

Planning Committee

Thursday 1 December 2022 at 5.30 pm

Council Chamber, Walsall Council House

Public access to meeting via: [Walsall Council Webcasting Portal](#)

MEMBERSHIP:

Councillor M. Bird (Chair)
Councillor B. Allen
Councillor B. Bains
Councillor H. Bashir
Councillor P. Bott
Councillor S. Cheema
Councillor S. Cooper
Councillor N. Gandham
Councillor A. Harris
Councillor A. Hussain
Councillor I. Hussain
Councillor K. Hussain
Councillor R. Larden
Councillor R. Martin
Councillor J. Murray
Councillor A. Nawaz
Councillor S. Samra
Councillor M. Statham
Councillor A. Underhill
Councillor V. Waters

QUORUM:

Seven Members

AGENDA

Part I – Public Session

1. Apologies.
2. Declarations of interest.
3. Deputations and petitions.
4. Minutes of the previous meetings – 31 October 2022 – **enclosed** (pp.5-10)
5. **Local Government (Access to Information) Act 1985 (as amended)**:

To agree that, where applicable, the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
6. Development Management Performance Update Report – **enclosed** (pp.11-49)
7. Responses to Birmingham City Council, Stafford Borough Council and South Staffordshire District Council Local Plan Consultations – **enclosed** (pp.50-61)
8. Application list for permission to develop:
 - a) Items subject to public speaking;
 - b) Items 'called-in' by members
 - c) Items not subject to 'call-in'
- Copy **enclosed** (pp.62-185)

Part 2 - Private session

9. Development Management Performance Update – Table 3 only – Copy **enclosed** (pp.186-196)

[Exempt information under paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)]

The Relevant Authorities (Discloseable Pecuniary Interests) Regulations 2012

Specified pecuniary interests

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member in carrying out duties as a member, or towards the election expenses of a member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to a member's knowledge):</p> <p>(a) the landlord is the relevant authority;</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

Schedule 12A to the Local Government Act, 1972 (as amended)

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
 - (a) to give any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information being disclosed during a meeting of a Scrutiny and Performance Panel when considering flood risk management functions which:
 - (a) Constitutes a trades secret;
 - (b) Its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the risk management authority);
 - (c) It was obtained by a risk management authority from any other person and its disclosure to the public by the risk management authority would constitute a breach of confidence actionable by that other person.

Planning Committee

Monday 31 October 2022 at 5.30 pm

Council Chamber, Council House, Walsall

Present:

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

In attendance:

M. Brereton	Group Manager – Planning
A. Ives	Head of Planning
K. Gannon	Developmental Control and Public Rights of Way Manager
N. Picken	Principal Democratic Services Officer
T. Morris	Senior Planning Officer
M. Dale	Planning Officer
R. Ark	Senior Environmental Protection Officer
J. Price-Jones	Planning Solicitor

139/22 Apologies

Apologies for absence were submitted on behalf of Councillor G. Perry and Councillor A. Underhill.

140/22 Declarations of Interest

There were no declarations of interest received.

141/22 **Deputations and Petitions**

There were no deputations introduced or petitions submitted.

142/22 **Minutes of previous meetings**

The Committee considered the minutes of the previous meeting.

Resolved:

That the minutes of the meeting held on 6 October 2022, a copy having been previously circulated to each member of the Committee, be approved and signed as a true record.

143/22 **Local Government (Access to Information) Act 1985 (as amended)**

Exclusion of the Public

Resolved:

That there were no items for consideration in private session.

144/22 **Application list for permission to develop**

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

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

145/22 **Plans List 1 – 21/0951 Former Kings Hill JMI, Joynson Street**

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee along with information contained within the supplementary paper.

The Committee then welcomed the speaker, Mrs S. Samrai who spoke in support of the application. She informed the Committee that the site had been vacant for three years, stated that the application would provide social and affordable housing in line with government policy.

A Member spoke to welcome the development, it was questioned if Oak Park Road would be adopted by the Council if this application was approved. The Highways Officer described the legal process for the road to become adopted and stated that this road was not included as part of the application, although rights of way may exist. It was

suggested that it would not be in the Council's interests to adopt the road, but it was requested that Officers conduct a land search to identify the land owner.

A discussion was held on Section 106 contributions relating to this development.

In response to queries raised by Members the Planning Officer confirmed that building regulations stipulated building access requirements, and within the application there were five allocated accessible car parking spaces. It was clarified that the applicant had provided an energy statement which proposed a fabric first approach along with heat pump cylinders (considered a more sustainable way to heat homes), external rain water butts, it was noted that cycling parking was proposed and there was a condition stipulating the provision of electric vehicle charging points.

It was moved and seconded and upon being put to the vote it was:

Resolved (Unanimous):

Planning Committee delegate to the Head of Planning and Building Control to grant planning permission subject to conditions and a Section 106 agreement to secure affordable housing contributions, urban open space contributions plus an ongoing landscape management scheme and subject to:

- Resolving any potential LLFA objections to the proposal based on material planning considerations.
- Amendments to the scheme as set out by the Local Highways Authority.
- Amendments to the scheme as set out by housing standards.
- 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.

146/22

Plans List 2 – 20/1640 Land between 15 and 19 Goscote Road

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee along with information contained within the supplementary paper.

The Committee then welcomed a speaker on the application, Mrs Sheila Porter, who spoke in support of the application. She addressed the Committee to introduce herself as the agent, and stated that she

welcomed questions on this application. There had been an issue in relation to land ownership and this would be dealt with as a civil matter - the issue related to an overlap on two sets of deeds, however the relevant certification had been served. The Chair drew Members attention to the section in the report which referred to an appeal in 2012 at which that the principle of a residential the development had been supported.

A Member asked for further clarification in relation to the ownership of the shared driveway. It was clarified by the speaker that the land owner had a right of access to the land, and this right of access was also used by other properties. The Chair clarified that the right of access was a civil matter and not within the remit of the Planning Committee.

It was moved and seconded that:

Resolved:

Planning Committee delegates to the Head of Planning and Building Control to grant planning permission subject to conditions and subject to:

- No new material considerations being received within the consultation period.
- The amendments and finalising of conditions.
- No further comments from a statutory consultee raising material planning considerations not previously addressed.
- Securing mitigation for Cannock Chase SAC via a unilateral undertaking.

147/22

Plans List 4 – 21/1693 11 Delves Road, Palfrey

The report of the Head of Planning and Building Control was submitted (annexed) and was presented to the Committee along with information contained within the supplementary paper.

The Committee then welcomed three speakers on the application.

Mr Graham Beddows spoke against the application, informing the Committee that his main objection was the sheer mass of the proposed extension and consequently the loss of light with the application having been amended to include window positioning. He stated that the proposal to extend by five metres was three times what should be allowed under planning policy.

Mr Gerald Westley spoke against the application, informing the Committee that he had lived at number 9 for over 40 years, and he

believed that he had a right to this light, quoting the 45 degree code and suggesting that this proposal would impact on this. It was questioned why this application had been referred to the Committee.

There was one speaker in support of the application, Muhammad Ishfaq, who was the agent for this application. He stated that the applicant desired to come to an agreement in relation to the application, it was noted that there were extensions of a similar size along the road. He suggested that number 13 would have no issue with loss of light as habitable windows were not near to the extension, and number 9 had high hedges and trees along the boundary wall so it would not affect them. The 45 degree rule was a guideline, however the applicant was trying to compromise - the space was required due to a large family and social care needs of the family.

The Chair clarified that this was being considered by the Committee at the request of a Councillor, which was allowed under the constitution.

There then followed a period of questioning to the speakers.

Mr M Ishfaq stated that the neighbouring properties would not be affected by loss of light. Mr G Beddows responded to state that he was concerned about the impact on the value of his property, and also the loss of light, he refuted that his property would not be impacted.

Mr Ishfaq confirmed that he had been working with Officers and the size of the extension had been reduced. In response to a further question, the Committee were informed that the applicant's parents and grandparents would be moving in with them. It was noted that this was not a material planning application.

Officers confirmed that the 45 degree guideline was a benchmark that was used to determine likely impact in terms of loss of outlook and light, and policies followed this up with the likely impact on the neighbours and if this was sufficient to refuse permission for the development. Each application had to be judged on its own merits based on the development plan, and precedent was not enshrined in law. It was clarified that the case officer had negotiated with the agent and as a result the application had reduced, however it was still recommended for refusal.

The discussion moved to debate, it was suggested that the applicant had worked with officers to produce an acceptable design and this was in an area where there was precedent for the 45 degree code to be breached.

It was moved, by Councillor Nawaz and seconded by Councillor K. Hussain that the application be approved, against officer recommendations for the following reasons:

- The applicant had worked with the Officers to reduce the impact of the extension,
- The 45 degree rule was a guideline only – with other households breaching this rule in the area and by not allowing this application would be unfair on this applicant,
- The impact would be on a kitchen which was not a habitable room.

Officers clarified that in Walsall the kitchen was considered a habitable room, and the right to light was determined by the 45 degree rule. Members argued that this application should be deferred to provide the applicant with the opportunity to amend the application by reducing the size of the development to ensure that neighbouring properties were not impacted by loss of light. The Legal representative expressed concern that the proposal to approve the application because the applicant had worked with Officers was not adequate.

Further to the discussion Councillor Nawaz withdrew his motion.

It was moved by Councillor Bird and seconded that the application by deferred by one cycle to allow Officers to work with the applicant and their agent.

Resolved

That planning application 21/1693 be deferred to the next meeting of the Planning Committee.

Termination of meeting

There being no further business, the meeting terminated at 6.45 pm.

Signed

Date



PLANNING COMMITTEE

1st December 2022

REPORT OF HEAD OF PLANNING & BUILDING CONTROL

Development Management Performance Update Report

1. PURPOSE OF REPORT

To inform Members of the Planning Committee of the latest performance and outcomes regarding Development Management, including:

- i) Performance of applications determined for Q4 of 21/22 (1st January to 31st March 2021), Q1 and Q2 of 22/23 (1st April to 30 June, 1st July to 30th September 2022);
- ii) Decisions made by the Planning Inspectorate on appeals made to the Secretary of State in Q4 of 21/22, Q1 and Q2 of 22/23;
- iii) Update of Planning Applications 'called-in' by Councillors in Q4 of 21/22, Q1 and Q2 of 22/23;
- iv) Progress report of enforcement proceedings;
- v) Section 106 Agreements update for 21/22 financial year (1st April 2021 to 31st March 2022) which forms the basis of the Council's Infrastructure Funding Statement for that period.
- vi) Section 106 Agreements update for 22/23 financial year to date (1st April 2022 up to 21st November 2022).

2. RECOMMENDATIONS

That the Committee notes the outcomes of monitoring performance within the service.

3. FINANCIAL IMPLICATIONS

None arising directly from this report but where a planning appeal is accompanied by an appeal for an award of costs then if the appellant is successful the costs are payable by the Council. The briefing of members as to the outcome of individual Planning Obligations together with the total sums collected within the year will help inform and assure members of the accounting probity and monitoring that is being followed by officers.

4. POLICY IMPLICATIONS

Within Council policy. All planning applications and enforcement proceedings relate to local and national planning policy and guidance.

5. LEGAL IMPLICATIONS

The briefing of members as to the outcome of individual appeals made by the Planning Inspectorate will help inform members of current planning issues and case law as may be raised within individual cases. Appeal decisions are material considerations and should be considered in the determination of subsequent applications where relevant.

Planning Obligations are primarily negotiated as part of the determination of planning applications in accordance with the National Planning Policy Framework 2021 (NPPF), Community Infrastructure Levy Regulations 2010 (Regulation 122)(as amended), policy DEL1 of the Black Country Core Strategy, policy GP3 of Walsall Unitary Development Plan and adopted Supplementary Planning Documents.

6. EQUAL OPPORTUNITY IMPLICATIONS

None arising from the report. The Development Management service is accredited by an Equality Impact Assessment.

7. ENVIRONMENTAL IMPACT

The impact of decisions made by the Planning Inspectorate on the environment is included in decision letters and all planning applications are required to consider environmental issues where material to the proposed development.

8. WARD(S) AFFECTED

All.

9. CONSULTEES

Service areas responsible for the allocation and spend of Section 106 contributions have been consulted in the preparation of this report.

10. CONTACT OFFICER

Mike Brereton: Group Manager, Planning
Michael.brereton@walsall.gov.uk

11. BACKGROUND PAPERS

All published.

Mike Brereton
Group Manager, Planning

PERFORMANCE UPDATE REPORT

i. Development Management Performance Update Report

Updated table on the speed of planning application decisions for Q4 21/22 and Q1 and Q2 of 22/23.

Note that the table also includes figures for earlier years.

Description	Target	Q1 Apr -Jun	Q2 Jul - Sep	Q3 Oct - Dec	Q4 Jan - Mar	Cumulative
22-23 - Major	60%	67%	67%			
21-22 - Major		100%	86%	100%	100%	97%
20-21 - Major		100%	100%	86%	90%	94%
19-20 - Major		100%	100%	100%	90%	98%
22-23 - Minor	70%	78%	69%			
21-22 - Minor		85%	82%	79%	80%	82%
20-21 - Minor		96%	86%	78%	83%	86%
19-20 - Minor		91%	92%	98%	90%	93%
22-23 - Other	70%	93%	92%			
21-22 - Other		92%	86%	87%	82%	87%
20-21 - Other		93%	92%	93%	91%	92%
19-20 - Other		92%	92%	87%	90%	90%

12.1 The latest performance figures represent a continuation of results exceeding national performance standards in all areas with the exception of minors in Q2 22/23. Whilst performance on speed of decision making has slightly reduced for major and minor applications in quarters 1 and 2 of 22/23 we anticipate that improvements will be seen in the final 2 quarters as decisions start to be issued that were previously affected by the Cannock Chase SAC and following the recent introduction of additional agency staff to help progress these applications along with the successful appointment of a Principal Planning Officer to a previously vacant post.

12.2 Notwithstanding the above slight drop in speed of decision making, in terms of the team performance on determination of applications the following table highlighting decisions made since January 2022 shows that the team is achieving a significant output of decisions:

RECEIVED:	1475
DETERMINED:	1524
Of determined that were GRANTED:	981
Of determined that were REFUSED:	113
Of determined that were ALL OTHER TYPES OF DECISIONS:	430
Presented to Planning Committee	75

- 12.3 Given the difficulties experienced in recruitment and retention of staff over the last year there remains a backlog of older complex cases and staff are dealing with high caseloads. Some of these cases have been held pending the outcome of the Cannock Chase SAC mitigation scheme so will now begin to be concluded as mentioned above. This change is expected to be noted in future performance reports. Whilst caseloads remain high (between 50-60 cases for principal officers and up to 70 cases for senior officers) and in order to reduce the number of older cases the service has successfully secured a fixed term investment in service for 22/23 and 23/24 to boost capacity in the planning team. This will provide further agency staff in the form of 1 x Principal Officer and 3 x Senior Officers to reduce each officer's caseload for these complex cases and give staff a realistic opportunity to focus on resolving them. It will also give more resilience in the team to determine discharge of conditions applications and pre-application advice.
- 12.4 Processes are being reviewed regularly to aim to improve the speed of decision making and the overall customer experience. This includes the introduction of a 'one revision' only policy for all planning application types with the exception of majors. A householder Local Validation Checklist is due to go out for public consultation at the end of November which will be presented to a Planning Committee early 2023 prior to coming into effect. It is anticipated that this will encourage better quality planning application submissions and will help our customers to understand submission requirements and necessary supporting documents and plans at the outset to try and avoid any unnecessary delays in the processing and determination of an application. Consultee replies will also be published on the web by the end of 2022 so that customers can review without reliance on contacting the case officer. This all follows the recommendations of the PAS Peer Challenge review in 2021.
- 12.5 The recent recruitment of two temporary additional Technical Support Officers following previous investment in service is also helping to speed up the validation and registration of planning applications, the registration of chargeable service requests, responses to general queries and in determining Telecommunications Regulation 5 submissions to the LPA.
- 12.6 The Council's Constitution has recently been amended following consideration by full Council in October 2022 giving wider delegation so the service can be empowered to deliver decisions more quickly. For example all enforcement action is now delegated to officers; householder applications delegated to officers and delegation to determine applications that are policy compliant including major applications and those where a S106 Planning Obligation may be required.
- 12.7 The LPA seeks to agree extensions of time (EOT) on planning applications in negotiations with applicant's and planning agent's where necessary to aim to work through any matters arising throughout the life of an application, and within an agreed timeframe to offer a level of certainty and commitment from all parties. Whilst there will be a continued role for EOTs in certain cases, it is anticipated that the introduction of the above measures will help to reduce the future need for an EOT whereby additional resources, and a reduction in the number of accepted revisions, should help to speed up the decision making process.

ii. Decisions made by the Planning Inspectorate in Q4 (between 1st January and 31st March 2022)

Application:	21/0384
Site:	88, WEST BROMWICH STREET, WALSALL, WS1 4DB
Proposal:	Certificate of lawful existing use as 1no. office on the ground floor and first floor, 1no. ground floor bedsit and 1no. flat on the first and second floor.
Delegation Level:	Delegated to officers
Council Decision:	Refuse Certificate of Lawful Existing use or Development
Appeal Decision:	Appeal Dismissed
Comments:	Inspector concluded the appellants evidence was not sufficiently precise and unambiguous and on balance the material change of use to two flats are not lawful.

Application:	20/0860
Site:	24, MEADOW ROAD, ALDRIDGE, WALSALL, WS9 0ST
Proposal:	Certificate of Lawful Proposed Use for Proposed Care Home for Children (Use Class C3B).
Delegation Level:	Delegated to officers
Council Decision:	Refuse Certificate of Lawful Proposed Use or Development
Appeal Decision:	Appeal Dismissed
Comments:	Inspector concluded the appellants evidence was not sufficiently precise and unambiguous and on balance fails to demonstrate that a material change use of use would not occur from a dwellinghouse to a care home.

Application:	20/0312
Site:	25, SEEDS LANE, BROWNHILLS, WALSALL, WS8 6HU
Proposal:	Demolition of 25 Seeds Lane and Erection of 5no. 3 bed bungalows
Delegation Level:	Planning Committee Decision
Council Decision:	Refuse Permission
Appeal Decision:	Appeal Allowed
Comments:	Inspector concluded development would comply with the Development Plan when taken as a whole and that no material considerations exist that would outweigh the benefits of the development.

Application:	20/1146
Site:	62 , WELLINGTON PLACE, WILLENHALL, WV13 3AB
Proposal:	Proposed erection of single storey rear extensions and enclosed porch
Delegation Level:	Delegated to officers
Council Decision:	Refuse Permission
Appeal Decision:	Appeal Dismissed
Comments:	Inspector concluded unacceptable harm would arise to amenity of No.61.

Application:	21/0208
Site:	37, GOWER STREET, WALSALL, WS2 9AS
Proposal:	Two storey rear side extension with catslide roof with side dormer and single storey side extension

Delegation Level:	Delegated to officers
Council Decision:	Refuse Permission
Appeal Decision:	Appeal Dismissed
Comments:	Inspector concluded potential loss of street tree would harm character and appearance of area.

Target = no more than 10% determined contrary to Council's decision

Total number of qualifying appeals = 5

(Appeals against non-determination, conservation / listed building consent, adverts and those withdrawn are not included).

1 qualifying appeal not decided in accordance with Councils decision = 20%

Decisions made by the Planning Inspectorate in Q1 (between 1st April and 30th June 2022)

Application:	21/0376
Site:	29, ULLSWATER ROAD, WILLENHALL, WV12 5FH
Proposal:	T1 Oak - crown lift to 5m, crown thin 20 percent, cut back from buildings by 2m, remove 2 low branches from the main stem at 3m above ground level. T2 Oak - crown lift to 5m, crown reduce by 20percent.
Delegation Level:	Delegated to officers
Council Decision:	Tree: Part Approve Part Refuse
Appeal Decision:	Appeal Dismissed
Comments:	Inspector concluded the conditions were reasonable and necessary and should remain.

Application:	21/1470
Site:	SIMONS RESTAURANT, 520, CHESTER ROAD, ALDRIDGE, WALSALL, WS9 0PU
Proposal:	Application for Lawful Development Certificate for the proposed use of 520 Chester Road as a Day Nursery (Class E).
Delegation Level:	Delegated to officers
Council Decision:	Refuse Certificate of Lawful Proposed Use or Development
Appeal Decision:	Appeal Dismissed and Costs not Awarded to Appellant
Comments:	Inspector concluded that the extant condition which restricts the use of the site remains enforceable and precludes the proposed change of use to a day nursery. Inspector also dismissed the appellants costs application against the Council.

Application:	21/0614
Site:	LAND ADJACENT 74 TO 76, HIGH STREET, MOXLEY
Proposal:	Additional two bedroom two storey unit joined onto one of the approved terraces under application ref. 18/0677
Delegation Level:	Delegated to officers
Council Decision:	Non-Determination Subject to Appeal

Appeal Decision:	Appeal Dismissed
Comments:	Inspector concluded proposal would conflict with the Development Plan and there are no material considerations that weigh in favour of the proposal.

Application:	19/1472
Site:	80, WOOD STREET, WILLENHALL, WV13 1JY
Proposal:	Demolition of existing buildings and erection of 2no. pairs of semi-detached 2.5 storey townhouses (4 no dwellings in total)
Delegation Level:	Delegated to officers
Council Decision:	Refuse Permission
Appeal Decision:	Appeal Dismissed and Site Purchase Notice Refused
Comments:	Secretary of State agrees with Inspector's conclusions and that the site is capable of reasonable beneficial use.

Application:	21/1367
Site:	11, RICHARD ROAD, WALSALL, WS5 3QW
Proposal:	Proposed Two storey side and single storey rear extension.
Delegation Level:	Delegated to officers
Council Decision:	Refuse Permission
Appeal Decision:	Appeal Dismissed
Comments:	Inspector concluded proposal would result in harm to character and appearance of the area.

Application:	21/1745
Site:	67, PARK HALL ROAD, WALSALL, WS5 3HL
Proposal:	Replacement roof to form new loft floor with front and rear dormer windows and two storey rear extension.
Delegation Level:	Delegated to officers
Council Decision:	Refuse Permission
Appeal Decision:	Appeal Dismissed
Comments:	Inspector concluded proposal would result in harm to amenity of neighbours and significant harm to character and appearance of street scene and host property.

Target = no more than 10% determined contrary to Council's decision
Total number of qualifying appeals = 6 (Appeals against non-determination, conservation / listed building consent, adverts and those withdrawn are not included).
0 qualifying appeals not decided in accordance with Councils decision = 0%

Decisions made by the Planning Inspectorate in Q2 (between 1st July and 30th September 2022)

Application:	21/0763
Site:	TELECOMMUNICATIONS MAST OS 91 MANOR RD, CHESTER ROAD, STREETLY

Proposal:	Prior approval for the installation of a 18 metre phase 8 pole with wrap around cabinet built around the base, 6 no. new equipment cabinets and ancillary development thereto. And proposed removal of existing phase 4 11.7m high monopole and ancillary ground based cabinets, with relocation of two existing cabinets.
Delegation Level:	Delegated to officers
Council Decision:	Refused Prior Approval
Appeal Decision:	Appeal Dismissed
Comments:	Inspector concluded proposal would result in harm to character and appearance of area and harm amenity of neighbours.

Application:	21/0048
Site:	CAR PARK AT FORMER WALSALL WOOD LIBRARY, COPPICE ROAD, WALSALL WOOD, WALSALL, WS9 9BL
Proposal:	Full application for 4 new semi-detached 2 bedroom dwellings with associated parking and landscaping
Delegation Level:	Planning Committee Decision
Council Decision:	Non-Determination Subject to Appeal
Appeal Decision:	Appeal Dismissed
Comments:	Inspector concluded that limited weight would be given to loss of parking to serve the library and lack of Cannock Chase SAC mitigation.

Application:	20/1001
Site:	LAND AT GOMER STREET, WILLENHALL, WV13 2NR
Proposal:	Full application for 14 (8 x 1 bed and 6 x 2 bed) apartments and associated parking and amenity space
Delegation Level:	Planning Committee Decision
Council Decision:	Non-Determination Subject to Appeal
Appeal Decision:	Appeal Dismissed and Costs not Awarded to Appellant
Comments:	Inspector concluded proposal would conflict with the Development Plan as a whole and refused the appellants costs application against the Council.

Application:	20/1307
Site:	59, SNEYD LANE, ESSINGTON, WOLVERHAMPTON, WV11 2DU
Proposal:	Front extension for bay window to dwelling house (Use Class C3) and change of use of garage to allow operation of salon (Use Class E)
Delegation Level:	Delegated to officers
Council Decision:	Refuse Permission
Appeal Decision:	Appeal Dismissed and Costs not Awarded to Appellant
Comments:	Inspector concluded proposal would conflict with the Development Plan as a whole and refused the appellants costs application against the Council.

Target = no more than 10% determined contrary to Council's decision

Total number of qualifying appeals = 4

(Appeals against non-determination, conservation / listed building consent, adverts and those withdrawn are not included). [Page 18 of 185](#)

0 qualifying appeals not decided in accordance with Councils decision = 0%

12.7 To enable the Council to ensure it retains the ability to refuse the most harmful applications which may affect the people and businesses in the Borough, it is vital that robust reasons for refusal are given that state relevant National and Local policies. In this way decisions can be presented in the most robust manner possible to the Planning Inspectorate to optimise the Councils ability to defend refusal decisions most effectively at appeal, and minimise the risk of costs being awarded to appellants.

iii. Called in Applications

12.8 Planning Committee requested information regarding the number of applications that have been called in and agreed that this should appear in this performance report as a regular item. The table below shows the following:

Period	Quarter	Call Ins
22/23 (Jul-Sept)	Q2	2 applications called in during 2 meetings
22/23 (Apr-Jun)	Q1	3 applications called in during 3 meetings
21/22 (Jan-Mar)	Q4	10 applications called in during 3 meetings
21/22 (Oct-Nov)	Q3	7 applications called in during 3 meetings
21/22 (Jul-Sept)	Q2	7 applications called in during 3 meetings
21/22 (Apr-Jun)	Q1	9 applications called in during 2 meetings
20/21 (Jan-Mar)	Q4	4 applications called in during 3 meetings
20/21 (Oct-Nov)	Q3	4 applications called in during 3 meetings
20/21 (Jul-Sept)	Q2	6 applications called in during 3 meetings
20/21 (Apr-Jun)	Q1	4 applications called in during 2 meetings
19/20 (Jan-Mar)	Q4	5 applications called in during 3 meetings
19/20 (Oct-Nov)	Q3	5 applications called in during 3 meetings

12.9 The Call-in Procedure is set out in paragraph (11) of Part 3: Responsibility for Functions of the Constitution:

Notwithstanding the terms of reference of Planning Committee any planning application can be called in by a Councillor for determination by the Committee by the following procedure;

1. The receipt by Planning and Building Control Service Area of a completed call-in form within 28 days of the commencement of public consultation;
2. The completed call-in form must identify:
 1. which material planning reason/s there are (as identified on the published call-in form) as to why the application should be determined by the Committee;
 2. the name of the Councillor calling the matter to Committee and whether the Councillor serves on Planning Committee;
 3. whether the Councillor calling the matter to Committee wishes to be a speaker for or against the matter; and
 4. where the Councillor sits on Planning Committee whether the Councillor wishes to declare an interest.

3. Note: The Committee report will identify the Councillor who called in the application along with the reason given and any interest declared.

12.10 For details of applications previously called in please refer to the previous performance reports.

Q4 21/22 (Jan-Mar)

Committee	Called in by Councillor	The Electoral Ward for the Application	Planning Application Number	Planning Agent	Application Address	Method/Reason for Call In
06 January 2022	Cllr Hussain	St Matthews	20/0309	Paul Spooner	ROTHER, HIGHGATE DRIVE, WALSALL, WS1 3JJ	Delicate judgement is required.
10 February 2022	Cllr Singh-Sohal	St Matthews	20/1289	Jim Malkin	FORMER JABEZ CLIFF AND CO LTD, LOWER FORSTER STREET, WALSALL, WS1 1XA	Sensitive planning judgement and community interest.
10 February 2022	Cllr Nasreen	St Matthews	21/0971	Lapworth Architects	48, MELLISH ROAD, WALSALL, WS4 2EB	Delicate judgement is required.
10 February 2022	Cllr Pardeep Kaur	Aldridge Central And South	21/0811	Lapworth Architects	1, BARR COMMON ROAD, ALDRIDGE, WALSALL, WS9 0SY	Delicate judgement is required.
10 March 2022	Cllr Gultasib	Pleck	21/0510	Paul Clifton	22, BASSETT STREET, WALSALL, WS2 9PZ	Due to the length of time the application has taken to determine and needs careful consideration
10 March 2022	Cllr G S Sohal	Paddock	21/1624	Neil Boddison Associates Ltd	3, CHARLEMONT ROAD, WALSALL, WS5 3NG	Sensitive planning decision making is required and

						community interest
10 March 2022	Cllr Stacie Elson	Willenhall North	21/1540	Architectur e & Interior Design Ltd	117, SANDRING HAM AVENUE, WILLENHALL, WV12 5TG	n/a application formally withdrawn 09/03/22
10 March 2022	Cllr Stacie Elson	Willenhall North	21/1606	Palmer Design	16, BRAMBLE CLOSE, WILLENHALL, WV12 5AH	Harm to character of area
10 March 2022	Cllr Harrison	Bloxwich West	21/1009	Design-Wright	72, SELSDON ROAD, BLOXWICH, WS3 3UE	Delicate judgement is required.
10 March 2022	Cllr Wilson	Aldridge Central And South	21/0686	Paul Spooner	33, LITTLE ASTON ROAD, ALDRIDGE, WALSALL, WS9 0NP	Delicate judgement is required.

Q1 22/23 (Apr-Jun)

Committee	Called in by Councillor	The Electoral Ward for the Application	Planning Application Number	Planning Agent	Application Address	Method/Reason for Call In
07 April 2022	Cllr Mazhar	St Matthews	21/1740	Paul Spooner	8, BURTON FARM ROAD, WALSALL, WS4 2HN	Delicate judgement.
07 April 2022	Cllr Wilson	Aldridge Central And South	21/1447	E & H Design Ltd	99, BIRMINGHAM ROAD, ALDRIDGE, WALSALL, WS9 0AJ	Delicate judgement.
26 May 2022	Cllr Andrew	Willenhall South	20/1575	W13 Ltd	2, WALSALL ROAD, WILLENHALL, WV13 2EH	Public interest.

21 July 2022	Cllr Andrew	Willenhall South	20/1575	W13 Ltd	2, WALSALL ROAD, WILLENHALL, WV13 2EH	Public interest.
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Q2 22/23 (Jul-Sept)

Committee	Called in by Councillor	The Electoral Ward for the Application	Planning Application Number	Planning Agent	Application Address	Method/Reason for Call In
08 September 2022	Cllr Elson	Willenhall North	22/0652	Kelsall Architectural Design Ltd	90, SANDRINGHAM AVENUE, WILLENHALL, WV12 5SX	Impact on amenity of neighbours
08 September 2022	Cllr Martin	Rushall-Shelfield	22/0641	Palmer Design	27, LODGE ROAD, PELSALL, WALSALL, WS4 1DE	Impact on the amenity of neighbours and a considered severe breach of 45 degree code

iv. Progress on Enforcement Proceedings

- (i) Public session – attached Table 1 and 2
 - (ii) Private session – see attached Table 3
- Please note that Table 3 contains information which is private and confidential and so is not available for public inspection.

It includes information which reveals that the authority proposes:

- a) to give any enactment a notice under or by virtue of which requirements are imposed on a person; or
- b) to make an order or direction under any enactment.

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

v. Section 106 Agreements update for 21/22 financial year (1st April 2021 to 31st March 2022 which forms the basis of the Council's Infrastructure Funding Statement for that period.

12.12 Following the recent appointment of a dedicated Development Monitoring Officer within the planning service to specifically record and update S106 records, substantial work has already taken place to capture and update records. This is an on-going work stream to ensure this, and future updates, provide an accurate position on the securing, receipt, and allocation / expenditure of S106 contributions

and other non-financial Planning Obligations. The figures provided in this report are therefore snapshots in time and will not remain static as they are continuously updated to reflect contributions received, allocated and spent.

- 12.13 The Executive Director of Economy, Environment and Communities has also held the inaugural meeting of a S106 Board involving the relevant Portfolio Holders and officers from various service areas to give further scrutiny to the process of monitoring S106 obligations including assurance and spending that will help support Members understanding and give greater transparency of the process for the Planning Committee. A Member training session will be delivered in future to incorporate full details on the process and what to expect. A report was also presented to the Scrutiny Committee in November 2021 setting out the process for the collection, monitoring and expenditure of S106 contributions, how ward members are consulted on s106 allocation, justification and value for money and included an update on completed Planning Obligations.
- 12.14 Section 106 of the Town & Country Planning Act 1990 enables developers to submit unilateral undertakings, or local authorities to reach agreements with developers, for certain works to be carried out in association with a development. The Community Infrastructure Levy Regulations 2010 (Regulation 122) sets out a statutory requirement that Planning Obligations must be necessary to make the proposed development acceptable in planning terms; relevant to planning; and directly related in scale and kind to the proposed development. They must also be reasonable in all other respects.
- 12.15 The Council is required to comply with the National Planning Policy Framework (NPPF) 2021, Community Infrastructure Levy Regulations 2010 (as amended), policy DEL1 of the Black Country Core Strategy (BCCS) and policy GP3 of the Unitary Development Plan (UDP) when seeking developer contributions.
- 12.16 Under the Community Infrastructure Levy Regulations any authority that receives a contribution from development through the levy or section 106 planning obligations must prepare an Infrastructure Funding Statement at least annually. For the financial year 2019/2020 onwards, any local authority that has received developer contributions (section 106 planning obligations or Community Infrastructure Levy) must publish online an Infrastructure Funding Statement by 31 December 2020 and by the 31 December each year thereafter. Infrastructure Funding Statements must cover the previous financial year from 1 April to 31 March.
- 12.17 **Appendix 1** forms the basis of the Council's Infrastructure Funding Statement for the period 1 April 2021 to 31 March 2022.
- 12.18 The table below sets out that of over £4million has been received in contributions to date and that over £2million has been expended and / or allocated to date. The majority of the remaining balance comprises of a series of contributions for development that has either recently been approved, the target dates for expenditure are yet to be reached, or formal allocations of monies are yet to be confirmed. This also reflects the on-going collaborative work stream with service areas to update the Council's S106 records, and ensuring records are updated.

Summary of all total Income, allocation and expenditure as at 21st November 2022:

Service Area	S106 Contribution received to date	Spent to date	Committed / Allocated	Balance Remaining
Affordable Housing	£1,538,104.34	£0.00	£274,993.56	£1,263,110.78
Children's Services	£534,931.32	£275,903.84	£259,027.48	£0
Clean & Green	£2,049,767.94	£1,271,948.17	£0	£777,819.77
TOTAL	£4,122,803.60	£1,547,852.01	£534,021.04	£2,040,930.55

vi. **Section 106 Updates for 22/23 Section 106 Updates (1st April 2022 to 21st November 2022)**

12.19 **Appendix 2** provides an update on contributions including new Planning Obligations completed during the current financial year 2022/23 up to 21st November.

2021/22 Infrastructure Funding Statement

Appendix 2

Section 106 Updates 1st April 2022 to 21st November 2022

PLANNING COMMITTEE – 1st December 2022: PROGRESS OF FORMAL ENFORCEMENT ACTIONS

Table 1 - Sites with Notices served or authorisation to Serve Notices

Case Number	Officer	Address	Date	Type of Action and date of issue	Current position
E20/0033	RS	Foley Wood, Egerton Road, Streetly	10 th December 2020	Unauthorised COU. PEN Authorised – Pending further info prior to service.	Cease use and remove fence/domestic paraphernalia - within 3 months from when the notice takes effect. Ownership details unknown at time of enquiry. Land owners not identified
			17 March 2021	4 ENs served	3 ENs appealed, one complied with.
			10 March 2022		1 appeal is currently being dealt with by (adjourned) public inquiry now set for 17 th May 22. Other 2 written representation appeals waiting for PINS decision
			17^h Nov 2022		Appeals Dismissed. 3 months compliance period expires 22-11-22. Compliance to be monitored.
E17/0463	RS	Land south of Cartbridge Lane	25 th Sept 18	Enforcement action authorised by planning committee 12/7/18	Enforcement Notice served 26 th July 2018 and notice became effective on 24 th August 2018 and due to be complied with by 24 th October 2018.
			19 th Dec 2018		Agents have sought advice on amending structure to overcome the Enforcement Notice, this is not supported and officers are seeking compliance with notice.
			3 rd June 2019		

			10 December 2020		<p>Owners have submitted a certificate of lawfulness application (relating to the keeping of horses on the land). Additional information requested.</p> <p>19/0091 – CLEUD not yet determined. Site being monitored.</p> <p>As above. 19/0091 – CLEUD not yet determined. Site being monitored.</p> <p>CLEUD application allocated to new case officer to progress. A review of the application indicates that it would not address the Enforcement Notice requirements. Consideration being given on potential prosecution.</p>
			10 March 2022		
			17 Nov 2022		
E18/0248	RS	Stables Rear of 211-212 Norton Road, Pelsall (Pelsall Stop)	<p>4th June 2019</p> <p>14th November 2019</p> <p>10 December 2020</p>	Enforcement action authorised by planning committee 18/4/19	<p>Enforcement Notice served on 3rd May 2019 and notice is to be effective on 5th June 2019. Compliance date is 5th December 2019.</p> <p>Appeal lodged 3rd June 2019, awaiting validation by PINS. Requested to be a Public Inquiry.</p> <p>No update matter still with PINS to set Inquiry date</p> <p>Inquiry set for 8th June 2021. Council's case is being prepared.</p>

			10 March 2022		Appeal decision received (part allowed and part dismissed). Site is being monitored for compliance.
			17 Nov 2022		Work underway on the necessary Appropriate Assessment under the Habitat Regulations prior to the compliance works being undertaken.
E14/0515	RH	Cloudwood Arabian Stud, Aldridge Road	3 rd June 2019 14 th November 2019 17 July 2020 20 July 2020 10 December 2020 10 March 2022	Enforcement action authorised by planning committee on 18/4/19	<p>Enforcement Notice served for material change of use and operational development on 28th May 2019, notice will be effective on 27th June 2019. Compliance to be undertaken by 27th Sept 2019.</p> <p>Original Notice withdrawn and new amended notice served removing reference to flood lighting. Served 28th June 2019, effective on 30th July 2019 and compliance due 20th October 2019. Appeal has been lodged.</p> <p>Appellant signed a legal undertaking to withdraw the appeal against the enforcement notice and three months from covid restrictions being lifted for caravans</p> <p>Planning Inspector confirmed the appeal had been withdrawn</p> <p>Checking compliance on site</p> <p>Owner has been reminded of obligations to clear the site in accordance with legal undertaking. Further monitoring taking place.</p>

			17 Nov 2022		Caravans have been removed from the site. The owner to be reminded to clear the site of the remaining fence panels.
E21/0066	RS	Arrow Industrial Estate	10 March 2022 17 Nov 2022	Enforcement action authorised by Planning Committee 6/1/21	<p>A Planning Contravention Notice has been served and responses informed the Enforcement Notice which was served on 25 February.</p> <p>Advice provided to new site owner. Clearance works are ongoing and a review to be carried out in the New Year.</p>
E21/0315	RS	Wood Farm Cottage, Wood Lane, Willenhall	10 March 2022 17 Nov 2022	Enforcement action authorised by Planning Committee 6/1/21	<p>Following expiry of Temporary Stop Notice, no works on site have resumed, therefore enforcement notice not currently required. The situation is being monitored and a planning application is expected.</p> <p>New planning application lodged and valid on 28th June 2022 under reference 22/0619. Any enforcement action will therefore be held in abeyance until application is determined.</p>
E21/0137	RH	44 Mill Lane, Willenhall	10 March 2022 17 Nov 2022	Breach of Condition Notice (BCN) authorised and served under delegated powers 7/2/22	<p>Failure to adhere to approved plans as required by Condition 2 of permission 19/1497. BCN requires roof shape and other design details to revert to approved scheme by 7 May 2022.</p> <p>Site monitoring required to determine whether compliance has been achieved.</p>

E20/0160	RH	53 Charlemont Rd, Walsall	10 March 2022 17 Nov 2022	Enforcement notice served on 29 October 2021 requiring demolition of wall, removal of hard surface	Enforcement Notice appealed. Currently waiting for Planning Inspectorate to confirm hearing date. Appeal decision made 7 September 2022. Enforcement notice quashed and permission granted for brick walls, pillars, land level changes and hard-surfaced driveway (Ground A). Grounds B, C and D are dismissed. Planting plans to be submitted in December in relation to replacement planting for the lost TPO tree. Site to be monitored.
E21/0104	RS	117 Sandringham Avenue, Willenhall	17 Nov 2022	Enforcement notice served on 28 October 2022 requiring removal of unauthorised structures and associated works	Valid appeal has been lodged and a hearing is to take place. Hearing date to be confirmed.
E22/0138	RS	8 Brookhouse Road, Walsall	17 Nov 2022	BCN issued 10 August 2022 requiring works to dwelling to be revised to reflect the planning permission.	BCN revoked on 1 Nov 2022 due to inaccuracies within the applicant's submitted plans. Retrospective planning application likely to be submitted to try and regularise the position. Case will be monitored.

