objects to the proposal on Highway grounds, including lack of visibility due to position of gates and boundary treatment, and location of garage building.

**Severn Trent Water** – No objections subject to the inclusion of a planning condition in respect of drainage

## **Representations**

*(Local Planning Authority comments in italics and brackets)*

Objections have been received from 7 neighbours on the following grounds:

- No material difference to previous refused planning application (*the proposed design has been revised*).
- Parking and highway safety at a busy corner and near to a corner and school.
- Impact on and erosion of the character of the adjacent Conservation Area.
- Does not reflect local historic character of area.

- Oversized and crammed on a small plot.
- Removal of existing mature trees and vegetation
- Loss of Privacy and overlooking
- Over dominant and out of proportion to existing dwellings.
- Significant eyesore on three sides of the property.
- Concerns that the frontage would be hard surfaced (*the submitted plans indicate that there would be some soft landscaping*).
- Separate garages out of character and obtrusive
- Retain and modernise existing dwelling house.
- Forward of the natural lines of houses
- Loss of light and shading.
- Shared boundary impinges on neighbour (*the proposed new dwelling would sit 0.4 and 0.6 metres from the shared boundaries with immediate neighbours*).
- Neighbouring house would become more like a semi-detached property (*the proposal includes gaps to the side*).
- Concerned the decision may be unduly influenced to get it over the line (*the Local Planning Authority remains neutral in its assessment of planning applications*).
- 45-degree code breached.
- Terracing effect.
- Excessive height, scale and bulk.
- Fails to provide a healthy and optimal living environment.
- Disruption during building works (*all development involves some disruption for neighbours however as this proposal is for a single dwelling only the impacts are considered likely to be limited*)
- Position of garages and ability to manoeuvre three vehicles optimistic.

## Determining Issues

Whether the application has addressed the reasons for refusal:

- Reason 1: Appearance and heritage
- Reason 2: Lack of heritage assessment
- Reason 3: Insufficient details to adequately assess appearance and design
- Reason 4: Highway safety
- Reason 5: Overshadowing of surrounding properties
- Reason 6: Overlooking into and loss of privacy for surrounding properties
- Reason 7: Unacceptable residential amenity for proposed dwelling
- Reason 8: Removal of trees and vegetation
- Reason 9: Lack of a bat survey

Additional considerations:

- Principle of the Development
- Ground Conditions and Environment
- Parking and Access
- Neighbour Comments

### Whether the application has addressed the reasons for refusal of the previous application

#### **Refusal Reason no. 1**

The proposed scheme fails to reflect, enhance, and respect the local historic character and townscape quality of the area and would fail to provide an attractive quality-built development that would be reflective of the existing dwellings along Belvidere Road and Highgate Avenue. The proposal would fail to reflect the existing character of the area where pockets of open space are retained between dwellings. Furthermore, the proposal would have an element of harm to the immediate setting of Highgate Conservation Area.

The proposed footprint of the new dwelling is unchanged from the previous refused planning application however the proposed design of the dwelling has been revised. Saved Policy ENV32 of the UDP states that poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. The proposal includes 3 no. 2.5 storey high gable features fronting Belvidere Road and two similar, but wider gable features fronting Highgate Road. Whilst houses along Belvidere Road and Highgate Road have an Arts and Crafts style with gable features, these are generally fewer in number and less prominent in the street scene. The introduction of three competing front gable features on one elevation and two wider but further spaced gable features is considered would introduce 5 no. competing gables to a single dwelling house which would have a jarring impact in the street scene.

The excessive height of the proposed dwelling house when combined with the increased bulk and mass considerably over and above that of the original dwelling is considered would be an over dominant and incongruous addition to the existing street scenes fronting both Belvidere Road and Highgate Avenue.

The design of the proposed new dwelling fails to include characteristic design features along both Belvidere Road and Highgate Road. Chimneys add character to a dwelling, evidenced along both Belvidere Road and Highgate Avenue and the proposal fails to include chimneys in the proposed design. Additionally, the proposed large windows and the solid to void ratio is considered to be poor design and fails to consider the character of the local area.

