



## Economy, Environment and Communities, Development Management

### Planning Committee

Report of Head of Planning and Building Control on 06 October 2022

Plans List Item Number: 3

#### Reason for bringing to committee

The application is brought to Planning Committee as there is significant community interest in the proposal, in the form of six letters of objection.

#### Application Details

**Location:** 20, CHARLEMONT ROAD, WALSALL, WS5 3NG

**Proposal:** PROPOSED 6 BEDROOM REPLACEMENT DWELLING WITH ANCILLARY OUTBUILDING TO BE USED A GYM/STORAGE.

**Application Number:** 21/0956

**Case Officer:** Thomas Morris

**Applicant:** Mr Jaswant Gaur

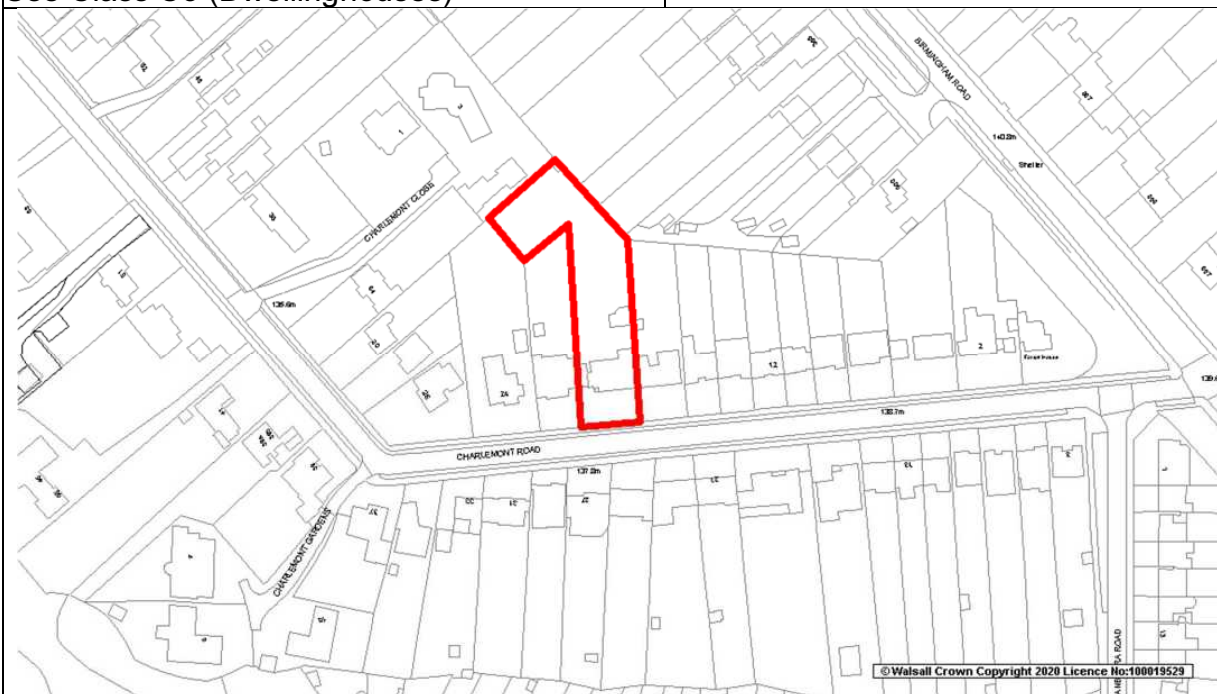
**Ward:** Paddock

**Agent:**

**Expired Date:** 13-Sep-2021

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

**Time Extension Expiry:**



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### **Recommendation:**

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:
  - No new material considerations being received within the consultation period.
  - The amendment and finalising of conditions.
  - No further comments from a statutory consultee raising material planning considerations not previously addressed.

## Proposal

This application seeks full planning permission for the erection of a replacement six bedroom dwellinghouse (Use Class C3) with an ancillary outbuilding in the rear garden to be used as a playroom/storage space.