Table 2 - Historical Cases under review following Committee Resolutions

[illegible]

			May 2018		Site visited, action to remain in abeyance pending outcome of application.
			19 th Dec 2018		At last planning committee members resolved to support the planning application to redevelop the site subject to updated ecology report. Matter in is abeyance pending resolution of application.
			4 th June 2019		Ecology report submitted and consultation ongoing. Enforcement action held in abeyance pending resolution of application.
			10 th December 2020		Planning permission granted on 28 th June 2019 and can be implemented up to June 2022.
			10 March 2022		New owner looking to re-develop.
			17 Nov 2022		New planning application submitted for re-development of the site for a foodstore which is being presented to Planning Committee 1st December 2022 - 22/0171.

Appendix 1

2021/2022 Infrastructure Funding Statement
from 01/04/2021 to 31/03/2022

Appendix 1
2021/2022 Infrastructure Funding Statement from 01/04/2021 to 31/03/2022

Infrastructure Funding Reporting Period	Update	Application Number	Site Address	Contribution Amount Due	Obligations (Conditions / Clauses)	Service Lead	Service Area Contribution Received (£)	Service Area Update Status of Project	Service Area Spend to Date (£)	Service Area Committed (allocated) (£)	Service Area Balance Remaining (£)
Q3 (Oct-Dec) 2021	Update	05/1566/OL/W3	NEPTUNE PUBLIC HOUSE,BILSTON LANE,WILLENHALL,WEST MIDLANDS,WV13 2LF	£65,000.00	13/0440/FL	Housing	£64,025.00	Report is being submitted to 15 December 2021 Cabinet seeking approval for this commuted sum to be part of a ringfenced fund to purchase empty homes in Walsall that will then provide affordable temporary accommodation for homeless households	£0.00	£0.00	£64,025.00
Q3 (Oct-Dec) 2021	Update	05/2039/FL/E4	BINARY HOUSE,BOATMANS LANE,WALSALL,WEST MIDLANDS,WS9 9AG	£45,732.24	Towards facilitating secondary school education in accordance with Policies GP3 and 8.8 of the Walsall Unitary Development Plan.	Education	£45,046.26	New Leaf PRU - Project Complete September 2021.	£0.00	£45,046.26	£0.00
Q3 (Oct-Dec) 2021	Update	06/0344/FL/E3	2,COPPICE ROAD,WALSALL,WEST MIDLANDS,WS9 9BL	£28,582.65	Towards the provision of education.	Education	£28,582.65	New Leaf PRU - Project Complete September 2021.	£0.00	£28,582.65	£0.00
Q3 (Oct-Dec) 2021	Update	06/0641/FL/E9	THE STAG,FIELD ROAD,WALSALL,WEST MIDLANDS	£3,625.00	Towards the provision of secondary school places within a 3 mile radius of the site.	Education	£3,625.00	New Leaf PRU - Project Complete September 2021.	£0.00	£3,625.00	£0.00
Q3 (Oct-Dec) 2021	Update	06/2209/OL/E9	SHIRE OAK RESERVOIR, C/O CHESTER ROAD, LICHFIELD ROAD, BROWNHILLS, WALSALL, WEST MIDLANDS	£110,000.00	towards the provision of primary education facilities within 2 miles radius and secondary education facilities within 3 miles radius of the site shall be provided.	Education	£108,350.00	Oakwood Special School Expansion - Project Completed September 2021.	£0.00	£108,350.00	£0.00
Q3 (Oct-Dec) 2021	Update	07/2731/FL/E11	LAND TO THE REAR OF 201-217 LICHFIELD ROAD,RUSHALL,WALSALL, WS4 1EA	£45,585.19	Towards the provision of secondary school places within the area in accordance with The Walsall Unitary Development Plan 2005	Education	£44,901.41	New Leaf PRU - Project Complete September 2021.	£0.00	£44,901.41	£0.00
Q3 (Oct-Dec) 2021	Update	09/1695/FL	FORMER BLOXWICH ENGINEERING LTD,BELL LANE,WALSALL	£210,000.00	For secondary school provision in accordance with policies GP3, 8.8 and SPD of the Walsall Unitary Development Plan	Education	£206,850.00	Allocated to Special Schools - Elmwood, New Leaf, Jane Lane, Mary Elliot, Castle, Shepwell. All complete as at September 2021.	£161,451.48	£45,398.52	£0.00
Q3 (Oct-Dec) 2021	Update	09/1695/FL	FORMER BLOXWICH ENGINEERING LTD,BELL LANE,WALSALL	£19,800.00	In accordance with policy DW9 SPD Designing Walsall of the Walsall Unitary Development Plan.	Public Art Contribution	£19,503.00	Should now sit in EEC ?	£0.00	£0.00	£19,503.00
Q3 (Oct-Dec) 2021	Update	10/1593/FL	LAND OFF WATERMEAD GRANGE/SILVER STREET,BROWNHILLS,WALSALL. WS8	£96,741.62	To be used towards the provision of secondary education facilities within a 3 mile radius of the site and shall be provided in accordance with Policies GP3 and 8.8 of the Walsall Unitary Development Plan (2005) and Supplementary Planning Document such sum to be increased by the amount (if any) equal to the rise in Index.	Education	£97,576.00	Elmwood Special School - Project Complete	£97,576.00	£0.00	£0.00
Q3 (Oct-Dec) 2021	Update	10/1593/FL	LAND OFF WATERMEAD GRANGE/SILVER STREET,BROWNHILLS,WALSALL. WS8	£54,138.78	To use the Contributions solely for the uses specified	Housing	£58,293.56	This funding was ringfenced for the purchase of 2 long term empty homes secured through Compulsory Purchase Order. These 2 homes are now part of the Council's temporary accommodation stock for homeless households	£0.00	£58,293.56	£0.00
Q3 (Oct-Dec) 2021	Update	11/0516/FL	45 Victoria Avenue and Land to Rear of 39-51 Victoria Avenue; 39-47 and 66 Drake Road; and 125-139 Field Road,Bloxwich,WS3 2YU	£250,000.00	To use the Affordable Housing Contribution only towards the provision of affordable housing within the Council's administrative area.	Housing	£246,250.00	Report is being submitted to 15 December 2021 Cabinet seeking approval for this commuted sum to be part of a ringfenced fund to purchase empty homes in Walsall that will then provide affordable temporary accommodation for homeless households	£0.00		£246,250.00
Q3 (Oct-Dec) 2021	Update	11/1197/FL	Former Sanstone House Care Home,Sanstone Road,Bloxwich,WS3 3SJ	£45,210.00	To use the Open Space Contribution for provision of open space within the wider vicinity of the Site in accordance with the Council's Urban Open Space Supplementary Planning Document and Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation.	Clean and Green	£44,531.85	The funding has been attributed to King George Vth Playing Fields (80 to 90%) and the delivery of the 5 year improvement masterplan. Some spend has begun and we are due out to tender in the near future on the 1st phase priority plan based on customer and	£44,531.85	£0.00	£0.00

Appendix 1
2021/2022 Infrastructure Funding Statement from 01/04/2021 to 31/03/2022

Infrastructure Funding Reporting Period	Update	Application Number	Site Address	Contribution Amount Due	Obligations (Conditions / Clauses)	Service Lead	Service Area Contribution Received (£)	Service Area Update Status of Project	Service Area Spend to Date (£)	Service Area Committed (allocated) (£)	Service Area Balance Remaining (£)
Q3 (Oct-Dec) 2021	Update	11/1584/FL	UNIT 13,CROWN WHARF SHOPPING PARK,WOLVERHAMPTON STREET,WALSALL,WS2 8LL	£15,000.00	improvements to the existing pedestrian crossing on Town End Street in the vicinity of the Land which shall comprise adjustments to the existing guard railing, signing and tactile paving and/or such other improvements to the said pedestrian crossing as the Council shall in its discretion decide upon.	Highways	£14,775.00	There is a long-standing ambition to improve the signal-controlled pedestrian crossing (Crown Wharf to Gallery Square) to make it more people-friendly (remove traffic signals completely, remove high kerbing and guard railing; use of higher-quality surfacing/materials?). All lines and signs to be reviewed and updated. Planters and cycle parking to be deployed. Status: - No design work yet undertaken; limited staff resources available for design development. To be progress in 2022/23	£0.00	£0.00	£14,775.00
Q3 (Oct-Dec) 2021		12/0036/OL	Goscote Lane Regeneration Corridor incorporating sites in Shakespeare Crescent,Keats Road,Tennyson Road,Chaucer Road,Wordsworth Road,Dryden Road,Harden Road and Well Lane.	£139,000.00	For the purposes of implementing road safety measures along Harden Road, between its junction with Bloxwich Road to its junction with Coal Pool Lane, which may include build-outs; signing and lining improvements; and junction improvements at Harden Road/Broadstone Avenue.	Highways	£136,915.00	A local safety scheme has now been installed on Harden Road, including double mini-roundabout at Broadstone Avenue	£0.00	£0.00	£136,915.00
Q3 (Oct-Dec) 2021		12/1486/FL	FORMER ST. MARGARETS HOSPITAL,QUESLETT ROAD,WALSALL,B43 7EZ	£199,500.00	To provide affordable housing units (as defined in the principal deed (as amended)) on that part of the Site shown edged in red on Plan A.	Housing	£196,507.50	Report is being submitted to 15 December 2021 Cabinet seeking approval for this commuted sum to be part of a ringfenced fund to purchase empty homes in Walsall that will then provide affordable temporary accommodation for homeless households	£0.00	£0.00	£196,507.50
Q3 (Oct-Dec) 2021	Update	13/0440/FL	LAND SOUTH OF WOLVERHAMPTON STREET,WALSALL,WS2 8LR	£75,000.00	Towards feasibility assessment and traffic and pedestrian monitoring.	Highways	£73,875.00	There is a long-standing ambition to improve the signal-controlled pedestrian crossing (Crown Wharf to Gallery Square) to make it more people-friendly (remove traffic signals completely, remove high kerbing and guard railing; use of higher-quality surfacing/materials?). All lines and signs to be reviewed and updated. Planters and cycle parking to be deployed. Status: - No design work yet undertaken; limited staff resources available for design development. To be progress in 2022/23	£0.00	£0.00	£73,875.00
Q3 (Oct-Dec) 2021		15/1268	41 LEIGHSWOOD ROAD, ALDRIDGE, WALSALL,WS9 8AL	£144,850.00	To utilise the Affordable Housing Contribution for the provision of Affordable Housing in the locality	Housing	£146,075.12	Report is being submitted to 15 December 2021 Cabinet seeking approval for this commuted sum to be part of a ringfenced fund to purchase empty homes in Walsall that will then provide affordable temporary accommodation for homeless households	£0.00	£0.00	£146,075.12
Q3 (Oct-Dec) 2021		15/1268	41 LEIGHSWOOD ROAD, ALDRIDGE, WALSALL,WS9 8AL	£60,000.00	To utilise the Highways Contribution for the installation of a Puffin crossing on Leighswood Road at a point to be agreed with the Highway Authority	Highways	£60,507.47	The Leighswood Road puffin crossing was installed by the UTC as part of the care home development works	£0.00	£0.00	£60,507.47
Q3 (Oct-Dec) 2021		16/1669	RUSHALL MEWS, NEW STREET, RUSHALL, WALSALL, WS4 1JQ	£227,500.00	Contribution towards the provision of affordable housing in the locality.	Housing	£224,088.00	Report is being submitted to 15 December 2021 Cabinet seeking approval for this commuted sum to be part of a ringfenced fund to purchase empty homes in Walsall that will then provide affordable temporary accommodation for homeless households	£0.00	£0.00	£224,088.00

Appendix 1
2021/2022 Infrastructure Funding Statement from 01/04/2021 to 31/03/2022

Infrastructure Funding Reporting Period	Update	Application Number	Site Address	Contribution Amount Due	Obligations (Conditions / Clauses)	Service Lead	Service Area Contribution Received (£)	Service Area Update Status of Project	Service Area Spend to Date (£)	Service Area Committed (allocated) (£)	Service Area Balance Remaining (£)
Q3 (Oct-Dec) 2021	Update	17/0195	LAND ADJACENT 16 AND CAR PARK R/O 16-22 HIGH STREET, ALDRIDGE, WALSALL. WS9	£220,000.00	Contribution towards the provision of affordable housing in the locality.	Housing	£216,700.00	This funding was ringfenced for the purchase of 2 long term empty homes secured through Compulsory Purchase Order. These 2 homes are now part of the Council's temporary accommodation stock for homeless households.	£0.00	£216,700.00	£216,700.00
Q3 (Oct-Dec) 2021	Update	17/1447	LAND ADJACENT 16 AND CAR PARK R/O 16-22 HIGH STREET, ALDRIDGE, WALSALL. WS9	£11,890.00	Contribution towards the provision of affordable housing in Walsall.	Housing	£11,711.65	Report is being submitted to 15 December 2021 Cabinet seeking approval for this commuted sum to be part of a ringfenced fund to purchase empty homes in Walsall that will then provide affordable temporary accommodation for homeless households.	£0.00	£0.00	£11,711.65
Q3 (Oct-Dec) 2021		18/0072	Land at Heathfield Lane West, Darlaston, Wednesbury, West Midlands. WS10 8QR	£96,655.33	To utilise the Affordable Housing contribution in the locality.	Housing	£95,205.51	Report is being submitted to 15 December 2021 Cabinet seeking approval for this commuted sum to be part of a ringfenced fund to purchase empty homes in Walsall that will then provide affordable temporary accommodation for homeless households.	£0.00	£0.00	£95,205.51
Q4 (Jan-Mar) 2022	Contribution received	18/1267	Beacon Dairy Farm, Doe Bank Lane.	£42,548.00	Improvement of the play area and playing fields at Doe Bank Park, Doe Bank Lane	Clean and Green	£41,909.78				
Q3 (Oct-Dec) 2021 Q4 (Jan-Mar) 2022	New Agreement and Contribution received	18/1561	1-17, HEATH VIEW, WILKES AVENUE, BENTLEY, WALSALL, WS2 0JF	£10,395.00	To use the Urban Open Space Contribution for the maintenance and improvement of Wilkes Avenue urban open space, and not to use the Urban Open Space Contribution otherwise than for the maintenance and improvement of Wilkes Avenue urban open space.	Clean and Green	£10,239.00				
Q2 (Jul-Sep) 2021	New Agreement	19/0382	Land adjacent, 24 Woodwards Road, Walsall	£33,956.00	To use the Open Space Contribution for provision of open space within the wider vicinity of the Site, the nearest Urban Open Spaces being the playground to the west of Alumwell Business and Enterprise College (Primley Avenue), which is 496 metres away, Pleck Park, which is 620 metres away and sports ground off Broadway West, which is 670 metres away from the Site, in accordance with the Council's urban Open Space Supplementary Planning Document and the National Planning Policy Framework as first published on 27 March 2012 and updated on 24 July 2018 and 19 February 2019.	Clean and Green					

Appendix 1
2021/2022 Infrastructure Funding Statement from 01/04/2021 to 31/03/2022

Infrastructure Funding Reporting Period	Update	Application Number	Site Address	Contribution Amount Due	Obligations (Conditions / Clauses)	Service Lead	Service Area Contribution Received (£)	Service Area Update Status of Project	Service Area Spend to Date (£)	Service Area Committed (allocated) (£)	Service Area Balance Remaining (£)
Q4 (Jan-Mar) 2022	New Agreement	19/0622	JOHAL SUPERMARKET, 19, WEST BROMWICH ROAD, WALSALL, WS1 3HS	£0.00	To complete the Window Relocation Works prior to Implementation of the Development and notify the same to the Council for confirmation that the Window Relocation Works have been completed. Not to Implement the Development until the Window Relocation Works have been completed and the same confirmed by the Council. From Implementation of the Development thereafter to maintain and keep the Window Relocation Works in the same state as at completion of the same as certified by the Council for the lifetime of the Development.	Non-monetary contributions	N/A	N/A	N/A	N/A	N/A
Q2 (Jul-Sep) 2021	Contribution received	19/0768	THE ARMSTRONG BUILDING, C/O THE GREEN AND BOOTH STREET, DARLASTON, WS10 8JP	£31,185.00	To utilise the Open Space Contribution for improvements to and maintenance of Owen Park	Clean and Green	£30,717.22				
Q1 (Apr-Jun) 2021	Contribution received	19/0945	SITE OF FORMER HARVESTIME BAKERY, RALEIGH STREET, WALSALL	£50,000.00	Towards the upgrade and maintenance of the urban open space in the locality which shall include Sydenham playing fields and which may also include highway mitigation measures on Raleigh Street and/or Jessel Road	Clean and Green	£49,250.00				
Q4 (Jan-Mar) 2022	New Agreement	19/1206	Land at Queslett Road East, Streetly, Walsall	£100,000.00	To utilise the open Space contribution which is payable pursuant to the obligations contained in this Deed for improvements to and maintenance of Public Open Space at Goodwood Drive, Streetly, B74 2JG	Clean and Green					
Q3 (Oct-Dec) 2021		19/1514	LAND BETWEEN VICTORIA ROAD, SLATER STREET, DARLASTON. WS10 8EE	£283,500.00	To utilise the Affordable Housing contribution for the provision of affordable housing in the locality.	Housing	£279,248.00	Report is being submitted to 15 December 2021 Cabinet seeking approval for this commuted sum to be part of a ringfenced fund to purchase empty homes in Walsall that will then provide affordable temporary accommodation for homeless households	£0.00	£0.00	£279,248.00
Q3 (Oct-Dec) 2021		20/0004	BEECHDALE COMMUNITY HOUSING ASSOCIATION, CHILTON HOUSE, STEPHENSON AVENUE, WALSALL, WS2 7EU	£16,824.00	To utilise the Open Space Contribution which is payable pursuant to the obligations contained in this Deed for improvements to and maintenance of Beechdale Fishing Pool Beechdale Walsall West Midlands	Clean and Green	£16,572.00	Need to follow up memo	£0.00	£0.00	£16,572.00
Q4 (Jan-Mar) 2022	Contribution received	20/0254	LAND OFF DARLASTON ROAD BETWEEN CANAL AND, BENTLEY MILL WAY, BENTLEY. WS2 9SG	£5,000.00	For works outside of the Property to improve pedestrian links along the Walsall Canal.	Canal and River Trust	£5,000.00				
Q3 (Oct-Dec) 2021	New Agreement	20/0490	348, WOLVERHAMPTON ROAD WEST, WILLENHALL, WV13 2RN	£22,869.00	To utilise the initial Open Space Contribution and the Open Space Contribution for Improvements to and maintenance of Open Space located at the Bentley Greenway and/or the Open Space located at Bentley Road West	Clean and Green					

Appendix 1
2021/2022 Infrastructure Funding Statement from 01/04/2021 to 31/03/2022

Infrastructure Funding Reporting Period	Update	Application Number	Site Address	Contribution Amount Due	Obligations (Conditions / Clauses)	Service Lead	Service Area Contribution Received (£)	Service Area Update Status of Project	Service Area Spend to Date (£)	Service Area Committed (allocated) (£)	Service Area Balance Remaining (£)
Q3 (Oct-Dec) 2021	New Agreement	20/1006	72 AND 74, BROOK LANE, WALSALL WOOD, WALSALL, WS9 9NA	£34,358.00	To utilise the Open Space Contribution which is payable pursuant to the obligations contained in this Deed for improvements to and maintenance of the Open Space at Oak Park	Clean and Green					
Q4 (Jan-Mar) 2022	New Agreement	20/1103	FORMER POLICE STATION, GREEN LANE, WALSALL	£90,000.00	For the provision, maintenance or enhancement of Urban Open Space at Sydenham Playing Fields on Green Lane and at North Street.	Clean and Green					
Q4 (Jan-Mar) 2022	New Agreement	20/1103	FORMER POLICE STATION, GREEN LANE, WALSALL	£30,000.00	To provide Affordable Housing in the Council's administrative area.	Housing					
Q3 (Oct-Dec) 2021	Update	BC64477P	Land Adj, Brewers Drive, Walsall	£40,000.00	Maintenance of open space at Windrush Close. Banked by Legal.	Leisure	£40,000.00	Contribution towards maintenance	£0.00	£0.00	£40,000.00

Appendix 2

Section 106 updates between
01/04/2022 and 21/11/2022

Appendix 2
Section 106 Updates between 01/04/2022 and 21/11/2022

Infrastructure Funding Reporting Period	Update	Application Number	Site Address	Contribution Amount Due	Obligations (Conditions / Clauses)	Service Lead	Service Area Contribution Received (£)	Service Area Update Status of Project	Service Area Spend to Date (£)	Service Area Committed (allocated) (£)	Service Area Balance Remaining (£)
Q2 (Jul-Sep) 2022	Update	02/1494/FL/E2	FORMER FIELD ROAD INDUSTRIAL ESTATE, FIELD ROAD, BLOXWICH, WALSALL, WEST MIDLANDS	£5,600.00	Towards the enhancement of off-site open space and for no other purpose.	Clean & Green	£5,516.00	Fully spent	£5,516.00	£0.00	£0.00
Q2 (Jul-Sep) 2022	Update	02/1983/FL/W3	CAR PARK, PROVIDENCE CLOSE/LEAMORE LANE, LEAMORE, WALSALL	£1,200.00	provision of public open space facilities within the Site and to be used in improving public open space facilities in the wider area in accordance with Policy 8.4 of the Walsall Unitary Development Plan 1995.	Clean & Green	£1,462.35	Improvements to the story telling garden	£219.35	£0.00	£1,243.00
Q2 (Jul-Sep) 2022	Update	03/1308/FL/E4	LAND TO THE REAR OFF, 7 STACKHOUSE DRIVE, PELSALL, WALSALL, WEST MIDLANDS, WS3 4DX	£2,800.00	Towards the provision of public open space	Clean & Green	£2,758.00	Fully spent	£2,758.00	£0.00	£0.00
Q2 (Jul-Sep) 2022	Update	03/1853/FL/E6	THE WELCOME STRANGER P.H., HAWBUSH ROAD, LEAMORE, WALSALL, WEST MIDLANDS, WS3 1AG	£3,603.06	Towards the provision of off site recreational facilities pursuant to policy 8.4 of the Walsall Unitary Development Plan.	Clean & Green	£3,549.01	Possible contribution to capital play equipment programme	£3,135.35	£0.00	£413.66
Q2 (Jul-Sep) 2022	Update	04/0845/OL/W3	FORMER DERBY ARMS PH, RALEIGH STREET, WALSALL, WEST MIDLANDS, WS2 8DY	£2,000.00	Towards the cost of the Council carrying out improvements to open space facilities in the wider area	Clean & Green	£2,000.00	Reedwood Park improvements	£1,160.19	£0.00	£839.81
Q2 (Jul-Sep) 2022	Update	06/0641/FL/E9	THE STAG, FIELD ROAD, WALSALL, WEST MIDLANDS	£2,603.00	Towards the urban open space within the Bloxwich area.	Clean & Green	£2,603.00	Fully spent	£2,603.00	£0.00	£0.00
Q2 (Jul-Sep) 2022	Update	06/2209/OL/E9	SHIRE OAK RESERVOIR, C/O CHESTER ROAD, LICHFIELD ROAD, BROWN HILLS, WALSALL, WEST MIDLANDS	£62,000.00	Towards urban open space shall be provided in accordance with Policy LC1 of Walsall's Unitary Development Plan (2005) and Supplementary Planning Document: Urban Open Space (April 2006)	Clean & Green	£61,070.00	Access improvements Park Lime Pits	£61,070.00	£0.00	£0.00
Q2 (Jul-Sep) 2022	Update	07/2731/FL/E11	LAND TO THE REAR OF 201-217 LICHFIELD ROAD, RUSHALL, WALSALL, WS4 1EA	£57,420.00	Towards the provision of secondary school places within the area in accordance with The Walsall Unitary Development Plan 2000	Clean & Green	£56,558.70	Possible contribution to capital play equipment programme	£30,729.77	£0.00	£25,828.93
Q2 (Jul-Sep) 2022	Update	09/0215/FL	LAND CORNER OF LEVE LANE/JOHN STREET, WILLENHALL, WALSALL	£16,632.00	Towards the provision of public open space within the wider area of the Site in accordance with and defined by Policy GP3 and LC1 of the Walsall Unitary Development Plan	Clean & Green	£16,382.52	Willenhall Park improvements	£15,324.52	£0.00	£1,058.00
Q2 (Jul-Sep) 2022	Update	09/1695/FL	FORMER BLOXWICH ENGINEERING LTD, BELL LANE, WALSALL	£115,400.00	for open space provision within the vicinity of the wider area of the Development in accordance with Policies GP3, LC1(d) and SPD Urban Open Space of the Walsall Unitary Development Plan	Clean & Green	£113,669.00	Fully spent	£113,669.00	£0.00	£0.00
Q2 (Jul-Sep) 2022	Update	10/1593/FL	LAND OFF WATERMEAD GRANGE/SILVER STREET, BROWN HILLS, WALSALL, WS8	£102,236.00	To be used towards the provision of Urban Open Space within the vicinity of the wider area of the Development in accordance with saved policies GP3 and LC1 (d) of Walsall Unitary Development Plan and Supplementary Planning Document: Urban Open Space.	Clean & Green	£103,119.00	Final amount contributed towards skate park improvements and parking improvements at Holland Park. Query why crossed through.	£100,930.68		£2,188.32

Appendix 2
Section 106 Updates between 01/04/2022 and 21/11/2022

Infrastructure Funding Reporting Period	Update	Application Number	Site Address	Contribution Amount Due	Obligations (Conditions / Clauses)	Service Lead	Service Area Contribution Received (£)	Service Area Update Status of Project	Service Area Spend to Date (£)	Service Area Committed (allocated) (£)	Service Area Balance Remaining (£)
Q2 (Jul-Sep) 2022	Update	10/1706/FL	FORMER REDHOUSE SCHOOL (JMI), GORSEY WAY, ALDRIDGE, WALSALL, WS9 0EQ	£80,000.00	To use the Compensatory Sports Pitch Provision Contribution ('the Contribution') in accordance with the policies specified in Schedule 2 in order to achieve any or all of the following: (a) the provision of new sports pitches; (b) the improvement of existing sports pitches; (c) the fullest use of existing sports pitches; within the vicinity of the Site.	Clean & Green	£78,800.00	£11,555 (15%) top-sliced from contribution towards on-going maintenance of the scheme. Awaiting suitable project for artificial pitch development.	£11,854.16		£66,945.84
Q2 (Jul-Sep) 2022	Update	11/0516/FL	45 Victoria Avenue and Land to Rear of 39-51 Victoria Avenue; 39-47 and 66 Drake Road; and 125-139 Field Road, Bloxwich, WS3 2XU	£83,570.00	To use the contributions payable under Schedule 2 only towards the provision of Urban Open Space within the wider area of the Site in accordance with Policy DEL2 of the Black Country Joint Core Strategy and policies GP3 and LC1 of Walsall Unitary Development Plan.	Clean & Green	£82,316.00	Final amount allocated to accessible play at KG5, or improved security.	£82,085.25		£230.75
Q2 (Jul-Sep) 2022	Update	11/1364/FL	WALSALL DEPOT, NORFOLK PLACE, BLOWICH ROAD, WALSALL	£188,100.00	To use the Urban Open Space solely for the uses specified	Clean & Green	£185,278.50	Possible contribution to capital play equipment programme	£175,646.82	£0.00	£9,631.68
Q2 (Jul-Sep) 2022	Update	11/1576/FL	The Limes, Linley Road, Walsall, WS4 1HL	£41,760.00	To use the Open Space Contribution for provision of open space within the wider vicinity of the Site in accordance with the Council's Urban Open Space Supplementary Planning Document and Planning Policy Guidance 17; Planning for Open Space, Sport and recreation.	Clean & Green	£41,187.89	Fully spent	£41,187.89	£0.00	£0.00
Q2 (Jul-Sep) 2022	Update	12/0736/FL	FORMER ST JOHN'S SCHOOL & 11 LICHFIELD ROAD, WALSALL WOOD, WALSALL	£30,168.00	Not to use the Open Space Contribution otherwise than for the purposes of providing servicing and maintaining public open space within the vicinity of the Development.	Clean & Green	£29,744.82	Possible contribution to capital play equipment programme	£26,196.66		£3,548.16
Q2 (Jul-Sep) 2022	Update	13/1056/FL	FORMER JEBRON WORKS, BRIGHT STREET, WEDNESBURY, WS10 9HX	£50,000.00	For the purposes of urban open space, in particular Kings Hill Park 50000	Clean & Green	£49,250.00	Kings Hill Park improvements and play improvements at Great Bridge Road.	£49,250.00	£0.00	£0.00
Q2 (Jul-Sep) 2022	Update	13/1490/FL	SITE OF FORMER MARY ELLIOTT SCHOOL AND BREWER STREET CENTRE, BREWER STREET, WALSALL, WS2 8BA	£30,776.70	For the provision of improved lighting at the subway in the vicinity of the development.	Highways	£0.00	Contribution unlikely to be received due to company under administration.	£0.00	£0.00	£0.00
Q2 (Jul-Sep) 2022	Update	13/1529/FL	FORMER PARK TAVERN, 43 BROADWAY NORTH, WALSALL, WS1 2QG	£29,442.00	Towards the provision of Urban Open Space within the locality of Walsall	Clean & Green	£29,000.37	Funding arboretum access improvements (signage improvements)	£25,600.99	£0.00	£3,399.38
Q2 (Jul-Sep) 2022	Update	14/1345/FL	SITE OF FORMER COALPOOL CLINIC, ROSS ROAD, RYECROFT, WALSALL	£8,220.00		Clean & Green	£8,096.70	Possible contribution to capital play equipment programme	£4,514.51		£3,582.19
Q2 (Jul-Sep) 2022	Update	14/1554/FL	PELSALL LABOUR CLUB, CHURCH ROAD, WALSALL, WS3 4QW	£53,070.00	To utilise the Urban Open Space Contribution for the provision, upgrading and or maintenance of Urban Open Space in the vicinity of the Development.	Clean & Green	£59,100.00	Suggestions from Pelsall Friends about more signs and park furniture, signs now complete, possible play equipment	£13,045.70	£0.00	£46,054.30
Q2 (Jul-Sep) 2022	Update	15/0238/FL	FORMER CLOTHIER STREET PRIMARY SCHOOL, HARRY PERKS STREET, WALSALL	£73,458.00	To be used by the Council for the purposes of maintenance and improvements to urban open space within the vicinity of the Willenhall Area.	Clean & Green	£72,356.13	Contributions towards Willenhall Park	£69,115.73	£0.00	£3,240.40

Appendix 2
Section 106 Updates between 01/04/2022 and 21/11/2022

Infrastructure Funding Reporting Period	Update	Application Number	Site Address	Contribution Amount Due	Obligations (Conditions / Clauses)	Service Lead	Service Area Contribution Received (£)	Service Area Update Status of Project	Service Area Spend to Date (£)	Service Area Committed (allocated) (£)	Service Area Balance Remaining (£)
Q2 (Jul-Sep) 2022	Update	15/0612/FL	Brico, Stubbers Green Road, Aldridge, Walsall, WS9 8BJ	£23,060.00	To utilise the Urban Open Space Contribution for the provision, upgrading and or maintenance of Urban Open Space in the vicinity of the Development.	Clean & Green	£22,714.10	Proposed improvements to the Swag	£3,407.12	£0.00	£19,306.98
Q2 (Jul-Sep) 2022	Update	15/1268	41 LEIGHSWOOD ROAD, ALDRIDGE, WALSALL, WS9 8AL	£57,650.00	To utilise the Urban Open Space Contribution for the provision, upgrading and or maintenance of Urban Open Space in the locality which may include, but shall not be limited to: Leigh's Wood open space: (Green space Strategy reference 1001) - Play area refurbishment - Skate park refurbishment - Access improvements - Habitat management The Croft open space: (Green space Strategy reference 1003) - Play area refurbishment - Skate park refurbishment - Access improvements - Habitat management	Clean & Green	£58,137.60	Possible contribution to capital play equipment programme	£18,618.51	£0.00	£39,519.09
Q2 (Jul-Sep) 2022	Update	15/1606	BULLS HEAD, 79, Park Road, BLOXWICH, WALSALL, Walsall, WS3 3SW	£9,590.00	To utilise the Urban Open Space Contribution for the provision, upgrading and or maintenance of the King George V Playing Fields Urban Open Space which may include, but shall not be limited to: a. Horticultural planting schemes b. Car parking	Clean & Green	£9,446.15	Security improvements at King George 5th Park and improvements at Bloxwich pools	£1,416.92	£0.00	£8,029.23
Q2 (Jul-Sep) 2022	Update	15/1683	LAND AT WILKES AVENUE, BENTLEY, WALSALL	£54,054.00	To utilise the Urban Open Space Contribution for the provision, upgrading and or maintenance of Public Realm in the locality which may include, but shall not be limited to: Poplar Avenue open space: (Green Space Strategy reference 4007) - Pedestrian access improvements - Vehicle and motorcycle barriers - Hard-surfaced footpaths - Habitat creation -- wildflower meadows - Mown areas for informal recreation Poplar Avenue ABC open space: (Green Space Strategy reference 4006) - Pedestrian access improvements - Vehicle and motorcycle barriers - Hard-surfaced footpaths - Habitat creation -- wildflower meadows - Mown areas for informal recreation	Clean & Green	£53,243.19	Improvements to Bentley Green way	£53,243.19	£0.00	£0.00

Appendix 2
Section 106 Updates between 01/04/2022 and 21/11/2022

Infrastructure Funding Reporting Period	Update	Application Number	Site Address	Contribution Amount Due	Obligations (Conditions / Clauses)	Service Lead	Service Area Contribution Received (£)	Service Area Update Status of Project	Service Area Spend to Date (£)	Service Area Committed (allocated) (£)	Service Area Balance Remaining (£)
Q2 (Jul-Sep) 2022		15/1744	Land between Park Lane/Wood Street, WS10 9RS	£61,677.00	To utilise the Urban Open Space Contribution for the provision, upgrading and or maintenance of the Park Lane/Cook Street Urban Open Space (Green Space Strategy site identification code 4013) which may include, but shall not be limited to: a. Pedestrian access improvements: i. Vehicle & motorcycle barriers ii. Hard-surfaced footpaths b. Boundary improvements: i. Tree planting schemes; ii. Hedge planting; iii. Screening c. Habitat creation -- wildflower meadows d. Mown areas for informal recreation e. Furniture - bins & benches f. Lighting - linking pathway between Cook Street & Park Lane g. Signage - interpretation, directional, Council information h. Notice boards for entrance points	Clean & Green	£60,751.85	Improvements to Bentley Green way and proposed improvements to POS at Park Street.	£23,662.97	£0.00	£37,088.88
Q2 (Jul-Sep) 2022		16/1048	FORMER CENTRAL PATTERNAKING COMPANY LIMITED, 44, STRINGES LANE, WILLENHALL, WV13 1LU	£8,316.00	Upgrading, enhancing and or maintenance of Urban Open Space located at Willenhall Memorial Park, Pinson Road, Willenhall	Clean & Green	£8,191.26	Discussions with Friends group at Willenhall Park about priorities for watering improvements and storage.	£1,228.69	£0.00	£6,962.57
Q2 (Jul-Sep) 2022	Update	16/1233	LAND AT DAW END SCHOOL, FLOYDS LANE, RUSHALL, WALSALL, WS4 1LF	£107,880.00	Enhancement or maintenance of urban open space	Clean & Green	£106,261.80	Possible contribution to capital play equipment programme	£64,562.48		£41,699.32
Q2 (Jul-Sep) 2022	Update	16/1241	LAND TO THE WEST OF TEDDESLEY STREET, WALSALL, WS4 2AH	£56,080.00		Clean & Green	£55,238.80	Improvements at Mill Lane LNR, works due to be complete October 2022	£8,285.82	£0.00	£46,952.98
Q2 (Jul-Sep) 2022	Update	16/1669	RUSHALL MEWS, NEW STREET, RUSHALL, WALSALL, WS4 1JQ	£12,000.00	Contribution towards the planting of new trees at Rushall Skate Park	Clean & Green	£11,820.00	Possible contribution to Rushall Playing Field improvements	£2,108.32	£0.00	£9,711.68
Q2 (Jul-Sep) 2022	Update	16/1669	RUSHALL MEWS, NEW STREET, RUSHALL, WALSALL, WS4 1JQ	£73,950.00	To utilise the Urban Open Space contribution for the following: - Cartbridge Lane Allotments (East Walsall Allotment Association) Rushall. Delivery of action plan as per findings of a condition survey - £15,000. - Radley Play Area, Bickley Road, Rushall. Contribution to play area improvements - £29,475. - Park Lime Pits, Park Road, Rushall. Footpath improvements - £29,475.	Clean & Green	£72,840.75	Possible contribution to Rushall Playing Field improvements	£59,199.39	£0.00	£13,641.36
Q2 (Jul-Sep) 2022	Update	16/1675	145-147, LICHFIELD STREET, WALSALL, WS1 1SE	£8,412.00	To utilise the Urban Open Space Contribution for the enhancement and or maintenance of open spaces in the locality	Clean & Green	£0.00	Arboretum outdoor gym - CHECK CONTRIBUTION RECEIVED AS IS APPEARING ON EEC FINANCE SHEET	£2,203.61	£0.00	-£2,203.61