The proposal fails to respect the existing building lines fronting both Belvidere Road and Highgate Avenue on this prominent corner. The new dwelling would be 1.8 metres further forward than the dwellings at 88 Belvidere Road and 22 Highgate Avenue which fails to respect the character of the area resulting in an oversized and incongruous dwelling house for the plot.

The proposal seeks to squeeze in as much built development within the plot as possible, to the point where the plot is dominated by built form and two large areas of hard surfacing with very little soft landscaping is proposed. Trees have been removed from the site and the proposal includes limited soft landscaping. Policy ENV33 of the UDP states landscaping is integral to urban design and requires developments to include planting schemes and Policy ENV17 seeks new planting. The amended

scheme indicates that hedgerow planting is proposed or would be retained along the front garden boundary and UDP saved policy ENV18, seeks to retain hedgerows.

No elevation plans of the proposed garage structure have been submitted. The streetscape along both Belvidere Road and Highgate Avenue are not dominated by built structures that sit further forward of dwellings. Existing single storey garages along both Belvidere Road and Highgate Avenue are set back from the main elevation, as subservient features. This proposed triple garage structure would be visually prominent and visually detrimental when viewed from the public realm and street scene along both Belvidere Road and Highgate Avenue. The proposal fails to enhance and respect the local character of the area. The applicant has advised that the proposed three garages are to assist disabled residents and their scooters and wheelchairs. Whilst this is noted the Local Planning Authority is unable to take into account personal circumstances when assessing planning applications.

Policy DW3 of the designing Walsall SPD states that new development to [should] be informed by the surrounding character and respond in a positive way to it by reflecting local urban design characteristics. The revised proposal is considered to have an over-complicated design and with three garages in the street scene at a prominent and visually important corner is considered fails to reflect or include architectural features from the existing dwellings along Belvidere Road and Highgate Avenue. The new front 1.5 metres high boundary wall with 0.3 metres high railings above and 1.8 metres high gates are considered would appear incongruous in a street scene which consists largely of low brick walls and planting. The character of the area is one of openness where fronts of plots are open or secured with low level walls or soft landscaping. The proposed boundary treatment would be visually detrimental and would fail to reflect, respect and enhance the existing character of the area.

The applicant has confirmed that the proposed new dwelling is the same height as the existing dwelling. This is at the highest point of the existing dwelling however the proposal would increase the scale, bulk and mass of the dwelling at this height which is considered unacceptable. The applicant has advised that they have revised the design to a more contemporary design however this design fails to take any design cues from neighbouring properties.

With regards to the design concerns referred to in refusal reason no. 1 it is considered that the revised proposal continues to fail to reflect and respect the local character of the area and townscape quality. The development would fail to provide an attractive quality-built development that would be reflective of the existing dwellings along Belvidere Road and Highgate Avenue. The proposal would be contrary to Para. 135 of the NPPF, Saved Policies GP2, ENV18, ENV17, ENV32 and ENV33 of the UDP, policies ENV2 and ENV3 of the BCCS and Policy DW3 of Designing Walsall SPD.

The current planning application is supported by a Heritage and Impact Assessment dated August 2023. This has been reviewed by the Council's Conservation (Heritage) Officer who is of the opinion that whilst the application site does not sit within Highgate Conservation Area it is in close proximity to it and therefore assessment of the proposal's impact on it is warranted. The conservation (Heritage) Officer is however also of the opinion that the proposed development would have no harm on heritage grounds to the setting of the Highgate Conservation Area.

The submitted Heritage and Impact Assessment concludes the statement that “proposal does not adversely affect the heritage and non-designated heritage assets, the conservation area of the surrounding listed buildings in the proximity”.

To the north of the site beyond numbers 4 to 15a Belvidere Road is Highgate Brewery, a Grade II listed building, which is also a designated heritage asset, as defined in the NPPF. The proposed development would no harm to the setting of Highgate Brewery.

Near the site are numbers 6 and 8 Belvidere Road are locally listed buildings of local importance. The proposal is considered would have no harm to the significance of these locally listed buildings. The Council’s Conservation Officer has no objections on heritage grounds. Previous heritage concerns are considered to have been satisfactorily addressed in respect of refusal reason no. 1

### **Refusal Reason no. 2**

No Statement of Heritage Significance has been submitted.

