

Planning Committee

Report of Head of Planning and Building Control on 10 February 2022

Plans List Item Number: 11

Reason for bringing to committee

Significant Community Interest and a major application

Application Details

Location: 42, SLANEY ROAD, WALSALL, WS2 9AF

Proposal: PROPOSED CHANGE OF USE FROM NURSING HOME (USE CLASS C2) TO PROVIDING HOUSING OF MULTIPLE OCCUPANCY (HMO (SUI GENERIS)) FOR THE VULNERABLE HOMELESS PEOPLE WITH ASSOCIATED AMENITY, RECREATION, TRAINING AND SIGNPOSTING.

Application Number: 20/0550

Case Officer: Fiona Fuller

Applicant: Mr Ayyaz Ahmed

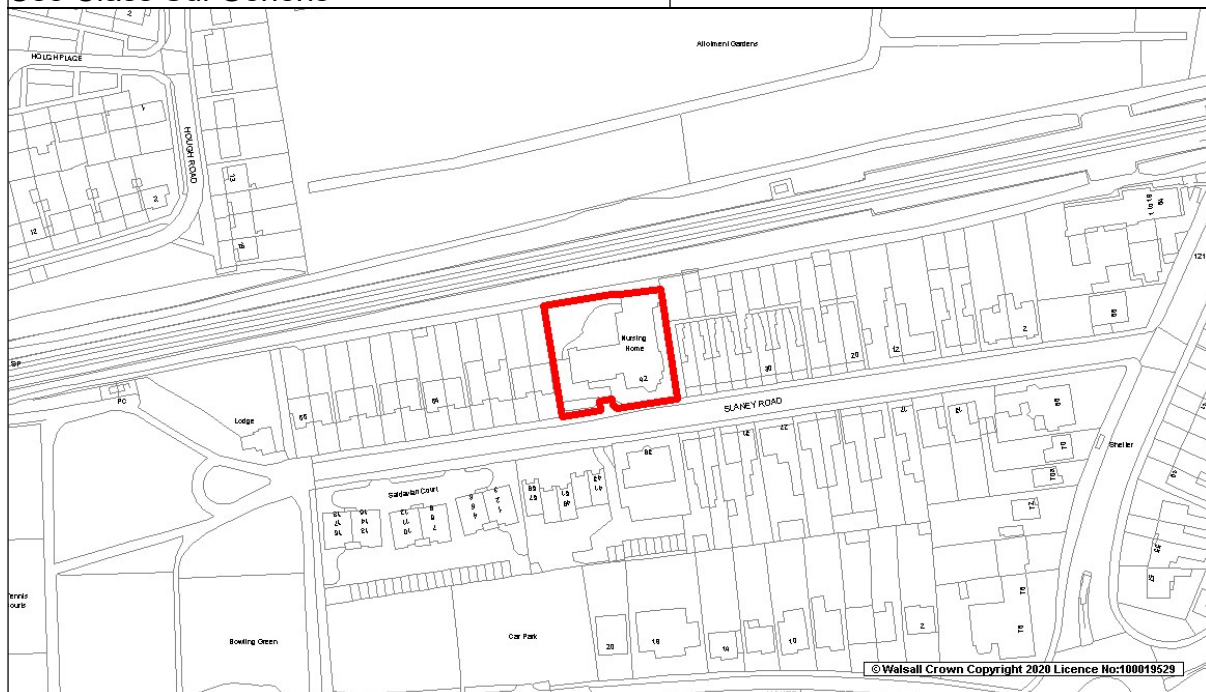
Ward: Pleck

Agent: Mr Gagan Mohindru

Expired Date: 19-Aug-2020

Application Type: Full Application: Major Use Class Sui Generis

Time Extension Expiry: 11-Nov-2020



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Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to refuse permission

Proposal

Proposed Change of Use from Nursing Home (Use Class C2) to providing housing of multiple occupancy (HMO (sui generis)) for the vulnerable homeless people with associated amenity, recreation, training and signposting.