Appendix 2
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Q2 (Jul-Sep) 2022	Update	17/0155	STENCILS FARM, ALDRIDGE ROAD, WALSALL, WS4 2JW	£34,650.00	To utilise the Open Space Contribution for public access improvements and habitat management at Aldridge Airport and Hav Head Wood	Clean & Green	£33,957.00	Proposed improvements to airport access improvements	£0.00	£0.00	£33,957.00
Q2 (Jul-Sep) 2022	Update	17/0195	LAND ADJACENT 16 AND CAR PARK R/O 16-22 HIGH STREET, ALDRIDGE, WALSALL. WS9 8..	£62,456.00	Contribution towards upgrading and or maintenance of Urban Open Space in the locality.	Clean & Green	£61,519.00	Possible contribution to capital play equipment programme	£9,227.87	£0.00	£52,291.13
Q2 (Jul-Sep) 2022	Update	17/1447	LAND ADJACENT 16 AND CAR PARK R/O 16-22 HIGH STREET, ALDRIDGE, WALSALL. WS9	£11,890.00	Contribution towards the provision of affordable housing in Walsall.	Housing	£11,711.65	Report is being submitted to 15 December 2021 Cabinet seeking approval for this commuted sum to be part of a ringfenced fund to purchase empty homes in Walsall that will then provide affordable temporary accommodation for homeless households	£0.00	£0.00	£11,711.65
Q2 (Jul-Sep) 2022	Update	17/1447	LAND ADJACENT 16 AND CAR PARK R/O 16-22 HIGH STREET, ALDRIDGE, WALSALL. WS9	£959.00	Contribution towards ongoing maintenance and improvement of open space 'Anchor Meadow'.	Clean & Green	£944.62	Possible contribution to capital play equipment programme	£141.69	£0.00	£802.93
Q2 (Jul-Sep) 2022	Update	18/0072	Land at Heathfield Lane West, Darlaston, Wednesbury, West Midlands. WS10 8QR	£193,310.67	Utilise the Urban Open Space Contribution for the following: 1. The provision of healthy walking / trim-trail around the perimeter, landscaping and enhancement works to Darlaston Recreation Centre, Hall Street 2. Enhancement of facilities including construction of the fishing platforms at Heathfield Land Fishing Pool 3. Public information boards directional signage to and from the following recreation areas: a. George Rose Park b. Darlaston Recreation Centre c. King Hill Park d. Victoria Park e. Walsall canal 4. Public access improvements hedgerow and tree planting alongside access routes and measures to combat anti-social behaviour at: a. George Rose Park b. Kings Hill Park c. Victoria Park	Clean & Green	£192,738.98	£28,910.85 (15%) top-sliced from contribution towards on-going maintenance of the scheme. £100K is being allocated to fund the ERDF Blue Network II Project (Proposed Wildflower meadow/ bio-diversity development, access and site habitat interpretation as part of BC Blue Green project match funded through ERDF). Improvements to George Rose Park now completed.	£118,496.17		£74,242.81
Q2 (Jul-Sep) 2022	Fee Received	18/1267	Beacon Dairy Farm, Doe Bank Lane.	£42,548.00	Improvement of the play area and playing fields at Doe Bank Park. Doe Bank Lane	Clean & Green	£41,909.78		£0.00	£0.00	£41,909.78
Q2 (Jul-Sep) 2022	Fee Received	18/1561	1-17, HEATH VIEW, WILKES AVENUE, BENTLEY, WALSALL, WS2 0JF	£10,395.00	To use the Urban Open Space Contribution for the maintenance and improvement of Wilkes Avenue urban open space, and not to use the Urban Open Space Contribution otherwise than for the maintenance and improvement of Wilkes Avenue urban open space.	Clean & Green	£10,239.00		£0.00	£0.00	£10,239.00
Q1 (Apr-Jun) 2022	New Agreement	19/0245	FORMER METAFIN SITE, GREEN LANE, WALSALL	£2,454.15	For improvements to and maintenance of the access to Reedswood Park	Clean & Green					

Appendix 2
Section 106 Updates between 01/04/2022 and 21/11/2022

Infrastructure Funding Reporting Period	Update	Application Number	Site Address	Contribution Amount Due	Obligations (Conditions / Clauses)	Service Lead	Service Area Contribution Received (£)	Service Area Update	Status of Project	Service Area Spend to Date (£)	Service Area Committed (allocated) (£)	Service Area Balance Remaining (£)
Q1 (Apr-Jun) 2022	New Agreement	19/0245	FORMER METAFIN SITE, GREEN LANE, WALSALL	Clawback Open Space Contribution	Means the sum to be calculated in accordance with the formula specified in Schedule 2 to be paid towards the provision of open space in the location specified in Schedule 3	Clean & Green						
Q1 (Apr-Jun) 2022	New Agreement	19/0245	FORMER METAFIN SITE, GREEN LANE, WALSALL	£14,412.85	For the provision of Affordable Housing in the Walsall area.	Housing						
Q1 (Apr-Jun) 2022	New Agreement	19/0245	FORMER METAFIN SITE, GREEN LANE, WALSALL	Clawback Affordable Housing Contribution	Means the sum to be calculated in accordance with the formula specified in Schedule 2 Part 3 to be paid towards the provision of Affordable Housing within Walsall in the Wards specified in Schedule 3	Housing						
Q2 (Jul-Sep) 2022	New Agreement	19/0622	JOHAL SUPERMARKET, 19, WEST BROMWICH ROAD, WALSALL, WS1 3HS	N/A	To complete the Window Relocation Works prior to Implementation of the Development and notify the same to the Council for confirmation that the Window Relocation Works have been completed. Not to Implement the Development until the Window Relocation Works have been completed and the same confirmed by the Council. From Implementation of the Development thereafter to maintain and keep the Window Relocation Works in the same state as at completion of the same as certified by the Council for the lifetime of the Development.	Non-monetary contributions	N/A	N/A		N/A	N/A	N/A
Q2 (Jul-Sep) 2022	Fee Received	19/0768	The Armstrong Building, C/o The Green and Booth Street, DARLASTON, WS10 8JP	£31,185.00	To utilise the Open Space Contribution for improvements to and maintenance of Owen Park	Clean & Green	£30,717.22	ON EEC LIST		£0.00	£0.00	£30,717.22
Q2 (Jul-Sep) 2022	Update	19/1514	LAND BETWEEN VICTORIA ROAD, SLATER STREET, DARLASTON. WS10 8EE	£51,282.00	To utilise the Urban Open Space contribution for the provision of maintenance or enhancement of Urban Open Space at: - Arthur Webb Allotments, Victoria Road, Darlaston, WS10 8AP - Victoria Park, Victoria Road, Darlaston, WS10 8AA	Clean & Green	£0.00	Company under administration so contribution unlikely to be received.		£0.00	£0.00	£0.00
Q2 (Jul-Sep) 2022	Fee Received	20/0490	348, WOLVERHAMPTON ROAD WEST, WILLENHALL, WV13 2RN	£22,869.00	To utilise the initial Open Space Contribution and the Open Space Contribution for Improvements to and maintenance of Open Space located at the Bentley Greenway and/or the Open Space located at Bentley Road West	Clean & Green		ON EEC LIST				£0.00
Q2 (Jul-Sep) 2022	New Agreement	20/0746	FORMER A B WASTE MANAGEMENT LTD, CEMETERY ROAD, DARLASTON, WEDNESBURY, WS10 8NA	£10,000.00	To spend to Canal Improvement Works Contribution for the provision of a new stepped towpath to Forsters Bridge and the installation of a wheelie cycling ramp in accordance with Schedule 2.	Canal and River Trust						

Appendix 2
Section 106 Updates between 01/04/2022 and 21/11/2022

Infrastructure Funding Reporting Period	Update	Application Number	Site Address	Contribution Amount Due	Obligations (Conditions / Clauses)	Service Lead	Service Area Contribution Received (£)	Service Area Update	Status of Project	Service Area Spend to Date (£)	Service Area Committed (allocated) (£)	Service Area Balance Remaining (£)
Q1 (Apr-Jun) 2022	New Agreement	21/0236	LAND ADJACENT 346 SOUTH OF, HARDEN ROAD, BLOXWICH, WALSALL	N/A	Affordable housing obligations as set out in the deed.	Non-monetary contributions	N/A	N/A		N/A	N/A	N/A
Q1 (Apr-Jun) 2022	New Agreement	21/0236	LAND ADJACENT 346 SOUTH OF, HARDEN ROAD, BLOXWICH, WALSALL	N/A	Social Rented Units as set out in the deed	Non-monetary contributions	N/A	N/A		N/A	N/A	N/A
Q1 (Apr-Jun) 2022	New Agreement	21/0236	LAND ADJACENT 346 SOUTH OF, HARDEN ROAD, BLOXWICH, WALSALL	N/A	Social Ownership Units as set out in the deed	Non-monetary contributions	N/A	N/A		N/A	N/A	N/A
Q1 (Apr-Jun) 2022	New Agreement	21/0236	LAND ADJACENT 346 SOUTH OF, HARDEN ROAD, BLOXWICH, WALSALL	N/A	Highways Obligation as set out in the deed	Non-monetary contributions	N/A	N/A		N/A	N/A	N/A
Q1 (Apr-Jun) 2022	New Agreement	21/0236	LAND ADJACENT 346 SOUTH OF, HARDEN ROAD, BLOXWICH, WALSALL	Means the sum to be determined in accordance with the calculation set out in Annex C to the Council's Urban Open Space Supplementary Planning Document (dated April 2006) and to be used by the Council towards parks, amenities and green space.	Open Space Contribution	Clean & Green						
Q2 (Jul-Sep) 2022	New Agreement	21/0564	THREE CROWNS INN, SUTTON ROAD, WALSALL, WS5 3AX	N/A	The definition of "Development" at Clause 1.1 of the Original Deed shall be deleted and replaced. The definition of "Planning Applications" at Clause 1.1 of the Original Deed shall be deleted and replaced. The definition of "Planning Permissions" at Clause 1.1 of the Original Deed shall be deleted and replaced. Paragraph 3 of Schedule 3, Part 2 shall be deleted and replaced Paragraph 4 of Schedule 3, Part 2 shall be deleted and replaced The form of draft Third Planning Permission attached to this Deed at Schedule 1 shall be inserted into Schedule 1 of the Original Deed.	Non-monetary contributions	N/A	N/A		N/A	N/A	N/A
Q3 (Oct-Dec) 2022	New Agreement	21/1781	LAND BETWEEN CANALSIDE CLOSE AND CANAL, CANALSIDE CLOSE, WALSALL	£9,589.14	To utilise the Cannock Chase SAC Contribution for the purpose of mitigating the adverse impact of recreational activities on the integrity of the Cannock Chase SAC and/or interpretation and way marking to the Cannock Chase SAC	Cannock Chase SAC Partnership						
Q3 (Oct-Dec) 2022	New Agreement	21/1781	LAND BETWEEN CANALSIDE CLOSE AND CANAL, CANALSIDE CLOSE, WALSALL	£2,500.00	To utilise the Affordable Housing Contribution for the provision of Affordable Housing in Walsall	Housing						
Q3 (Oct-Dec) 2022	New Agreement	21/1781	LAND BETWEEN CANALSIDE CLOSE AND CANAL, CANALSIDE CLOSE, WALSALL	£47,265.00	To utilise the Open Space Contribution for the provision, upgrading or maintenance of Open Space within the locality	Clean & Green						
Q3 (Oct-Dec) 2022	New Agreement	21/1781	LAND BETWEEN CANALSIDE CLOSE AND CANAL, CANALSIDE CLOSE, WALSALL	£2,500.00	To utilise the Tow Path Contribution for the access improvements and wayfinding to the Wyrley & Essington Canal townpath	Canal and River Trust						

Appendix 2
Section 106 Updates between 01/04/2022 and 21/11/2022

Infrastructure Funding Reporting Period	Update	Application Number	Site Address	Contribution Amount Due	Obligations (Conditions / Clauses)	Service Lead	Service Area Contribution Received (£)	Service Area Update Status of Project	Service Area Spend to Date (£)	Service Area Committed (allocated) (£)	Service Area Balance Remaining (£)
Q2 (Jul-Sep) 2022	Update	BC64477P	Land Adj, Brewers Drive, Walsall	£60,000.00	Maintenance costs for open space transferred to the Council. Boundary of open space detailed on plan 1025/111 Rev C in relation to supplemental agreement dated 21/12/06.	Clean & Green	£60,000.00	Contribution towards mainteance	£26,000.00	£0.00	£34,000.00



PLANNING COMMITTEE

1st December 2022

REPORT OF HEAD OF PLANNING & BUILDING CONTROL

Responses to Birmingham City Council, Stafford Borough Council and South Staffordshire District Council Local Plan Consultations

1. PURPOSE OF REPORT

To consider draft local plans from neighbouring authorities that the council is being consulted about, and to make appropriate recommendations to Cabinet:

- Birmingham City Council – Birmingham Local Plan – Issues and Options Consultation;
- Stafford Borough Council – Stafford Borough Local Plan – Preferred Options Consultation; and
- South Staffordshire District Council – Local Plan Review Publication Plan.

2. RECOMMENDATION

a) Agree the responses to the following consultations as set out in the appendices, and refer them to Cabinet for endorsement:

- Birmingham Local Plan – Issues and Options Consultation (**Appendix A**). Note the significant emerging unmet housing and employment land need identified within the plan. Given Walsall's own shortfall in land supply, confirm that Walsall is unable to contribute to meeting these needs. We will expect Birmingham to explore all options to meet their housing and employment needs and maximise opportunities to deliver housing within their administrative boundary;
- Stafford Borough Local Plan – Preferred Options Consultation (**Appendix B**). Support the offer to provide 2,000 homes and significant employment land to meet unmet need from other authorities. However, it is not clear within the plan as drafted how these offers will be apportioned between neighbouring authorities. Agreement on apportionment will assist the preparation of those authorities' local plans. It is noted that the identified housing land supply exceeds the amount of development proposed during the plan period by approximately 17%, so we would suggest that some of this buffer could be added to the offer to other authorities.
- South Staffordshire District Council – Local Plan Review Publication Consultation (**Appendix C**). Support the Local Plan's provision of 4,000 homes to meet the needs of GBBCHMA which is considered to be an appropriate contribution. In addition the provision of employment land to meet unmet needs is also supported. The apportionment of 103ha of

employment land to serve the needs of the Black Country is welcome. However, it is not clear within the plan as drafted how the housing offer will be apportioned between neighbouring authorities. Agreement on apportionment will assist the preparation of those authorities' local plans.

b) Authorise the Head of Planning and Building Control to add additional comments to the responses as necessary, and to submit an initial officer response to the authorities in advance of endorsement by Cabinet.

3. FINANCIAL IMPLICATIONS

None arising directly from this report.

4. POLICY IMPLICATIONS

Cabinet on 2nd November 2022 agreed to cease work on the Black Country Plan (BCP) and begin preparation of a Walsall Local Plan (WLP). The WLP will aim to meet the needs of the borough for land for housing, employment and other uses. However, it is unlikely that there will be sufficient supply within our area, even with the use of land that is currently Green Belt. Engagement with neighbouring authorities will help to determine how much of Walsall's need can be met by them (exported), how much will still need to be addressed by our own emerging local plan, and what implications if any there might be for services in Walsall from development in neighbouring areas.

5. LEGAL IMPLICATIONS

Walsall Council is under a legal Duty to Cooperate with neighbouring planning authorities with regards to strategic cross boundary planning matters. The briefing of members in respect of neighbouring authorities' local plans will ensure members are aware of the ongoing dialogue and engagement between authorities on their respective local plans.

6. EQUAL OPPORTUNITY IMPLICATIONS

None arising from the report.

7. ENVIRONMENTAL IMPACT

Proposals within a Council's local plan are required to consider environmental issues and provide for mitigation where appropriate. Local plans are supported by sustainability appraisal and Habitat Regulations assessment which assess a local plan's environmental impacts.

8. WARD(S) AFFECTED

None.

9. CONSULTEES

Officers in Planning and Building Control have been consulted in the preparation of this report.

10. CONTACT OFFICER

Patrick Jervis – Principal Planning Policy Officer

Patrick.Jervis@walsall.gov.uk

11. BACKGROUND PAPERS

All published.

Patrick Jervis

Principal Planning Policy Officer

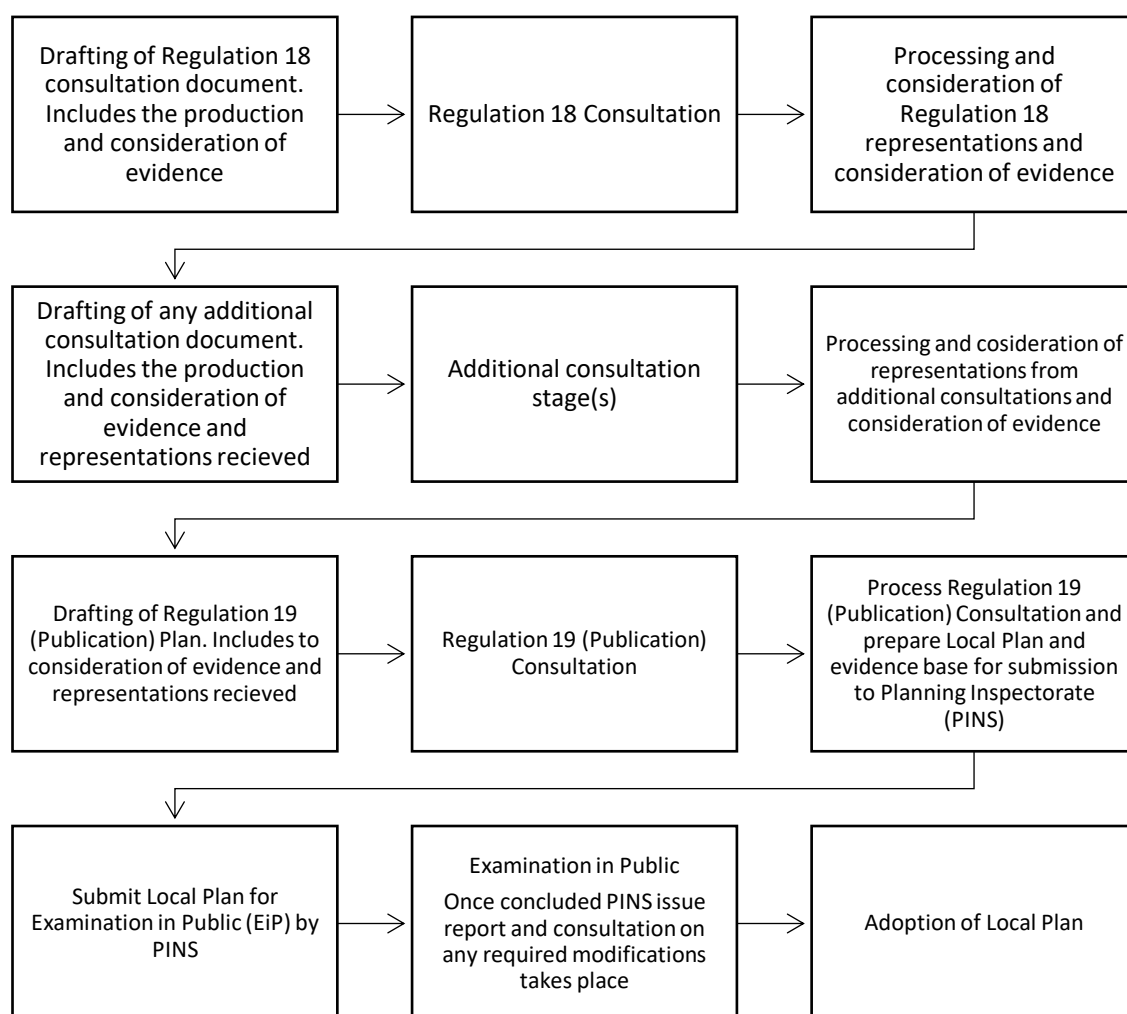
Local Plan Consultation Responses Report

Responses to Birmingham City Council, Stafford Borough Council and South Staffordshire District Council Local Plan Consultations

1 Background

- 1.1 The council is frequently consulted about local plans that are being prepared by neighbouring authorities. In recent years, formal responses have been agreed jointly by the leaders of the four Black Country authorities meeting as the Association of Black Country Authorities (ABCA). The decision to end work on the Black Country Plan however means that there is no longer a joint planning framework in which to consider responses to such plans. It is therefore now necessary for each authority to provide its own response. Under the Council's scheme of delegations, Planning Committee is authorised to consider development plans prepared by neighbouring authorities, and other consultations on planning policies and proposals by outside bodies and persons to make appropriate recommendations thereon to the Executive (i.e. Cabinet).
- 1.2 Responses to consultations on development plans have to meet strict deadlines. It is therefore sometimes necessary for officers to submit draft responses prior to authorisation by Planning Committee and/or Cabinet, but these are subject to agreement by the two bodies.
- 1.3 It is becoming increasingly important that Walsall plays an active role in the production of plans by neighbouring authorities. Both Walsall and the other Black Country authorities, as well as Birmingham City Council, have large needs for homes and employment land. However, much of our area is already developed and we are heavily constrained by Green Belt. We are therefore reliant on neighbouring authorities in Staffordshire and Shropshire to help meet some of these needs.
- 1.4 Currently the legal mechanism for discussing local plans with neighbouring authorities is the Duty to Cooperate (DtC). Regular discussions take place at officer level between the authorities in the Greater Birmingham and Black Country Housing Market Area (GBBCHMA) as well as those further afield such as Shropshire. Authorities are expected to agree and sign Statements of Common Ground with their neighbours when plans are submitted for examination. The Levelling-up and Regeneration Bill that is currently being considered by Parliament proposes to abolish the DtC and replace it with a more flexible alignment test that is yet to be defined.
- 1.5 Walsall has been consulted by three neighbouring local authorities about their plans. These plans are each at different stages. For information, details of the local plan preparation process is illustrated in figure 1 (below) and details of the key consultation stages are set out below. The appendices below provide a summary of key issues in each plan that are of relevance to Walsall, and an outline of the response that should be made to each.

Figure 1: Local Plan Process



1.7 The statutory process for preparing a Local Plan is set out in [the Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#). The process of preparing a local plan is ongoing (as illustrated above), however, legislation requires a local plan to be subject to two formal consultation stages, these are;

- Regulation 18 Consultation; and
- Regulation 19 Consultation (also known as the Publication Consultation).

1.8 **Regulation 18 Consultation:** This is the first stage of consultation on a local plan and will take place for a period of at least six weeks. At this stage the council are required to set out the scope of the proposed local plan and seek comments from residents, stakeholders, and organisations upon this. At this stage the Local Plan will usually identify the key issues which the plan will look to address and a range of options which could be used to achieve this. This stage is often called the 'Issues & Options' stage.

1.9 Once completed a council will consider all comments received during the consultation and, alongside evidence which it collects, this will inform the following the formulation of proposals and policies within the draft plan.

- 1.10 Following the initial Regulation 18 Consultation council's will often undertake additional rounds of consultation during the preparation of their local plans. Such consultations enable a greater level of engagement with stakeholders to further inform the local plan. Such consultations are in essence additional Regulation 18 consultations which assist in further refining the plan prior to its Publication (see below). For example, the current Stafford Borough Preferred Options consultation is an additional consultation being undertaken by the Council in order to provide a further opportunity for stakeholders to provide comment on the plan before its final stage.
- 1.11 Following the conclusion of any additional consultation stages the Council will begin preparing the draft Local Plan for the Regulation 19 Consultation.
- 1.12 Regulation 19 Consultation: The Regulation 19 consultation (also known as Publication Consultation) takes place on the final draft version of the plan which a Council intends to submit to the Planning Inspectorate for independent examination. Once a plan reaches this stage there is limited opportunity to make changes to the plan before it is submitted for examination. If the Council does seek to make changes it would be required to undertake a further Regulation 19 Consultation.
- 1.13 The Regulation 19 Consultation is a formal consultation where the Council are required to specifically invite comments on whether the draft plan meets the 'tests of soundness' which a Local Plan is examined against as set out within the NPPF¹ and whether the plan meets legal and procedural requirements.
- 1.14 The National Planning Policy Framework (NPPF) and the Localism Act 2011 place a legal Duty to Cooperate (DtC) on all local planning authorities to engage "constructively, actively and on an ongoing basis" with one another in relation to strategic cross boundary matters.
- 1.15 Whilst the DtC is an ongoing process, a key part of this is for authorities to consult and be consulted on each other's local plans as they emerge. This provides a formal opportunity for a Council to provide comments on a Local Plan which can then be considered by the authority progressing the plan. This provides a key opportunity for Walsall Council to identify areas of support and concern with another authorities emerging plan.

¹ The tests of soundness are whether a local plan is; **Positively prepared** - providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs²¹; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development; **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence; **Effective** - deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and **Consistent with national policy** - enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

Appendix 1

Birmingham Local Plan – Issues and Options Consultation

1. Birmingham City Council have begun the process of reviewing their existing Local Plan (The Birmingham Development Plan) which was adopted in 2017. The document currently being consulted on is the Birmingham Local Plan (BLP) Issues & Options document. This represents the first stage of consultation of being undertaken under regulation 18 (as described at paragraphs 1.8 and Table 1 above).
2. The consultation document summarises the key planning challenges and opportunities for the Local Plan to address and sets out a draft vision and series of objectives for the Local Plan to achieve. The document proposes policy options and approaches to meet these objectives and for the future development of Birmingham. The consultation invites views and comments from stakeholders to a series of 54 questions.
3. The proposed response to the consultation is set out below. Responses are provided to those consultation questions where it is considered appropriate for Walsall Council to make comment at this stage. It should be noted that not responding to a specific question in the consultation document does not preclude Walsall Council from making further comments in relation to such matters in the future.
4. The key issues to which the representations relate and outline of the proposed response are summarised as follows:

Housing Requirement and Supply

5. The Birmingham Issues and Options document identifies a housing need for the city of 149,286 dwelling between 2020 and 2042. Based upon a current assessment of available land within Birmingham a potential shortfall in housing supply of 78,415 dwellings for the city by 2042 is identified. This is clearly a significant shortfall and would be in addition to the shortfall identified previously in the BCP.
6. The BLP identifies a range of six options to be explored in order to deliver housing within the city, these are; increasing housing densities; active public sector land assembly; housing regeneration; utilisation of poor quality under-used open space; use of some employment land; release of Green Belt. The issues and options document makes clear that it is unlikely any single or combination of these options will be sufficient to deliver all of Birmingham's housing requirement.
7. The Issues and Options document does recognise that the ability of neighbouring authorities to assist in meeting the unmet need will be challenged by the need to deal with their own housing requirements. However, it is anticipated that given the significant extent of the unmet need identified that Birmingham City Council will seek assistance from neighbouring authorities. Members will be aware the evidence prepared as part of the BCP had demonstrated that Walsall Council would need to release land from the Green Belt to meet its own housing needs.
8. It is proposed that representations on this matter will make clear that Walsall Council will continue to engage with Birmingham City Council on the strategic matter of unmet housing need through the Duty to Cooperate. It will be expected that Birmingham City

Council explore all options to deliver housing within the city to ensure that all opportunities to maximise the level of growth Birmingham can accommodate are maximised.

9. Given the extent of unmet need with the GBBCHMA, many authorities across the HMA, including Walsall, have already exhausted potential options to meet their own needs along with the needs of neighbours. As such it is considered highly likely that Birmingham City Council will need to consider further opportunities within the Green Belt to deliver its housing need. The City Council should be proactive over this and make clear from this early stage of plan-making that it will likely require changes to the Green Belt within Birmingham to deliver development needs.

Climate Change

10. The Issues and Options document identifies the climate emergency as a key issue which the BLP will seek to address. The City Council declared a climate emergency in June 2019 and is seeking to be net zero carbon by 2030. A range of potential options to help development achieve this target are provided within the document. Whilst it is considered a challenge to meet the target it is pleasing to see the City Council seeking to be proactive in this regard.
11. It is suggested that Walsall's response to the consultation is supportive of Birmingham's approaches to meeting the climate challenge.

Economy and Centres

12. The Issues and Options document identifies an employment land requirement of 295.6 hectares for the city between 2020 and 2042 against a supply of 221.98 hectares. As with housing land this means there is potentially a shortfall of 73.64 hectares of employment land to meet the city's needs.
13. As with housing growth it is suggested that representations make clear that the City Council will be expected to rigorously explore all options to meet need within their administrative boundaries before seeking assistance from neighbouring authorities. As members will be aware there are limited further options beyond those already identified to serve Walsall's own employment needs and as such there is limited scope to help in meeting unmet need.
14. It should be noted that the Issues & Options stage is the first in the review of the Birmingham Plan. As such issues including, but not limited to, those described above will continue to develop as the BLP progresses and officers will continue to engage on such matters in order to ensure that Walsall Council's views are considered.

Appendix 2

Stafford Borough Local Plan – Preferred Options Consultation

1. Stafford Borough Council have been reviewing their local plan for a number of years and have now published a Preferred Options document for consultation. This is an additional stage of consultation as described at paragraph 1.10 (and illustrated in Figure 1) of this report.
2. The Preferred Options document provides an additional opportunity to provide comment upon Stafford's draft policies and proposed site allocations.
3. The proposed response to the Stafford Preferred Options consultation is set out below.
4. The key issues to which the representations relate are summarised as follows:

Housing

5. The Stafford Borough Preferred Options document sets out to deliver 10,700 (535 per year) new homes between 2020 and 2040. This consists of 435 dwellings each year to meet Stafford's housing need with 100 homes per year (2000 between 2020 and 2040) to meet unmet housing needs from other authorities.
6. Given the significant unmet need established through the BCP and the emerging Birmingham Local Plan (see above) the proposal to provide 2000 dwellings is supported. However, the Preferred Options document does not set out whose unmet housing need the contribution will provide for. Given the likely extent of unmet need arising from authorities within the GBBCHMA, it is suggested that it be made clear how the contribution is to be apportioned between authorities demonstrating unmet need. This is required to give clarity and certainty as to how unmet needs are being addressed.
7. A housing market area (HMA) comprises the area within which the majority of household moves take place. Stafford lies between the GBBCHMA and North Staffordshire, so potentially some of its housing supply would meet the needs of Stoke-on-Trent.
8. The document suggests that the actual supply is in fact 12,580 homes. This surplus is intended to provide a 'buffer' against the potential non-delivery of some of the sites identified in the plan. However, some of this surplus could be potentially be added to the offer made to other authorities.

Cannock Chase Special Area of Conservation (SAC)

9. The Preferred Options document includes policy in relation to strategic mitigation approaches for the Cannock Chase SAC. As members will be aware Walsall Council became a member of the Cannock Chase SAC Partnership following the decision of its Cabinet on 7th September 2022. The Council is supportive of proposed Policy 48: Cannock Chase Special Area of Conservation (SAC) which provides protection to the SAC through the requirements of any development within a 15km radius of the SAC

providing appropriate avoidance and/or mitigation of any adverse effects.

10. This approach is consistent with other authorities within the SAC Partnership and with the latest technical evidence which has been prepared and published by the Partnership. Walsall Council is supportive of the policy approach proposed and will continue to work with Stafford Borough Council through the Cannock Chase SAC Partnership.

Appendix 3

South Staffordshire District Local Plan – Publication Consultation

1. South Staffordshire District Council have now reached the Regulation 19 (Publication) stage of their Local Plan Review. As described at paragraphs 1.12 and 1.13 this is the final formal stage of consultation on the draft Local Plan ahead of its submission to PINS for examination.
2. The proposed response to the South Staffordshire Regulation 19 consultation is set out below. As noted at paragraph 1.13 the Regulation 19 consultation specifically relates to the tests of soundness, as such the consultation response (and form) are designed to address these matters.
3. The key issues to which the representations relate are summarised as follows:

Duty to Cooperate

4. It is considered that through ongoing cooperation South Staffordshire District Council and Walsall Council have engaged effective, cooperatively and on an ongoing basis. As such there are no concerns that South Staffordshire District Council have satisfied the legal Duty to Cooperate.

Housing

5. The South Staffordshire Local Plan (SSLP) proposes a housing requirement of 9,089 dwellings between 2018 and 2039 which includes 4,000 dwellings to meet unmet needs from the GBBCHMA. This contribution is consistent with that previously proposed in the South Staffordshire Preferred Options document, which was published in 2021 and to which Walsall, through a joint response from the Black Country authorities responded.
6. It is welcomed that the South Staffordshire Local Plan maintains the proposed contribution of 4,000 dwellings to meet unmet needs from the GBBCHMA. The Black Country authorities have previously made representations that given the close geographical, migration and commuting links between the Black Country authorities and South Staffordshire it should be made clear that the whole of the 4,000 contribution is specifically allocated to meet needs from within the Black Country. It is recommended that this need is apportioned between the four Black Country authorities and the Councils work together to agree that apportionment.

Employment

7. The SSLP notes that there is 103.6 hectares of employment land, including 67 hectares of the West Midlands Interchange, within South Staffordshire available for strategic cross boundary unmet need from the Black Country. The plan then notes that this will be subject to agreement through a Statement of Common Ground.
8. As members will be aware the BCP had previously identified significant unmet employment need within the Black Country Authorities and this issue had been raised

in previous representations to the South Staffordshire Local Plan. As such it is pleasing to see that further evidence base work has indicated there is sufficient land to make a significant contribution to unmet employment needs from the Black Country. However, it is recommended that through the Duty to Cooperate the authorities seek to agree the apportionment of the additional employment land so that this can be clearly set out within the SSLP.

Cannock Chase SAC

9. The SSLP includes proposed Policy NR3: Cannock Chase SAC which provides protection to the SAC through the requirements of any development within a 15km radius of the SAC providing appropriate avoidance and/or mitigation of any adverse effects.
10. This approach is consistent with other authorities within the SAC Partnership and with the latest technical evidence which has been prepared and published by the Partnership. Walsall Council is supportive of the policy approach proposed and will continue to work with South Staffordshire District Council through the Cannock Chase SAC Partnership

Development Management Planning Committee

Report of Head of Planning and Building Control on 1st December 2022

CONTENTS

Item	Page	Planning Application Number	Planning Application Site Address	Planning Application Proposal	Officer Recommendation
1	65-90	22/0171	SITE AT, RAVENS COURT, BROWNHILLS Ward: Brownhills	DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF A FOOD RETAIL STORE (CLASS E(A)) WITH ASSOCIATED ACCESS, CAR PARKING, SERVICING AND LANDSCAPING	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND A SECTION 106 AGREEMENT TO SECURE A TRAVEL PLAN AND SUBJECT TO: <ul style="list-style-type: none"> • NO NEW MATERIAL CONSIDERATIONS BEING RECEIVED WITHIN THE CONSULTATION PERIOD; • THE AMENDMENT AND FINALISING OF CONDITIONS; • OVERCOMING THE OUTSTANDING CONCERNS RAISED BY LOCAL HIGHWAY AUTHORITY BY REMOVING THE ACCESS FROM

					HIGH STREET AND UTILISING ACCESS OFF FERRIE GROVE VIA SILVER STREET AND SUBMISSION OF A COMPREHENSIVE CAR PARK MANAGEMENT SCHEME TO INCLUDE ALDI RELATED VEHICLES AND NON- ALDI RELATED VEHICLES WHICH SERVICE THE EXISTING UNITS ON HIGH STREET.
2	91-107	20/0830	PELSALL VILLA FOOTBALL CLUB, WALSALL ROAD, PELSALL, WALSALL, WS3 4BP Ward: Pelsall	OUTLINE PLANNING PERMISSION FOR A CARE HOME DEVELOPMENT WITH ACCESS ONLY TO BE CONSIDERED (ALL OTHER MATTERS RESERVED).	REFUSE
3	108-132	20/0832	FORMER OLD BUSH INN, WALSALL ROAD, PELSALL, WALSALL, WS3 4BP Ward: Pelsall	DEMOLITION OF EXISTING BUILDINGS, THE ERECTION OF A RETAIL FOOD STORE (CLASS A1), WITH ASSOCIATED CAR PARKING AND LANDSCAPING	REFUSE
4	133-153	21/1720	FIELD ADJACENT THE DUCKERY, CHAPEL LANE, GREAT BARR Ward: Pheasey Park Farm	CONSTRUCTION OF A TEMPORARY 49.35MW BATTERY STORAGE FACILITY TO INCLUDE 28 ENERGY STORAGE CONTAINER UNITS, ASSOCIATED CONTROLS, PCS INVERTERS, COOLING AND FIRE	REFUSE

				SAFETY SYSTEM, 14 TRANSFORMER FEEDER PILLARS, TWO SUBSTATIONS AND COMPOUND, EACH WITH AN OPEN AIR TRANSFORMER, DEDICATED ACCESS TRACK, SECURITY FENCING ENCLOSING THE SITE, 14 LOW VOLTAGE CABINS EACH WITH AN OPEN AIR TRANSFORMER AND HIGH VOLTAGE SWITCHGEAR. INTENDED LIFESPAN OF 40 YEARS.	
5	154-173	22/0925	MALI JENKINS HOUSE, THE CRESCENT, WALSALL, WS1 2DE Ward: Paddock	ERECTION OF 18 NO. AFFORDABLE ONE AND TWO BEDROOM APARTMENTS OVER THREE FLOORS WITH ASSOCIATED PARKING AND LANDSCAPING.	REFUSE
6	174-185	22/0769	1, BARR COMMON ROAD, ALDRIDGE, WALSALL, WS9 0SY Ward: Aldridge Central And South	ERECTION OF 4 BEDROOM REPLACEMENT DWELLING WITH GARAGE	REFUSE



Planning Committee

Report of Head of Planning and Building Control on 01 December 2022

Plans List Item Number: 1

Reason for bringing to committee

Major Application

Application Details

Location: SITE AT, RAVENS COURT, BROWNHILLS

Proposal: DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF A FOOD RETAIL STORE (CLASS E(A)) WITH ASSOCIATED ACCESS, CAR PARKING, SERVICING AND LANDSCAPING

Application Number: 22/0171

Case Officer: Sally Wagstaff

Applicant: ALDI Stores Limited

Ward: Brownhills

Agent: Neil Denison

Expired Date: 15-May-2022

Application Type: Full Application: Major Use Class E(a) (Display or Retail Sale of Goods)

Time Extension Expiry:



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Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and a Section 106 Agreement to secure a Travel Plan and subject to:

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- Overcoming the outstanding concerns raised by Local Highway Authority by removing the access from High Street and utilising access off Ferrie Grove via Silver Street and submission of a comprehensive car park management scheme to include Aldi related vehicles and non- Aldi related vehicles which service the existing units on High Street.