The site comprises an existing five-bedroom dwellinghouse which will be partially demolished to allow for the erection of the larger dwelling. The extent of the demolition works, as well as vastly different appearance of the proposed dwelling is such that the proposal requires full planning permission rather than householder extension planning permission.

The proposed dwellinghouse measures 18.8m (maximum width) x 16.3m (maximum depth front to rear elevation) x 8.3m (height to roof ridge). The proposed dwelling is designed with a hipped roof featuring rooflights, central front gable section and single-storey side and rear extension featuring a flat roof. The proposed materials include brickwork/render walls, concrete roof tiles and UPVC windows and doors.

The proposed outbuilding measures 20m (length) x 8.9m (width) x 3m (height). The proposed outbuilding is designed with a flat roof, UPVC windows and doors and rendered elevations. The outbuilding will be used as a playroom and for storage space.

No alterations are proposed to the site's existing access from Charlemont Road. Four off-street car parking spaces are proposed, which is the same as the existing situation.

## Site and Surroundings

The application site comprises an existing residential dwellinghouse at 20 Charlemont Road. The dwelling is detached and designed with a gable roof with forward gable projections and dormer windows, ground floor bay windows, single storey side and rear extension and rendered elevations. The existing dwellinghouse measures 18.8m (maximum width) x 12.7m (maximum front to rear elevation) x 7.6m (height to roof ridge) and 8.7m (height to the top of chimney breast). The front boundary treatment comprises a low brick wall with hedge above and two vehicular access points. Boundaries to the rear are primarily formed of wooden panel fencing, as well as trees and shrubs.

There are trees to the rear of the site within the boundary of 3 Charlemont Close which are subject of a Tree Preservation Order. There are no listed buildings in the vicinity of the site and this area is located within the low risk coal development area. The site is located outside of the Cannock Chase SAC zone of influence.

The surrounding area is primarily residential in nature. Charlemont Road is an attractive residential street which comprises a mix of detached and semi-detached dwellings, with some variation in architectural styles, albeit most houses are traditional in character and appearance. Existing houses are generally setback from the street behind front

gardens, driveways and low front boundary walls and low hedges and feature larger gardens to the rear.

## Relevant Planning History

BC49545P - Proposed extension to existing kitchen at rear – Permission granted subject to conditions - 01/07/1997.

## Relevant Policies

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

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

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

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

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

- ENV16: Black Country Urban Forest
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H1: Renewal of Existing Residential Areas
- T7 - Car Parking
- 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**

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

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

- HC2: Development of Other Land for Housing
- EN1: Natural Environment Protection, Management and Enhancement
- EN3: Flood Risk

### **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

## Consultation Replies

Ecology – No objections and no condition recommended.

Local Highway Authority – No objections, subject to the following conditions:

- Submission of a Construction Methodology Statement.
- Parking and manoeuvring areas to be completed prior to first occupation.
- No walls and gates to be installed on the site's frontage without the submission of full details in advance.

Tree Preservation Officer – No objections, subject to the following conditions:

- Submission of a Tree Protection Plan.
- Submission of raft foundation design details for the proposed outbuilding.

Waste Management – No response received.

West Midlands Fire Service – No objections, subject to the following recommendations:

- For the proposal is implemented in accordance with the safety guidelines contained within Approved Document B, Volume 1, Dwellinghouses 2019.

West Midlands Police – No response received.

## Representations

Six letters of objections were received, based on the following grounds:

- Loss of daylight, outlook, and privacy at neighbouring properties.
- The proposal is out of character with the area.
- The proposal is too large.
- The proposed outbuilding is too large.
- The proposal will have a negative impact on trees.
- The proposal will cause disturbance to residents.
- The proposal will have harm protected species.
- The proposal will increase surface water run off to neighbouring properties.
- Work is being carried out at the site without planning permission.
- There will be no access from the front to the rear garden.
- Incorrect neighbour numbers / consultation.
- The proposal will have a negative impact on property values.