The applicant has provided the following documents to support the application:

- Design and Access Statement
- Planning Statement
- GP Circle Support Letter
- NHS Support Letter
- Nottingham University Hospital Letter

Site and Surroundings

Slaney Road is a cul-de-sac predominately in use for residential purposes. It is understood from residents, that there are a number of properties that are now Houses in Multiple Occupations (HMO).

The western part of the street is two storey terraced houses, with semi-detached houses and three storey blocks of flats to the western part of the street. At the western end of the street is Pleck Park.

There is no vehicle turning facility at the end of the road. The application property part two storey and part three storey. The road is heavily reliant for on-street parking.

There is a group Tree Preservation Order for the site.

Relevant Planning History

18/0941/ Change of Use from Nursing Home (C2 use) to a 41 x bedroom hostel (sui generis use) with associated amenity, recreation, training and sign-posting facilities – Withdrawn – 20/06/2019

13/1329/FL - Change of use of care home (Use Class C2) to house of multiple occupation (Sui Generis). Refused 23/1/14 for the following summarised reasons:

1. Have an adverse impact on the amenity of residents and the character of the area due to the increase in comings and goings from the premises and potential noise and disturbance from the premises.
2. Result in a loss of amenity to residents by virtue of the perception and fear of crime and anti-social behaviour
3. Significant increase on the parking demand and the proposed layout would not be achievable taking into account existing structures and relationship to existing structure. The proposals would result in adding to the limited existing on street parking requirements for the existing residents of Slaney Road

Relevant Policies

National Planning Policy Framework (NPPF)

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 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. 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.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV18: Existing Woodlands, Trees and Woodlands
- ENV32: Design and Development Proposals
- H7: Hostels and Houses in Multiple Occupation
- T7 - Car Parking
- T9 – Cycling
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis
- 8.3 Urban Open Space

Black Country Core Strategy

- CSP3: Environmental Infrastructure
- CSP4: Place Making
- DEL1: Infrastructure Provision
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV3: Design Quality
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

EN1: Natural Environment Protection, Management and Enhancement

HC2: Development of Other Land for Housing

HC3: Affordable Housing and Housing for People with Special Needs

T2: Bus Services

T4: The Highway Network

T5: Highway Improvements

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW8 Adaptability

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

Housing Standards

Objection on the grounds of the internal arrangements doesn't meet amenity standards for a HMO.

Public Health

No objection

Coal Authority

No objection and offered an informative

Community Safety Team

No response

HMO, Supported Housing or Hostels

No response

Learning disabilities and disability services

No response

West Midlands Fire Service

No objection and offered informative

Transportation (Local Highways Authority)

The Highway Authority has no objections in principle but there are concerns about the suitability of the proposed parking arrangement.

Pollution Control

Support

West Midlands Police Service

Objection on the grounds of an intensification of HMOs, concerns regarding increased demand on police, public services including the council and ant-social behaviour. If

granted, improved higher security through Secure by Design measures.

Strategic Planning Policy

The proposal will be subject to saved UDP policy H7 and Walsall SAD policy HC3

Tree Preservation Officer

No response

Waste Management (Clean and Green)

No response

Representations

84 neighbours were notified via letter, press advert and site notice. Letters of objection were received on the grounds of:

- Limited parking/ Valerie Vaz MP already looked in the parking crisis in the area
- Impact on parking, access for emergency services and visitors
- Increase in littering
- Objectors have lived in Slaney Road for a significant number of years
There have been numerous applications on the site
- There is an anti- social behaviour in the area
- An issue with the clientele released from prison
- It is not the right location for a HMO
- The objector would like a meeting with the council to discuss the issue of anti-social behaviour in the area. *(This is a matter for Local Councillors and the Community Protection Team)*
- Wasting money on graffiti and not tackling anti- social behaviour
- The proposed development will increase noise issues in the area
- Increase fear of crime
- Objector concurs with the West Midlands Police Officer's recommendation to refuse the application.
- There is a risk of students getting involved in drugs if the development is granted.
- An over intensification of HMOs in the area/ additional HMO will cause distress
- Create problems for the local community a HMO close to the school/ vulnerable people and families.
- Objectors citing their status (widower, taxi driver) *(Not a material planning consideration)*
- The objector is scared to leave their home *(Not a material planning consideration)*
- Fear for safety and security
- Over populated area
- Application site has historic and new issues
- West Midlands Police Service raised issue regarding Midshire Supporting Trust's Management of the HMO run in Birmingham
- HMO negative impact on a family orientated area
- Letters of support appears to be a forgery
- The NHS refuse to support the proposed development
- GP recommendation comes from Private Company based in Sutton Coldfield not Walsall.
- It is important to support the homeless