Proposal

This application proposes to replace the existing mix of small retail units set in the Ravenscourt Precinct in Brownhills with a large retail store.

The proposal includes vehicular access from Ferrie Grove, also a new access from High Street. Exit from the site is from Ferrie Grove only an associated 98 car parking spaces.

Pedestrian access would be provided from the High Street and off Ferrie Grove to the rear. The proposal also includes areas of servicing and landscaping.

The proposed development includes the demolition of the existing shopping centre precinct which is primarily two storeys laid out as a 'U shape' and replacement with a single storey building with the principal elevation fronting High Street.

The existing Aldi retail store which is also located on the High Street will close to allow for a new modern store to open. The submitted Retail and Planning Statement explains that the existing store is an older layout with compromised parking and access arrangements.

The proposed site area is 6755 sqm with the total store being 1880 sqm gross external floor space

The site includes 4 vehicle charging spaces and 6 disabled spaces to be located on the eastern elevation in close proximity to the store entrance.

The proposed building includes a sloping flat roof with the height being 8.3 metres at the highest point and 5 metres at the lowest. The building is approx. 37.5 metres in width and approx. 62 metres in depth. The proposed design is modern with cladding and glazing as primary materials.

The proposed store opening times are 07:00-23:00 Monday to Saturday and 09:00-17:00 Sundays and bank holidays.

This application is supported by a number of documents which has informed the LPAs assessment of this application and forms the basis of this report content.

Site and Surroundings

Ravenscourt is a two storey flat-roof shopping precinct of 28 retail units located on the southern side of High Street in Brownhills. The units are positioned in a 'U' shape facing each other and facing the High Street with a central pedestrian section with landscaped features and trees. The retail units have a continuous flat roof canopy. The premises have been vacant for a number of years and subject to anti-social behaviour.

There are gates to the precinct set back into the site from the High Street entrance. In front of the gates is a landscaped circle feature with cobbled stones and seating. In front of this landscaped area towards the High Street there are two trees and lighting columns in the central pedestrianised area of the precinct. The site from the High Street is all level.

There are bollards on the public footpath along this part of the High Street and there is a signalised pedestrian crossing 15m away from the precinct entrance in a westerly direction. There are double yellow lines along this part of the High Street.

Towards the rear of the site is a vehicular access off Ferrie Grove via Silver Street to provide a service road access for the existing retail units. The service road extends around the rear of the building servicing the precinct and numbers 34 to 60 High Street. Ferrie Grove also provides vehicular access to the Tesco filling station, existing Aldi store and Wilkinson's.

The rear of the site is set at a lower level than the front of the site. Numbers 11 to 18 extend out at the rear and above the service road providing an undercroft. The height of the existing shopping precinct at the rear varies from two to three storeys due to the ground level differences.

To the east and south of the precinct at the rear is Tesco car park, due to the height difference, there are stairs from Ferrie Grove and the service road to provide pedestrian access to the precinct from the rear of the site. Tesco superstore is located beyond the car park.

The nearest residential properties are located on Watermead Grange and Cygnet Drive, at a distance of 62m to the nearest property, 6 Watermead Grange beyond the canal basin. Number 6 Watermead Grange faces towards the canal basin and numbers 25 to 27 Cygnet Drive face towards the canal basin. Silver Street and the canal basin forms the boundary between the proposed site and these neighbouring houses.

The area is mixed in nature with a retail and other town centre uses along the High Street and within the District centre. To the south of the site beyond Silver Street highway is the Wryley and Essington Canal and canal basin. The site is within Brownhills District Centre.

Relevant Planning History

17/1131 - Part demolition of existing retail units and erection of 2 x A1 retail units with storage and gym at first floor and car parking and service area to the rear. Granted permission subject to conditions 29/07/2019.

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10/0300/ND - Screening opinion to ascertain whether an Environmental Impact Assessment is required- Proposed replacement retail store, shop units, access improvements and car parking. Environmental Statement not required 2010.

This proposal was previously screened under the Environmental Impact Assessment Regulations (2010). The 2017 EIA regulations have now changed and the threshold for undertaking an EIA screening have been raised from 0.5hectares to 1 hectare. As the site is below this threshold, an EIA screening is not required.

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 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **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 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural 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. 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
- GP3: Planning Obligations
- ENV10: Pollution
- ENV11: Light Pollution

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- ENV12: Hazardous Installations
- 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
- ENV35: Appearance of Commercial Buildings
- 5.3 to 5.11 Strategic Policy Statement
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- S6: Meeting Local Needs
- S7: Out-of-Centre and Edge-of-Centre Developments
- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards
- 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
- BR1: Primary Shopping Area
- BR4: Redevelopment / Refurbishment Schemes
- BR7: Environmental Enhancement
- BR8: Retail Development Opportunities
- BR13: Pedestrian Routes
- BR14: Cycle Access and Parking
- BR15: Car Parking Provision

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP4: Place Making
- DEL1: Infrastructure Provision
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres
- CEN3: Growth in the Strategic Centres
- CEN4: Regeneration of Town Centres
- CEN8: Car Parking in Centres
- 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
- ENV4: Canals

- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island

Walsall Site Allocation Document 2019

SLC1: Local Centres

SLC2: Local Centres Development Opportunities

EN1: Natural Environment Protection, Management and Enhancement

EN3: Flood Risk

EN5: Development in Conservation Areas

T4: The Highway Network

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

Shop Front SPD

- SF2: Shop front proportions
- SF3: Materials in shop fronts
- SF4: Colour finishes
- SF5: Access to shops
- SF6: Advertisements
- SF7: Illumination
- SF8: Shop front security
- SF9: Canopies

Air Quality SPD

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

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- 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

Archaeological Officer: No archaeological implications

Canal and River Trust: No objection subject to planning conditions regarding a Phase 2 Site Investigation and construction and environmental management plan.

Ecology Officer: No objection subject to conditions regarding construction environmental management plan, recommendations to be implemented as set out in the Ecological Assessment and lighting strategy

Fire Officer: No objection water for firefighting supplies and access for fire service should be in accordance with national guidance document.

Local Highways Authority: Objection: Concerns regarding introduction of a new High Street access and shared service arrangements. Support use of the existing vehicle access off Ferrie Grove and require submission of a car parking management plan prior to determination of this application.

Local Lead Flood Authority: No objection subject to a condition for a full detailed drainage design to be submitted to ensure no increase in flood risk during the construction phase.

Environmental Protection: No objection Subject to compliance with the Air Quality SPD, submission of an Asbestos Survey, construction and demolition plan and contaminated land investigation.

Police Architectural Liaison Officer: No objection, secured by design principles recommended

Severn Trent Water: No objection subject to a condition relating to foul and surface water drainage

Strategic Planning Policy: No objection

Tree Preservation Officer: No objection subject to conditions relating to the recommendations and guidelines as detailed in the Arboricultural Impact Assessment and Landscape Strategy being implemented.

Representations

The application has gone through three rounds of consultation with local residents due to the submission of additional information throughout the duration of this application. Local residents were consulted on 15/11/22 on information relating to the servicing plan in which any comments should be made by 29/11/22. Any additional

comments received will be added to the supplementary paper which accompanies the planning committee agenda.

9 comments of support received from 5 supporters, responses of support include the following points.

- Benefit to see Ravenscourt redeveloped in terms of appearance and facilities for local people
- Proposal will create jobs within the area
- Will make shopping for food convenient for local people

Neutral comments and general queries from supporters include the following (Officer comments in italics)

- Queries as to the timescales for determination (*local residents who have submitted comments will have been notified the application is to be presented to Planning Committee*)
- Has the tenant of the unit been notified of the development? (*The LPA sent notification letters to the units on the High Street which are addressed to the owner/occupier of such units*).
- Request to be kept informed of all material relating to the planning application (*The LPA reconsulted local residents on additional information throughout the planning application*).
- Will there be any day to day impact to the adjacent units during and after construction? (*A Construction Environmental Management Plan secured by condition is required to ensure minimal impact upon adjoining occupiers and users of High Street Brownhills*)
- Party wall issue needs to be considered due to the demolition of no. 34 High Street (*This is not a material planning consideration, this is a civil matter between the relevant parties*)
- Security to be considered during construction to protect adjacent units to the proposal (*A Construction Environmental Management Plan secured by condition will detail site security*)

3 objections have been received by an owner of a unit on High Street Brownhills. Concerns raised are as follows: (*Officer Comments in italics*)

- Unit is to be demolished and included in the proposed development which would result in a substantial loss
- Content of 12th June 2022 letter from Turleys to the Council advised applicant has no obligation to mitigate losses of the tenant and therefore by implication that of the landlord.
- Advice sought on potential Compulsory Purchase Order process (*this falls outside of the planning process*);
- Loss of investment in a property (*this is not a material planning consideration*);

A comment of concern has been raised by a local resident who is a blue badge holder. They express they consider there are not enough disabled parking bays for the proposed enlarged store. (*The Local Highway Authority has not raised concerns in relation to disabled parking bay provision*).

A Letter has been received from MP Valerie Vaz on behalf of a constituent to request information on time scale for decision and if there is the potential to re-open Brownhills/Walsall line? *(A response was sent directly to MP Valerie Vaz on these points).*

Determining Issues

- Principle of Development
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Ecology
- Flood Risk / Drainage
- Trees / Protected Trees
- Ground Conditions and Environment
- Planning Obligations

Assessment of the Proposal

Principle of Development

The principle of retail use on this site within the centre and Primary Shopping Area (PSA) is supported. The retail use is a continuation of the existing units in the Ravenscourt precinct and is within an opportunity for retail development identified in local policy. The proposal complies with the sequential test.

Both the combined loss of floorspace at the existing Aldi store and the precinct and the precinct alone are above the proposed net floorspace for the proposal. This deficit means the requirement to provide a Retail Impact Assessment under BCCS Policy CEN4 is avoided, though the applicant has included this which serves as useful nonetheless to show the anticipated impact on existing retail provision in and around Brownhills. An Impact Assessment is neither required under the NPPF.

It will not be necessary to notify adjacent local authorities in the case of this proposal given the net reduction in retail floorspace in Brownhills as a result of the proposal and the limited area of retail impact as evidenced by the applicant.

Trade diversion is at least in part offset by an anticipated net gain in local jobs associated with the proposal's larger store (though an indicative number of net jobs is not given).

The proposed customer parking provision is improved via a net gain compared to the precinct and the existing store, with two proposed accesses off the High Street and Ferrie Grove. This provision would offer a greater number of spaces available to the centre as a whole and planning conditions would be included to ensure that charges, stay limits and other measures employed by the applicant do not preclude its use as centre-wide parking provision.

In design terms, the proposal represents an opening up of the pedestrian and vehicular moveability and links between High Street and Silver Street, Ferrie Grove and an improved, active frontage along High Street, replacing the long vacant frontage and courtyard within the precinct. The active frontage along High Street is an

improvement on the comparatively poorly integrated existing store, while the new proposal represents improved dual aspect pedestrian access.

The applicants submission detailing trade diversion is considered to be a fair assessment of the stores potential impact on the surrounding area. The conclusions are that the proposal will not present a significantly adverse impact on existing retail provision, with the greatest trade draw likely from the adjacent Tesco store. More generally, the presence of two large convenience retail provision operators in the centre will continue the trading context of the existing centre and maintain consumer choice, while the net gain in additional expenditure flows to the store might be expected to inject significant numbers of linked trips into Brownhills, which will impact positively on the existing stores along the High Street and in the wider centre, where a range of leisure and other centre uses offer a varied shopping offer to residents and visitors.

In addition, the energy generation retained from the refrigeration system is considered to satisfy the renewable energy requirements for larger schemes under BCCS Policy ENV7. This and the siting of this development on brownfield land also reduces environmental impacts.

In summary the principle of this development is supported.

Design, Layout and Character

The application site comprises the Aldi Store with car parking to the rear. The proposed development would be positioned in the centre of the site towards the High Street frontage, which would enable the rear car parking and deliveries to be provided and also for the proposed development to relate to the High Street, especially given the site is within the primary shopping area.

Access for vehicle and deliveries will be made via a new access off Ferrie Grove and an additional vehicular access from the High Street. Pedestrians are linked to the store from the rear car park or from the High Street. Concerns are expressed by the Local Highway Authority in relation to non Aldi HGV vehicles and refuse collectors that would utilise the car park to service existing units on eastern side of High Street as swept path analysis plans provided in support of the application indicate hatched zones for pedestrians around vehicle charging points would be impeded if such vehicles were to travelling in the car park. This is explored further in Local Highway Authority comments below.

The proposed store will sit between existing retail units. The proposed store is low level to reflect the height of surroundings units on the High Street. The palette of materials shown in elevation plans indicate a modern approach which fit with the 'Aldi' design brief. The proposed facing materials to construct the proposed development are considered acceptable, however further details regarding these materials and finishes will be sought by way of planning condition.

The glazing in the elevations provides an active frontage around the site as well as providing visual surveillance of the site and adjacent surrounding areas.

Submitted drawings include details of boundary treatments as part of the proposed development. Further details regarding the boundary treatments, heights and finishes will be sought by condition.

The landscape Strategy provided gives details of soft and hard landscaping including replacement planting proposals. The strategy is considered acceptable in relation to the design of the site however the Ecology officer requests minor amendments to include native planting within the shrub planting as recommended within the preliminary Ecological Appraisal and Bat Surveys.

It is considered that the proposed development would improve the visual amenity of the primary shopping area when compared to the existing dilapidated condition of Ravenscourt precinct. Comments from local residents have expressed their support of the redevelopment of the site considering the improvement it will have to the aesthetic of Brownhills High Street.

Amenity of Neighbours

Noise impacts are considered unlikely to be significant due to distance to nearest residential occupiers at Cygnet Drive. However, details of external plant equipment, and acoustic fencing to the equipment, will be required through condition to protect the amenity of local residents.

The proposed development would not unduly harm the amenities of the neighbouring occupiers. The development would be seen in context of the existing retail/commercial development in the area.

A number of units within on the High Street within the vicinity of the application site have requested details on how the development might affect their units through the construction phase. The LPA considers that the owners/tenants of the units contact the developer in relation to any party wall agreements or other matters which relate to the operation of units throughout construction if they have any questions. It is to note however that a condition is recommended to secure an Construction Environmental Management Plan to ensure minimised disruption to surrounding occupiers and users of the High Street.

Highways

A Transport Assessment has been submitted in support of the proposals in addition to a Travel Plan, Servicing Plan and a response to the Local Highway Authorities initial comments.

The proposal includes both vehicular access from High Street (Strategic Highway Network) and Ferrie Grove, with the exit being restricted to Ferrie Grove. Pedestrians can access the store from the rear and off the High Street.

Aldi servicing vehicles will enter the site from Ferrie Grove and park to the western elevation of the store. Submitted details explain that these manoeuvres would be marshalled by Aldi staff.

Ferrie Grove provides as an access for vehicles servicing High Street. The service road continues under the Ravenscourt building canopy and provides the service road access and egress to shops facing the High Street to the east of the Ravenscourt

site. This includes Waste Management collections, service deliveries, pick-ups, and parking.

The proposal includes a no. 98 space car park to the rear of the store. Vehicles servicing High Street will travel through Aldi Car Park from Ferrie Grove to the rear of shops to the east of the store to continue to service the shops as is the current position.

The Highway Authority and the LPA have engaged with the applicant providing pre application advice on the proposal. Concerns were raised at pre application stage regarding the introduction of a new access into the site from High Street in which it was expressed that the access could not be supported.

The Local Highway Authority object to the proposed High Street access for the followings reasons:

- 1) Introduction of a new access onto the High Street Brownhills A452 Strategic Highways Network, which is contrary to Policy T4.
- 2) Safe and suitable access to the site needs to be achieved for all users.
- 3) Development should be prevented on highways grounds as there would be an unacceptable impact on highway safety, (NPPF)
- 4) Specific consideration needs to be given to the needs of each of the different users of the network, including pedestrians, cyclists, public transport, cars, and service vehicles.

The proposal is for the introduction of a new bigger Aldi store in Brownhills on the same retail park as a current Aldi store. It is considered the new store were to be granted permission, it would not require any additional access for the store to operate. There is no planning requirement for the new proposed access to enable the development to go ahead. The policy objection of the Strategic Highways Network in the UDP Policy T4 supports the Highway objection.

The introduction of a new access onto the Strategic Highways Network is contrary to Policy, is unnecessary, and unjustifiable. The current store is served from Ferrie Grove from the North, and Silver Street from the South. Aldi have raised no concerns or issues with the existing junctions and Highway access arrangements, other than for their customers to get to the new store they will have to travel past other existing retailers, where they want customers to be able reach Aldi first with their own direct access from the High Street.

The applicant considers that the access would have limited impact in capacity terms, but it is considered that there will be unnecessary conflict and highway safety issues on the High Street that is not there at the moment, and will be exacerbated by not only Aldi customers, but other car borne trips from shoppers who could use the access as an alternative to the current access arrangements to the retail park shops and petrol station.

The applicant considers the introduction of the new access is to “enhance the customer experience,” notwithstanding the policy objection, Highways consider that a new access onto the High Street could only be for commercial advantage and is not a Planning or Highway matter and therefore cannot be supported.

In addition, at pre application stage the Local Highway Authority expressed concerns regarding the operation and safe use of the proposed Aldi Car Park.

The proposal is to allow the customer car park to be shared with Aldi customers including pedestrians, disabled users, cyclists, and family parking space users, and to share the car park aisles with not only Aldi articulated delivery HGV's but also all commercial traffic including HGV waste collection, service and delivery vehicles to all of the shops fronting the High Street to the east of Ravenscourt. It is noted that as swept path analysis plans provided indicate hatched zones for pedestrians around vehicle charging points would be impeded if such vehicles were to travelling in the car park.

As submitted, the application did not reference or consider for the movement of commercial waste, delivery, and service vehicles through the Aldi Customer car park to the service area at the rear of the High Street Shops. This was raised with the applicant by Highways and Planning officers and a Survey was conducted by Connect Consultants on behalf of Aldi of commercial vehicles visiting all the shops to the east of Ravenscourt.

The outcome of the survey is that over a 7-day period, twenty-four vans and 7 HGV's will use the Aldi customer car park to access and egress the site at the rear of the High Street shops for servicing and deliveries.

A concern is that the Aldi Survey conclusions state that because the busiest times for Aldi stores are the weekend, no service deliveries are recorded at the weekend. Of the thirty-one commercial trips that were recorded only four were early deliveries or collections, the remaining twenty-seven commercial trips were made within the Aldi store opening times.

The car park needs to be safe and meets the needs of different users including, people with disabilities. Pedestrians, cyclists, visitors motorised and non-motorised users, cars, waste management and service delivery vehicles, this currently has not been demonstrated.

Highways would wish to see an overarching Car Park Management Strategy to take account of all users for the safe use and movement within the car park.

In summary, the Local Highway Authority are supportive in principle of the store building location and the use of the existing Ferrie Grove access however it is considered in order to support the application firstly the removal of the proposal for direct access onto the Strategic Highways Network (A452) High Street Brownhills is necessary, and secondly concerns associated with the operation and safe use of the proposed Aldi Car Park need to be addressed where currently both issues are contrary to NPPF para 110-112, National Design Guide 2021 (Movement) and Policy T4 of Walsall's UDP.

A Travel Plan has been submitted which would need to be secured for ongoing monitoring through a S106 agreement.

The Local Highway Authority advise the original Proposed Site Plan shows six car parking spaces on the existing store car park to serve staff employed at the new development.

Highways queried how is the off- site car parking can be legally secured through the determination of the planning process, as this element is outside of the main application site. Queries were also raised as to how would this impact on the future use of the existing site once the new store was built. The applicant has removed the staff parking at the existing Aldi site from the drawing. It is considered that the level of car parking provision provided is acceptable without the 6 car parking spaces off site.

Concerns have been raised by a local resident regarding the number of disabled spaces provided which is 6. This is lower than the 10 per cent requirement as part of policy T13 of UDP. Whilst an objection has not been raised by the Local Highway Authority in relation to disabled parking provision, a condition can be secured for 9 spaces to be provided in accordance with the policy.

It is considered on balance, the proposal can be supported subject to amended plans/information being received before determination of the application taking into consideration the points raised above.

Ground Conditions and Environment

To the rear of the site, behind Silver Street is Wyrley & Essington Canal. The Canal and River Trust have advise that they require further information by way of condition in relation to potential contaminants to the Canal from demolition and protection of the Canal from dust as 'The Land Contamination Report' submitted does not provide this information. The Canal and River Trust recommend a Phase 2 Site Investigation to be secured by condition to quantify levels of contamination and required remediation. It is also recommended as part of a Construction Environmental Management Plan, specific reference is made to how the development will manage dust during the demolition and construction phases.

The Canal and River Trust advise that the tow path is mentioned as a route for pedestrians and cyclists to access the site in the Transport Assessment and Travel Plan, but the applicant appears to assume that people will cross from the towpath at Clayhanger via Pier Street Bridge and continue up Pier Street to access the shop from the High Street frontage. However, cycle parking is only provided adjacent to the loading bay to the rear of the shop at distance from the entrance. Whilst the position of the cycle parking does not directly affect the Canal/tow path, the encouragement of use of the tow path to get to the site should consider how users of the tow path would then easily access the store.

Due to the age and nature of the existing buildings an Asbestos Survey is required to be submitted and approved prior to demolition of the buildings. Any Asbestos identified should be removed. A Demolition and Construction Management Plan to prevent or minimise local environmental impact during the course of said works needs to be implemented from the start of works. Conditions are recommended to secure an Asbestos Survey and Demolition and Construction Management Plan.

Environmental Protection have confirmed 'The Construction Method Statement', by DSP Construction Management is satisfactory, however, the demolition should not commence until it has been confirmed that any asbestos identified has been removed.

The 'Land Contamination Phase I Environmental Site Assessment', by Webb Yates Engineers, Ref. BI 384-16-Doc-0, Revision: XI, 16/04/21, is recommending that the Applicant undertake an intrusive contaminated land and ground gas investigation to further inform on potential mitigation/remediation measures for gases and pollutants and also for historical coal mining activities. Based on the Phase 1 report, Environmental Protection agrees, planning conditions for contaminants and ground gases are considered necessary.

The site is within a low risk Coal Area. The Coal Authority provide standing advice should a coal mining related hazard be uncovered during the development. This is added as a note to the applicant.

Air Quality

As the Aldi store is relocating its existing store to the new location, Environmental Protection are of the opinion that although the air quality impacts may be slightly more due to increased usage, they are not significant enough to warrant a full air quality survey.

The Air Quality Supplementary Planning Document (SPD) is relevant, which sets out guidance on minimising air quality impacts, in particular the requirements for promotion of alternative travel choices. As part of Section 5, 'Minimising Unacceptable Air Quality Impacts through Mitigation and Compensation', the SPD states that 'as a minimum, new developments should include the provision of electric vehicle charging points' (Type 1). Having regards to the SPD and to allow users of the development a readily available infrastructure to switch to environmentally sustainable transport in the future, it is recommended that the Applicant make provision for future electric vehicle charging points.

From the application (Planning and Retail Statement), the proposed car park will include 4 charging points. Although this falls slightly short of the SPD requirements of 5%, for the proposed 92 spaces, Environmental Protection are of the opinion that it would be acceptable. The Applicant has advised that if demand required then there is the scope to increase this provision in the future.

The Applicant has submitted a Travel Plan with their Application, which meets the requirements of the Air Quality SPD.

Ecology

A Bat Survey was submitted in support of the application dated April 2021. The report advises Middlemarch Environmental Ltd had previously carried out a Preliminary Bat Roost Assessment (Report RT-MME-125431-01) and Nocturnal Emergence and Dawn Re-entry Bat Surveys (Report RT-MME-125700) at this site in relation to a previous planning application in 2017.

Due to the time lapse an updated report was considered necessary which was undertaken April 2021. The findings advised that all three buildings were classed as having high potential to support roosting bats. Further survey work, in the form of updated dusk emergence and dawn re-entry surveys, was undertaken between 14th June 2021 and 19th July 2021. Three bat species were recorded during the dusk and dawn surveys; common pipistrelle, soprano pipistrelle and noctule. No bats

emerged from or re-entered any features associated with the site. Low levels of commuting and foraging activity were recorded during the survey period.

The Survey concludes, no bat roosts present in the buildings on the site. This is due to no bats emerging from or re-entered any of the buildings and only a limited amount of bat activity were recorded on site during the surveys, it is concluded that there are no bat roosts present in the buildings on site.

The report considered the proposed works are not expected to impact roosting bats.

The Ecologist has reviewed the information submitted and has no objections in relation to the potential impact upon protected species. Conditions are recommended to ensure that the recommendations and mitigation set out are adhered to.

Flood Risk and Drainage

The application site is located within Flood Zone 1 (Low probability). As such the site is considered to be of low risk of fluvial flooding. A drainage strategy and additional technical note supplemental to the drainage strategy has been submitted in support of the application and to respond to points raised by the Local Lead Flood Authority (LLFA). The drainage strategy advises the site is at low risk of surface water flooding but in the event a storm exceeds the design event, surface water may collect in the car park but would not be significant. The Local Lead Flood Authority have reviewed the proposed drainage information submitted and no objections have been raised. The LLFA have requested further details as part of the drainage strategy to be secured by condition.

Severn Trent Water raise no objection in relation to foul and surface water drainage subject to a condition for full details to be submitted to them for approval prior to commencement of development.

Trees/Protected Trees

The development site and immediate vicinity does not have any protected trees within it. An Arboricultural Impact Assessment was undertaken by Middlemarsh Environmental Ltd in January 2022 and submitted in support of the application.

The survey explains the proposal will require the removal of two trees and one group of trees as well as the partial removal of two groups of trees. The two 'London Planes' which are planted on the High Street are considered to be of visual amenity in the High Street and confirmed as retained.

12 new trees are proposed as set out in the Landscape Strategy (Drawing Reference: MEL-515-001) to mitigate the loss of existing trees on site.

The survey concludes that majority of the trees within the site will be retained which is considered the proposal is unlikely to significantly impact on the site. In addition, the proposed works are unlikely to significantly impact upon the long term health of retained trees.

Mitigation and protection measures as set out in the survey are required to be adhered to. A condition is considered necessary to ensure that the recommended methods of mitigation and protection are put into place.

An Arboricultural Method Statement is also required and will be secured by condition to ensure that all site operation can occur with minimised adverse impact upon trees to be retained.

The Tree Officer has reviewed the submitted information and raised no objection to the loss of trees on site subject to replacement planting as set out in the Landscape Strategy and conditions recommended above.

Planning Obligations/S106 Agreement

A Travel Plan has been submitted by Connect Consultants in support of the application. The Travel Plan includes details of a monitoring programme within section 5 of the Plan. Due to the inclusion of monitoring the Travel Plan will be secured by legal obligation through a S106 agreement.

Conclusions and Reasons for Decision

The proposal in principle is considered acceptable.

The existing shopping precinct is vacant, it is considered the redevelopment of the site with new retail would enhance the vitality and viability of the District Centre and would be in accordance with the NPPF and town centre policies as set out in the Development Plan.

The design of the proposed development is considered acceptable.

The proposed development would not unduly harm the amenities of these neighbouring commercial properties to warrant refusal of the proposal.

At present the proposed introduction of a new vehicle access from High Street is contrary to policy T4 of UDP and NPPF. Removal of this vehicle access is sought. Further information is also required in the form of a car parking management scheme in order for the Local Highway Authority to support the scheme.

The proposal complies with the NPPF, Policies CSP4, DEL1, CEN1, CEN2, CEN3, CEN4, CEN8, TRAN1, TRAN2, TRAN4, TRAN5, ENV3, ENV4 and ENV5 of the BCCS, saved policies GP2, ENV10, ENV11, ENV14, ENV32, ENV33, ENV35, ENV40, S1, S2, S3, S4, BR1, BR4, BR7, BR8, BR13, BR14 and B15 of the UDP, policies NE4 to NE10 of Conserving Walsall's Natural Environment, Policies DW1 to DW10 of Designing Walsall SPD and the Air Quality SPD.

Taking into account the above factors it is considered that the application should be recommended for approval subject to addressing outstanding matters as set out.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised regarding the access from the High Street and the proposed car park. Amended plans/Information is sought in order for approval of the scheme.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and a Section 106 Agreement to secure a Travel Plan and subject to:

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- Overcoming the outstanding concerns raised by Local Highway Authority by removing the access from High Street and utilising access off Ferrie Grove via Silver Street and submission of a comprehensive car park management scheme to include Aldi related vehicles and non- Aldi related vehicles which service the existing units on High Street.

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 not be carried out otherwise than in accordance with the following approved plans details and documents:

- Proposed site plan drawing no. F18A130-P00s Revision F
- Landscape strategy drawing no. MEL-515-001 Revision P1
- Arboricultural Impact Assessment by Middlemarch Environmental report no. RT-MME-156891-02 dated January 2022
- Preliminary Ecological Appraisal submitted 14/02/22
- Bat Surveys submitted 14/02/22
- Pallisade Fencing and Gate details AD5308 submitted 14/02/22
- Proposed Flood Plan, P200 Rev B, submitted 14/02/22
- Proposed Elevations, P201, submitted 14/02/22
- Proposed Roof Plan, P203, submitted 14/02/22
- Proposed Site Section, P300, submitted 14/02/22
- Construction Method Statement submitted 14/02/22
- Drainage Strategy submitted
- Land Contamination Phase 1 Environmental Site Assessment submitted 14/02/22
- Noise Impact Assessment submitted 14/02/22
- Planning and Retail Statement submitted 14/02/22
- Sustainability Statement submitted 14/02/22
- Transport Assessment submitted 14/02/22
- Proposed Access Layout 1905-010 Rev C 25/04/22
- Response to Council's comments 05/07/22
- Response to Policy comments 13/06/22

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- Technical Note supplemental to Drainage Strategy submitted 28/06/22

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 demolition and removal of any buildings and/or structures hereby permitted a site survey to identify any potentially hazardous materials including asbestos shall be carried out and a Method Statement shall be submitted to the local planning authority and agreed in writing detailing actions and time scale to be taken to prevent localised contamination, including how and where the hazardous materials will be removed from site and to where it will be removed too.

3b) Following demolition and removal of any buildings and/or structures a validation report shall be submitted to the Local Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials therein. Including any mitigation measures put in place to control risks to future occupiers

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved policies GP2 and ENV18.

4a) Prior to the commencement of development hereby permitted a detailed surface water drainage design shall be submitted to and approved in writing by the Local Planning Authority.

i) The design must include the name and contact details of the body(-ies) responsible for management and maintenance

4b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: To reduce the risk of surface water flooding to the development and properties downstream for the lifetime of the development and to ensure the site is maintained for the lifetime of the development In accordance with saved policies GP2 and ENV5.

5) Notwithstanding the details of the drainage design, the developer is to ensure that satisfactory arrangements for the control of surface water are in place as part of any temporary works associated with the permanent development, to ensure that flood risk is not increased prior to the completion of the approved drainage strategy and flood risk assessment.

Reason: To reduce the risk of surface water flooding to the development and properties downstream for the lifetime of the development and to ensure the site is maintained for the lifetime of the development In accordance with saved policy GP2 and ENV5.

6a) Prior to the commencement of development hereby permitted an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority and should address the following:

- I. Tree Surgery.
- II. Site setup and logistics.

- III. Works within Root Protection Areas.
- IV. Working space to construct new buildings.
- V. Suitable site access, material storage contractor's car parking and site compound locations.
- VI. Final protective barrier and ground protection locations and specifications.
- VII. Phased approach to development works to ensure retained trees are not impacted through demolition.
- VIII. Extent of access facilitation pruning works to be undertaken.
- IX. Pre-commencement site meeting.

Reason: To safeguard the retained trees on and adjacent to the site in accordance with saved policies GP2, ENV17 of Walsall's Unitary Development Plan.

7a) Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

7b). The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

7c) The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved schedule.

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 and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

8a) Prior to the commencement of development hereby permitted and any site clearance a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

- 1. Construction working hours
- 2. Parking and turning facilities for vehicles of site operatives and visitors
- 3. Loading and unloading of materials
- 4. Storage of plant and materials used in constructing the development
- 5. A scheme for recycling/disposing of waste resulting from construction works
- 6. Temporary portacabins and welfare facilities for site operatives

7. Site security arrangements including hoardings
8. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
9. Measures to prevent flying debris
10. Dust mitigation measures including prevention of dust impacting Wyrley and Essington Canal
11. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
12. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

8b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

9a) Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

9b) The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

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

10a) No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority

10b). No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan.

11)The retained trees as indicated on the Landscape Strategy drawing no. MEL-515-001 Revision P1 shall be protected in accordance with the recommendations and guidelines as detailed in the Arboricultural Report by Middlemarch Environmental dated March 2022. The tree protection measures shall be implemented prior to the demolition of the site and maintained throughout the construction phase until completion of the development.

Reason: To safeguard the retained trees both on and adjacent to the site in accordance with Policy ENV18 of the UDP and Conserving Walsall's Natural Environment SPD.

12)The Landscape Strategy drawing no. MEL-515-001 Revision P1 shall be fully implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

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

13)Recommendations for the protection of habitats and protected species as outlined within the Ecological Assessment by Middlemarch Environmental dated August 2021 and January 2022, respectively shall be incorporated within the design of the proposals. This should include:

- i. Retention of the trees and shrubs, where possible, with additional native tree and shrub planting incorporated within the design.
- ii. Provision of two bird boxes (25mm and 32mm entrance hole box or similar) attached to or integrated within new buildings or retained trees on site; and
- iii. Provision of two bat boxes attached to the proposed building or retained trees.

Reason: To preserve and enhance the natural environment and safeguard any protected species in accordance with Black Country Plan policy ENV1, saved Unitary Development policy ENV23 and Supplementary Planning Document Conserving Walsall's Natural Environment.

14a) If bat/s or evidence of bats are found during construction of development hereby permitted:

- i. The works should halt until Natural England or the ecologist for this project is consulted.
- ii. The bat/s should not be handled or touched, and the vicinity of the roost shall be immediately reinstated.
- iii. No further destructive works shall be carried out to the building until the need for Natural England licence has been established.
- iv. Within one week of finding bats or evidence of bats, a written report by the 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
- v. 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.

14b) Commencement of work should be no later than May 2023, otherwise an update bat assessment would be required to confirm that bats remain likely absent from the building.

Reason: to conserve local bat populations and to be in accordance with National legislation; wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural habitats, & c.) Regulations 1994.

15a) Prior to the occupation of any part of the development hereby permitted, details of the proposed covered and illuminated cycle shelters including their locations within the site, shall be submitted in writing to and approved in writing by the Local Planning Authority.

15b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

16) Site clearance and dismantling works shall be undertaken outside the bird nesting season. The bird nesting season extends between March and August inclusive but is weather dependant and nesting may take place outside this period. If nesting birds are discovered, clearance works should be delayed until the young have fledged.

Reason: To conserve local bird populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

17a) Prior to first occupation of the development hereby permitted details of electric vehicle charging points for the development shall be submitted in writing to and agreed in writing by the Local Planning Authority.

17b) Prior to first occupation of the development the approved electric vehicle charging points shall be installed in accordance with the approved details and shall be retained and maintained for the lifetime 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.

18) The development hereby permitted shall not be open otherwise than between the hours of 0700 hours to 23.30 hours Mondays to Saturdays and 0900 hours to 1700 hours Sundays, Bank and Public Holidays.

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

Notes for Applicant

The Coal Authority Standing Advice - Development Low Risk Area

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

Standing Advice valid from 1st January 2021 until 31st December 2022

Canal and River Trust

The applicant/developer is advised to contact the Canal & River Trust in order to ensure that any necessary consents are obtained, and the works are compliant with the Trust's current "Code of Practice for Works Affecting the Canal & River Trust". For further advice please contact Shomsur Khan, Works Engineer in the first instance on Shomsur.Khan@canalrivertrust.org.uk or by telephone 0303 040 4040

Highways

Prior to the commencement of the development, a highway Stopping Up Order made under S247 of the Town and Country Planning Act 1990 shall be confirmed, certified and implemented for that part of Ravens Court Precinct required to be stopped up to enable the development to proceed. Note to Applicant: Stopping Up Orders are a democratic process and the public or other interested parties can object which may result in a public inquiry and ultimately the Order being rejected. A Stopping Up Order application can be in parallel to the planning application up to draft Order stage. For further information the applicant is advised to contact the Government Office, National Transport Casework Team. Reason: To satisfy the legal requirements for stopping up of a public highway to enable the development to proceed.

Severn Trent

Severn Trent Water advise that there is a public 450mm surface water sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could

significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

· 300mm to 999mm diameter – 5m either side of the pipe, measured from the centreline of the sewer.

Contaminated Land

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 2018; 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); Land contamination risk management (LCRM) 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.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 01 December 2022

Plans List Item Number: 2

Reason for bringing to committee

Major Application

Application Details

Location: PELSALL VILLA FOOTBALL CLUB, WALSALL ROAD, PELSALL, WALSALL, WS3 4BP

Proposal: OUTLINE PLANNING PERMISSION FOR A CARE HOME DEVELOPMENT WITH ACCESS ONLY TO BE CONSIDERED (ALL OTHER MATTERS RESERVED).