A Heritage and Impact Assessment dated August 2023 has been submitted in support of the current planning application being considered so refusal reason no. 2 has been satisfactorily addressed.

### **Refusal Reason no. 3**

Insufficient information has been submitted which accurately describes the overall appearance and design of the proposal and specifically the appearance of the boundary treatment which do not have their own set of plans. The application form relates to a Design and Access statement to describe the materials schedule, but this has not been submitted. The lack of clarity and information therefore renders the LPA unable to make an accurate and judgement over the materials and finish of the proposal and appearance of the boundary treatment and its visual impact on the character and appearance of the locality.

The above missing materials information could be addressed by planning conditions if the planning applications receives approval. A Design and Access Statement has been provided in support of this application which states that materials will include reddish/brown imperial brick with contrasting mortar colour, white render, wooden joinery on windows and decorative “mathematical” clay tiles on facades, clay, slate and plain roof tiles grey/brown in colour. Specific material details could be required by condition if the proposal receives consent.

Saved Policy ENV33 of the UDP expands on the need for good landscape design, it states that landscaping includes inter alia hard surfacing, walls, fencing, and that it should enhance the visual appearance of the urban and rural environment through a combination of creating new landscapes and retaining or reinforcing the existing visual character of a neighbourhood. Policy ENV3 of the BCCS states that all new development has regard to key design principles, but which need to interpret and reflect both the overall character of the Black Country and local distinctiveness. It highlights that High quality design relates to buildings and architecture, but also the spaces within which buildings sit. While details of the boundary treatment are shown on the proposed street elevation drawing, it is considered that the proposed heights of the gates, walls

and railings at 1.8 metres high (combined wall and railing height) is excessive and overbearing in this prominent location to the detriment of the existing street scene which currently predominantly consists of low walls and planting behind these. The character of the area is one of openness where fronts of plots are open or secured with low level walls or soft landscaping. The proposed boundary treatment would be visually detrimental and would fail to reflect, respect and enhance the existing character of the area. It is therefore considered that this reason for refusal has been overcome but new reason for refusal no 2 is required based on the appearance of the boundary treatment.

In addition, the re-submission fails to include 2.4 x 3.4 metres pedestrian visibility splays at each access and the Local Highway Authority have objected to the proposed boundary treatment on highway safety grounds, as detailed in the discussion on highway safety later in this report.

#### **Refusal Reason no. 4**

Insufficient information has been submitted that demonstrates that vehicles can manoeuvre on site and leave the site in a forward gear, and that the proposed garage will not cause detrimental harm to other road users, given its location and bulk/scale causing potential visibility issue and highway safety impacts.

The Local Highway Authority have objected to the proposal on highway safety grounds detailed below in this report however the above concern has been addressed by the amended plans and this refusal reason has been overcome.

#### **Refusal Reason no. 5**

The significant height, scale and bulk of the proposed new dwelling would result in significant shading and loss of light to 88 Belvidere Road and 22 Highgate Avenue. This is considered to be detrimental to their residential amenity over and above the existing situation and would create a living environment that would be harmful to occupants and fail to provide a healthy and optimal living environment.

The proposed revised design which would occupy the same footprint as the previous proposal is considered would be similar in bulk and mass to the initial proposal. The excessive scale, height and mass in relation to the neighbouring houses 88 Belvidere Road and 22 Highgate Avenue is considered would be detrimental to their residential amenity over and above the existing situation and would create a living environment that would be harmful to occupants and fail to provide a healthy and optimal living environment.

The increased height and scale of the property would result in significant shading to 88 Belvidere Road and also 22 Highgate Avenue in the late afternoon as the sun moves West. This would be over and above that which is already experienced and would be detrimental to the amenity of the occupiers of 88 Belvidere Road and 22 Highgate Avenue.

The first-floor eaves height of the proposed new dwelling would be higher than those of both neighbouring houses and the proposed roof 2.3 metres higher than the ridge line of 88 Belvidere Road.