- 'Hotel' may become my new back garden
- Proposal will spoil the genuine residency/ park user who enjoy Pleck area
- The area is getting worse
- Planning permission was refused on the site
- Pleck needs investment
- The ward has the highest crime rate and HMOs
- 42, Slaney is a large house/ dominates the road
- Increase in noise
- Applicant's proposed vetting system and code of conduct is no reassurance
- The Trust are happy to support should the council wishes to launch an investigate
- The impact of Covid-19 on the elderly people who need to use the park. The proposed development will have an impact on their lives
- The objector mentions 78 Bradford planning application. The applicant owns lots of properties in Bradford. *(Not a material planning consideration to determine this application in Walsall)*
- Hostel benefitting from money from the applicant
- There are other HMOs best suited to facilitate the homeless
- Impact on privacy
- The HMO management can't control what happens outside the building *(Not a material planning consideration)*
- The Human Rights Act states – live in a decent home and home life should not be interfered.
- The objector makes reference to the HMO in 320 Witton Road.
- The application should be deferred whilst looking into the history of the site and the suitability to run the HMO.
- The noise levels at the weekend are excessive *(No evidence provided to substantiate the noise is from the current application site)*
- There will littering/ hazardous material/ rubbish
- There is already a care home that is causing drug and parking issued *(No evidence provided to substantiate the claim or how it is linked to the current planning application)*
- The objector has attached a refusal notice – 13/1329FL
- Objector has attached a copy of an article questioning the authenticity of the NHS letters/ and other press cuttings.

Five separate petitions with 149, 55, 28, 55 and 48 a total of 335 signatures were received objecting to the application on the following grounds:

- An application (13/1329/FL) was submitted to convert HMO on the 24/10/13
- Attached reasons for refusal
- Residents perception and fears still apply
- Applicant has already built the extension
- The application was withdrawn
- Amended application for 37 bedsits accommodate vulnerable people
- Similar project in Perry Barr
- Slaney Road is a cul-de-sac
- Parking is limited
- The proposal will have a detrimental impact on the area
- Third attempt by Midshire Trust to get planning permission

Determining Issues

- Principle of development
- Crime and disorder/fear of crime
- Design and character of the area.
- Neighbouring and occupiers amenity
- Parking and access

Assessment of the Proposal

Principle of development

The site is within the development boundary and is unallocated on the Walsall Site Allocations Document, whilst its last known use was as a nursing home falling under Use Class C2. The site is sustainably located in an established residential area, with various local amenities such as doctor's surgeries/medical centres, dental practices, school and supermarkets

It is in a sustainable location. There are 3 train stations within 2 miles of the site, bus service to Walsall Town Centre and car routes to and from the Walsall Town Centre and an easy commute to Walsall, Birmingham and beyond.

The proposal is a proposed change of use from a nursing Home (Use Class C2) providing housing of multiple occupancy (Sui Generis) for the vulnerable homeless people with associated amenity, recreation, training and signposting.

Neighbours complained that there are existing HMOs in the area. Housing Standards object on the grounds that there are poor internal arrangements. Whilst West Midlands Police Service cite there is an over intensification of HMOs in the area. Concerns expressed by residents were noted. However there are no planning policies, limiting the number of hostels, HMOs or other residential uses in the borough. In addition, the Government, through its national planning legislation, does allow single houses to be converted to HMO's for up to 6 people without the need for planning approval from the Council. The Council recognises the role well managed and appropriately located temporary accommodation play in providing valuable accommodation. The Equality Act places a duty on public bodies to minimise disadvantages by taking steps to meet needs and encouraging participation in public life. On balance the Council is unable to object on planning policy grounds to the principle of use.