Application Number: 20/0830

Case Officer: Peter Gittins

Applicant: Aldi Stores Limited and John Roberts

Ward: Pelsall

Agent: Steve Keeling

Expired Date: 01-Nov-2020

Application Type: Outline Permission: Major Application

Time Extension Expiry: 15-Sep-2021



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Recommendation

Refuse

Proposal

This planning application was deferred from the meeting of 20th June 2022 due to further information submitted by the applicant, and additional consultation responses received which required further consideration. The LPA and applicant have agreed to proceed to present this application for determination at the 1st December Planning Committee. The LPA will not therefore accept any further submissions from the applicant and has therefore written this report on the basis of the information available on the planning file at the time of writing this report.

This planning application seeks outline planning permission for a care home development with access only to be considered (all other matters reserved).

The applicant has provided indicative drawings and a design and access statement for the proposal which shows that the care home would comprise a two-storey facility sited along the north and east boundaries of the site in an L-shape formation with onsite parking to the front along with landscaped areas and boundaries. The existing trees and vegetation along Bush Grove would be retained with the exception of removal of some existing vegetation to accommodate the new vehicle access for the site to be created from Bush Grove, which is the subject of this current application.

This application is supported by a number of documents which has informed the LPAs assessment of this application and forms the basis of this report content.

Site and Surroundings

The Site is located on the B4154 (Walsall Road), directly to the south of central Pelsall. The site comprises a disused football pitch (which previously accommodated Pelsall Villa). Adjacent to the site is a former public house (The Old Bush), a locally listed building.

The site is approximately 750m away from Pelsall Local Centre. The Site measures approximately 7395sqm and is a rectangular shape. There is one TPO on the site (AB 3/1964). The application site is located within Pelsall Common Conservation Area which means that all other trees within the site are also protected.

The football ground was rendered incapable of use following vandalism and a serious fire in 2017. Pelsall Villa subsequently left the ground in July 2017. The football pitch has remained disused since this date.

The surrounding area is characterised by a range of uses, including public open space/sports facilities and existing residential properties. The open space provision includes the extensive Pelsall Common and Pelsall Cricket and Sports Club to the north of the site. The Site is also in close proximity to a small parade of shops on Allens Lane (c.100m to the south west), together with a wider range of facilities and services forming part of the Pelsall Local Centre.

Relevant Planning History

PELSALL VILLA F.C.,WALSALL ROAD,WALSALL,WS3 4BP

BC63059P/C- 15m telecommunications lattice tower, equipment cabin and ancillary development- Withdrawn

BC63281P/C- 15m high telecommunications mast and ancillary equipment- Refused 31-May-2001.

02/0114/FL/E7- Telecommunications mast designed as an existing floodlight- Refused on 15-Mar-2002. Appeal allowed on 24-Sep-2002 on the basis that the development would not harm the character or appearance of the Pelsall Common Conservation Area, which would thereby be preserved.

13/0682/PT- Replacement of existing 16mt. monopole with new 16 metre dual user monopole, reinstatement of floodlights and one no. cabinet to replace two existing ones- GSC- 08-Jul-2013

16/1763 - Full Application for Creation of a vehicular access off Bush Grove. Refused permission 19-May-2022 for the following reasons (*summarised*):

- 1. Increase in traffic and detrimental to the free flow of traffic along the highway and to highway safety.*
- 2. Insufficient on-site parking to meet its operational needs.*
- 3. Potential harm to protected trees.*
- 4. Impact on the existing amenities of nearby occupiers from additional noise and disturbance.*
- 5.Harm to local landscape.*

FORMER OLD BUSH INN, WALSALL ROAD, PELSALL, WALSALL, WS3 4BP

20/0832- Demolition of existing buildings, the erection of a retail food store (class A1), with associated car parking and landscaping- Undetermined.

Pelsall Cricket and Sports Club,The Pavillion, Walsall Road, Pelsall, WS3 4BP

08/1921/FL- Demolition of existing wooden store and erection of replacement store- GSC- 23-Feb-2009.

08/1927/CC- Conservation Area Consent: Demolition of existing wooden store and erection of replacement store- Grant Cons Area Cons- 23-Feb-2009.

13/1603/TR- Fell 9 Sycamore Trees adjoining boundary fence between club and houses- Permission granted- 30-12-2013.

16/1644- Fell multi-stemmed Sycamore trees rear of 179/181 Walsall Road and Fell Sycamore tree rear of 183 Walsall Road- Permission granted 01-Dec-2016.

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 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 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 (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. 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
- GP3: Planning Obligations
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV25: Archaeology
- 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
- H6: Nursing Homes and Rest Homes for the Elderly
- ENV40: Conservation, Protection and use of Water Resources
- LC1: Urban Open Spaces
- LC6: Sports Pitches

- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- HOU2: Housing Density, Type and Accessibility
- 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
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality
- EQ2: Cannock Chase Special Area of Conservation

Walsall Site Allocation Document 2019

- HC3: Affordable Housing and Housing for People with Special Needs
- EN1: Natural Environment Protection, Management and Enhancement
- T4: The Highway Network
- EN3: Flood Risk
- OS1: Open Space, Sport and Recreation
- 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
- 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

Local Highways Authority

Insufficient information has been provided to demonstrate:

- what the cumulative traffic impacts would be for this proposal along with the applicant's separate proposal on adjacent land for the proposed Aldi foodstore.
- that the necessary pedestrian access and visibility splays can be provided along Bush Grove.
- whether improvements could be made to assist in managing the impacts arising to the crossroad at Hall Lane/ Vicarage Road/Walsall Road/ Norton Road.
- that collision causation has been considered.

Conservation Officer

Objection: The proposal would result in a loss of the open green nature of the site which currently adds to the local townscape character in the Pelsall Common Conservation Area. The loss of hedgerow and trees on Bush Grove to provide the proposed access would be visually detrimental. The scale, massing, design, and layout of this proposal also fails to reflect the local and historic context. This proposal would fail to enhance and preserve the character and appearance of the Pelsall Common Conservation Area.

Strategic Planning Policy

Loss of sports pitch will require replacement and mitigation measures. A comprehensive development approach should be taken to ensure effective use of land and to avoid only one of the applicant's development coming forward (this care home proposal and adjacent Aldi foodstore proposal under a separate planning application). Contributions towards affordable housing and open space would be required.

Ecology

No Objection: Subject to conditions to secure detailed landscaping and habitat enhancement, a scheme of ecological mitigation and precautionary measures for local bat populations.

Tree Officer

Concerns regarding the loss of established hedgerow and loss of two Class B (moderate quality) protected Silver Birch Trees () and the detrimental impact on the landscape character of Pelsall Conservation Area.

Severn Trent Water

No objections to the proposal subject to condition regarding the disposal of foul and surface water flows.

Coal Authority

No objection: Site is within the defined Development Low Risk Area. No requirement for a Coal Mining Risk Assessment. Standing advice to be included on any decision notice in interests of public health and safety.

Community Safety

Advise that Secured by Design advice be sought for the build. Site is isolated with only one side being overlooked and trees to the frontage, sightline is limited. Advised the main access be closed by fob operated vehicle gates to the road and a pedestrian gate to the path. Alternative security measures suggested.

Local Lead Flood Authority

No objection.

Environmental Protection

No significant concerns about the proposal. Environmental Protection requires that the Applicant agree measures to be implemented to comply with the Black Country Air Quality SPD and to implement a Construction Management Plan.

Public Health

No objection. Recognised the creation of good quality housing, particularly to additional support that will be provided for residents thereby maintaining their independence. Application enables sustainable transport and supports the development of the local area.

Public Rights of Way

No definitive public rights of way. Proposed development will not impact upon any public rights of way and there are no public rights of way objections or requirements. McClean Way greenway runs alongside eastern boundary- link path between this and the development was put forth but not considered to be suitable. If a proposal is put forward for this the link path should be constructed to an adoptable standard and enter into a s38 agreement.

Sport England

No Objection: Subject to a S106 to secure funding for off-site football facilities in lieu of the lost playing field.

Environmental Health

No Objection: Concur with previous advice given Annex 1 of the Planning statement attached to the application in respect of noise assessment and compliance with guidance in respect of ventilation.

Natural England

Amendments to original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Public Lighting

Unlikely to be any street lighting implications as existing lighting columns on Bush Grove are on the opposite side from the proposed access. Any lighting to the care home car park should confine its impact to the site only and should not encroach outside the site boundaries.

Ramblers Association

Concern regarding traffic flow in and out of Bush Grove and possible impact on Walsall Road.

West Midlands Fire Service

No Objection: Note to applicant regarding compliance with building regulations.

West Midlands Police

No Objection: Recommendations for CCTV external cameras, external LED lights with sensors, and Secured by Design principles.

Walsall Council Social Services

Any new provider of residential and nursing homes needs to consider the impact of the pandemic and how attractive their offer is in terms of location, quality and cost.

Representations (*Officer Comments in Italics*)

This application has been through three rounds of public participation. A total of 15 x objections have been received and 9 x in support. The matters raised by the public participation can be summarised as follows:

Objection:

- Increase traffic volume in Bush Grove, noise pollution and congestion.
- Loss of football pitch and open space detrimental to local community.
- Lack of views of the Common from care home.
- Oppose the opening of bush grove to provide an entrance.
- Lack of parking, inadequate access and increased highways safety impacts.
- Detrimental to character of the area.
- Impact on amenity of neighbours.
- Detrimental to the viability and vitality of the village centre.
- Site should be used for allotments for physical and mental health (*LPA must determine an application based on the details put before it*).
- Care home better placed on site where Aldi plan to build (*LPA must determine an application based on the details put before it*).
- Loss of designated open space.
- Increased pollution will have an impact on wildlife.
- Three storey building will be imposing on outlook.

- Privacy will disappear
- Don't want care home (*this is not a material planning consideration*).
- Causing stress for elderly neighbours (*this is not a material planning consideration*).
- Impact on house prices (*this is not a material planning consideration*).

Support:

- Great addition.
- Creation of new jobs.
- Consideration of a further access from the track to the development.
- New housing for Pelsall is welcomed.
- Apartments will move old people out of homes and free them up for families, reinvigorating the community.
- Please ensure the buildings are sympathetic to the common area.
- Will be in keeping with the quiet, friendly area.
- Support the care home but not the Aldi proposal next to it.
- Support care home as it is a vital service for the elderly and vulnerable.

Determining Issues

- Principle of Development
- Heritage
- Cannock Chase SAC and Cannock Extension Canal SAC
- Access
- Planning Obligations
- Other Matters

Assessment of the Proposal

Principle of Development

The site has no site-specific allocation in the Council's adopted Development Plan and is not safeguarded for any uses in the Site Allocation Document. The surrounding area is characterised by a range of uses, including public open space/sports facilities and existing residential properties. The open space provision includes the extensive Pelsall Common and Pelsall Cricket and Sports Club to the north of the site. The Site is also in close proximity to a small parade of shops on Allens Lane (c.100m to the south west), together with a wider range of facilities and services forming part of the Pelsall Local Centre. Due to the presence of bus stops, and pedestrian and cycle links in the vicinity it is considered that the location of the site is sustainable. The proposed principal of a C2 care home use can therefore be supported under SAD policy HC3 b) and c), however this is subject to other material considerations as set out below.

Heritage

The application site is within the Pelsall Common Conservation Area and the site adjacent, subject of application 20/0832 includes the Old Bush Inn, a Locally Listed building.

Concerns raised by the Conservation Officer are noted regarding the indicative scale, mass and design of this care home proposal on this currently open site, and subsequent potential impacts arising to the Pelsall Common Conservation Area.

Whilst it is acknowledged that parts of the site currently provide a sense of openness, the site is set within existing predominantly two-storey built form; the Old Bush P.H on the adjacent site to the west, residential properties to the south along Bush Grove and residential properties along Walsall Road to the north. A single storey building is also present to the north-west of the site (Pelsall Cricket Club) which is set back some 60m from back of footpath on Walsall Road. A substantial two storey assisted-living development fronting Vicarage Road is also present to the north of the Cricket Ground site which restricts any potential views through to the application site from this vantage point. It is therefore considered that the site currently affords intermittent open views through the site from main public vantage points to the south of Walsall Road and Pelsall Common South.

It is however acknowledged that due to the current absence of built form to the east of the site, greater open views are present along the public footpath to the east (McClean Way), though somewhat screened by existing mature trees along its perimeter.

It is acknowledged that should this development come forward in isolation that it has the potential to result in a partial development of the wider site which could subsequently result in piecemeal development that would fail to integrate well with its surroundings, and would fail to reflect the established pattern of development which predominantly fronts Walsall Road and Bush Grove. Given this application is made by the same applicant as the adjacent Aldi foodstore proposal it is considered reasonable to secure assurance from the applicant that both developments (if approved) would come forward at the same time by way of a Section 106 Agreement. This would ensure effective use of land as required in local and national planning policies and guidance.

There may be an opportunity to provide the built form closer to the southern portion of the site closest to Bush Grove which would be seen against the backdrop of existing built form at Bush Grove and beyond to the south. This is considered would better reflect the character of the area and would reflect the siting and layout of the adjacent foodstore proposal. Whilst the overall proposals would reduce the openness of the conservation area, given the existing intermittent views through the site as explained further above, and because this relates to reserved matters for consideration at a later stage, it is considered that a refusal reason would not be warranted on this basis.

Paragraph 197 of the NPPF seeks development to sustain and enhance the significance of heritage assets and putting them to viable uses consistent with their conservation, and the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 199 states 'great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 202 states 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.

This current outline application seeks approval of the access which would result in the loss of hedgerow and two important and protected trees which contribute to the green nature, character, and appearance of Pelsall Common Conservation Area. The loss

of these trees and hedgerow would have less than substantial harm to the significance of Pelsall Common Conservation Area, however, that scale of harm would be weighed as high. Furthermore, the proposal would fail to sustain and enhance the significance of the Pelsall Common Conservation Area and would fail to make a positive contribution to the local historic character and distinctiveness of the Conservation Area.

Given this application is recommended for refusal, there are considered to be no public benefits arising that would outweigh the harm arising. This proposal is contrary to paragraphs 189, 197, 199 and 202 of the NPPF.

Appearance, landscaping, scale and layout are all reserved matters for consideration at a later stage. If approved, outline conditions could therefore specify that any reserved matters application(s) address the Council's concerns of layout, scale and appearance. These future detailed applications would be judged on their own merits and a detailed assessment of any heritage impacts and the arising 'planning balance' tests would therefore be carried out for these elements of the proposal at a later stage should this current outline consent be granted.

Cannock Chase SAC and Cannock Extension Canal SAC

On 17th August Habitat Regulations Assessment Stage 1 screening was undertaken on this application. This determined that as the proposed care facility is to be designed for older people that require additional care facilities and who are unlikely to travel and are less able to use recreational spaces such as Cannock Chase SAC, the application is likely to not result in significant harm to the SAC. From a review of the amendments to the submitted indicative plans this position has not changed and no further assessment is required. A condition would be included on any approval to define the care home use.

Access

This outline application seeks the approval of access, with all other matters reserved for future consideration. The main site access is proposed off Bush Grove.

This application was submitted to the LPA in 2020 during Lock Down; the applicant was unable to provide traffic counts at that time as there were little / no vehicles on the roads at that time, and no indication as to when those trips might return. In that unique situation, the Local Highway Authority (LHA) signposted the applicant to the Council's traffic data from 2014, although under normal circumstances data of that age would have been unreliable and would not have been acceptable.

The LHA did not previously raise an objection to the application due to the lack of an up-to-date evidence base and the limited and out of date information on traffic counts that was available at a particularly difficult, unique, and uncertain time.

The applicant has submitted an updated Transport Assessment (TA) in August 2022. However, the LHA maintains a holding objection due to insufficient information on the following matters:

1. The TA fails to consider, and demonstrate, what the cumulative traffic impacts would be combined with the applicant's adjacent Aldi foodstore proposal and whether improvements could be made to assist in managing the impacts arising to the crossroad at Hall Lane/ Vicarage Road/Walsall Road/ Norton Road. It has come to light that small areas of highway-related work (up to an area of two hundred square metres) could be carried out on Common Land without the need to provide replacement land under Common Land legislation.
2. The TA identifies 9 x collisions, including 4 collisions involving a right turn, 4 shunts and one incident including a pedestrian. development will increase flows on these movements then there is a strong possibility that collisions could increase. In the preceding 5 years (2012 -2016) there have been 5 collisions (1 fatal involving a motorcycle). Collisions are increasing over time and the development would give rise to increased traffic flows in the peaks for right turns between Walsall Road and Vicarage Road. The TA fails to consider collision causation and therefore fails to fully examine the likely impacts of the development along with any further necessary highway improvements to minimise / mitigate this.

The LHA also advise that this proposal fails to demonstrate that the necessary pedestrian access and visibility splays can be accommodated within the application site.

Given the presence of other refusal reasons as set out in this report, and the level of negotiation already carried out between the LPA and the applicant since this application was submitted in 2020 which followed pre-application advice, it is considered that this application should now be concluded based on the information available at this time. The refusal reason would provide a clear position to the applicant which could inform any potential future re-submission to try and address these points, or to lodge an appeal against the Council's decision.

It is considered that the applicant has provided insufficient information to demonstrate whether the development would result in an unacceptable impact on pedestrian and highway safety, or that the residual cumulative impacts on the road network would be severe.

Planning Obligations

Loss of Sports Facility

This site contains part of a disused football pitch, which previously accommodated Pelsall Villa FC. The proposed development seeks to redevelop part of the football pitch for the purpose of delivering a care home. A separate planning application which seeks to deliver an Aldi foodstore on land directly to the west, has also been submitted by the applicant. Together with the Aldi food store, the proposed residential care home would result in the complete loss of the former football pitch of Pelsall Villa FC.

The submitted Sports Facilities Supporting Statement confirms that the applicant accepts the principle of providing mitigation for the loss of the disused football pitch. The provision of a proportionate financial contribution has been proposed. Significant negotiations have been undertaken with the applicant, Sport England and the Council's Healthy Spaces Team.

It is accepted that mitigation in the form of an off-site commuted sum would be acceptable in this instance which would be used towards the improvement of wider local community football facilities including 3G artificial grass pitches and improved changing room facilities.

Given the advanced status of the Council's emerging updated Playing Pitch and Outdoor Sports Strategy (PPOSS) weight can be given to it in the determination of this current application. The emerging picture is broadly consistent with the existing published strategy which doesn't identify a need to retain the stadia grass pitch facility (due to a lack of need at this time to serve the needs of teams playing in the football pyramid), and instead identifies the need to prioritise investment in community football facilities where there is still a need to deliver improvements to the quality of existing grass pitches and changing rooms and to deliver additional 3G Artificial Grass Pitches (AGP's) to meet an identified shortfall of provision.

However, due to the length of time since the off-site contribution was calculated for this application and due to a recent significant increase in build costs, the originally required contribution of £996,079 is likely to have increased, and would need to be reviewed prior to any approval. Several potential locations where this contribution could be used to benefit users displaced from the application site are being explored but have yet to be confirmed.

The applicant has failed to confirm whether this development in isolation could provide the full necessary sports pitch mitigation contribution in the event that the adjacent Aldi foodstore proposal is not supported, and does not come forward for development.

Travel Plan

A full Travel Plan (TP) would be required and secured in a Section 106 Agreement in order to monitor and assess it. The aims of the TP are to increase awareness and encourage use of environmentally friendly modes of transport amongst staff and customers. It introduces a package of management measures that will help to facilitate staff travel by sustainable modes of transport. Reduce single occupancy, single purpose vehicle use by staff. The plan sets SMART targets. The initial target of the TP (i.e. the results of the first travel survey) will be to achieve a modal split in line with the average figures at, and to then reduce the proportion of staff driving single occupancy single purpose private car journeys to work by 5%, absolute, within five years of the TP being adopted.

Affordable Housing and Open Space

The applicant has confirmed that this care home proposal would cater for older people that require additional care facilities rather than self-catered individual units. Therefore no contributions towards affordable housing or open space are required and a condition would be included on any outline approval to define the intended use.

On the basis that this application is recommended for refusal, the final terms of the necessary provisions of a Section 106 Agreement have not been agreed and this will therefore form a further refusal reason as the sports pitch mitigation and Travel Plan are both necessary to make the development acceptable in planning terms.

Other Matters

All other suggested conditions and recommendations made by consultees would be included on any outline approval, subject to meeting the necessary tests, or would be considered as part of any relevant future application submission(s) in relation to the reserved matter(s) of appearance, landscaping, scale and layout.

Impact on neighbours amenity

The LPA is only in receipt of indicative layout plans at this outline stage and the final position, scale and design of the building would be the subject of any future detailed reserved matters application submission(s). An assessment of potential impacts on neighbours amenity would therefore need to be carried out by the LPA at that later stage.

However, based on the current submitted indicative plans the building is shown to be sited around 36m away from the nearest residential property on Bush Grove and this is likely to provide sufficient separation to minimise any impacts arising to neighbours amenity and accords with the standards set out in the Council's adopted Designing Walsall SPD.

Trees

The proposal would result in the loss of an established hedgerow to the south of the site adjacent Bush Grove and the loss of two category 'B' (moderate quality) protected Silver Birch trees arising from the creation of the proposed main access the subject of this outline application. The loss of trees and hedgerow to create the main access would result in harm to the visual amenity of the locality and to the character of Pelsall Common Conservation Area. This will form a refusal reason.

The submitted indicative layout fails to demonstrate sufficient areas of landscaping to accommodate any meaningful planting and would also result in the loss of a row of prominent 'B' category trees situated along the east boundary adjacent the footpath and former railway. However, layout and landscaping are reserved matters and could therefore be dealt with at any later detailed reserved matters stage(s).

Ecology

The submitted Preliminary Ecological Appraisal, Ecology Walkover Survey and Bat survey report are considered to be acceptable subject to conditions as recommended by the Ecology Officer. These reports are nearing their two year expiration and any delay in determining this application is therefore likely to result in the need for the applicant to provide updated surveys.

Conclusions and Reasons for Decision

On the basis of the information on the file at the time of writing this report there are concerns around highways safety and lack of an agreed form of mitigation measures to make the development acceptable in planning terms via a Section 106 Agreement.

As set out in the report, there are no material planning benefits of this proposal that would outweigh the harm and this application is therefore recommended for refusal.

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.

The LPA has carried out extensive negotiations with the applicant and has provided pre-application advice to the applicant prior to the submission of this current planning application. The LPA has therefore met its requirement to act in a positive and proactive manner.

Recommendation

Refuse

Reasons

1. The proposed access off Bush Grove would result in the loss of hedgerow and two important and protected trees. This loss would result in detrimental harm to the visual amenity and character of the area and would have less than substantial harm to the significance of Pelsall Common Conservation Area, that scale of harm being weighed as high. Furthermore, the proposal would fail to sustain and enhance the significance of the Pelsall Common Conservation Area and would fail to make a positive contribution to the local historic character and distinctiveness of the Conservation Area. The proposal is therefore contrary to Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, Saved Policies GP2 (Environmental Protection) & ENV18 (Existing Woodlands, Trees and Hedgerows) of the Unitary Development Plan, Policies ENV1 (Nature Conservation) & ENV2 (Historic Character and Local Distinctiveness) of the Black Country Core Strategy, Policy EN5 (Development in Conservation Areas) of the Site Allocation Document, the Conserving Walsall's Natural Environment SPD and Paragraphs 174, 189, 197, 199 and 202 of the National Planning Policy Framework.
2. This application fails to provide sufficient information to demonstrate whether the development would result in an unacceptable impact on pedestrian and highway safety, or whether the residual cumulative impacts on the road network would be severe. This proposal is therefore contrary to Saved Policy GP2 (Environmental Protection) of the Unitary Development Plan, Policy TRAN2 (Managing Transport Impacts of New Development) of the Black Country Core Strategy, T4 of the Site Allocation Document and Paragraph 111 of the National Planning Policy Framework.
3. This application fails to provide mitigation for the loss of an existing sports pitch and fails to provide a full Travel Plan which are necessary to make the development acceptable in planning terms. This proposal is contrary to Saved Policies GP3 (Planning Obligations), LC6 (Sports Pitches), T8 (Walking) & T9 (Cycling) of the Unitary Development Plan, TRAN2 (Managing Transport Impacts of New Development) & TRAN5 (Influencing the Demand for Travel and Travel Choices) of the Black Country Core Strategy, OS1 (Open Space, Sport and Recreation) & T4 (The Highway Network) of the Site Allocation Document, Exception E4 of Sport England's Playing Fields Policy and Paragraph 99 of the National Planning Policy Framework.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 01 December 2022

Plans List Item Number: 3

Reason for bringing to committee

Major Application

Application Details

Location: FORMER OLD BUSH INN, WALSALL ROAD, PELSALL, WALSALL, WS3 4BP

Proposal: DEMOLITION OF EXISTING BUILDINGS, THE ERECTION OF A RETAIL FOOD STORE (CLASS A1), WITH ASSOCIATED CAR PARKING AND LANDSCAPING

Application Number: 20/0832

Case Officer: Peter Gittins

Applicant: ALDI STORES LIMITED and Mr John Roberts

Ward: Pelsall

Agent:

Expired Date: 02-Nov-2020

Application Type: Full Application: Major Use Class A1 (Shops)

Time Extension Expiry: 15-Sep-2021



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Recommendation

Refuse

Proposal

This planning application was deferred from the meeting of 20th June 2022 due to further information submitted by the applicant, and additional consultation responses received which required further consideration. The LPA and applicant have agreed to proceed to present this application for determination at the 1st December Planning Committee. The LPA will not therefore accept any further submissions from the applicant and has therefore written this report on the basis of the information available on the planning file at the time of writing this report.

This application seeks full planning permission for the following development:
“Proposed Demolition of existing buildings at the site of The Old Bush Public House, Walsall Road, Pelsall, WS3 4BP and the erection of a Class A1 Food Retail Store, with associated access, car parking, servicing and landscaping.”

The proposed store has a gross external area (GEA) of approx. 1863m²

The proposed store comprises:

- 1315m² retail space, to include mainly for food, with a small range of non-food products.
- Ancillary warehousing, servicing and staff welfare areas.
- Delivery bay and unloading area.

The proposed food store occupies the southern portion of the Site nearest Bush Grove. The shopfront façade has been designed to face towards the north, where the main car parking area is located. The proposed service yard and delivery area is located to the east of the food store, which faces away from Walsall Road.

The overall height of the proposed store is approximately 6.67m to the top of the roof from finished floor levels. The store will comprise mainly of brickwork facades in line with surrounding buildings.

The entrance is to have a glazed shopfront and canopy providing focus to the main elevation. The canopy, which is illuminated from below, also provides a covered, well-lit area over the trolley store.

A new dedicated vehicle access to the site will be created off Walsall Road. There will be customer parking for the store along with landscaped boundaries and new trees. Deliveries to the store will be via the car park, with the loading bay at the far end of the building to the east.

A total of 126 car parking spaces are proposed including:

- 8 no. disabled spaces
- 7 no. parent and child spaces
- 2 no. electric vehicle charging spaces

Two cycle shelters are also proposed (capacity 16 no. cycles).

Pedestrian access will be provided from Walsall Road. There will be a direct pedestrian connection between the entrance to the store and the footway on the east side of Walsall Road.

This application is supported by a number of documents which has informed the LPAs assessment of this application and forms the basis of this report content.

Site and Surroundings

The Site is located on the B4154 (Walsall Road), directly to the south of central Pelsall. It comprises a former public house (The Old Bush), a locally listed building, and part of a disused football pitch and changing rooms (which previously accommodated Pelsall Villa). The Site also includes an area of hardstanding, which previously provided car parking associated with the public house. The remainder of the pitch is the subject of a separate application (20/0830) that appears elsewhere on the agenda for this meeting.

The site is approximately 750m away from Pelsall Local Centre. The Site measures approximately 7,986sqm, and is a rectangular shape. There are two TPOs on the site (17/1976 and AB 3/1964), including a group of trees to the rear of the former Old Bush PH which contains 4 poplar trees and along the southern boundary of the site along Bush Grove where there are 5 Birch, 1 Poplar and two 2 Ash trees. The application site is located within Pelsall Common Conservation Area which means that all other trees within the site are also protected.

The submitted planning statement explains that the Public House closed in October 2014 and has remained vacant since this date. Since the closure of the PH, the associated buildings/structures have suffered from acts of vandalism and fire damage. The most serious fire occurred in July 2016, which destroyed a substantial part of the building, including most of the roof.

The football ground was rendered incapable of use following vandalism and a serious fire in 2017. Pelsall Villa subsequently left the ground in July 2017. The football pitch has remained disused since this date.

The surrounding area is characterised by a range of uses, including public open space/sports facilities and existing residential properties. The open space provision includes the extensive Pelsall Common and Pelsall Cricket and Sports Club to the north of the site. The Site is also in close proximity to a small parade of shops on Allens Lane (c.100m to the southwest), together with a wider range of facilities and services forming part of the Pelsall Local Centre 0.4miles to the north along Norton Road.

Relevant Planning History

Old Bush Inn

BC59439P/C - Full Application for emergency fire escape to rear – GSC 16/08/1999

07/1781/FL/E10 - Full Application for Erection of smoking shelter - Refuse Permission - 16/10/2007

07/2568/FL/E10 - Full Application for Erection of Canopy roof as a shelter for Smokers - GSC13/03/2008

20/0946 - Prior Notification: Demolition, Prior approval for the demolition of the former Old Bush Inn public house. - Prior Approval: Refused 08/09/2020 for the following reason:

"The works described above and in the details of the application fall outside the scope of Schedule 2, Part 11 Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended from time to time) As such an application for full planning permission is required. The GDPO excludes Public Houses as being permitted development for demolition."

Pelsall Villa Football Club

BC63281P/C - Full Application for 15m high telecommunications mast and ancillary equipment. - Refuse Permission, 31/05/2001

02/0114/FL/E7 - Full Application for Telecommunications mast designed as an existing floodlight - Refuse Permission, 15/03/2002

13/0682/PT - Full Application for Replacement of existing 16mt. monopole with new 16 metre dual user monopole, reinstatement of floodlights and one no. cabinet to replace two existing ones. – GSC, 08/07/2013

16/1763 - Full Application for Creation of a vehicular access off Bush Grove. Refused permission 19-May-2022 for the following reasons (*summarised*):

- 1. Increase in traffic and detrimental to the free flow of traffic along the highway and to highway safety.*
- 2. Insufficient on-site parking to meet its operational needs.*
- 3. Potential harm to protected trees.*
- 4. Impact on the existing amenities of nearby occupiers from additional noise and disturbance.*
- 5. Harm to local landscape.*

20/1385 - Prior Approval Telecommunications: Installation of 2 no. equipment cabinets and 1 no. meter cabinet enclosed by a 2.1m high palisade fence and ancillary works. - Prior Approval: Granted, 23/12/2020

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 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **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 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 (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.

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

Development Plan

[www.go.walsall.gov.uk/planning_policy](https://go.walsall.gov.uk/planning_policy)

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations [Page 112 of 185](#)

- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV25: Archaeology
- 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
- S6: Meeting Local Needs
- S7: Out-of-Centre and Edge-of-Centre Developments
- LC1: Urban Open Spaces
- LC6: Sports Pitches
- LC8: Local Community Facilities
- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services
- CEN7: Controlling Out-of-Centre Development
- 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
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- SLC1: Local Centres
- SLC2: Local Centres Development Opportunities
- OS1: Open Space, Sport and Recreation
- EN1: Natural Environment Protection, Management and Enhancement
- EN3: Flood Risk
- 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

- 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
- DW9(a) Planning Obligations and Qualifying development
- 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 (*Officer comments in italics*)

Local Highways Authority

Insufficient information has been provided to demonstrate:

- whether improvements could be made to assist in managing the impacts arising to the crossroad at Hall Lane/ Vicarage Road/Walsall Road/ Norton Road.
- the number of likely trips to the foodstore based on empirical evidence.
- that collision causation has been considered.
- that traffic impacts have been fully considered.
- that the proposed layout could accommodate the necessary pedestrian access and visibility splays to serve the applicant's adjacent care home proposal.

Conservation Officer

Objection: The proposed development would result in the loss of a locally listed building, loss of open space, and the loss of trees and hedgerows within the Pelsall Common Conservation Area. The proposed built development results in the site being dominated by built form (a large supermarket with associated signage) and car parking. The proposal fails to take into account the location and historic character of Pelsall Common Conservation Area, characterised by its village setting and open and green nature. Whilst the proposal would have less than substantial harm to the significance of Pelsall Common Conservation Area, the scale of harm is considered to be weighed as high.

Strategic Planning Policy

Objection: The proposal needs to address the various designations that apply to the site, including loss of open space and the locally listed building, the impact on the conservation area, loss of trees and potential wildlife habitats. The proposed development raises issues including the need to satisfy the sequential test and design.

In respect of the sequential test, an alternative site within a designated centre is evident within the specified likely 10-minute catchment area for this proposal site. Ravenscourt in Brownhills District Centre appears to be an available and suitable, sequentially preferable site. This is further demonstrated by the applicant's separate planning application for a comparable foodstore at this alternative site (Ref: 22/0171).

Ecology

Objection: No likely significant effect on the Cannock Chase SAC, but updated Preliminary Roost Assessment and Dusk emergence and Dawn re-entry surveys are necessary prior to granting of any planning permission.

Wildlife Trust

Raised the following concerns and recommendations:

- seeking a higher proportion of native species in landscaping scheme (*this could be secured by planning condition(s)*).
- Preliminary Bat Roost Assessment and emergence surveys now out of date.
- CEMP should be submitted prior to determination (*this could be secured by planning condition(s)*).

- Arboricultural method statement and justification required for loss of Class C TPO tree T12.
- Revised external lighting design required to safeguard local bat populations (*this could be secured by planning condition(s)*).

Severn Trent Water

No Objection: Subject to the imposition of a drainage condition.

Archaeology

No Objection: Subject to a condition on planning consent requiring a programme of archaeological work to identify and excavate any remains so they can be preserved by record.

Coal Authority

No Objection: The application site does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. No conditions required.

Community Safety

No Objection: Suggest barrier to the main access and motorcycle restrictors on footpath access to avoid out of hours access and potential anti-social behaviour.

Highways England

No Objection

Historic England

No Objection

Lead Local Flood Authority

No Objection: Subject to imposition of a condition that the development be implemented in line with the submitted drainage strategy.

Local Access Forum

Raised concerns regarding the Transport Assessment having been undertaken during Covid Conditions (*additional information has since been provided and no further response has been received from this consultee following re-consultation*).

Environmental Protection

No Objection: Subject to compliance with the Air Quality SPD, Construction Environmental Management Plan, and noise mitigation measures.

Public Health

No Objection: Recognise the productive use of the space after years of it being derelict. The development will support the local economy, particularly in terms of creating employment opportunities for the local workforce. Public Health welcomes the inclusion of sustainable transport options within the application.

Public Rights of Way

No Objection - There are no definitive public rights of way across or adjacent to the red and blue planning boundary site outline for the proposed foodstore and associated car parking. The proposed development will not impact upon any public rights of way and there are no public rights of way objections or requirements.

Sport England

No Objection: Subject to a S106 to secure funding for off-site football facilities in lieu of the lost playing field.

Structures

No Objection: The site lies outside the consideration zone for the Limestone Mine workings and therefore planning restrictions imposed by virtue of the limestone workings do not apply.

Sustrans

No Objection: Requests consideration of a link between development and McLean Way.

West Midlands Fire Service

No Objection: Note to applicant regarding compliance with building regulations.

West Midlands Police

No Objection: Recommendations for CCTV external cameras, external LED lights with sensors, and Secured by Design principles

Tree Officer

Concerns over loss of important protected trees that make a significant contribution to the landscape character of Pelsall Common Conservation Area and likely future pressure to remove a further mature tree.

Representations (*Officer comments in italics*)

The application has been through three rounds of public participation since the original submission. A total of 82 responses have been received, 2 neutral, 33 in support and 47 objections. 5 x responses did not provide their full address and one response did not contain any comments which will all therefore be given little or no weight in determining this application.

Responses were received from local residents, community groups and businesses in Pelsall, residents from Brownhills, Aldridge and Bloxwich and from a national market competitor.

The matters raised in response to the public participation can be summarised as follows:

Support:

- Much needed local resource.
- Potential to support maintenance and improvements to McClean Way.
- It will complement the local shops.
- Development will reduce road traffic to supermarkets in Brownhills and Aldridge.
- Believe ALDI are making every effort to accommodate the Local needs.
- Proposed "Old Bush" plaque is welcomed.
- Replacement 3G pitch could be sited on the spare land at the Education Development Centre off Pelsall Lane.

- Proposal would improve the appearance of the area and the current state of the existing building.
- Would create many jobs.
- Extra traffic would be nominal.
- A greater choice and improved competition for shoppers.
- Increased traffic would help to slow other motorists down.
- Less travel time to get to an Aldi store.
- Investment in Pelsall.

Objections

- Lack of necessary town centre health checks.
- Lack of robust evidence to support findings on town centre trading impacts which are likely to be significant / this will be a large impact on the village shops, making them go out of business.
- Would detract from the village atmosphere and would destroy the facilities already existing.
- Lack of assessment of impact on town centre planned investment.
- Inadequate sequential testing.
- Additional trips contribute to an unsustainable business model.
- An incomplete Viability Assessment in terms of impact on heritage assets.
- A design that fails to address impacts on the conservation area.
- The loss of a community use and lack of consideration of other beneficial uses / Object to the loss of the Pub as a community facility.
- The loss of a sports pitch.
- The volume of traffic will increase and increased road safety issues.
- The local roads cannot accommodate large delivery vehicles.
- Unlikely to attract high levels of customers arriving on foot.
- Insufficient on-site car parking and/or off street car parking / Public are likely to use Pelsall Common for overflow parking.
- Noise, pollution to the local environment.
- Proposed Old Bush plaque is unacceptable. The existing building could be retained and converted into a hotel to meet local needs.
- Loss of important historical building.
- Proposed unsympathetic design and large scale does not fit in with the area and would result in significant visual impacts to the harm of the landscape, character of the area, Pelsall Common, the village and the Conservation Area
- Impact on biodiversity.
- Store not necessary in this location due to presence of existing store in Brownhills.
- Reduced light and outlook from front habitable windows.
- Concerns over security of the site and anti-social behaviour and increased fear of crime.
- Application fails to make reference to Aldi consultation exercise and no statement of community involvement submitted.
- Documents not available to view on the Council's website (*all submitted documents are published on the LPAs website*).
- Assessment has not been made of community facilities within the wider area.