## Determining Issues

- Principle of Development.
- Design.
- Amenity of Future Occupiers.
- Amenity of Neighbours.
- Highways and Parking.
- Ecology and Trees.
- Flood Risk / Drainage.
- Ground Conditions and Contamination.

## Assessment of the Proposal

### Principle of Development:

This application seeks full planning permission for the replacement of a four-bedroom dwellinghouse at 20 Charlemont Road, with a new six-bedroom dwellinghouse. The existing dwelling will be partly demolished and extended, with the existing walls retained where possible. However, the extent of the works and the substantially different



appearance of the proposed dwelling requires submission of a full planning application rather than a householder extension application. Given that the proposal will merely replicate the existing residential use of the site, albeit through the creation of a larger house, the principle of the proposal is acceptable, subject to the application complying with other material planning considerations.

### **Design:**

Considering the visual impact of the loss of the existing dwelling at the site, whilst it appears to be in relatively good condition and is a design of some merit, it is not a listed building, nor is it considered to be of a significant enough quality to warrant its retention for its contribution to the visual amenity of the street scene. The loss of the existing house is therefore considered to be acceptable from a visual perspective.

The proposed dwelling is designed to be in keeping with the existing front building line on the street, with the increase in size primarily concentrated at the rear. The overall width and height of the new dwelling will be similar to the existing dwelling when viewed from the street, with the visible gaps at the first floor to neighbouring properties retained and the roof ridge height matching the ridge height of neighbouring properties. The design of the dwelling has been simplified compared to the existing house, with the main feature comprising a centralised gable section at the front elevation. Due to the absence of details regarding the proposed bricks, render, roof tiles, windows, doors, rainwater products and soffits within the submitted drawings, further information regarding the design and details of the house would be required by condition. Considering the quality and character of the street, these conditions are required to ensure that the proposal is implemented to a high standard and does not harm the character of the area.

Considering the visual impact of the proposed outbuilding, this is accepted as large, however, the outbuilding is sited at the end of a long garden and will therefore have no impact on the appearance of the street scene. The adjoining gardens are also long, therefore mitigating the view of the outbuilding from neighbouring houses. There are examples of similar outbuildings of significant scale within adjacent gardens. It is worth noting that an outbuilding of this size could be built via permitted development as set out in Schedule 2, Part 1, Class E (Buildings etc incidental to the enjoyment of a dwellinghouse) of the General Permitted Development Order 2015 (as amended). The applicant would therefore be able to construct the outbuilding without applying for express planning permission and this fallback position has to be considered as a material planning consideration. On this basis there are insufficient grounds to refuse the application due to the scale and impact of the proposed outbuilding.

In summary, the application is considered to be acceptable with regards to its visual impact on the character and appearance of the area, subject to the conditions attached.

### **Amenity of Future Occupiers:**

The proposed dwellinghouse will comprise six bedrooms, with bedrooms 1 to 5 located at the first floor and bedroom 6 located at the ground floor. All bedrooms are in excess of the 11.5sqm minimum floorspace standard for double bedrooms, as stated within the Technical Housing Standards – Nationally Described Space Standards. The proposed dwelling will comprise an overall floorspace of approximately 430sqm, well in excess of the minimum standard of 138sqm for a six-bedroom, eight-person dwelling set across three floors, as stated within the National Space Standards. The rear garden size is approximately 770sqm, which is well in excess of the minimum standard of 68sqm for houses as stated within the Designing Walsall SPD. The proposed internal and external layout of the site is therefore acceptable and will provide a high standard of amenity for future occupiers.

### **Amenity of Neighbours:**

It is acknowledged that several objections have been received regarding the scale of the proposal (both the house and the outbuilding) and the impact of this on neighbour amenity, including the loss of daylight and privacy. Amendments to the scheme have therefore been sought to address some of these concerns.