Refusal reason no. 5 is considered to have not been overcome by the revised proposal.

### **Refusal Reason no. 6**

The proposal would introduce three side facing windows which would directly overlook the habitable rooms and private amenity area of 88 Belvidere Road. The proposal would result in direct overlooking and loss of privacy that would be detrimental to the residential amenity of occupiers of 88 Belvidere Road.

The proposal includes three first floor side facing windows overlooking the private rear garden of 88 Belvidere Road however these windows would serve a landing, en-suite and walk in wardrobe, all of which are non-habitable room windows. Whilst these could be conditioned to be obscurely glazed it is considered that the addition of three large windows would create a feeling of being overlooked by neighbours and are considered to be excessive in number and size. High-level narrow, obscurely glazed windows are considered may be more acceptable.

It is considered that refusal reason no. 6 has not been satisfactorily overcome.

### **Refusal Reason no. 7**

The proposal would only offer 24sqm of private amenity space for future occupiers. For a property of such scale, this is considered significantly inadequate and would be well below the LPA's 68sqm requirement. The proposal would therefore lead to inadequate levels of private amenity for any future occupants creating a constrained living environment that would be harmful and fail to provide a healthy and optimal living environment.

The existing private rear amenity space at the dwelling currently measures 24 sq. metres and the proposal being considered is for the same area of 24 sq. metres because of the constraints of the existing site with the house set well back into the application site. To compensate the original dwelling appears to have been laid out with a compensatory large front garden which was screened by mature trees and a hedgerow which have recently been mostly removed, exposing the garden area. The proposed three garages would reduce the size of this amenity area further and it is considered that the proposal would therefore lead to inadequate levels of private amenity for any future occupants creating a constrained living environment that would be harmful and fail to provide a healthy and optimal living environment. It is considered that refusal reason no. 7 has not been satisfactorily addressed.

### **Refusal Reason no. 8**

The complete removal of all trees and vegetation from the front curtilage is to the detriment of the local environment and has removed mature and semi-mature trees which provided a significant contribution to the overall appearance of the street scene, setting of the Conservation Area, offered significant amenity value to local residents whilst contributing to the mitigation of the impacts of climate change. Any plans would have sought their retention.

Before the initial proposal was submitted, it is disappointing that the applicant has decided to clear the front curtilage of all trees and soft landscaping. The LPA would

have conditioned the retention of the trees and hedgerow on the front curtilage due to the significant amenity value and carbon mitigation they bring.

The existing biodiversity value of a development site is usually taken from point that planning permission is applied for, as per the Natural Environment Government Planning Guidance, however, there is stipulation to consider where any deliberate harm to this biodiversity value has taken place in the recent past and is so whether there are grounds for this accounted for in assessing the underlying value of the site. As the reason for refusal of previous application picked up the loss of mature and semi-mature trees which were not compensated for and were part of the application, it is appropriate to account for these trees within the biodiversity assessment of achieving net gain as part of the current application to ensure compensation for their loss is achieved.

Saved Policy ENV33 of the UDP states that landscape design is an integral part of good design and the Council will ensure that development proposals take account of opportunities to create and enhance environmental quality. The resubmitted application has included boundary planting along the curtilage. The Environmental Officer has commented that while limited information has been provided on the planting, the sketch plan provided shows the planting to be ornamental in nature and limited in size. Due to this restricted space given for the planting, along the northern and western site boundary between the fencing and the proposed garage it is unlikely that given the current layout that this planting will be viable.

Therefore, with the planting behind the garage discounted, it can be deemed that the compensation for the loss of the mature and semi-mature trees will be the small areas of planting adjacent to the two driveways, dominated by short ornamental planting. As a result of the additional landscaping proposed is not deemed adequate to compensate for the loss of mature and semi-mature trees. Refusal reason no 8 has therefore been amended to include both the loss of the trees and the inadequacy of the proposed replacement planting and landscaping. The proposal remains contrary to paragraph 135 of the NPPF, Saved Policies GP2, ENV18, ENV17, ENV32 and ENV33 of the UDP, policies ENV2 and ENV3 of the BCCS and Policies DW1 to DW3 of Designing Walsall SPD.