Crime and disorder/fear of crime

There was a previous planning application for a 40 bedroom HMO which was refused on the grounds that it would result in a loss of amenity to residents by virtue of the perception and fear of crime and anti-social behaviour with concerns from Police and the Council's Housing Standards with regards to the management of the premises which essentially support the LPA's concerns and those of the community. Neighbours make reference to this previous planning refusal specially BCCS policy CSP4. This policy explains the Black Country will be a safe and secure place through organising the urban environment in ways that encourage people to act in a civil and responsible manner. Also, the applicant submitted an application for 43 bedroom multiple occupation proposal, which they withdrew.

Whilst the current application included a planning statement which explains the vetting process for potential occupiers, including how the site would be managed by specialists and that a code of conduct would be used, West Midland Police and the Housing Standards Team have objected to the current proposal.

The current proposal requires a mandatory licence from the Council's Housing Standards Team, in addition to securing planning permission. This is a separate process for the licence holder to pass a test. The landlords are expected to work with the Council's housing team and other agencies, subject to first securing planning approval.

Objectors have expressed concerns regarding the future crime and anti-social behaviour. The fear of crime is a material consideration in planning decisions. The weight that can be attributed in the planning assessment, is often limited unless there is significant evidence to show that the increased fear of crime would actually occur. The West Midlands Police have forwarded evidence that crime is evident in the area and object there is an intensification of HMOs in the locality, raising concerns regarding increased demand on police, public services including the council and anti-social behaviour.

The applicant explains future residents are 'vetted' prior to being accepted and they will accept low / medium risk users. The applicant has ensured that provisions would be put in place to minimise any anti- social behaviour in the local setting. The community are challenging the credentials of the applicant and the validity of the applicant's supporting letters from the NHS, as reported in the press.

Furthermore, West Midlands Police have provided statistical evidence to suggest as a result of the development, the fear of crime or anti-social behaviour by the occupiers of nearby dwellings is likely.

Whilst West Midlands Police have concerns about potential ex-offenders living together there is no direct evidence that this would result in crime. Who lives in the property is outside of the control of the planning legislation.

Neighbours have objected on the grounds of littering, drugs and other forms of anti-social behaviour. Furthermore, the objectors have explained that there is open access in the area which could be used by the proposed end users to engage in drug use, other forms of anti- social behaviour which may influence students. All these points were noted however there is little evidence these comments would be as a result of future end users of the application property.

The application proposes security measures including lighting measures around the building, CCTV covering internal and external areas and external lighting. The measures are considered to provide some security to the building and assist in reducing the perception of crime for neighbours. However, the West Midlands Police Service feels that improved higher security through Secure by Design measures. Some of these measures may require amendments to the proposal and some could be secured by condition

The applicant has failed to provide sufficient management plans/ details to minimise the fear of crime. Some of these measures may be enforced through the housing standards licence. In this instance, it is considered the proposal would have a materially harmful effect on the fear of crime in the locality and warrant refusal of the application on these grounds.

Whilst an objector cited their Human Rights being affected by the proposal. The planning application considers the land use and potential impacts upon the amenity of residents from the land use in the area. Residents have not provided sufficient evidence to demonstrate the potential future occupiers will impact on their human rights to sustain a reason for refusal.

Design and character of the area.

The comments of residents with regard to the number of HMOs and the character for the area have been considered in the assessment of this application. The current care home although the lack of car parking and servicing would mean that there may be conflict at certain times with the servicing of the care home and visitors may be park on the street. A large multiple occupation property is likely to increase movement and visitors to and from the premises, during the day and into the evening and whilst there are no external alterations the inclusion of a different type of accommodation would have an alteration to the character of the area. Although it is recognised the demands on other services such as police and emergency services may also increase.

The size of the facility too may cause its own problems of management. The building is developed up to the boundaries of the site and no separation to neighbouring residential properties.