With regards to the scale of the house, the depth of the first floor rear extension has been reduced from 6m to 4.8m, in order to comply with the 45 Degree Code to the first floor bedroom windows at 18 and 22 Charlemont Road (See Drawing No. L(2-)03 Rev L). With regards to the impact of the ground floor rear extension on the ground floor windows at 18 and 22 Charlemont Road, the nearest ground floor windows at the neighbouring properties do not serve habitable rooms, therefore any 45 Degree Code breach is acceptable to these windows. Based on the amendments, the proposal now complies with the Council's 45 Degree Code and will not therefore result in any loss of amenity at neighbour's habitable rooms.

The proposal will also not result in the loss of any neighbour privacy, given that all windows in the proposed dwelling are contained in the front and rear elevations and will therefore face the street or face the rear garden of the application site, rather than any neighbouring gardens.

Objections were also raised regarding the impact of the proposed outbuilding on neighbour amenity. However, as is previously noted, the outbuilding complies with permitted development rights and can therefore be implemented without the applicant applying to the Local Planning Authority for express planning permission. Given the length of the nearest gardens (approximately 35m-40m), the outbuilding is also sited some distance away from the nearest habitable windows. A condition has also been included requiring that the outbuilding be only used for purposes which are incidental to the enjoyment of the dwellinghouse and cannot be used as separate accommodation. The plans show that the outbuilding will be used as a gym /playroom, as well as storage. Concerns were raised regarding the use of the outbuilding to play cricket; however, this would be accepted as a use for personal enjoyment of the

occupants of the dwelling and would be considered a common use of a private garden. Furthermore, if the noise from this activity were to become a statutory nuisance and a complaint was submitted, the Council would be required to investigate the noise and the persons responsible for the noise would be required to stop or restrict it.

In summary, as a result of the amendments to the scheme, the application is now acceptable with regards to the impact on neighbour amenity, subject to the conditions attached.

### **Highways and Parking:**

The Local Highway Authority have raised no objections to the proposed development. No alterations are proposed to the site's access from Charlemont Road, and four car parking spaces will be retained to the front of the dwelling, which is considered to be an acceptable level of parking space in this location. The proposal is therefore acceptable with regards to highways and parking matters, subject to the conditions attached.

### **Ecology and Trees:**

The application is supported by a Preliminary Roost Assessment which found that the existing dwelling had moderate potential for bat roosts. Further bat activity surveys were submitted, and these found that it is highly unlikely that there is a bat roost present at the site. Due to these reasons, there are no objections to the proposal on ecological grounds.

There are several trees located within the boundary of 3 Charlemont Close to the north-west of the site, which are subject of a Tree Preservation Order. The proposed outbuilding will be located at the end of the garden and therefore near to these trees (the trees are in the neighbour's garden not the application site). The outbuilding will be positioned approximately 7m from the boundary and therefore likely at the extremities of the root protection areas of the trees. However, in order to ensure the proposal does not harm the protected trees, conditions have been attached requiring that the outbuilding uses a raft foundation which is a shallower foundation which will have a lesser impact on tree roots, as well as the submission of a tree protection plan.

In summary, the application is acceptable with regards to the impact on ecology and trees, subject to the conditions attached.

### **Ground Conditions and Contamination:**

The existing use of the site is residential and there is no planning history to indicate any alternative uses of the site which may have resulted in land contamination. The proposal is located outside of the coal development high risk area and there is no evidence to suggest the site is at risk of stability issues. The application is therefore acceptable with regards to ground conditions and contamination matters.

## **Other Matters:**

Objections have been raised in relation to an increase in surface water runoff to neighbouring properties. With regards to flood-risk and drainage matters, the site is located outside of flood zones 2 and 3 and is an established residential site at low risk of flooding. The proposal will continue the existing residential use of the site and is not likely to result in any increase in flood-risk or additional pressures on drainage in the area.