### **Refusal Reason no. 9**

The applicant has not submitted a bat survey to support the application. The demolition of the existing building has the potential to detrimentally harm roosting bats.

The resubmission is supported by an Internal/External Bat Survey dated October 2023, which concludes that the buildings have negligible opportunities for bats, and negligible opportunities for roost formation. No further surveys are required and the report states that the proposed development would have no impacts on protected species, specifically bats or breeding birds and no requirement for mitigation or compensation is recommended. The Ecology Officer has supported this position. Refusal reason no. 9 has therefore been satisfactorily addressed.

### **Principle of the Development**

This application is for a replacement dwelling of an existing residential property, which is further surrounded by other residential uses. The principle of a residential dwelling within this setting is reasonable subject to meeting all other material planning



considerations with no objections to the principle received from Strategic Planning Policy.

### **Ground Conditions and Environment**

Environmental Protection have advised that the application site is not located in an area that is affected by significant noise, nor poor air quality nor any historical land contamination issues based upon historical land contamination records. Environmental Protection advise that this should be confirmed by undertaking a suitable desktop contaminated land investigation and the inclusion of a planning condition requiring the submission of a Construction Environmental Management Plan if approved.

### **Parking and Access**

Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Paragraph 116 of the NPPF confirms that applications for development should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards. The Local Highway Authority has objected to the revised proposal on highway safety grounds. The proposed fencing along the boundary of the site exceeds 600mm in height above footway level and adequate pedestrian/vehicle inter-visibility must be maintained at the access points in the interests of highway safety.

The proposed access gates are not set back 5 metres from the carriageway kerb edge to allow a vehicle to wait for the gates to open without blocking the highway and creating conflict between pedestrians and other road users and vehicles entering and exiting the site. Furthermore, evidence has not been provided to demonstrate the proposed garages would not impact visibility at the Highgate Avenue / Belvidere Road priority-controlled junction. The proposal is recommended for refusal.

### **Neighbour Comments**

The proposed new dwelling would have gaps to the side of 0.4 and 0.6 metres to the neighbouring houses, which is less than the 0.9 metres recommended by Appendix D of Designing Walsall SPD to avoid terracing.

However, as the existing gaps between houses in the immediate area vary in width, including the existing narrow gap between 88 and 89 Belvidere Road, and the existing terraced dwellings between 15 to 19 Belvidere Road (odds) and it is considered that the proposed width of the gaps in this location are acceptable.

The Council's 45-degree code is met in relation to the habitable room windows in the neighbouring house no. 22 Highgate Avenue. The 45-degree code would be marginally breached in relation to front habitable room windows in 88 Belvidere Road due to the location of the proposal forward of the building line on Highgate Road.

## Conclusions and Reasons for Decision

The scale, height, positioning and discordant design of the proposed new dwelling house is considered would be an incongruous and detrimental addition to the existing street scene. The impacts on adjoining neighbours have been considered and in this instance the impacts are considered would be detrimental to neighbours' out-look, light and amenity. Consequently, the proposal is recommended for refusal.

This proposal is therefore considered to be unacceptable and contrary to the local and national planning policies and guidance set out in this report. 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

Following a previous refusal of planning permission, it is considered that the previous concerns raised have not been fully overcome and additional concerns have been raised as outlined in the committee report.