Determining Issues

- Sequential Test
- Loss of Public House

- Heritage
- Archaeology
- Cannock Chase SAC and Cannock Extension Canal SAC
- Design, Layout and Character
- Amenity of Surrounding Occupiers
- Trees and Landscaping
- Highways
- Noise
- Ground Conditions and Environment
- Flooding
- Air Quality
- Ecology
- Planning Obligations

Assessment of the Proposal

Sequential Test

Local and national policies are clear that a sequential approach ('town centre first') should be applied. This site falls outside of a centre and the sequential test must therefore be applied in this instance.

Pelsall is largely surrounded by Green Belt which separates it from surrounding centres and the village benefits from large areas of open space in the form of Pelsall Common. In this respect, Pelsall does not represent a 'densely populated built area such as a city or large town', it should be viewed more as a semi-rural area with a village character where journey times to shops might be expected to be longer than the 5 minute catchment that Aldi are seeking to achieve. Based on evidence within the GVA Study of the Black Country Centres 2009 and the Black Country Centres Study Volume 1 Main Report 2020, the Council's Planning Policy Team argue that a 10 minute drive-time catchment is appropriate given the semi-rural location of Pelsall and the proximity of a number of nearby centres which could provide this retail offer to Pelsall residents in a sequentially preferable location.

The applicant has carried out a sequential test and has since made a number of revisions to it in an attempt to address concerns raised by the Council, including an expansion of the sites, and centres, to be considered. Sites have now been considered within:

- Leamore Local Centre
- Shelfield Local Centre
- Pelsall Local Centre
- Walsall Wood Local Centre
- Spring Lane, Shelfield Local Centre
- Buxton Road, Bloxwich Local Centre
- Blakenall Local Centre
- Coal Pool Local Centre
- Rushall Local Centre
- Bloxwich District Centre
- Aldridge District Centre
- Walsall Strategic Town Centre
- Brownhills District Centre

Most of the identified sites have been ruled out for not being suitable or available including the Rookery Lane site in Aldridge which the applicant has now demonstrated could not accommodate the proposal.

The applicant has submitted a separate planning application for an Aldi foodstore at the Ravenscourt site within the Brownhills District Centre. The applicant argues that the separate proposal at the Ravenscourt site would serve a different catchment (residents of Brownhills) and should therefore be excluded from the assessment in relation to this Pelsall site. However, the Planning Policy Team argue that the Ravenscourt site would serve a wider catchment inclusive of Pelsall residents, not exclusive to it, and that it is therefore available and suitable to accommodate this proposal. Given the availability of this sequentially preferable site the applicant has failed to meet the necessary sequential test, is contrary to local and national planning policies and guidance and the application should therefore be refused.

Loss of Public House

The proposal includes the demolition of a former Public House, which is recognised as a community use in terms of UDP Policy LC8, however since the use has not been in operation for at least seven years and the building is in a poor state of repair, it is considered that it is not necessary to satisfy the requirements of the policy in this instance.

Heritage

The application site is within the Pelsall Common Conservation Area and the Old Bush Inn is a Locally Listed building. The proposal includes the demolition of the former Public House.

Whilst it is acknowledged that parts of the site currently provide a sense of openness, the site contains a large building fronting Walsall Road and is set within existing predominantly two-storey built form; residential properties to south along Bush Grove and residential properties along Walsall Road to the north. A single storey building is also present immediately north of the site (Pelsall Cricket Club) which is set back some 60m from back of footpath on Walsall Road. A substantial two storey assisted-living development fronting Vicarage Road is also present to the north of the Cricket Ground site which restricts any potential views through to the application site from this vantage point. It is therefore considered that the site currently affords intermittent open views through the site from main public vantage points to the south of Walsall Road and Pelsall Common South.

It is however acknowledged that due to the current absence of built form to the east of the site, greater open views are present along the public footpath to the east (McClean Way), though somewhat screened by existing mature trees along its perimeter.

Locally Listed Building

The Old Bush Inn is in a state of disrepair having been the focus of several arson attacks. The heritage statement states 'the historic and architectural values of the former public house are now diminished by the repeated fire damage and vandalism which has occurred to the building since its closure in 2014'. It also references loss of significance parts of the historic roof structures and coverings etc....historic fabric is

likely compromised beyond reasonable repair. It also references the 'cost of materials for repairs, and in its fire damaged, vandalised and semi derelict state. The main central core plan form of the existing building including roofing structures remain, intact up to the roofline, including the architectural detailing seen on the front elevation.

The heritage statement references the site cannot be used 'viably as a public house or any other community use', and the submitted financial viability statement considers a public house and nursery/crèche as the uses, which are mostly likely to generate interest and also concludes that both schemes would be financially unviable. The FVS does not include an options appraisal to demonstrate there is an interest in uses other than a public house or a nursery / crèche. A care home or residential development (or a mixed-use scheme) or extension to the locally listed building to accommodate an appropriate use / reuse of the building have not been considered, furthermore, there is no evidence that the site has been appropriately marketed that will enable its conservation.

Since 2016 the Council has pursued the repair of the locally listed building through planning enforcement. Paragraph 196 of the NPPF states ***'Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision'***. It is unfortunate that the building is in its current state of disrepair which could have been minimised or avoided through repairs and maintenance by the owner. Adequate measures to prevent unauthorised access and further deterioration of the building have not been previously implemented and the building has not been maintained, although it is understood that some measures have more recently been put in place by the owner. Paragraph 203 of the NPPF states 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The proposed development would result in the total loss of the locally listed building contrary to Saved UDP Policy ENV28 and Paragraph 203 of the NPPF.

Harm to the Significance of a Designated Heritage Asset and preservation of the character and appearance of the Pelsall Common Conservation Area

The site is located within Pelsall Common Conservation Area, a designated heritage asset. Paragraph 197 of the NPPF seeks development to sustain and enhance the significance of heritage assets and outing them to viable uses consistent with their conservation, and the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 199 states 'great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 202 states 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.

The Pelsall Common Conservation Area Appraisal and Management Plan references Pelsall dating back to Anglo Saxon times. The Conservation Area is broken into five zones, the site being in character zone five, known as The South Common, which has

the feel and appearance of parkland. The southern part of the Common is surrounded by 20th century housing with remnants of historic character surviving. The Pelsall Common Conservation Area is generally domestic in scale, enhancing the sense of wide expanses of open space. Traditional building materials are red brick, handmade plain clay roof tiles and stone detailing to windows and door openings with pitched and gable roofs.

Whilst the total loss of the locally listed building is not supported, and would be necessary to accommodate the foodstore in its current position shown on submitted plans, and notwithstanding the concerns raised by the Council's Conservation Officer, it is considered that whilst the overall footprint of the foodstore would be larger than surrounding buildings, the lower roof height and single storey scale of the foodstore is unlikely to be perceived to be significantly different from the existing situation where two-storey built form already occupies the front portion of the site hard up to Walsall Road with further two storey residential properties along Bush Grove in the background. Furthermore, the design has been amended to provide additional glazed areas to reduce the perceived bulk of the proposed building along with use of external facing brickwork in place of the initially proposed external grey cladding which is considered better reflects the materials palette used in the locality.

The siting of the foodstore building along the southern boundary to Bush Grove is considered would also confine the built form to the south which would be seen against the backdrop of existing built form. Whilst the overall proposals would reduce the openness of the conservation area, given the existing intermittent views through the site as explained further above combined with the presence of existing built form, it is considered that a refusal reason would not be warranted on this basis.

The building would also be set at an angle to the boundary, with some opportunity for additional landscaping to further mitigate for the visual impact of the building on this frontage.

This report also sets out that three trees shown for removal, along with likely future pressure for removal of a further fourth tree, all make a significant contribution to the Pelsall Common Conservation Area.

Total loss of the Locally Listed building would result in less than substantial harm to the significance of Pelsall Common Conservation Area with the scale of harm weighed as high. There are no public benefits arising from this proposal that would outweigh the harm arising. This is contrary to Policy ENV2 (Historic Character and Local Distinctiveness) of the Black Country Core Strategy, Policy EN5 (Development in Conservation Areas) of the Site Allocation Document and Paragraphs 189, 197, 199 & 202 of the National Planning Policy Framework.

Given the principle of development of a foodstore is not acceptable and the harm arising to the significance of the Conservation Area from the total loss of the locally listed building and loss of trees, it is considered that the proposal fails to preserve or enhance the Pelsall Common Conservation Area contrary to Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, Policy ENV2 (Historic Character and Local Distinctiveness) of the Black Country Core Strategy, Policy EN5 (Development in Conservation Areas) of the Site Allocation Document and Paragraph 197 of the National Planning Policy Framework.

Archaeology

While no archaeological desk-based assessment has been submitted with the application there is a low potential for archaeological remains of the Roman or medieval periods to be present, according to the consulted Archaeologist. However, there may be structures, features and deposits relating to the early phases of the public house, and due to the proximity of the Ford Brook to the east, there is a potential for unknown archaeology dating to the prehistoric period to be present within the site boundaries. Should archaeology be present it would not form a constraint on development, a condition on any planning consent requiring a programme of archaeological work to identify and excavate any remains so they can be preserved by record is recommended.

Cannock Chase SAC and Cannock Extension Canal SAC

As set out in the applicant's submitted shadow Habitat Regulations Assessment (HRA) in September 2022, the proposed development is unlikely to result in a likely significant effect to Cannock Chase SAC and Cannock Extension Canal SAC, due to the type of development proposed and the distance from the protected sites. Therefore, no further assessment in relation to Habitat Regulation Assessment is required.

It should be noted that the shadow HRA does state that there will be a temporary increase in air pollution, during construction, from the use of HGV vehicles. This has been assessed and found to be below the threshold set by Natural England to be a significant effect. However, this can be further controlled by the implementation of a Construction Ecological Management Plan, which could be conditioned as part of any planning approval.

The Construction Ecological Management Plan should also cover mitigation measures during the construction phase for the existing ecological features on-site and off-site receptors such as the adjacent Potential Site of Importance, as assessed and recommended by an ecological assessment.

Design, Layout and Character

The site is open to view from the west from the adjacent stretch of Walsall Road and Pelsall Common. There are intermittent trees and shrubs along the northern and southern boundaries which provide partial containment to the Site from Bush Grove to the south and Pelsall Cricket and Sports club to the north. A denser band of trees encloses the eastern boundary alongside the McClean Way which is part of the National Cycle Network and defines the eastern edge of the settlement.

The new built form would be of a different appearance to the Old Bush PH but it is considered that the food store development wouldn't impede on settlement pattern, and would sit within the existing townscape structure. The low profile of the food store would prevent it from becoming prominent in views across Pelsall Common.

Views of the Old Bush PH from Walsall Road and the common would be replaced with the proposed car park, against the backdrop of the foodstore in background views. The new building would be most prominent on approach to the village from the south, with the corner of the building at the junction with Bush Grove 6.9m above

ground level in this area, the building would be partially screened by retained vegetation in this area including TPO trees.

The proposed food store would be of different character to the locally listed Old Bush PH with a more functional, commercial appearance. The scale would be of a larger footprint but lower in height such that it would not appear inappropriate in comparison to other buildings surrounding the common. The new and retained planting along the site frontage would also help to soften the views of the development and would reflect the character of the area.

The West elevation has a large glazed shopfront presenting an active frontage to Walsall Road on approach from the north.

The layout proposes landscaping around the boundaries of the site in the north, south, east and south west. Deliveries would access through the same route as customers and staff, off Walsall Road in a similar location to the existing access for the Old Bush PH.

The provision of a modern supermarket in place of a traditional public house and open space will change the character of the area, but it is not considered this would result in harm to the character of the area that would by itself justify a refusal reason. However, it is related to the issue of whether the proposal would preserve or enhance the character of the conservation area as set out further above in this report.

Amenity of Surrounding Occupiers

The site is bounded by non-residential uses to the north, east and west, but there are residential properties directly to the south along Bush Grove. The rear elevation of the proposed retail building would be located 3.5m from the boundary along the southern side of the development on the opposite side of the Bush Grove access road. This means the proposed building would be between 4.7m and 12.1m and from the back of the footway on Bush Grove. The building would therefore be approximately 19m and 26.5m from the dwellings on Bush Grove at No 14 Bush Grove and No 2 Bush Grove respectively. This would meet the requirement in the Designing Walsall SPD to provide at least 13m separation between habitable windows and blank walls exceeding 3m in height.

The proposed building would be between 6.8m to 9.6m from the ground to the top of the roof viewed externally. The building would be positioned to the north of the houses on Bush Grove meaning that the impact on daylight and sunlight entering the front gardens and front windows of these houses would be less significant than had they been in the south. Existing trees between the building and the highway at Bush Grove would be retained as part of the development that would provide some screening to the dwellings on this side. Many of these trees are protected by TPOs and therefore could not be altered or removed without the consideration of an application. Conditions should be included on any permission to ensure that this vegetation is robustly protected through the construction of the development.

The design of the building has been amended along the side elevation facing Bush Grove in order to satisfy concerns that the building appeared overly stark and monolithic when viewed from this angle. Three columns of opaque glass spandrel panels have been added to the taller side of the elevation in the east at 5.7m intervals

in addition to the horizontal brick banding in a soldier course in dark brick as a contrast to the red brick of the rest of the building.

While the addition of the building would have some impact in terms of the outlook of the occupiers along Bush Grove, it is considered that it would not be significant enough to warrant the refusal of the application. Furthermore the impact in terms of access to light and feeling of enclosure or overbearing quality would be significantly mitigated by the separation distance, vegetation screening and relative orientation of the buildings.

Trees and Landscaping

Existing trees are mainly situated around the periphery of the site with the exception of two mature Hybrid Poplars labelled T11 and T12 as shown within the submitted Arboricultural Assessment. All trees are protected being within the Conservation Area or via TPO title nos. 17/1976 and AB 03/1964.

The Council's Tree Officer agrees that the proposed removal of the Hybrid Poplar (T12) is acceptable due to its low arboricultural value (Category 'C') and impaired condition.

However, three category 'B' (moderate quality) trees are shown for removal to accommodate the submitted layout; two Sycamore trees in the north west corner (T14 and T16) and one further Sycamore (G8) located to the south of the Hybrid Poplar T11. Furthermore, the proposed site plan shows that car parking would be located directly beneath the canopy spread of the retained large mature Hybrid Poplar T11 and within this tree's root protection area (RPA). Due to the likely potential for fragile branches to fail in windy weather which is characteristic of this species, it is considered likely that future applications would be made to the Council to remove this TPO tree to remove any risk to persons or property in the event that this application is granted.

Overall, this proposal would result in the loss of three prominent protected trees, and likely pressure for the removal of a further protected tree which contribute significantly to the landscape character of Pelsall Common Conservation Area. Their loss would therefore result in harm to the visual amenity of the locality and to the character of Pelsall Common Conservation Area.

Highways

The public rights of way officer received a request from the land owners for the creation of a link path to connect the McClean Way across the development site to Bush Grove to promote sustainable travel. Consideration was given to this during pre-application discussions. It was considered that on balance a link path would not be suitable due to the likely impact this could have on the safety and security of the proposed development, including the potential for anti-social behaviour, motorcycle misuse and the high impact this could have on proposed residents.

The submitted Transport Assessment asserts that the site is highly accessible and within a sustainable location. The site is on Walsall Road, which is a District Distributor Road and has a bus stop at the entrance which makes it accessible from a range of transport options.

Access to proposed store would be provided via a new priority access junction from the B4154 Walsall Road, c30m south of the Pelsall Cricket and Sports Club access junction (c15m south of the existing site access junction). The proposed access arrangements are considered acceptable.

The proposal includes a provision of 126 car parking spaces. This accords with the parking standards set out in Saved Policy T13 of the UDP which would require a maximum of 129 spaces to be provided. Of these, 8 are proposed to be disabled spaces, located close to the access to the store. This volume and configuration is considered appropriate. A cycle shelter which could accommodate 16 cycles is proposed, which exceeds policy requirements of 6 spaces. In order to ensure that the parking and manoeuvring areas and cycle shelter is adequately provided, conditions should be included on any approval. If approved, the submitted framework travel plan should be developed into a full Travel Plan with monitoring and assessment controlled through a S106 legal agreement.

The Local Highway Authority (LHA) maintains its position that this development would increase traffic on the local network and increase queuing at the B4154 Walsall Road/Norton Road/Hall Lane/Vicarage Road signalised junction, which is already approaching or is already at capacity on some arms.

This application was submitted to the LPA in 2020 during Lock Down; the applicant was unable to provide traffic counts at that time as there were little / no vehicles on the roads at that time, and no indication as to when those trips might return. In that unique situation, the LHA signposted the applicant to the Council's traffic data from 2014, although under normal circumstances data of that age would have been unreliable and would not have been acceptable.

The LHA did not previously raise an objection to the application due to the lack of an up-to-date evidence base and the limited and out of date information on traffic counts that was available at a particularly difficult, unique, and uncertain time.

The applicant has submitted an updated Transport Assessment (TA) in August 2022. However, the LHA maintains a holding objection due to insufficient information on the following matters:

1. The TA fails to consider and demonstrate whether improvements could be made to assist in managing the impacts arising to the crossroad at Hall Lane/Vicarage Road/Walsall Road/ Norton Road. It has come to light that small areas of highway-related work (up to an area of two hundred square metres) could be carried out on Common Land without the need to provide replacement land under Common Land legislation.
2. The TA also fails to accurately demonstrate the number of likely trips to the foodstore based on empirical evidence. The LHA considers the actual resulting number of new trips would be between 40% to 70%, transferred trips would be 20% to 25%, pass by would be 15% to 25% and diverted would be 10% to 15% which is higher than the 35% being presented by the applicant. The LHA argues that this therefore needs to be backed by empirical evidence.

3. The TA identifies 9 x collisions, including 4 collisions involving a right turn, 4 shunts and one incident including a pedestrian. development will increase flows on these movements then there is a strong possibility that collisions could increase. In the preceding 5 years (2012 -2016) there have been 5 collisions (1 fatal involving a motorcycle). Collisions are increasing over time and the development would give rise to increased traffic flows in the peaks for right turns between Walsall Road and Vicarage Road. The TA fails to consider collision causation and therefore fails to fully examine the likely impacts of the development along with any further necessary highway improvements to minimise / mitigate this.
4. The TA fails to accurately assess the likely traffic impacts of the proposed development and has failed to take into account all available sources of evidence.

The LHA also advise that the proposed layout of this proposal fails to accommodate the necessary pedestrian access and visibility splays to serve the applicant's adjacent care home proposal. However, this matter is material to the determination of the separate planning application for the care home proposal and it will therefore be considered in the assessment of that application.

Whilst not a material planning consideration, and cannot be controlled by the Planning system, the LHA also advise that a large area of the village is covered by an Environmental Weight Limit (enforceable by West Midlands Police) and HGV access could only be via the classified road network only. Furthermore, an Environmental Weight Limit will also be imposed on Norton Road as a result of the new Yorks Bridge which is subject of a separate planning permission, which is likely to require all HGV access and egress to be from the A461 Lichfield Road at Rushall (to the south). This will be a matter for the applicant to consider and resolve outside of the planning process to ensure the development can be accessed appropriately by HGVs for deliveries without contravening highway weight restrictions.

Given the presence of other refusal reasons as set out in this report, and the level of negotiation already carried out between the LPA and the applicant since this application was submitted in 2020 which followed pre-application advice, it is considered that this application should now be concluded based on the information available at this time. The refusal reasons would provide a clear position to the applicant which could inform any potential future re-submission to try and address these points, or to lodge an appeal against the Council's decision.

It is considered that the applicant has provided insufficient information to demonstrate whether the development would result in an unacceptable impact on highway safety, or that the residual cumulative impacts on the road network would be severe.

Noise

There is potential for noise impacts from the proposed development in terms of increased traffic, impacts from deliveries and staff and customers using the site, and from plant and machinery used within the building.

The Council's Environmental Protection team raised concerns about noise from the fixed Plant/Machinery and the fencing around the external refrigeration plant.

The applicant was advised that for external machinery/equipment, Walsall Council recommend a noise limit based on noise frequency (Noise Rating Curves, this requires for the consideration of sound levels at all frequencies) and the impact 1 metre from the façade of a sensitive receptor. Based on the low existing background noise levels, a criteria for external equipment was given to the acoustic consultants that noise levels should be less than NR35.

The applicant has subsequently submitted further details to demonstrate how the development would result in noise levels lower than requested NR35 curve, 1 metre from residential façade. This could be secured by condition on any approval.

The calculation for noise impact from the refrigeration plant assumed that there would be no screening and determined that even with no screening, the noise levels, at nearby residential premises, will not be excessive. The proposed 2.4-metre close-boarded fence towards the residential premises would also help to further reduce any noise impacts from the refrigeration plant and could be secured by condition on any approval.

Environmental Protection concurs with the applicant's Acoustic Consultant that the noise from deliveries and customer access/egress would not be significant for nearby occupiers of residential dwellings.

Given the proximity of residential dwellings and the road infrastructure, there is the potential for local environmental impacts from demolition, engineering and construction activities. Furthermore, the Geo-Environmental Appraisal has identified that Piling (Ground Stabilisation) Works will be required for the store. Such works have a tendency to result in significant ground vibration, therefore a condition could be included on any approval to minimise impacts to neighbours during such works by way of a Construction Management Plan.

The proposed operating hours of Monday – Saturday: 08:00 – 22:00 and Sunday: 10:00 – 16:00 are considered acceptable and could be secured by condition on any approval.

Ground Conditions and Environment

The submitted Phase 1 and Phase 2 investigations have identified that the land is not significantly contaminated under current regulations and guidance. Based on the reports Environmental Protection have no objections.

Flooding

This site falls within Flood Zone 1, an area with the lowest probability of flooding. Conditions could be included on any approval to secure the necessary implementation of the submitted drainage strategy in line with the recommendation of the Lead Local Flood Authority.

Air Quality

As stated in the submitted Technical Note, Environmental Protection has undertaken detailed air quality modelling; there are currently no air quality issues

in the area and based on the predicted traffic movements, it is unlikely that there will be any air quality issues once the store is operational.

A condition could be included on any approval to secure the necessary 6 x electric vehicle (EV) charging points, including capacity to increase to a total of 12 x EV charging points to meet potential future demand.

Ecology

The Council's Ecology Officer, and the Wildlife Trust, advise that a number of submitted reports are now out-of-date and cannot be relied upon. A walk-over survey has been submitted which is considered acceptable to form an updated Preliminary Ecological Appraisal. However, updated Preliminary Roost Assessment and Dusk emergence and Dawn re-entry surveys are required prior to any approval being issued to identify the potential impact on local bat populations and to subsequently present any necessary forms of mitigation measures. Due to the current time of year, these surveys cannot be carried out at present. This forms a reason for refusal.

The request for an increase in native species as part of any landscaping scheme and a sensitive lighting scheme for bats could be included as a condition on any approval.

Planning Obligations

Loss of Sports Facility

A portion of the eastern area of the site is occupied by a disused football pitch, which previously accommodated Pelsall Villa FC. The proposed development seeks to redevelop part of the football pitch for the purpose of delivering an Aldi food store. A separate planning application which seeks to deliver a residential care home on land directly to the east, has also been submitted by the applicant. Together with the Care Home proposal, the proposed Aldi Foodstore would result in the complete loss of the former football pitch of Pelsall Villa FC.

The submitted Sports Facilities Supporting Statement confirms that the applicant accepts the principle of providing mitigation for the loss of the disused football pitch. The provision of a proportionate financial contribution has been proposed. Significant negotiations have been undertaken with the applicant, Sport England and the Council's Healthy Spaces Team.

It is accepted that mitigation in the form of an off-site commuted sum would be acceptable in this instance which would be used towards the improvement of wider local community football facilities including 3G artificial grass pitches and improved changing room facilities.

Given the advanced status of the Council's emerging updated Playing Pitch and Outdoor Sports Strategy (PPOSS) weight can be given to it in the determination of this current application. The emerging picture is broadly consistent with the existing published strategy which doesn't identify a need to retain the stadia grass pitch facility (due to a lack of need at this time to serve the needs of teams playing in the football pyramid), and instead identifies the need to prioritise investment in community football facilities where there is still a need to deliver improvements to the quality of existing grass pitches and changing rooms and to deliver additional 3G Artificial Grass Pitches (AGP's) to meet an identified shortfall of provision.

However, due to the length of time since the off-site contribution was calculated for this application and due to a recent significant increase in build costs, Sport England has advised that the originally required contribution of £996,079 is likely to have increased, and would need to be reviewed prior to any approval. Several potential locations where this contribution could be used to benefit users displaced from the application site are being explored but have yet to be confirmed.

The applicant has failed to confirm whether this development in isolation could provide the full necessary sports pitch mitigation contribution in the event that the adjacent care home proposal is not supported, and does not come forward for development.

Travel Plan

A full Travel Plan (TP) would be required and secured in a Section 106 Agreement in order to monitor and assess it. The aims of the TP are to increase awareness and encourage use of environmentally friendly modes of transport amongst staff and customers. It introduces a package of management measures that will help to facilitate staff travel by sustainable modes of transport. Reduce single occupancy, single purpose vehicle use by staff. The plan sets SMART targets. The initial target of the TP (i.e. the results of the first travel survey) will be to achieve a modal split in line with the average figures at, and to then reduce the proportion of staff driving single occupancy single purpose private car journeys to work by 5%, absolute, within five years of the TP being adopted.

On the basis that this application is recommended for refusal, the final terms of the necessary provisions of a Section 106 Agreement have not been agreed and this will therefore form a further refusal reason as the sports pitch mitigation and Travel Plan are both necessary to make the development acceptable in planning terms.

Conclusions and Reasons for Decision

This proposal is not supported in principle, and on the basis of the information on the file at the time of writing this report there are additional concerns around harm arising to designated and non-designated heritage assets, highways safety, safeguarding of protected species, loss of important protected trees that make a significant contribution and lack of an agreed form of mitigation measures to make the development acceptable in planning terms via a Section 106 Agreement.

As set out in the report, there are no material planning benefits of this proposal that would outweigh the harm and this application is therefore recommended for refusal.

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.

The LPA has carried out extensive negotiations with the applicant and has provided pre-application advice to the applicant prior to the submission of this current planning application. The LPA has therefore met its requirement to act in a positive and proactive manner.

Recommendation

Refuse

Reasons

1. The proposed development would result in the following unacceptable heritage impacts:
 - i. Total loss of the Locally Listed building contrary to Saved Policy ENV28 (The 'Local List' of Buildings of Historic or Architectural Interest) of the Unitary Development Plan and Paragraph 203 of the National Planning Policy Framework.
 - ii. Total loss of the Locally Listed building would result in less than substantial harm to the significance of Pelsall Common Conservation Area with the scale of harm weighed as high. There are no public benefits arising from this proposal that would outweigh the harm arising. Furthermore, the proposal fails to sustain and enhance the significance of the heritage asset, fails to make a positive contribution to the local character and distinctiveness and fails to place great weight on the asset's conservation. This is contrary to Policy ENV2 (Historic Character and Local Distinctiveness) of the Black Country Core Strategy, Policy EN5 (Development in Conservation Areas) of the Site Allocation Document and Paragraphs 189, 197, 199 & 202 of the National Planning Policy Framework.
 - iii. The proposal, including the loss of a number of important and prominent protected trees that make a significant contribution within Pelsall Common Conservation Area, fails to preserve and enhance the character and appearance of Pelsall Common Conservation Area contrary to Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, Policy ENV2 (Historic Character and Local Distinctiveness) of the Black Country Core Strategy, Policy EN5 (Development in Conservation Areas) of the Site Allocation Document and Paragraph 197 of the National Planning Policy Framework.
2. This application fails to provide sufficient information to demonstrate whether the development would result in an unacceptable impact on highway safety, or whether the residual cumulative impacts on the road network would be severe. This proposal is therefore contrary to Saved Policy GP2 (Environmental Protection) of the Unitary Development Plan, Policy TRAN2 (Managing Transport Impacts of New Development) of the Black Country Core Strategy, T4 of the Site Allocation Document and Paragraph 111 of the National Planning Policy Framework.
3. This application fails to provide sufficient up-to-date information to identify the potential impacts of the development on local bat populations and to subsequently present any necessary forms of mitigation measures. This application is contrary to Saved Policies GP2 (Environmental Protection) & ENV23 (Nature Conservation and New Development) of the Unitary Development Plan, ENV1 (Nature Conservation) of the Black Country Core Strategy, EN1 (Natural Environment Protection, Management and Enhancement) of the Site Allocation Document, NE1 – NE6 of the Conserving

Walsall's Natural Environment SPD and Paragraph 180 of the National Planning Policy Framework.

4. A suitable and available sequentially preferable site is present at the former Ravenscourt site within Brownhills District Centre which would serve a wider catchment inclusive of Pelsall residents. Given the availability of this sequentially preferable site the applicant has failed to meet the necessary sequential test. This proposal is therefore contrary to Policies SLC1 (Local Centres) & SLC2 (Local Centres Development Opportunities) of the Site Allocation Document, Policies S2 (The Hierarchy of Centre), S6 (Meeting Local Needs) & S7 (Out of Centre and Edge of Centre developments) of the Saved Unitary Development Plan, Policy CEN7 (Controlling out of centre development) of the Black Country Core Strategy and Paragraphs 86, 89 and 90 of the National Planning Policy Framework.
5. This proposal would result in the loss of three prominent protected trees (Sycamores G8, T14, T16), and likely future pressure for the removal of a further protected tree (Hybrid Poplar T11) resulting in detrimental harm to the visual amenity and character of the area contrary to Policies GP2 (Environmental Protection) & ENV18 (Existing Woodlands, Trees and Hedgerows) of the Saved Unitary Development Plan, Policies ENV1 (Nature Conservation), ENV2 (Historic Character and Local Distinctiveness) & ENV3 (Design Quality) of the Black Country Core Strategy, the Conserving Walsall's Natural Environment SPD and Paragraph 174 the National Planning Policy Framework.
6. This application fails to provide mitigation for the loss of an existing sports pitch and fails to provide a full Travel Plan which are necessary to make the development acceptable in planning terms. This proposal is contrary to Saved Policies GP3 (Planning Obligations), LC6 (Sports Pitches), T8 (Walking) & T9 (Cycling) of the Unitary Development Plan, TRAN2 (Managing Transport Impacts of New Development) & TRAN5 (Influencing the Demand for Travel and Travel Choices) of the Black Country Core Strategy, OS1 (Open Space, Sport and Recreation) & T4 (The Highway Network) of the Site Allocation Document, Exception E4 of Sport England's Playing Fields Policy and Paragraph 99 of the National Planning Policy Framework.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 01 December 2022

Plans List Item Number: 4

Reason for bringing to committee

Major Application

Application Details

Location: FIELD ADJACENT THE DUCKERY, CHAPEL LANE, GREAT BARR

Proposal: CONSTRUCTION OF A TEMPORARY 49.35MW BATTERY STORAGE FACILITY TO INCLUDE 28 ENERGY STORAGE CONTAINER UNITS, ASSOCIATED CONTROLS, PCS INVERTERS, COOLING AND FIRE SAFETY SYSTEM, 14 TRANSFORMER FEEDER PILLARS, TWO SUBSTATIONS AND COMPOUND, EACH WITH AN OPEN AIR TRANSFORMER, DEDICATED ACCESS TRACK, SECURITY FENCING ENCLOSING THE SITE, 14 LOW VOLTAGE CABINS EACH WITH AN OPEN AIR TRANSFORMER AND HIGH VOLTAGE SWITCHGEAR. INTENDED LIFESPAN OF 40 YEARS.

Application Number: 21/1720

Case Officer: Sally Wagstaff

Applicant: Anesco Ltd

Ward: Pheasey Park Farm

Agent: Stuart Natkus

Expired Date: 07-Mar-2022

Application Type: Full Application: Major Use Class Sui Generis

Time Extension Expiry:



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Recommendation

Refuse

Proposal

This application seeks full planning permission for the construction of a Battery Energy Storage System (BESS), capable of importing and exporting approximately 49.35 megawatts (MW) of electricity at a field adjacent to the Duckery, Chapel Lane, Great Barr. The energy storage facility will store energy and release it to the National Grid when required, for example, during times of peak energy demand. The facility has an intended temporary lifespan of 40 years and at the end its operation, the intention is to remove it from the site and return the field to its previous condition.

The proposal includes the following main elements:

- 28 energy storage container units containing the batteries, associated control equipment, PCS inverters, cooling system and fire safety equipment.
- 14 Transformers and feeder pillars.
- A single 132kV substation compound, up to a height of 5.5m with a District Network Operator (DNO) substation (up to a height of 3.4m), customer substation (up to a height of 2.9m) and a communications hub.
- A dedicated access track and security fencing enclosing the site.
- 14 Low Voltage (LV) cabins each with an open air transformer will be installed with the blocks of battery cabinets. The LV cabins are typically 2.2m high, 3.7m long and 2m wide which will be painted green. The transformers are generally 2.5m high, 2.4m long and 2.5m wide.
- High Voltage (HV) switchgear is required to accumulate all the HV cables from the transformers before connecting to the grid network.
- Before connection to the grid, the Distribution Network Provider (DNO) requires an Intake Substation with various protection settings to protect the grid from any faults that the BESS may cause. This intake substation will be built in compliance with building materials approved by the local planning authority.
- A Security system is required to prevent both unauthorised access into the battery storage system, which is an energy import and export system, and to protect the equipment. This will consist of a 2.4m high palisade fence which is a requirement by the DNO to ensure the adequate security of the storage system. The palisade is the usual specified fence system to install from the DNO's. A security beam system will also be installed around the fence perimeter. The security beams will be approximately 1.2m off the ground and will employ laser technology so no artificial lighting will be required.

The following supporting documents are provided:

- Alternative Sites Assessment.
- Design & Access Statement.
- Ecological Impact Assessment.
- Flood-risk Assessment and Drainage Strategy.
- Historic Environment Desk Based Assessment.
- Landscape and Visual Impact Assessment.
- Noise Impact Assessment.
- Planning Statement.

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- Soils & Agricultural Report.
- Traffic Management Plan.
- Transport Statement.
- Tree Removal & Protection Plan.
- Tree Survey.

Site and Surroundings

The site occupies approximately 2.07 hectares of agricultural land on the southern side of Chapel Lane, to the north-east of Suttons Drive. The site is located within the Green Belt and the surrounding area is semi-urban in nature. The site comprises an open field with the boundary to Chapel Lane formed of a low post/wire fence in a state of disrepair, as well as some trees toward the south-west end of the boundary. The site also comprises a small wooden stable in the north-east corner. There is a National Grid Suspension Tower and overhead power lines within the field to the south-east of the site.

To the north of the site there are open fields and cricket pitch. To the east is Barr Beacon School and residential properties. To the south is the Great Barr Hall and Registered Park and Garden, as well as the Duckery which is ancient woodland and is a Site of Importance to Nature Conservation (SINC). To the west is an open field and the Great Barr Golf Course. The site is also located within the Great Barr Conservation Area and there are several listed buildings in the area, including the Grade II Listed Great Barr Hall and Registered Park and Gardens, the Grade II Listed Church of St Margaret and Grade II Listed War Memorial, the Grade II listed Old Farmhouse and Barn and the Pinfold. There is also an Article 4 Direction and a Tree Preservation Order affecting the site.

Relevant Planning History

21/1288 – Environmental Impact Assessment (EIA) Screening Opinion for a proposed BESS (Battery Energy Storage System) – EIA not required 22/10/2021

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 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

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- 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 (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. 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.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.2 to 3.5 The Countryside and Green Belt
- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- GP3: Planning Obligations

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- ENV6: Protection and Encouragement of Agriculture
- ENV10: Pollution
- ENV11: Light Pollution
- ENV12: Hazardous Installations
- ENV13: Development Near Power Lines, Substations and Transformers
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV25: Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- JP8: Bad Neighbour Industrial Uses
- T6 - Traffic Calming
- 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

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- 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

Walsall Site Allocation Document 2019

- GB1: Green Belt Boundary and Control of Development in the Green Belt
- EN1: Natural Environment Protection, Management and Enhancement
- EN2: Ancient Woodland
- EN3: Flood Risk
- EN5: Development in Conservation Areas
- EN7: Great Barr Hall and Estate and St Margaret's Hospital
- T2: Bus Services
- T3: The Rail Network

- T4: The Highway Network
- T5: Highway Improvements

Supplementary Planning Documents

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

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 – Welcome the submission of an Historic Environment Desk-Based Assessment with the application and agree with the conclusions relating to archaeology within the report. There is potential for archaeological deposits to be present which may be affected by the proposals, however these would be of local significance and not form a constraint on development. A condition is recommended

to require a programme of archaeological work to be undertaken that would ensure preservation by record any remains affected. This would likely be trial trench evaluation in the first instance in advance of any groundworks, which would inform additional mitigation (watching brief or excavation) if required.

Community Safety – Support.

Conservation Officer – Highlights National Heritage Listed Assets affected by the proposals (including Listed Buildings and the Registered Park and Gardens) plus local designations (including local listed buildings, Great Barr conservation area, Article 4 restrictions and archaeological historic environment records) and the legislative context for considering each. A Historic Environment Desk Based Assessment (HEDBA) has been provided. It is agreed that the proposals would have less than substantial harm to the significance of the Great Barr Conservation Areas and the scale of the harm is low to medium.

The proposed site is outside of the Registered Park and Garden but sits adjacent to it. Within the Registered Park and Gardens sits Great Barr Hall, Grade II listed. The bank of trees within the RPG adjacent the site protects significant views across to Great Barr Hall and the pool. The proposal is considered would have negligible harm to the significance of these heritage assets and not no harm. The proposed Battery Park would have less than substantial harm to the significance of Great Barr Hall RPG and Great Barr Hall, that scale of harm would be medium. The proposed Battery Park would have negligible harm to the setting of Great Barr RPG and Great Barr Hall.

St Margaret's Church, Grade II listed and the War Memorial Cross, Grade II listed are located some 320m to the south of the proposed site. The proposal would have negligible harm to the significance of this heritage asset and not no harm. The proposed Battery Park would have less than substantial harm to the significance of St Margaret's Church, that scale of harm would be medium. The proposed Battery Park would have negligible harm to the setting of St Margaret's Church and the listed war memorial.

With regards to the other heritages assets, Barn approx. 20m north of Old Hall Farmhouse, Grade II, Old Hall Farmhouse, Grade II and The Pinfold, Grade II, the proposal would have less than substantial harm to the significance of these heritage assets, and the scale of harm would be low. The proposal would have negligible harm to the setting of these heritage assets.

Paragraph 203 of the NPPF states 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'.

The nearest non-designated heritage assets are Old Hall Court, Pinfold Lane and Crook House. The proposed Battery Park will have negligible harm to the significance of these non designated heritage assets.