The number of HMOs in the area raised by residents is noted but the care home is the only large building of this type. It is accepted that the Governments Permitted Development rights allow changes of use between The Town and Country Planning (Use Classes) Order planning use classes C3(dwelling house) and C4(house in multiple occupation) without planning approval from the LPA, subject to some restrictions in the planning legislation. Consequently, the number of HMO's could only be controlled in the future if an Article 4 Direction removing permitted development rights to form HMO's is created if it can be demonstrated the locality has a detrimental saturation. It is considered the proposals by reason of intensification and size of proposal would have an adverse impact on the character of the area.

Neighbouring and occupiers amenity

A previous application was refused on the grounds that the multiple occupation proposal would be to the detriment of the amenities of residents by reason of noise and disturbance.

The previous application did not include details on how the building would be managed. In this case the applicant confirms there would be 24/7 staff on site and the code of conduct which includes no loitering or causing nuisance to the public. However, the applicant has failed to provide a management plan which offers further reassurance how the site will be managed.

Concerns raised in regard to loud music during anti-social hours. Due to the 24/7 staffing on the site and the code of conduct any potential disturbance could be prevented and form part of the housing standards licence.

There is an existing rear amenity area that would be available for future occupiers. This amenity area is directly next to the garden of 44 Slaney Road whose ground level is lower than the 42 Slaney Road. Also, the existing is high boundary fence is measured from 44 Slaney Road lower ground level. There is a likelihood of an impact on privacy and security between the properties. A planning condition could be

imposed to install a fence with a trellis prior to first occupation of the hostel. To meet secure by design principles and add an additional level of privacy.

The use of the building would not give rise to any material increase in overlooking or further loss of privacy to neighbours from the existing habitable room windows.

Parking and Access

The application site care has limited parking. There would be a significant increase on the parking demand which would result in adding to the limited existing on street parking requirements for the existing residents of Slaney Road. The applicant has failed to demonstrate that the level of parking provided is sufficient to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

However, the Highways Team have not objected although were concerned about the suitability of the proposed parking arrangement. They have suggested an 'alternative option may be to relocate the access point and arrange the spaces either side of a 6m wide aisle' In the absence of a suitable parking arrangements/ details, the proposal is further contrary to UDP policy T13.

Conclusions and Reasons for Decision

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with The National Planning Framework.

The applicant has failed to address issues raised and the Local Planning Authority questions the validity of the information presented, impacts on amenities, fear of crime/ anti-social behaviour and the potential parking issues of the scheme. In this instance the council has been unable to support the proposed development for the reasons detailed in the planning report.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal.

Recommendation

Refuse

Reasons for Refusal

1. The potential increase in residents proposed would have an adverse impact on the amenity of residents and the character of the area due to the increase in comings and goings from the premises and potential noise and disturbance from the premises. The proposals would be contrary to Policy CSP4 of the Black Country Core Strategy; saved Policies GP2, ENV10, ENV32, and H7 of the Unitary Development Plan as supplemented by Policies DW2 and DW3 of Designing Walsall SPD.

2. The size of the building is predominate in the street scene and is important feature in the character of the area. The conversion of the building and its proposed use would have a continued perception and result in a loss of amenity to residents by virtue of the perception and fear of crime and anti-social behaviour. The objections and concerns of the Police with regard to the management of premises add to concerns with regard to the management of the premises. The proposals would be contrary to Policy CSP4 of the Black Country Core Strategy; saved Policies GP2, ENV10, ENV32, and H7 of the Unitary Development Plan as supplemented by Policies DW2 and DW3 of Designing Walsall SPD.
3. The proposals would result in significant increase on the parking demand and the lack of a proposed layout fails to demonstrate the existing structures and relationship to existing structure. The proposals would result in adding to the limited existing on street parking requirements for the existing residents of Slaney Road. The applicant has failed to demonstrate that the level of parking provided is sufficient to meet its own needs does not include provision of disabled spaces and cycle parking provision. The proposals would have a severe adverse effect on highway safety and the environment. The proposals are contrary to saved policies GP2, GP5, GP6, H7, T1, T7, T9, T11 and T13 of the Unitary Development Plan.

END OF OFFICERS REPORT