## Recommendation

Refuse

1. The proposed scheme fails to reflect, enhance and respect the local character and townscape quality of the area and would fail to provide an attractive quality-built development that would be reflective of the existing dwellings along Belvidere Road and Highgate Avenue. The excessive height when combined with the increased bulk and mass of the proposal along with its position forwards of the building lines on Belvidere Road and Highgate Avenue would introduce an incongruous house of poor design and detached garages to the street scene to the detriment of the character of the area. The proposal would be contrary to Paras. 135 of the NPPF (December 2023), Saved Policies GP2, ENV18, ENV17, ENV32 and ENV33 of the UDP, policies ENV2 and ENV3 of the BCCS and Policies DW1 to DW3 of Designing Walsall SPD.
2. The proposed front 1.5 metres high boundary wall with 0.3 metres high railings above and 1.8 metres high gates are considered would appear incongruous in a street scene which consists largely of low brick walls and planting. The character of the area is one of openness where fronts of plots are open or secured with low level walls or soft landscaping. The proposed boundary treatment would be visually detrimental and would fail to reflect, respect and enhance the existing character of the area. The proposal would be contrary to Paras. 135 of the NPPF (December 2023), Saved Policies GP2, ENV18, ENV17, ENV32 and ENV33 of the UDP, policies ENV2 and ENV3 of the BCCS and Policies DW1 to DW3 of Designing Walsall SPD.
3. The significant height, scale and bulk of the proposed new dwelling would result in significant shading and loss of light to 88 Belvidere Road and 22 Highgate Avenue. This is considered to be detrimental to their residential amenity over and above the existing situation and would create a living environment that would be harmful to occupants and fail to provide a healthy and optimal living environment and is therefore contrary to the aims and objectives of DW10 Well Designed Sustainable Buildings and Appendix D of the Designing Walsall SPD Saved Policy GP2 of the

Unitary Development Plan, ENV3 of the BCCS, and Chapter 12 of the National Planning Policy Framework in Achieving well designed places.

4. The proposal would introduce three large obscurely glazed, first floor side facing windows which would directly overlook the habitable rooms and private amenity area of 88 Belvidere Road. The proposal would result in overlooking and a sense of loss of privacy that would be detrimental to the residential amenity of occupiers of 88 Belvidere Road and would be contrary to the aims and objectives of DW10 Well Designed Sustainable Buildings and Appendix D of the Designing Walsall SPD Saved Policies GP2 and ENV32 of the Unitary Development Plan, ENV3 of the BCCS, and Chapter 12 of the National Planning Policy Framework in Achieving well designed places.
5. The proposed new dwelling would only offer 24sqm of private amenity space for future occupiers. For a property of such scale, this is considered significantly inadequate and would be well below the LPA's 68sqm requirement. The original dwelling appears to have been laid out with a compensatory large front garden which was screened by mature trees and a hedgerow which have recently been mostly removed, exposing the garden area. The proposed three garages would reduce the size of this amenity area further and it is considered that the proposal would therefore lead to inadequate levels of private amenity for any future occupants creating a constrained living environment that would be harmful and fail to provide a healthy and optimal living environment. The proposal is therefore contrary to the aims and objectives of DW10 Well Designed Sustainable Buildings and Appendix D of the Designing Walsall SPD Saved Policies GP2 and ENV32 of the Unitary Development Plan, ENV3 of the BCCS, and Chapter 12 of the National Planning Policy Framework in Achieving well designed places.
6. The complete removal of all trees and vegetation from the front curtilage is to the detriment of the local environment and has removed mature and semi-mature trees which provided a significant contribution to the overall appearance of the street scene, offered significant amenity value to local residents whilst contributing to the mitigation of the impacts of climate change. The proposed replacement planting on the western boundary is unlikely to be viable and remaining small areas of planting adjacent to the two driveways, dominated by short ornamental planting are inadequate to compensate for the loss of mature and semi-mature trees, the proposal is therefore contrary to paragraph 135 of the NPPF (December 2023), Saved Policies GP2, ENV18, ENV17, ENV32 and ENV33 of the UDP, policies ENV2 and ENV3 of the BCCS and Policies DW1 to DW3 of Designing Walsall SPD.
7. The proposed wall along the front boundary of the site exceeds 600mm in height above footway level and adequate pedestrian/vehicle inter-visibility must be maintained at the access points in the interests of highway safety. The proposed access gates are not set back 5 metres from the carriageway kerb edge to allow a vehicle to wait for the gates to open without blocking the highway and no evidence has been provided to demonstrate the proposed garages would not impact visibility at the Highgate Avenue / Belvidere Road priority-controlled junction. The proposal is therefore contrary to saved UDP polices GP2, ENV32, BCCS policy TRAN2 and paragraph 115 and 116 of the NPPF (December 2023).

**END OF OFFICERS REPORT**