The proposed Battery Park would be visually intrusive when seen from Chapel Lane and from short and long views from the north of the site, as there is limited planting and tree coverage that would provide effective screening. It would also appear what remained of the hedge along the Chapel Lane frontage has been removed. As such, the proposal would fail to enhance and preserve the character and appearance of the

Great Barr Conservation Area. However, through effective planting mitigation along the Chapel Lane boundary, including the reinstatement of the hedge along the site boundary fronting Chapel Lane and effective tree planting towards the northern boundaries of the site, tree planting can provide effective screening of the proposed Battery Park.

Any additional fencing should be kept to a minimum with details of design and colour provided. Palisade fencing may not be appropriate. Further details of access routes, how the battery park connects to the pylons and details of lighting also need to be considered.

An options appraisal should have been undertaken looking at alternative sites and addressing whether there are alternative sites suitable for this proposed use.

The proposed development needs to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use

Ecology Officer – No objections. Previous concerns addressed in amendments.

Environment Agency – No comments as the constraints lie outside the EA remit.

Environmental Protection – Conditions and mitigation measures are required to address potential noise impacts upon nearby residential premises from the proposed Battery Storage Facility. Key points from the developers Noise Impact Assessment are:

- The closest noise sensitive receptor has been identified as 121 Chapel Lane, approximately 230 metres away.
- Project will consist of 14No. of battery blocks (3614kWh) and 14No. of PCS containers (3525kVA).
- With the implementation of appropriate barrier mitigation, the resultant impacts from noise associated with the proposed development will be low at the nearest existing noise sensitive receptors.

Based on the noise assessment, the report demonstrates that there may be some minor noise impact at nearby residential premises. To reduce the potential noise impact the Consultant is advising that a noise barrier needs to be constructed around the PCS Container/ Battery Block area and this has been added to the plans.

Due to the variance of background noise levels, Environmental Protection prefer to incorporate a limit based on Noise Rating Curve within planning conditions, rather than relying on BS4142 alone.

The Consultants have provided Octave Band Sound Pressure Levels of Plant Items in Table 4.2. Using the data in Table 4.2 it may be possible that an Octave Band Noise Rating can be calculated for 1metre from habitable room window.

Environmental Health – No comments received.

Fire Service – Provide details of measures to be achieved for this proposal and indicate failure to meet these requirements may result in an objection and an unsatisfactory proposal. Matters to consider being access into the site if security measures are present, specialist advice, Out of Hours access and contacts in the event of an emergency.

Health & Safety Executive - This proposed development does not involve the introduction of people into the area. HSE's land use planning advice is mainly concerned with the potential risks posed by major hazard sites and major accident hazard pipelines to the population at a new development. Advises that if the development involves a new substation or the storage of electrical energy such as in a large battery storage unit and the development is proposed adjacent to a COMAH (Control of Major Accident Hazards) establishment then please consult the operator of the COMAH establishment.

Highways - 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 2021 paragraph 111.

Vehicle Access - A new site access will be created off Chapel Lane, this will be sufficient to accommodate 16.5m articulated vehicles. Vehicles for the duration of the construction period will be able to access the site using this access. Visibility splays of 88m west and 118m east are achieved which is more than adequate for a 30mph road.

Internal Layout - Swept path analysis showing a 16.5m articulated lorry turning into the access and turning around has been demonstrated. The provision of an area of hardstanding within the application site for vehicles to manoeuvre in and over which they would drive prior to accessing the public highway will reduce the risk of mud being trafficked onto the public highway.

Vehicle parking - Parking is provided on site for service vehicles.

Traffic Impact - The highest increase in average two-way daily traffic movements is expected during the 30 week construction phase. Average two-way daily commercial vehicle movements are expected to amount one two-way movements per week. During the operational phase, traffic movements are expected to be minimal. Operational traffic would comprise one van accessing the application site twice per month i.e. two two-way vehicle movements per month. Due to the proximity of the application site to the Strategic Road Network it is likely that commercial vehicle movements in the vicinity of the site are sufficiently high that an increase of one two-way weekly vehicle movements will be imperceptible against background trafficked to cause a disturbance to other users. On completion of the 30 week construction period, construction traffic would cease. There would therefore be no residual traffic related impacts arising from the temporary construction phase of the proposed development. Traffic volumes of this magnitude would be imperceptible on a daily basis. No residual traffic related impacts arising from the permanent operational phase of the Proposed Development.

Construction Management - A Construction Management Plan has been submitted. There will be up to a total of 189 deliveries to the site. This equates to approximately 1.31 deliveries per day on average over the 24-week. During peak construction activities it is expected that up to 12 deliveries per day over an 8-week period (Monday to Saturday). This will vary in line with the build process. In addition to the HGV movements, there will also be a small number of construction movements associated with smaller vehicles such as the transport of construction workers and sub-contractors. Reversing will not need to be undertaken as HGVs will drive on to site in forward gear and turn within the turning area and then leave in forward gear.

Other matters - A Highway Dilapidation Survey will be required prior to the commencement of any works on site.

Historic England – Concerns regarding the proposals on heritage grounds. The proposed battery storage facility would be located in the Great Barr Conservation Area immediately adjacent to the Grade II registered park and garden and not far from Grade II listed buildings at Old Hall, the Grade II listed church of St Margaret and war memorial cross. Both greenbelt and conservation area status reflect the scenic and historic importance of this area as a remnant of the open land that forms the setting of the designed landscape at Great Barr Hall and characterised the landscape prior to rapid urban expansion in the C20.

The construction of a large battery facility containing structures up to 5.5m high surrounded by palisade security fencing would be a harmful development in the setting of the registered park and garden and the listed buildings and would radically change the currently open character of the conservation area by introducing industrial structures and an unattractive security fence.

Section 16 of the NPPF is clear that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance (paragraph 189). To this end it requires local authorities to look for opportunities for new development to enhance significance and to preserve elements of setting that make a positive contribution to significance (paragraph 202). Any harm to significance caused by new development requires a clear and convincing justification that includes public benefits

Lead Local Flood Authority – No objections.

Natural England – No comments. The lack of comment from Natural England does not imply that there are no impacts on the natural environment only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. Other specialist ecological and environmental advice should be sought.

Public Health – No objections.

Public Rights of Way – No objections. Footpath 43 Aldridge crosses land directly to the north of the application site and the Beacon Way runs along Chapel Lane on the highway verge on the opposite side to the proposed development. The proposed application will not impact upon either of these pedestrian routes due to their location in relation to the site.

Sandwell MBC – Objects on the basis that the proposal would harm the openness of the Green Belt by incremental encroachment. The proposal is contrary to the open character of the Green Belt (para 133 NPPF), is not an acceptable use (para 145 NPPF) and does not safeguard the Green Belt from encroachment (para 134 NPPF). Para 147 of NPPF states elements of renewable energy are often inappropriate development in the Green Belt and that very special circumstances are required to justify this harm. BCCS policy CSP2 relates to Development outside the Growth Network and states Green Belt boundaries will be protected from inappropriate development. The applicant should demonstrate why this development is necessary at this sensitive location and could not be sited in an employment area like other power installations e.g. Union Road Generation Site, Oldbury.

Severn Trent Water – No objections and do not require a drainage condition as the proposal has minimal impact on the public sewerage system.

Staffordshire Gardens & Parks Trust – Objects. This application will cause harm to the significance of Great Barr Conservation Area and to the RPG and its setting and has not demonstrated an overriding need or public benefit which would outweigh that harm (NPPF paras 200-202). The application does not satisfy the test of S72(1) of the P(LB&CA) Act 1990 in that it will neither conserve nor enhance the character and appearance of the conservation area. The proposals run counter to your Council's planning policies for the protection of the Green Belt and built heritage. The proposal does not demonstrate exceptional circumstances which would warrant the harm from intrusion into the openness of the Green Belt.

The Gardens Trust – Objects. The application site lies immediately adjacent to the northern boundary of the Grade II Registered Park and Garden (RPG) of Great Barr. It also is in the centre of the Great Barr Conservation Area (CA) and lies within the Green Belt. The woodland of The Duckery, which is described as '*..an area of ancient semi-natural woodland..*'¹, lies within the RPAG immediately adjacent to the proposed development site and is clearly visible from it. The proposed siting of such a large battery storage facility in open countryside and especially within a Conservation Area seems difficult to understand at first glance. The part of the Great Barr Conservation Area within which the proposed battery storage development is to be sited lies clearly within the Setting of the Great Barr RPG and will be seen from it. Connections to the adjacent electricity pylons will either run through the RPG itself or be visible from it, again impacting upon its Setting. No very special circumstances have been demonstrated.

An Historic Environment Assessment looking at alternative, less sensitive sites further from the immediate setting of the RPG should be required. The proposal will likely generate additional proposals for solar arrays within the immediate neighbourhood, or on Barr Beacon itself, compounding the impact upon the Conservation Area, RPG and Green Belt.

Tree Preservation Officer – The application site is situated within Great Barr Conservation Area and the trees are predominantly located around the periphery of the site. The site layout as indicated on drawing no. C0002457-02-PL Rev. B will not necessitate the removal of any of the trees or hedgerows on site to facilitate the proposals and the proposal does not encroach into any of the root protection areas of the trees as recommended in BS 5837: 2012. The tree removal and protection plan (drawing no. 211216-CLGB-TRPP-SD) details the location and specification of tree protection fencing which would afford adequate protection for the retained trees within the applications proposed site layout (confusingly this documents title would suggest there are trees for removal which is not the case). Consequently, the application does not have any detrimental implications for the trees on or adjacent to the site as none would be lost to development and the existing trees can be adequately protected throughout any construction phase. Should the application be given consent the recommendations and guidelines as detailed in the BS 5837: 2012 tree report and tree removal and protection plan should form one of the conditions.

Group of Ramblers – Objects not an appropriate location for this type of development. Concern this will set a precedent for further development within the Green Belt. Query what Walsall MBC's policy is towards carbon reduction and sustainable energy generation in the longer term and what are the implications if this plant is given approval to proceed? Very special circumstances are required to outweigh the harm and concern developer is relying on need for renewable energy to outweigh harm which Ramblers disagree with. Concern about design of any access potentially allowing parking or attracting fly tipping. Inadequate adequate screening proposed. Makes comments on how wide consultation on the proposals has been.

West Midlands Police – Security required for people's safety and reduce theft of metals, materials or equipment this is a vulnerable isolated site. Makes recommendations for lighting, security, alarms, CCTV etc and recommends Secure by Design.

Representations

Over 300 comments (from around 200 properties) raising objections to the proposals have been received including those from local ward Councillors, MP Valerie Vaz (Walsall South), MP Nicola Richards (West Bromwich East) and local groups including Beacon Action Group. These are summarised as follows (officer comments in italics):

Green Belt:

- Inappropriate development in Green Belt
- Not met very special circumstances to justify inappropriate development in Green Belt
- This proposal is on agricultural land in open countryside and does not safeguard the openness of the countryside
- This area already under threat to loss of Green Belt land for development
- This green belt land separates Walsall from Birmingham and shouldn't be lost
- Reported that at a Save our Green Belt meeting a 10 year old commented "our future must be protected, climate change and loss of biodiversity is here, the air we breathe is toxic, noise in the air never stops, we will not forgive you for taking Green Belt and open spaces and destroying our future"
- Commercial development in green belt not appropriate
- Acknowledge energy storage helps protect the planet but need to balance developer profit against community expense and loss of green space forever
- Agree battery storage is essential to national grid but this is one of the last green open spaces in Walsall and should be preserved
- Loss Grade II agricultural land
- The farmland is high quality and should not be built upon

Conservation Area:

- Inappropriate development in Conservation Area
- Harmful visual impact and impact on designated Heritage Assets
- Recognise possible need for this type of development but not in a Conservation Area where LPA duty to preserve and protect character
- Nearby housing in the Conservation area has restrictions on permitted development so these larger scale proposals should not be allowed
- Object to proposal next to Grade II Listed Church and Designated World Heritage Site

- Failure to inform parties such as Historic England and Fire Service (*the LPA has consulted these parties*)

Neighbour Amenity:

- Disruption to local community
- Overlooking and loss of privacy for residents nearby
- Affect on residents' health from pollution plus mental health
- Noise Assessment doesn't not consider impact on Kinross & Nether Hall Estates and does not confirm where receptors considered are
- Mitigation/louvres should be required on all sides to minimise impacts to residents
- Plant noise disturbs residents utilising nearby open space
- 24/7 security may lead to light spillage in the area

Environmental Issues:

- Environmentally important site for flora, fauna and protected species as SLINC and SINC designations
- Environmental impacts on surrounding areas
- No Environmental Impact Assessment undertaken (*this was subject to a separate process – 21/1288*)
- Impacts on landscape and ecological impacts in a highly sensitive area
- Potential impact on endangered species of flora and wildlife
- Contrary to Zero Carbon if Green Belt lost
- Should be planting trees not cutting down
- Uncertainty as to how close to woodlands the proposal may be or how large a site area may be required
- Misleading responses on application form regarding trees and hedges, Flood Risk, proximity to a watercourse, surface water disposal, biodiversity and geological conservation, protected species and designated sites or habitats that would require consideration and supporting evidence
- Noise, light and air pollution
- Potential flooding and contamination

Highways:

- Highway safety and congestion concerns along Chapel Lane which is used as a short cut to A34 motorway junction
- Construction/maintenance traffic could hamper access along Chapel Lane for emergency vehicles
- Traffic Management Plan identifies size and frequency of proposed vehicles is extensive
- Traffic pollution and noise from construction
- Chapel Lane not suitable for large vehicles and no turning facility causing severe disruption
- Chapel Lane periodically closed for repairs already
- Weight limit on Brook Bridge in Chapel Lane

Fire Safety/Health & Safety:

- Battery storage units are a fire hazard and requires access by fire service vehicles at all times, but Chapel Lane is prone to flooding/freezing resulting in lane closures hindering access

- Battery storage in Darlaston has suffered several fires this would be disastrous at this location close to the motorway and affecting homes nearby
- Potential leakage from battery energy storage systems could be catastrophic
- Increased risk of serious fire and explosions releasing toxic gases that are a danger to public and increase pressure on emergency services and concern for public health as there are schools and housing in close proximity
- Please consider safety of public particularly children

Other Matters:

- The site is covered by an Article 4 Direction further restricting development
- Residents have no funding and little time to fight this scheme (*not a material planning consideration as statutory consultations undertaken*)
- Search for alternative sites limited and a site in the Black Country near the national grid discounted
- Brownfield and industrial sites would be more appropriate
- Alternative location should be sought
- Another site is under construction near J7 of M6 in Sandwell
- Disrespectful to locate this close to graveyard and place of worship
- Previous refusal for inappropriate development at the site
- Object to solar panels no mention of size and number (*none are proposed*)
- Large development and very high (5 acres 2.4m high)
- Visible from public paths – next to Beacon Way popular rambling route
- 40 years is not temporary
- No guarantees that the land won't be built on once facility decommissioned
- Agree need for renewables given present energy crisis but outweighed by other considerations
- Anesco report contradicts earlier reports on grade of land and whether suitable to build on
- Drastically impact on this beauty spot
- Querying consultation timescales (*the developer carried out their own consultation exercise prior to submitting the application which may not have captured all interested parties. The LPA has carried out statutory consultations in line with legislation and all representations received prior to determination taken into consideration*)
- Evidence provided relating to legal case regarding similar type of development and inadequate consideration of Environmental Impact
- Reference to public meeting held with MP present
- Could damage property value in the area (*this is not a material planning consideration*)
- Could lead to future developments (*any future applications assessed on their own merit*)
- Query who owns the site (*not a material planning consideration but applicant has served notice B on the owner*)
- Anesco are not local and could build elsewhere (*the LPA have to consider the proposals before us*)
- Welcome MP Valerie Vaz support in fighting this proposal

Determining Issues

- Principle of Development
- Green Belt Assessment
- Heritage Assessment
- Amenity of Neighbours [Page 146 of 185](#)

- Highways
- Ecology
- Flood Risk / Drainage
- Trees / Protected Trees
- Ground Conditions and Environment
- Planning Obligations

Assessment of the Proposal

Principle of Development

This application proposes the erection of a Battery Energy Storage System (BESS) at agricultural land located within the Green Belt and within the Great Barr Conservation Area. The proposed development consists of a number of buildings/structures including the main battery storage cabinets within the centre of the site, a compound and substation, as well as ancillary works including security fencing, a new access off Chapel Lane, an internal access route and an acoustic barrier. The structures are generally of an industrial style appearance finished in grey and green, with a maximum height of 5.5m (132kv substation compound), with the height of the other structures ranging from 2.3m-3.4m.

The proposed Battery Energy Storage System is a technology which does not itself produce renewable energy, it instead stores energy and transfers it back to the National Grid when required, for example, in times of peak energy demand. However, for the purposes of the planning system, national policy dictates that this type of development is accepted as a form of renewable energy, given that it aids the storage of energy from renewable sources and therefore reduces the reliance on fossil fuels and contributes to reduction of carbon emissions. The NPPF also states that when determining planning applications for renewable/low carbon energy developments, local planning authorities should not require applicants to demonstrate the overall need for renewable/low carbon energy and even small-scale projects can provide a valuable contribution to cutting greenhouse gas emissions. Renewable energy projects are also supported in Policy ENV7 of the Black Country Core Strategy, where the proposal accords with local, regional and national guidance and will not significantly harm the natural, historic or built environment of the area.

Notwithstanding that further consideration is required regarding the use of this specific site for the proposed energy storage facility, given its sensitive location within the Green Belt and the Great Barr Conservation Area, the need for renewable energy projects such as this is accepted and is well supported within national and local planning policy. The principle of the proposed development is therefore acceptable, subject to further consideration regarding the suitability of the site for the intended use and compliance with any other material planning considerations.

Green Belt Assessment

The site is located within the Green Belt, the purpose of which as set out in the NPPF is in part to prevent urban sprawl by keeping land permanently open and to safeguard the countryside from encroachment. Inappropriate development in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF states that the construction of new buildings in the Green Belt is regarded as inappropriate development, subject to some exceptions as set out in paragraphs 149 and 150. Very special circumstances will not exist unless

the potential harm to the Green Belt by reason of inappropriateness (and any other harm resulting from the proposal) is clearly outweighed by other considerations. For applications in the Green Belt, consideration is also required regarding the impact of the proposal on the openness of the Green Belt, both in terms of spatial and visual openness.

The applicant has submitted a Landscape and Visual Impact Assessment in order to assess the visual and landscape impacts of the proposal on the Green Belt and its spatial and visual openness. The Assessment acknowledges that the proposal may result in a degree of harm (categorised as negligible to minor adverse harm) to the Green Belt, but suggests that this harm will be mitigated by the restricted height of the buildings, the limited extent of the development, the existing enclosure of the site and the enhancements to the site's vegetation and enclosure on Chapel Lane.

The proposed mitigation measures include enhancements to the boundary on Chapel Lane, which is mostly open, with a limited number of existing trees and vegetation providing screening toward the the south-west end of the Chapel Lane boundary only. The proposed screening enhancements involve the retention of the existing hedgerow and planting of new hedgerow at the open sections of Chapel Lane, as well as the planting of wildflower grassland around the buildings. However, the height of the proposed hedgerow as indicated in Figure 6 of the Landscape Management Plan will be maintained at a maximum height of 2m-2.5m, thereby not entirely screening the height of the new buildings. In addition, the wildflower meadow, whilst no doubt will improve the appearance of the field, will not likely provide any meaningful or significant screening of the new buildings.

Notwithstanding the proposed mitigation measures, when comparing the existing appearance of the site with the proposed appearance of the site (including mitigation), the proposal will result in some loss of the openness of Green Belt land. The site is currently an open and undeveloped field, with the only structure present being a small wooden stable in the north-west corner of the site (approximate footprint of 90sqm), albeit the national grid suspension tower and overhead power lines are also visible within the context of the site

The proposal will however introduce a range of new industrial style buildings within the field, with a significantly increased overall footprint of all the buildings of approximately 2000sqm, with building heights ranging from 2.2m-5.6m. Due to the introduction of the new buildings, including the extensive palisade style security fencing in a field which is currently absent of such buildings, the development will appear alien and visually intrusive in this landscape, and will result in the loss of the openness of the Green Belt, despite the mitigation measures. Reference is also made by the applicant of the proposal being for a temporary period only, however, the development has an overall lifespan of 40 years, which is not a time period which would reasonably be considered as temporary. 40 years is in fact considered to be a long period of time during which the harm to the Green Belt would persist and the prospect of the eventual restoration of the site after this significant amount of time does not provide adequate justification to discount the harm caused.

For the above reasons, it is considered that the proposal will result in some harm to the Green Belt, as it constitutes inappropriate development in the Green Belt and will reduce its openness, contrary to the purpose of including land within the Green Belt. In accordance with the NPPF and Policy GB1 of the Walsall Site Allocation Document, the development can only be permitted where very special circumstances exist. This is considered later in the report.

Heritage Impacts

The site is located within the Great Barr Conservation Area and there are numerous heritage assets within the vicinity of the site, including the Grade II Listed Great Barr Hall and Grade II Listed Great Barr Hall Registered Park and Gardens to the south, the Grade II Listed Church of St Margaret and Grade II Listed War Memorial to the south-west, the Grade II listed Old Farmhouse and Barn and the Pinfold to the north-west, as well as several non-designated heritage assets within the wider area.

When considering potential impacts on the significance of heritage assets, the NPPF requires that great weight is given to an asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. This is consistent with Policy EN5 of the Walsall Site Allocation Document, which requires that development preserves or enhances the significance of Conservation Areas, including their setting, character, and appearance.

With regards to the impact of the proposal on the significance of the Great Barr Conservation Area, the proposal will introduce a development of an industrial character and appearance in this location, altering the rural character of this specific part of the Conservation Area through the introduction of industrial style structures and fencing. This part of Chapel Lane is fairly open in nature with limited planting and tree coverage; therefore, the development will easily be viewed from Chapel Lane and will become an intrusive feature in an otherwise open/rural landscape. It is acknowledged that planting is proposed along this boundary, but given the height of some of the structures, any such planting will not likely provide effective screening of the site and the facility will become a visible feature within the Conservation Area for a period of 40 years, harming the significance of the Conservation Area and surrounding heritage assets for an extended period of time.

The proposal is therefore considered to result in 'less than substantial harm' to the significance of the Great Barr Conservation Area and the surrounding heritage assets, with the scale of the harm being medium to the Conservation Area and the heritage assets closest to the site (Great Barr Hall and Registered Park and Garden, St Margaret's Church and the War Memorial Cross), and the level of harm being low to the heritage assets further from the site (Old Harm Farmhouse and barn and the Pinfold). The NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The public benefits of the proposal and consideration of this against the harm is considered later in the report.

Amenity of Neighbours

Notwithstanding the above concerns, the nearest noise sensitive uses to the site are located approximately 230m to the southwest of the site (121 Chapel Lane), 270m to the north of the site (Old Hall Court), 280m to the east of the site (Old Hall Farm) and 345m to the east of the site (Barr Beacon School). A Noise Assessment has been submitted which addresses the noise impacts of the proposed facility on sensitive uses. The Assessment is based on a worst-case scenario and concludes that the proposal may have a minor impact albeit primarily during night-time hours.

Due to the potential noise impacts of the proposal, the development includes noise mitigation measures, including the erection of a 2.8m high acoustic barrier on the north and west side of the central battery module and PCS units which are anticipated to be the noisiest elements of the proposed facility. Whilst the acoustic barriers are anticipated to reduce the noise impacts of the proposal, in order to ensure that noise impacts are acceptable, Environmental Protection have advised that a planning condition would be required which limits the cumulative noise levels, should the application be approved. It is also noted that whilst the acoustic barriers would mitigate the noise impacts of the development, these are likely to be visually harmful, given their height of 2.8m and are likely to be of a similar industrial style appearance as the rest of the proposal, albeit details of their appearance have been provided.

In summary, the application is considered to be acceptable with regards to the impact on neighbour amenity, subject to the conditions recommended by the Council's Environmental Protection Officers.

Highways

The proposal includes the creation of a new access from Chapel Lane, an internal access route and vehicle parking space for service vehicles within the site. In terms of traffic generation, once the facility is operational, traffic movements to the site would be minimal at approximately two by two-way vehicle movements per month. During the construction period (30 weeks), traffic movements to the site will be higher at approximately 1.31 deliveries per day on average for 24-weeks, increasing to 12 deliveries per day for a peak 8-week period. This level of traffic generation is deemed to be acceptable and could be managed by the local highway network. In terms of highways safety, HGV vehicles will be able to drive into the site and manoeuvre within a turning area and will not be required to reverse onto the highway. The application is therefore considered to be acceptable with regards to the highway matters, subject to the conditions recommended by the Council's Highways Officer.

Ecology

With regards to the ecological impacts of the proposal, The Duckery to the south is a designated Site of Importance to Nature Conservation (SINC), comprising ancient woodland. However, the site layout is such that the proposed development would lie outside of the 15m buffer zone to the woodland and the proposal would not therefore result in any harm to biodiversity at and around the site. The application is therefore considered to be acceptable with regards to the impact on ecology.

Trees and Protected Trees:

The site comprises an open field with a small number of trees located primarily around the site's perimeter. Where there are protected trees, these are located outside of the site's red line boundary, adjacent to the application site at the Duckery Park to the south of the site. The Council's Tree Officer has advised that the proposal will not require the removal of any of the trees or hedgerows at the site itself or within the woodland to the south and will not result in any impact on any tree root protection areas. Tree protection fencing will also be used where required to prevent any damage being caused to the trees. The application is therefore considered to be acceptable with regards to the impact on trees and protected trees.

Flood-risk and Drainage

The site is located within flood zone 1 and is at a low risk of flooding. However, given that the site is over 1 hectare in size, a site-specific Flood Risk Assessment and Surface Water Drainage Strategy has been submitted. The Assessment confirms that the site is at low risk of flooding and any additional surface water discharge due to the additional hardstanding will be collected in a series of proposed swales within the application site, prior to discharge into a drain within the southwest corner of the site, with the maintenance of this to be secured by planning condition and operational responsibility falling to the operator of the development. The Lead Local Flood Authority and Severn Water have raised no objections to the proposal and the application is therefore considered to be acceptable with regards to flood-risk and drainage matters.

Ground Conditions and Land Stability

The site is currently within an agricultural use and is outside of the Coal Mining High Risk Area. There is no planning history for the site which indicates any potential land contamination being present and the Council's Environmental Protection Officers have not requested any conditions be attached in relation to ground conditions. The application is therefore considered to be acceptable with regards to ground condition and land stability matters.

Planning Balance and Very Special Circumstances:

In considering the application as a whole, the benefits of the proposal need to be weighed against the harm of the proposal, in order to determine whether very special circumstances exist and therefore whether the development can be permitted.

The overall harm of the proposal can be summarised as including the promotion of inappropriate development in the Green Belt, which is by definition, harmful to the Green Belt, the harm caused by the loss of openness of the Green Belt by virtue of the erection of industrial style buildings/structures in an otherwise open and undeveloped field, as well as the harm to the significance of the Great Barr Conservation Area and nearby heritage assets by virtue of the failure to preserve or enhance their setting. Collectively, this level of harm is considered to be substantial and represents significant conflict with the national and local planning policy.

Very special circumstances will not exist unless the potential harm as outlined above is clearly outweighed by other considerations. To this end, the applicant has provided the following list of very special circumstances within the Planning Statement, in order to justify the application:

- There is an urgent need to secure renewable energy as part of the UK's transition to net zero.
- The UK Government has declared a climate emergency and Walsall Council aspires to be a net zero district by 2020.
- BESS are required to transition to a renewable and low carbon future and are required to secure energy security.
- The site has proximity to an existing grid connection with sufficient capacity, such locations are limited around the country and in Walsall.
- The proposal will delivery biodiversity net gain.
- The proposal is temporary and reversible.

- The proposal will have a minimal impact on the landscape.
- The development will be of a smaller scale, height and massing than existing buildings/infrastructure in the surrounding landscape.
- The proposal will have limited harm to the Green Belt.
- The development is in accordance with planning policy.

These points are acknowledged and the overall need for such a facility is not disputed. However, the applicant's stated very special circumstances do not clearly demonstrate why a site in both the Green Belt and in a Conservation Area is specifically required for the proposal. The applicant's very special circumstances are accepted as demonstrating the overall need for such a facility; however, there is limited information regarding the proximity to the existing grid connection which has sufficient capacity. The applicant's statement is not supported by any further details of this connection, it is not indicated on the proposed plans where the connection is, and it is not clear on proposed plans if the connection will require further works within the Green Belt land. It is not also clear if there are other sites that have sufficient connectivity and capacity that may be less constrained, for example, land outside of the Green Belt and a Conservation Area.

In addition, whilst there is no formal requirement to provide an Alternative Site Selection Assessment, this has been submitted by the applicant and seeks to discount alternative sites in the area. However, this again does not sufficiently demonstrate that this site, above other less sensitive sites, is specifically required for the proposal. The Alternative Site Selection only considers sites which are for sale and there is no evidence that the applicant has approached other landowners with land which has sufficient access to the grid. The Alternative Site Selection also identifies potential sites which are only considered suitable for other uses, such as sites which are allocated for housing and employment or already have planning permission for such uses, therefore not they are not appropriate sites to consider for the energy proposal as the prospect of them being used for this proposal is unrealistic. It is therefore considered that the Alternative Site Selection does not provide sufficient justification or very special circumstances for the use of this site for the facility, above other potentially less sensitive sites in Walsall.

In summary, it is therefore considered that when assessing the planning balance of the application as a whole, very special circumstances do not exist in this instance and the application should be resisted.

Conclusions and Reasons for Decision

Whilst it is acknowledged that there is a need for the proposed energy storage facility, the site's location within the Green Belt and the Great Barr Conservation Area are considered to be significant constraints on the development which in this case, prevent its recommendation for approval.

When viewed collectively, the introduction of a new development of an industrial style appearance which is inappropriate development in the Green Belt and will reduce the spatial and visual openness of the Green Belt, alongside the failure to preserve and enhance the setting of the Great Barr Conservation Area and surrounding heritage assets, will result in substantial harm to both the Green Belt and the Great Barr Conservation Area.

The very special circumstances presented by the applicant in relation to the benefits of the proposal in providing a renewable energy storage facility are acknowledged and afford significant weight, however, given the substantial scale of the collective harm both to the Green Belt and the Conservation Area, in this case the overall benefits of the proposal are not considered to outweigh the overall harm, when considering the application as a whole.

For these reasons, it is considered that very special circumstances do not exist, and that the proposed development should be resisted. Therefore, 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

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

Recommendation

Refuse

Reasons

1. The proposal would represent inappropriate development in the Green Belt, which is by definition harmful to the Green Belt and there are no very special circumstances which would outweigh the harm by reason of inappropriateness. The application is therefore contrary to Saved Policies GP2 (Environmental Protection), ENV6 (Protection and Encouragement of Agriculture) and ENV7 (Countryside Character) of the Walsall Unitary Development Plan, Policy CSP2 (Development Outside the Growth Network) of the Black Country Core Strategy and Policy GB1 (Green Belt and the Control of Development in the Green Belt) of the Walsall Site Allocation Document.
2. The proposal would fail to enhance and preserve the character and appearance of the Great Barr Conservation Area and heritage assets in the areas, resulting in less than substantial harm to the heritage asset, with the scale of harm not being outweighed by the overall public benefits of the proposal. The application is therefore contrary to Saved Policy EN32 (Design and Development Proposals) of the Walsall Unitary Development Plan, Policies CSP4 (Place-Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) of the Black Country Core Strategy and Policy EN5 (Development in Conservation Areas) of the Walsall Site Allocation Document.

END OF OFFICERS REPORT

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 01 December 2022

Plans List Item Number: 5

Reason for bringing to committee

Major Application

Application Details

Location: MALI JENKINS HOUSE, THE CRESCENT, WALSALL, WS1 2DE	
Proposal: ERECTION OF 18 NO. AFFORDABLE ONE AND TWO BEDROOM APARTMENTS OVER THREE FLOORS WITH ASSOCIATED PARKING AND LANDSCAPING.	
Application Number: 22/0925	Case Officer: Helen Smith
Applicant: Habinteg Housing Association	Ward: Paddock
Agent: WSM Architects	Expired Date: 04-Oct-2022
Application Type: Full Application: Major Use Class C3 (Dwellinghouses)	Time Extension Expiry:



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Recommendation

Refuse

The previous proposal reference no. 21/1240 for a similar proposal was refused planning permission on 10 March 2022 by Planning Committee contrary to officer recommendation. The previous application is currently subject to a planning appeal and a decision is awaited. Any new application is required to address the previous reasons for refusals nor create any new issues. The planning agent has advised that the proposed scheme has a large allocation of grant funding from Homes England and the re-submission is in an effort to gain planning permission and secure funding.

This proposal is a revised resubmission for the erection of 18 no. affordable one and two bedroom apartments over three floors with associated parking and landscaping. The design of the proposal has been revised to incorporate amended front and rear elevations.

The Planning Agent has advised that the proposed design of the building has been changed to a more traditional aesthetic and a boundary wall has also been introduced along The Crescent to maintain the existing street scene and help screen the car park.

The Design and Access Statement states that the ground floor apartments would be wheelchair accessible and the upper floor apartments accessible aimed at persons with less mobility. The proposal includes a communal garden and off street parking. The submission states that the proposed development is intended to be for older people and physically less able residents and would comprise 100% affordable housing.

The existing site access and dropped kerb would be utilised for the proposed new development.

The proposed apartment development would measure 10.6 metres high (0.6 metres lower than the previous refused proposal).

The footprint of the proposal would measure 32.9 metres wide and 18.5 metres deep. The development would be built in a mixture of red and buff colour facing brickwork with a dual pitched concrete tiled roof, coloured dark grey, with three gabled bay extensions to the front and rear elevations.

Doors would be a powder coated aluminium, coloured anthracite RAL 7016 (grey) with UPVC windows and glazed floor system all coloured anthracite RAL 7016. The proposed balconies would have a stainless steel baluster and handrail with a toughened glass panel infill.

The front and rear elevations are characterised by doors at ground floor, windows at ground, first and second floor of a similar style and balconies at first and second floor. Larger windows are proposed for the six three storey gable features. To the west and east elevation there are 2 no side facing windows serving the internal hallways on the upper two floors.

There would be a glazed main entrance and lobby area with a lift from the front elevation and a second rear access to an internal staircase.

The apartment block is set back from the highway by approximately 26 metres and there are 27 no. unallocated parking spaces (equivalent to 1.5 spaces per dwelling) to the front of the building which includes 6 designated disabled parking spaces.

There is a general and recyclable refuse store sited adjacent to the parking area to and a metal resident and visitor cycle illuminated enclosure to the front of the building (6 no. cycles).

The proposed site plan shows an area for maintenance access surrounding the site and defensive planting within the building recesses to the eastern and western elevations. To the rear of the site there is an area of shared and enclosed amenity space with an area of approximately 615 sq. metres which equates to 34 sq. metres per apartment.

The site is surrounded by paving which will be concrete flags and paths which will be gravel with weed suppressant membrane.

The site will be enclosed by a 2 metres high close boarded timber fencing with lockable timber gates to the side and rear and 1 metre high close boarded timber fencing towards the front of the site along the east and west boundaries. There would be 1.1m high galvanised mild steel railings with powder coated finish (colour black) to the front elevation of the building.

The front boundary of the site adjacent to the footpath would include 1.8 metres high brick piers with 1.2 metres high dwarf brick wall and topped with 0.6 metres high railings with a black colour powder coated finish.

Internally the schedule of accommodation includes

Ground Floor

2 no. 1 bedroom, 2 person, 52 square metres floor area apartments

4 no. 2 bedroom, 3 person, 70.5 sq. metres floor area apartments

1st and 2nd Floors

4 no. 1 bedroom, 2 person, 51 square metres floor area apartments

8 no. 2 bedroom, 3 person, 63 sq. metres floor area apartments

Total = 18 apartments

The approximate density of the site is 78.2 units per hectare.

A sustainable energy strategy is proposed to include heat pumps, PV panels on south facing roof slopes and the incorporation of thermal insulation.

The following documents and information have been submitted in support of the proposal;

- Geoenvironmental appraisal
- Noise Impact Assessment
- Addendum Note to Financial Viability Assessment

- Arboricultural Report
- Topographical Survey
- Preliminary Ecological Appraisal
- Design and Access Statement
- Bat Emergence Survey
- Drainage Strategy Report with drainage layout plan
- Flood Exceedance routing plan
- Impermeable area plan
- Proposed Accommodation Light Assessment
- Gas membrane Data Sheet
- Surface Water Management Plan

Site and Surroundings

The existing site was formerly occupied by the Mali Jenkins residential care home (C2 use) which has been demolished under prior approval application no. 21/0917.

The site is relatively level with the western and northern boundaries the ground rising between 0.5-1.5m up to the boundary.

The surrounding area is characterised by predominately two and three storey brick/render houses and apartments.

To the east of the site is a Toby Carvery restaurant which comprises two storey buildings of painted brick and a large steep roof.

Beyond Broadway North there is a small convenience store and post office.

To the north of the site a residential development has been approved for 14 dwellings and is currently nearing completion (application 21/0006).

The Crescent lies to the south and residential properties opposite, and to the west is a small woodland area containing mature trees with a three storey apartment development beyond.

The site is not within a Conservation Area, nor does it comprise a listed building. There is a belt of trees to the west of the application site which are subject to a group Tree Preservation Order (TPO reference no. 3/2002).

The application site sits outside the Cannock Chase Special Area of Conservation 15km Zone of Influence. The site falls within a Coal Development Low Risk Area.

Relevant Planning History

BC54803P- Extension to provide new entrance to Mental Health Wing- GSC- 22/06/1998

19/1340- Prior Notification for demolition of Broadway North Resource Centre- prior approval not required- 19/11/2019

21/0006- Erection of 14 no. dwellings, alterations to existing access and associated works- GSC 21.07.2021

21/0917- Prior Approval: Demolition of Mali Jenkins building(s) and site to be cleared and left with a secure fence and bund- Prior approval granted- 04/08/2021

21/1240 – Erection of 3 storey 18 no. affordable one and two bedroom apartments with associated parking and landscaping refused permission on 14/4/22 by Planning Committee on the following grounds;

1. The proposed mass, bulk and scale of the building in addition to the large amount of hardstanding to the front of the site introduces an incongruous form of development which is out of character to the properties in the surrounding area and street scene and is considered to be an overdevelopment of the site. The proposal would therefore result in significant detrimental harm to the character of the area and to visual amenity and would be poorly related to its surroundings

2. A lack of windows serving habitable kitchen areas within the development is considered would result in an unacceptable level of amenity to intended future occupiers

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 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 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

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV40: Conservation, Protection and Use of Water Resources
- H1: Renewal of Existing Residential Areas
- T7: Car Parking

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- T8: Walking
- T9: Cycling
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

HC3: Affordable Housing and Housing for People with Special Needs
 OS1: Open Space, Sport and Recreation
 EN1: Natural Environment Protection, Management and Enhancement
 EN3: Flood Risk
 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

- 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
- DW9(a) Planning Obligations and Qualifying development
- 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

Affordable Housing

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH3: Abnormal Development Costs
- AH4: Provision Location
- AH5: Off Site Provision

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 the inclusion of their standing advice if approved.

Conservation Officer – No objections on built conservation grounds

Ecology – No objections

Environment Agency – No comments

Environmental Protection – No objections subject to the inclusion of planning conditions in respect of ground gas testing, remediation and validation, acoustic glazing and ventilation, the submission of a Construction Environmental Management Plan and the provision of an Air Quality Low Emission Scheme.

Fire Officer – No objections subject to compliance with Approved Document B, Volume 1, Dwellings, 2019 edition incorporating 2020 amendments – for use in England. This requirement can be included as an informative note if approved.

Lead Local Flood Authority - objects and consider that insufficient information has been provided on the drainage method, hydraulic calculations, water quality, management and maintenance and exceedance. A surface water management plan has been provided and further comments from the LLFA are awaited and this will be updated at planning committee.

Housing Strategy - need to seek 25% affordable on site in accordance with BCCS Policy HOU3, equating to 4 units. This would be 3 social rent and 1 shared ownership, however all 4 units as social rent would be acceptable (as 1 shared ownership unit on a scheme is not likely to be practical).

Local Highway Authority – No objections subject to the inclusion of planning conditions in respect of hard-surfacing and drainage for the proposed parking area, details of the cycle shelter and the submission of a Construction Environmental Management Plan. A note for the applicant to ensure the highway is free of mud and debris if approved would also be required.

Police – No objections and recommend the principles of Secured by Design

Public Health – No comments

Severn Trent Water – No objections subject to the inclusion of a drainage plans condition in respect of the disposal of foul water and surface water flows if approved.

Strategic Planning Policy – No objections and a contribution to off-site open space will be required.

Tree Officer - No comments received however the previous requirements that the recommendations and guidelines detailed in the Arboricultural Impact Report should be implemented and adhered to along with the submission of tree protection fencing details and a landscaping scheme.

Representations

(Local Planning Authority comments in italics)

Councillor Sohal has objected to the proposal on the grounds that he considers that the current proposal offers minimal changes to the previously refused proposal.

Objections from 23 households have been received on the following grounds;

- Noise (*A construction management plan will be a condition of any approval to mitigate against noise and disturbance during construction*)

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- Traffic, congestion and parking (*no objections from the Local Highway Authority*)
- Access for emergency services (*no objections from WMFS or highway authority*)
- Out of character with the area, overdevelopment, too high and with an ultra-modern look
- Same as the previous refused proposal
- Concerns about the type of residents to be housed (*not a material planning consideration in this instance. The Local Planning Authority is required to assess the proposed Planning Use Class C3 – dwellinghouses, rather than the individuals that will occupy apartments*)
- Increased crime and anti-social behaviour, clientele of the pub will change
- Residents may be a risk to children and vulnerable residents in the area (*no evidence has been provided to support this statement*)
- Impact on property values (*not a material planning consideration*)
- Management of tenants and the buildings (*not a material planning consideration in this instance*)
- Drainage impacts (*the provision of a drainage plan would be required by planning condition*)
- Loss of privacy in respect of residents on Boscobel Road
- Lack of amenities for potential residents in this location and difficulties of vulnerable residents crossing busy roads
- Ecological impacts
- Why is information not readily available to the public? (*the full submission is published on the Council's website for residents to view*)
- Concerns about social housing in this affluent and desirable area which will not raise standards of living (*not a material planning consideration*)
- Disappointed a second application has been made and accepted (*the Local Planning Authority is required to determine planning applications put before them*)
- No need for more flats in Walsall
- Insufficient new planting space
- Local aspirations appear irrelevant (*the Local Planning Authority must determine the planning application before them*)
- Few local shops and schools available
- Worsen air quality with increase traffic
- Council is deluded and has sneaked this planning application in under the radar (*this proposal has not been made by the Council and the Local Planning Authority is required to determine submitted planning applications. The requisite publicity has been made and the application documents are available to view on the Council's website*).

Determining Issues

Whether the application has addressed the reasons for refusal of the previous application or raises any new issues in respect of the following:

- Whether the previous refusal reasons have been overcome
- Principle of Development
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers

- Highways
- Protected Species
- Flood Risk / Drainage
- Protected Trees
- Ground Conditions
- Air Quality
- Planning Obligations
- Local Finance Considerations
- Any Other Matters

Assessment of the Proposal

Whether the previous refusal reasons been overcome

Refusal Reason no. 1.

1. The proposed mass, bulk and scale of the building in addition to the large amount of hardstanding to the front of the site introduces an incongruous form of development which is out of character to the properties in the surrounding area and street scene and is considered to be an overdevelopment of the site. The proposal would therefore result in significant detrimental harm to the character of the area and to visual amenity and would be poorly related to its surroundings

Members of the Planning Committee considered the proposal to be inappropriate based on the proposed mass bulk and scale of the building and the proposed extent of hardstanding introducing an incongruous form of development to the surrounding area and street scene.

Consequently, minor changes have been made to the design of the proposed development by introducing 3 no. three storey gable features to both the front and rear elevations to break up the mass of the proposal and the height of the proposed apartment building reduced by 0.6 metres. The minimal reduction in height of the proposal is considered fails to satisfactorily overcome the concerns of planning committee as the overall bulk of the proposal is considered to offer an insufficient improvement and would continue to have a significant detrimental harm on the character of the area and to visual amenity and would continue to be poorly related to its surroundings.

The proposed layout of the development is unchanged from the first planning application and Planning Committee considered that this layout represented overdevelopment of the site. This aspect of the amended proposal is considered fails to address the concerns of Planning Committee.

The proposed area of hardstanding to the front of the development is unchanged from the previous proposal and is proposed to be utilised for off street parking to serve this development. The Site Layout plan indicates that this area would be of tarmac with concrete kerbs. The proposed addition of a new front boundary wall fronting The Crescent and adjacent to the footpath with 1.8 metres high brick piers and a 1.2 metres high dwarf brick wall topped with 0.6 metres high railings is considered would provide a degree of screening of the hardstanding.

The planning agents advised that the submitted site layout could be amended to reduce parking levels from 1.5 parking spaces per dwelling (27 no. overall), given the location of the development and links to public transport, to 1 per dwelling (18No. overall) with the aim to reduce the level of hard standing and increasing the proposed landscaped area. This has been discussed with the Local Highway Authority who have advised that if there is no scope to reduce the number of apartments then the initial parking ratio of 1.5 parking spaces per dwelling should remain. The Local Highway Authority have advised that car ownership levels are likely to be higher in this area and the present scheme meets the full T13 parking policy requirement which is what they are looking for the development to deliver.

Consequently, on balance, it is considered that concerns of planning committee and refusal reason no. 1 has not been satisfactorily overcome.

Refusal Reason no. 2.

2. A lack of windows serving habitable kitchen areas within the development is considered would result in an unacceptable level of amenity to intended future occupiers.

The amended proposal has made minor changes to the style of windows to those proposed by the original planning application however habitable kitchen areas have retained the same size and number of openings as previously proposed for these open plan areas. The proposed layout is unchanged and kitchen areas are not provided with any additional windows as the proposal has a single aspect design.

The amended application is supported with a proposed accommodation light assessment prepared by CPMC Chartered Surveying (RICS) which aims to address concerns related to the potential lack of natural light within the open plan kitchen / living areas raised by Planning Committee.

This report advises that all rooms within the proposed development achieve Average Daylight Factor values above the BRE Guidelines and all rooms exceed the 2% target, and there is no need to consider the lower 1.5% (living/dining room) target. Furthermore, the report advises that in accordance with procedures in the BRE Guide where rooms are c. 3.3 metres wide, they are unlikely to pass at a full test depth of c7.6 metres. However, the report states that all rooms pass at a test depth of 7.3 metres, which is considered to be a relatively small reduction in the test depth and is considered to be acceptable for a project of this nature.

The applicants' have demonstrated that the proposal would not result in an unacceptable level of amenity to intended future occupiers in response to light available from the proposed windows despite there being no additional windows being installed on the amended proposal.

Based on the aforementioned it is considered that Planning Committee's previous concerns are likely to have been satisfactorily addressed in respect of refusal reason no. 2.

Principle of Development

The principle of development was considered acceptable and appropriate when previously assessed as follows;

The National Planning Policy Framework sets out a clear presumption in favour of sustainable development. It notes that, for decision takers, this means approving development proposals that accord with the development plan. Walsall's Unitary Development Plan reconfirms the guidance as contained in the National Planning Policy Framework on sustainable development.

The site has no allocation in the development plan; however the site was formerly in residential use (albeit as a C2 use rather than C3) so redevelopment for this use is strongly supported on planning policy grounds. Further, it is located in a predominantly residential location and in a sustainable location with good links to public transport and access to services and facilities.

BCCS Policy HOU2 states that all developments will aim to achieve a minimum net density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness as defined in Policy ENV2. The approximate density of the site is 78.2 units per hectare and is considered to be very high. The BCCS states that this is only appropriate within a strategic centre or town centre. The site is located approximately 1 mile from Walsall Town Centre and is in a sustainable location with links to public transport and is accessible to employment areas, health, fresh food and education. It's noted that the housing is not for a family and the indicative proportion of flats is 50% plus in accordance with Table 8 of policy HOU2. As such the density is considered to be acceptable.

The latest available figures show that the Council does not currently have a 5 year housing land supply, and, in addition, the Council failed the Housing Delivery Test published in January 2022 based on low levels of delivery over the last 3 years. This means that the presumption in favour of sustainable development as described in the NPPF paragraph 11d) is in effect.

The proposal would also bring previously developed land back into a positive use which is encouraged by local and national planning policies and guidance.

Design, Layout and Character

Walsall's Unitary Development Plan states that development should be of a high quality design that respects local distinctiveness, enhancing the character and appearance of the area. It states that within settlement limits proposals will be supported where they do not have a negative impact on the character and appearance of the surrounding locality. Walsall's Unitary Development Plan states all proposals should maintain or enhance the character of the surrounding area and should respect the scale and density of surrounding development.

Planning Committee were of the opinion that the proposed mass, bulk and scale of the building in addition to the large amount of hardstanding to the front of the site would introduce an incongruous form of development which would be out of character with the properties in the surrounding area and street scene. Planning Committee also considered that the proposal was an overdevelopment of the application site.

Consequently, the previous proposal was considered would result in significant detrimental harm to the character of the area and to visual amenity and would be poorly related to its surroundings.

The current proposal is considered to have made only minor changes to the design and the proposed mass, bulk and scale with a minimal reduction in height of 0.6 metres.

The minimal reduction in height of the proposal is considered fails to satisfactorily overcome the concerns of planning committee as the overall bulk of the proposal is considered to offer an insufficient improvement and would continue to have a significant detrimental harm on the character of the area and to visual amenity and would continue to be poorly related to its surroundings.

The proposed layout of the development is unchanged from the first planning application and Planning Committee considered that this layout represented overdevelopment of the site. This aspect of the amended proposal is considered fails to address the concerns of Planning Committee.

The proposed large area of hardstanding to the front of the development remains as previously proposed and was considered to be unacceptable by Planning Committee as this would introduce an incongruous form of development out of character to the properties in the surrounding area.

Amenity of Neighbours and Amenity of Future Occupiers

The proposed impact on existing neighbours was assessed by the previous officer's report to planning committee and the impacts on neighbours' amenity were considered to be acceptable as detailed below.

To the rear of the building is the newly approved housing development by Cameron Homes (application 21/0006). There are balconies and rear habitable windows proposed to the rear of this proposal which would face onto this development at a distance of 13.06 metres.

Although the proposal would look onto this development, it should be noted that it would be looking onto the side elevation of one of the approved dwellings where there is only a small window opening at first floor serving a bathroom (a non-habitable room) and two openings at ground floor serving a dining room (habitable room) and a door to access the utility (non-habitable room). The minimum recommended separation distances referred to in Appendix D of Designing Walsall SPD state that there should be 24 metres between facing habitable room windows in two storeys and above and 13 metres separation distance between facing habitable room windows and blank walls exceeding 3 metres in height.

In this instance it was considered that the development would be acceptable in terms of amenity impacts on neighbours in the new development given that the proposed development would face onto a first floor bathroom window which is not habitable and the only habitable room is at ground floor and as such the distances would not apply. Where the development would face onto a blank wall there would be a sufficient distance of 13 metres to also meet this standard. As such it is considered that there

would be a limited impact on privacy in respect of the new housing development to the north.

The nearest residential property to the south of the site is 88a The Crescent which is sited at a distance of 53.8 metres, to the west is the apartment block at a distance of 55 metres and to the east are properties sited along Broadway North at a distance of 105 metres. As such it is considered that the proposal would not be a detriment in terms of overlooking to nearby neighbours.

The building is situated in a large plot and well contained within the site. There are no residential properties immediately adjacent to the site and as above the proposal meets the separation distances. As such it is considered the building would not be overbearing nor would it lead to a loss of light.

With regards to future occupiers of the development Planning Committee was concerned that a lack of windows serving habitable kitchen areas within the development would result in an unacceptable level of amenity for intended future occupiers. Whilst no additional window provision has been included on the amended plans the application is supported with a proposed accommodation light assessment prepared by CPMC Chartered Surveying (RICS) as outlined above.

It is considered that the applicants' have demonstrated that the proposal would not result in an unacceptable level of amenity to intended future occupiers in response to light available from the proposed windows despite no additional windows being installed on the amended proposal. Based on the aforementioned it is considered that Planning Committee's previous concerns are likely to have been satisfactorily addressed.

Highways

The Local 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 2021 paragraph 111.

The Highway Authority therefore support the application subject to conditions related to the implementation of the car park hard-standing with sustainable drainage, details of the proposed cycle shelter and the submission of a construction environmental methodology statement.

Protected Species

The Council's Ecologist has no objections to the proposal.

Flood Risk / Drainage

As shown on the Environment Agency's published flood risk map, the application site is located within Flood Zone 1, the lowest area of potential flooding from sea and rivers.

Severn Trent Water have expressed their support for the scheme subject to a condition regarding the submission of drainage plans for the disposal of foul and surface water flows.

The Lead Local Flood Authority have objected to the current proposal and have requested the provision of additional information in respect of drainage methods, hydraulic calculations, water quality, management and maintenance and exceedance. The planning agent has provided a Surface Water Management Plan which has been forwarded to the Lead Local Flood Authority for their comments and this will be updated at planning committee.

Protected Trees

The same Arboricultural Report prepared by AWA Tree Consultants dated July 2021 has been submitted for the current proposal and the Officer comments remain unchanged as detailed below.

12 trees would need to be removed to facilitate the proposed development of the site. However, they are category 'C' trees (using BS 5837 categorisation) which are trees of low arboricultural quality. Category 'C' trees would not normally be a constraint to development and their removal could be mitigated for with a landscape scheme for the site which includes replacement tree planting for which there appears to be adequate space.

In addition, the proposal would necessitate the pruning of 2 trees on the east boundary. The pruning works are minor and if done in accordance with best practice as detailed in BS 3998: 2010 should have little or no long term detrimental effect on the 2 trees. There is a woodland outside of and adjacent the west boundary (within Shrubbery Close and Loriners Grove). This woodland is protected by a woodland classification TPO title no. 3/2002. The proposal is likely to encroach into the root protection area (RPA) of 4 of these TPO trees labelled T24 to T28 on the tree survey. However, the incursion is relatively minor and provided care is undertaken then little or no lasting detrimental impact should occur to these trees. In addition, the proposal extends into the RPA of trees on the east boundary, however, the area is already existing hard standing and there is unlikely to be any significant root development in this area.

If consent is given to the application and in order to ensure the protection of the retained trees, a condition is recommended requiring an 'Arboricultural Method Statement' be submitted prior to the commencement of development on site detailing location and specification of tree protective fencing and any construction methodology to be implemented within the RPAs of the retained trees. It would also be desirable to condition a Landscape Plan including details of replacement tree planting in mitigation for the ones lost to accommodate the development.

Ground Conditions

The applicant has submitted the same technical reports that were submitted for planning application 21/1240, therefore the previous comments received from the Council's Environmental Protection Team submitted for planning application reference 21/1240 remain relevant. These are included below.

The Applicant has undertaken a noise survey, which has identified that acoustic glazing and ventilation is required for habitable rooms with facades towards The Crescent and the Public House, with glazing that has a reduced acoustic specification on other facades. This requirement can be addressed via planning conditions, requiring the Applicant to firstly confirm the specification of glazing and ventilation before installation with the Local Planning Authority and then installing the agreed glazing/ventilation and subsequently demonstrating that the agreed glazing/ventilation has been installed.

The contaminated land investigation has not identified any significant contamination within sample boreholes that were within accessible areas and the consultant has risked the potential for ground gas concerns away. The consultant is recommending that further testing of inaccessible areas e.g. underneath the building is undertaken following demolition and stockpiling. Pollution Control agree that the additional testing will confirm whether the inaccessible areas have a similar ground chemistry to the other parts of the site i.e., of no significant concern.

Although, Pollution Control accept the reported chemical testing findings and have no significant concerns, the neighbouring site, which is also in the process of being re-developed, have encountered ground gas that has resulted in the site being upgraded to CS2. Therefore, during the additional testing regime, Pollution Control require that the Applicant/Consultant to undertake ground gas testing. Planning conditions for the additional testing have been provided.

Given the size of the proposed development, the Applicant needs to control local environmental impacts (noise, dust, debris, site drag-out) during the construction phase.

Air Quality

The Applicant has indicated that there will be 27 unallocated car parking spaces. Section 5.6 of the Black Country Air Quality SPD requires for at least 1 electric vehicle charging point per 10 spaces. Therefore, the applicant will need to provide an Air Quality Low Emission Scheme in writing for agreement to include the installation of at least 3 charging points, in accordance with the Air Quality SPD and this requirement would be conditioned, if approved.

Planning Obligations

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the 3 following statutory tests to make the development acceptable in planning terms:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

These tests are set out in The Community Infrastructure Levy Regulations 2010 (as amended) Regulation 122 and National Planning Policy Framework paragraph 56.

Black Country Core Strategy policy HOU3 states that 25% of the units should be affordable, although this requirement would be offset by vacant building credit through deducting the floor space of the existing building from that of the proposal. In addition, based on the proposed development and the Council's ready reckoner, the urban open space contribution required is £29,010.00. The nearest Urban Open Space is Walsall Arboretum Park.

A full financial viability assessment was provided to support the application in respect of the first planning application and was independently assessed by Lambert Smith Hampton. Whilst viability stated that contributions for affordable housing and public open space cannot be provided it was considered that there was nothing preventing the applicant entering into a S106 to secure 25% policy compliant affordable homes with affordable rent tenure.

The current application included an addendum note dated August 2022 in relation to the original Financial Viability Assessment dated December 2021 which again concluded that it was not financially viable to provide any S106 financial contributions. The planning agent advises that the assessment has been updated to reflect current market. The original assessment was independently reviewed by Lambert Smith Hampton back in February and it was agreed it was not financially viable to provide S106 contributions. The viability deficit was originally £396,217 and the planning agent confirms that this is now £675,517 with building cost inflation. Current market conditions are considered to have worsened since the initial review.

Notwithstanding the above, the Local Planning Authority considers that there remains nothing to prevent the applicant entering into a S106 to secure 25% policy compliant affordable homes with affordable rent tenure. Should the application be approved, Members are asked to delegate back to the Head of Planning and Building Control to negotiate a Section 106 Agreement to secure 25% affordable housing in the form of 1 x First Home, 1 x Shared Ownership dwelling and 2 x social rent dwellings OR a commuted sum of £175,219 (less any vacant building credit to be deducted).

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 18 new homes.

The Government has indicated that, for 2021-22, it will award £350 for each affordable dwelling, but the payment for all new homes (including both affordable and others) varies. There is no fixed payment of £1,000 per home: the sum will vary from £0 to an undisclosed figure. Essentially there is a fixed pot of money each year that is divided between all authorities depending on how many homes in total have been completed across the country.

The money is worked out based on performance in previous years (18 months in arrears), so the payment in 2022-23 will be based on the number of homes completed between October 2020 and October 2021.

Any Other Matters

There have been a number of objections from neighbouring residents. Many of these objections are non-material or if they are material it has been discussed in the report why the proposal is acceptable otherwise.

The Lead Local Flood Agency have requested additional flood information to be provided and their response will be updated at planning committee.

Conclusions and Reasons for Decision

It is considered that the previous concerns raised by planning committee have not been satisfactorily addressed and it is concluded that this amended application should be recommended for refusal.

In addition to the above it should be noted that the latest available figures show that the Council does not currently have a 5 year housing land supply and, in addition, the Council failed the Housing Delivery Test published in January 2022 based on low levels of delivery over the last 3 years. This means that the presumption in favour of sustainable development as described in the NPPF paragraph 11d) is in effect which adds weight to the proposal when considering the planning balance.

Positive and Proactive Working with the Applicant

The proposal has failed to fully overcome the concerns of planning committee.

Recommendation

Refuse

Reasons

1. The proposed mass, bulk and scale of the building in addition to the large amount of hardstanding to the front of the site introduces an incongruous form of development which is out of character to the properties in the surrounding area and street scene and is considered to be an overdevelopment of the site. The proposal would therefore result in significant detrimental harm to the character of the area and to visual amenity and would be poorly related to its surroundings, thus being contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) and HOU2 (Housing Density, Type and Accessibility) of the Black Country Core Strategy, SAD Policy HC2 (Development of Other Land for Housing), DW3 (Character), DW4 (continuity) and DW6 (Legibility) of the Designing Walsall Supplementary Planning Document and section 12 of the National Planning Policy Framework (Achieving well-designed places).

2. The proposal fails to include sufficient information to demonstrate acceptable drainage methods, hydraulic calculations, water quality, management and maintenance and exceedance contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, ENV40 (Conservation, Protection and Use of Water Resources), BCCS Policy ENV5 (Flood Risk, Sustainable Drainage Systems and Urban Heat Island) and Walsall SAD policy EN3 (Flood Risk).

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 01 December 2022

Plans List Item Number: 6

Reason for bringing to committee

Called in by Councillor Pardeep Kaur on the following three supporting grounds;

1. Redevelopment offers an improvement to the character/amenities of the surrounding area to outweigh any potential harm.
2. The design of the proposal requires wider consideration.
3. No significant harm to the amenities of the surrounding area from parking/traffic/noise/disturbance/odour/loss of TPO trees

also, on the basis that they consider the planning application requires careful consideration.

Application Details

Location: 1, BARR COMMON ROAD, ALDRIDGE, WALSALL, WS9 0SY

Proposal: ERECTION OF 4 BEDROOM REPLACEMENT DWELLING WITH GARAGE

Application Number: 22/0769

Case Officer: Helen Smith

Applicant: Harjinder Sandhu

Ward: Aldridge Central And South

Agent: Lapworth Architects

Expired Date: 17-Aug-2022

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

Time Extension Expiry:



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Recommendation

Refuse

Proposal

This application is a re-submission of a revised application following a refusal by Planning Committee on 10th February 2022 on the following grounds

- 1. The proposal for the erection of a replacement dwelling in the Green Belt would represent a 189% footprint increase and a 214% increase in volume and is therefore considered to be inappropriate development for which there are no very special circumstances to outweigh Green Belt Policy including the delivery of another house to meet national/local housing targets.*
- 2. The replacement dwelling introduces an incongruous form of built development, which does not follow the design cues of the existing dwelling and would be a modern and overly stretched dwelling with extensive glazing, appearing prominent within the Green Belt. The proposal would therefore result in significant detrimental harm to the character of the area and to visual amenity, would erode the spatial characteristics of the existing site and would be poorly related to its surroundings*

The current proposal seeks permission for a 4 bedroom, detached dormer style, replacement dwelling with a garage extension to the front. The proposed alterations to the existing dwelling were considered to be so extensive that the proposal has been assessed on the principle that it creates a new dwelling house.

The key dimensions of the proposal are as follows;

- 6.8 metres high (previous proposal was 6.92 metres high)
- Ground floor footprint area of approx. 262 sq. metres (including garage)
- First floor area of approx. 190 sq. metres
- Total floor areas of approx. 452 sq. metres.
- 18.7 metres wide (excluding garage extension) (same width as previous application)
- 11.9 metres deep (excluding two storey front gable feature) (1 metre less than the previous application)
- Garage extension would extend 5.4 metres forward of the proposed front elevation.
- Private rear amenity space of approx. 558 sq. metres.
- Positioned 1.7 metres from the shared side boundary with 1a Barr Common Road
- Positioned 1.3 metres from the shared side boundary with adjacent open fields

The front elevation of the proposal would have a two storey glazed gable feature and two dormer window with gable roofs.

Side facing windows are proposed at ground floor to serve a spice kitchen, en suite and lounge (secondary window). At first floor side facing windows would serve a bathroom, en suite and bedroom (primary window facing fields)

To the rear elevation there are 2 no. roof lights proposed along with a central glazed gable feature, 1 no. dormer window with a gable hood and three sets of folding doors to ground floor.

Internally at ground floor there is an entrance hall, formal lounge, boot room, bedroom with en-suite and walk in wardrobe, family room, living/dining area, kitchen, spice kitchen and double garage proposed. At first floor there will be 3 no. bedrooms two en-suites, family bathroom and landing area. The first floor rooms are proposed within the roof void.

The planning application is supported by the following documents;

- Arboricultural Impact Assessment
- Bat and Bird Survey
- Tree Constraints Plans
- Tree Impact Plan
- Tree Protection Plan
- Tree Work Plan

Site and Surroundings

The application site comprises a detached dwelling located to the south-western side of Barr Common Road. The existing dwelling to be replaced has a hipped roof with multiple gables and is constructed from brick and render. The property benefits from an in/out driveway and a large garden to the rear.

The street scene is characterised by a mix of residential properties which differ in style size and are constructed from a variety of materials. There are residential apartments sited off of Barr Common Road, located on Winchester Mews opposite the site. To the north-west of the site is open field with a large number of trees protected by Tree Protection Orders.

The site is within designated Green Belt. It is not within a Conservation Area, nor does it comprise a listed building.

There is a protected tree outside the application site adjacent to the public footpath and front boundary with the application site (TPO 1/1997) and the site is not within a Bat Buffer Zone

The application plot is within a Coal Development Low Risk Area. The application site sits outside the 15km Zone of Cannock Chase Special Area of Character.

Relevant Planning History

1A Barr Common Road

06/1513/FL/H4- First floor side extension- GSC 23.10.2006.

Land adjacent, 1 Barr Common Road

12/0534/FL- Erection of 60m x 20m all-weather surface ménage - GSC 02.08.2012.

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1 Barr Common Road

Tree Preservation Order 1/1997.

BC46003P- Extension to Form Bedroom & W.C/Shower Room- GSC 06.03.1996.

21/0811 - Erection of 4 bedroom replacement dwelling with garage refused planning permission by planning committee on the following grounds;

1. *The proposal for the erection of a replacement dwelling in the Green Belt would represent a 189% footprint increase and a 214% increase in volume and is therefore considered to be inappropriate development for which there are no very special circumstances to outweigh Green Belt Policy including the delivery of another house to meet national/local housing targets.*
2. *The replacement dwelling introduces an incongruous form of built development, which does not follow the design cues of the existing dwelling and would be a modern and overly stretched dwelling with extensive glazing, appearing prominent within the Green Belt. The proposal would therefore result in significant detrimental harm to the character of the area and to visual amenity, would erode the spatial characteristics of the existing site and would be poorly related to its surroundings*

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 6 – Building a strong, competitive economy**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 15 – Conserving and enhancing the natural 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 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.

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

Saved Policies of Walsall Unitary Development Plan

- 3.2 to 3.5 The Countryside and Green Belt
- GP2: Environmental Protection
- ENV7: Countryside Character
- ENV10: Pollution
- 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
- T7 - Car Parking
- T13- Parking provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness

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- ENV3: Design Quality

Walsall Site Allocation Document 2019

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

T4: The Highway Network

Supplementary Planning Documents

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
- DW9(a) Planning Obligations and Qualifying development
- 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

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Consultation Replies

Ecology – No objections and recommend a safeguarding condition in the event that bats are found and a biodiversity enhancement, if approved.

Fire Officer – No objections

Severn Trent Water – No objections and do not require the inclusion of a drainage condition. An informative note in respect of public sewers is required if approved.

Strategic Planning Policy – Objects on Green Belt grounds

Local Highway Authority – No objections

Environmental Protection – No objections subject to an Air Quality Low Emission Scheme being provided to comply with the SPD, pre-demolition asbestos survey, and the provision of a construction Management Plan

Representations

None

Determining Issues

- Whether the previous refusal reasons have been overcome and whether there are any new issues
- Principle of Development
- Design Layout and Character
- Amenity of Neighbours
- Amenity of future occupiers
- Protected Species
- Air Quality
- Asbestos
- Flood Risk and Drainage
- Parking and Access
- Any new issues
- Local Financial Considerations

Assessment of the Proposal

Whether the previous refusal reasons have been overcome and whether there are any new issues

Refusal Reason 1

1. The proposal for the erection of a replacement dwelling in the Green Belt would represent a 189% footprint increase and a 214% increase in volume and is therefore considered to be inappropriate development for which there are no very special circumstances to outweigh Green Belt Policy including the delivery of another house to meet national/local housing targets.

NPPF paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. No very special circumstances have been provided in this instance to support the proposal.

NPPF paragraph 149 sets out a closed list of new building types that are not inappropriate in the Green Belt. Clause d) refers to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. There is no definition in the NPPF or the development plan as to what constitutes materially larger, so a planning judgement is required.

The amended proposal has a minimal reduction on height of 0.12 metres and a slight reduction in depth of 1 metre resulting in a proposal that is almost identical to the previous application that was refused by planning committee. It is therefore considered that the replacement dwelling continues to be materially larger than the one it is to replace and would have a significant detrimental impact on the openness of the Green Belt.

The proposal for the erection of a replacement dwelling in the Green Belt would represent a significant footprint increase with over a 200% increase in volume and is considered to be inappropriate development for which there are no very special circumstances to outweigh Green Belt Policy including the delivery of another house to meet national/local housing targets

In view of this it is considered that refusal reason no. 1 has not been satisfactorily addressed and this re-submitted proposal remains inappropriate in the Green Belt. The proposal is recommended for refusal.

Refusal Reason 2

2. The replacement dwelling introduces an incongruous form of built development, which does not follow the design cues of the existing dwelling and would be a modern and overly stretched dwelling with extensive glazing, appearing prominent within the Green Belt. The proposal would therefore result in significant detrimental harm to the character of the area and to visual amenity, would erode the spatial characteristics of the existing site and would be poorly related to its surroundings

The design of the current proposal is the same as the previous refused planning application and consequently refusal reason no. 2 has not been addressed. The proposal is recommended for refusal.

Principle of Development and Green Belt

The application site is considered to be within a well-established residential area with access to bus services.

NPPF paragraph 149 sets out a closed list of new building types that are not inappropriate in the Green Belt. Clause d) refers to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. There is no definition in the NPPF or the development plan as to what constitutes materially larger, so a planning judgement is required. However, apart from a slight reduction in depth and a minimal reduction in height, the current proposal is only marginally different to the previous refusal so is considered remains inappropriate in the Green Belt and is recommended for refusal.

Design Layout and Character

The design of the current proposal remains the same as the previously refused planning application apart from a slight height and depth reduction. The surrounding area is considered does not have a distinct style and there are dwellings of multiple styles, sizes and constructed of various materials.

The proposed replacement dwelling is a detached dormer bungalow with dormers to the front and rear elevation, Juliet balconies and extensive glazing.

The proposed increase in scale and bulk of the built development on this sensitive site is considered to be unacceptable and whilst it has been indicated that the dwelling would be constructed of materials to match the existing dwelling it is considered that the replacement dwelling does not reflect the design cues of the existing dwelling it is to replace, nor surrounding properties.

The proposal was originally considered to be incongruous in appearance by being a modern and overly stretched house which would appear at odds to in the street scene. The design of the current scheme has not changed, and this concern remains.

As such, overall, the dwelling is unacceptable in design and appearance and the amended application is recommended for refusal.

Amenity of Neighbours

There are no neighbours sited immediately to the north of the site, however there are neighbouring properties to the south-east of the site and opposite the site. The nearest residential property is 1a Barr Common Road sited at a distance of 2.6m.

The proposed dwelling would not extend any deeper than 1a Barr Common Road, thus meeting the 45 degree rule to the rear and would therefore not have a detrimental impact upon light to the neighbouring property, nor would it be considered to be overbearing.

In terms of separation distances, Appendix D of the Designing Walsall SPD states that there should be 24m separation between habitable windows in two storeys (and above) developments and 13m separation between habitable windows and blank walls exceeding 3m in height. There are no neighbours sited to the rear of the property so the distances would not apply in this direction. There is approximately 43m from the front windows of the replacement dwelling to the residential apartments sited on Winchester Mews which would meet the separation distances, however it should be noted that the windows to the front of the replacement dwelling would not serve habitable rooms and as such the separation distances would not apply.

In terms of overlooking there is a bathroom sited to the south-east elevation, were the application recommended for approval this could be conditioned to be obscure glazed and non-opening above 1.7m. To the north elevation there is an en-suite and a bathroom proposed; as there are no neighbouring properties sited adjacent to this elevation it is considered that these windows are acceptable and would not result in any detriment

It is considered that the proposal would not be overbearing, nor would it result in overlooking to neighbours. As such, the proposal is acceptable in terms of protecting neighbouring amenity.

Amenity of Future Occupiers

Appendix D of the Designing Walsall SPD states that garden dimensions should be 12m in length or a minimum area of 68sqm for dwellings. The proposed dwelling would be served by ample amenity space meeting the Designing Walsall SPD standards.

The proposed habitable rooms would allow for an adequate amount of natural light into the bedrooms.

The National Space Standards state that for a two storey, four bedroom, 8 person dwelling (taking into account that all bedrooms are served by a double bed) the minimum GIA should be 124sq.m and therefore at 428 sq. m the dwelling overachieves on internal space. The bedrooms are all of an adequate size and it is considered a good internal amenity could be achieved.

Protected Species

The Council's Ecologist has no objections to the proposed scheme on ecological grounds. The inclusion of planning conditions is required if permission is granted to ensure that the mitigation stated with the Preliminary Bat Roost Assessment and bird survey report completed in September 2022 is undertaken. A biodiversity enhancement of the installation of one bat box, if approved, can be conditioned.

Protected Trees

The same tree information that was submitted for the first planning application has been submitted in support of the current proposal.

The documentation states that 3 Leyland Cypress trees will need to be removed to accommodate the development, however, these trees are considered to be of low Arboricultural value, and their loss will have little or no impact outside of the site.

Additionally, the BS 5837: 2012 tree report by Apex Environmental submitted with the application recommends the removal of 7 other Leyland Cypress trees, not to accommodate the development but due to their poor condition, these 7 trees are also considered to be of low Arboricultural value.

The remaining trees on site are to be retained and as demonstrated in the BS 5837:2012 tree report and can be adequately protected throughout the construction phase and will not be detrimentally affected. It should be noted that none of the trees on the application site are protected by a TPO.

Consequently, there are no Arboricultural objections to the application subject to the recommendations and guidelines detailed in the BS 5837: 2021 tree report by Apex Environmental dated 28/06/2021 (and the Protection Plan drawing no. AEL-18384-TPP) being implemented and adhered to throughout the construction phase from start to completion.

Air Quality

The applicant would be required to supply and agree an Air Quality Low Emission Scheme in writing and a Construction Management Plan, both of which could be secured by planning condition.

Asbestos

The applicant would be required to supply and agree a pre-demolition asbestos survey in writing along with a Construction Management Plan, both of which could be secured by planning condition.

Flood Risk and Drainage

The site, which is in Flood Zone 1, is not in an area known for flooding and there are no watercourses nearby. It is therefore considered that the development would be acceptable in terms of flood risk. Severn Trent Water have no objections to the proposals and do not require a drainage condition to be applied.

Parking and Access

The site benefits from a double in/out access drive and parking for multiple cars is provided at site.

The Local Highways Authority support the proposal and previously required the inclusion of a planning condition requiring any future changes to the frontage boundary treatment being implemented, full details are submitted to be approved by the Local Planning Authority to ensure adequate visibility is retained at the access/egress points in the interests of highway safety.

It is considered that the application would not impact on the highway network and would be in accordance with policies T7 and T13 of the Saved Unitary Development Plan and T4 of the Site Allocation Document.

Local Financial Considerations

The proposal would replace an existing dwelling and would result in no net increase in the number of dwellings. Local Financial Considerations would not apply.

Conclusions and Reasons for Decision

The proposal represents inappropriate development in the Green Belt, which there are no very special circumstances for including the delivery of a further house to meet national targets. Further, the proposed design of the dwelling fails to respect the character of the neighbouring dwellings and surrounding area and would harm the openness of the Green Belt.

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

Officers have advised the applicant's agent that in this instance we are unable to support the proposal as the previous refusal reasons have not been satisfactorily overcome.

Recommendation

Refuse

Reasons

1. The proposal for the erection of a replacement dwelling in the Green Belt would represent a significant footprint increase with an over 200% increase in volume and is therefore considered to be inappropriate development for which there are no very special circumstances to outweigh Green Belt Policy including the delivery of another house to meet national/local housing targets. The proposal is contrary to The National Planning Policy Framework, policy ENV1 of the Black Country Core Strategy, Saved Policies 3.2 to 3.5, GP2, and ENV7 of the Walsall UDP, Policies GB1 and EN1 of the Walsall Site Allocation Document.
2. The replacement dwelling introduces an incongruous form of built development, which does not follow the design cues of the existing dwelling and would be a modern and overly stretched dwelling with extensive glazing, appearing prominent within the Green Belt. The proposal would therefore result in significant detrimental harm to the character of the area and to visual amenity, would erode the spatial characteristics of the existing site and would be poorly related to its surroundings and contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) and HOU2 (Housing Density, Type and Accessibility) of the Black Country Core Strategy, SAD Policy HC2 (Development of Other Land for Housing), DW3 (Character), DW4 (continuity) and DW6 (Legibility) of the Designing Walsall Supplementary Planning Document and section 12 of the National Planning Policy Framework (Achieving well-designed places).

END OF OFFICERS REPORT

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