Objections have been raised in relation to works taking place in advance of planning permission being granted. An internal and external site visit took place in September 2022. No works have commenced inside the building. The rear garden area has been partly cleared in preparation, however, the construction of the outbuilding itself had not yet started. Some trees within the site have also been cut along the site's boundary (within the application site) but none of these were protected by a Tree Preservation Order and there are no reasons to prevent the applicant from removing these trees.

Objections have also been received in relation to the impact of the proposal on property values. However, this is not a material planning consideration and is therefore not relevant to the decision.

## **Conclusions and Reasons for Decision**

The proposal will result in the creation of a new and larger dwelling at the application site, thereby retaining the use of the site for residential purposes. The scale of the proposed dwelling has been reduced through amendments to the first floor rear extension in order to reduce the impact on neighbour amenity. When viewed from the street the overall proportions of the dwelling will be similar to the existing dwelling, with the bulk of the extension located at the rear of the property. The proposal will therefore not result in any harm to the overall character and appearance of the street scene. Furthermore, trees which are subject of a Tree Preservation Order within the neighbouring garden will be protected through planning conditions. Taking into account the above factors it is considered that the application should be recommended for approval, subject to conditions.

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

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested, other than the further details which are requested via condition, as follows.

## **Recommendation**

Grant permission, subject to conditions.

## Conditions and Reasons

### 1. Time Limit

- a. 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. Approved Plans

- a. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:
  - Proposed Floorplans L(2-)03 Rev K
  - Proposed Elevations L(2-)04 Rev M
  - Proposed Outbuilding Plans & Elevations L(2-)05 Rev G
  - Proposed Site Plan L(2-)06 Rev C
  - Proposed Roof Plan L(2-)10 Rev B
  - Proposed Garden Wall Elevation L(2-)22 Rev B
  - Tree Protection Fence Detail L(2-)23

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

### 3. Sample Materials

- a. 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.
- b. 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, the Designing Walsall SPD and the National Planning Policy Framework

#### 4. Tree Protection Measures

- a. Prior to the commencement of development:
  1. Details of raft foundation design for the proposed outbuilding shall be submitted in writing to and approved in writing by the Local Planning Authority
  2. Details of protective fencing and ground protection to be installed around all retained trees shall be submitted in writing to and approved in writing by the Local Planning Authority
  3. The approved protective fencing and ground protection shall be installed
  4. One month's written notice of the intention to commence development shall be given to the Local Planning Authority to allow the Council's Arboricultural Officer to fully inspect the installation of the protective fencing and ground protection
- b. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved details before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.
- c. Nothing shall be stored or placed nor any fires started, any tipping, refuelling, disposal of solvents or cement mixing carried out inside the protective fencing or on the ground protection referred to in part a to this condition. Ground levels within protective fencing and on ground protection areas shall not be altered nor shall any excavation or vehicular access or drainage routes be made.
- d. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of Walsall's Unitary Development Plan, Conserving Walsall's Natural Environment SPD and the National Planning Policy Framework

#### 5. Construction Methodology Statement

- a. Prior to the commencement of the development, a Construction Methodology Statement shall be submitted to and approved by the Local Planning Authority detailing where the parking and turning facilities for site operatives and construction deliveries will be located and including full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.
- b. This provision shall be retained during construction in accordance with the approved details.

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

highway safety in accordance with Saved Policies GP2 and ENV40 of Walsall's Unitary Development Plan and the National Planning Policy Framework

#### 6. Parking and Vehicle Manoeuvring Areas

- a. Prior to the first occupation of the new dwelling, the parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.
- b. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with Saved Policies GP2, T7 and T13 of Walsall's Unitary Development Plan and the National Planning Policy Framework

#### 7. Personal Use of Outbuilding

- a. The proposed outbuilding as part of the development hereby permitted shall not be used otherwise than for purposes incidental to the dwelling house at 20 Charlemont Road and shall not be occupied separately from that dwelling house.

Reason: To define the planning permission, safeguard the amenities of adjoining dwellings and to comply with Saved Policy GP2 of Walsall's Unitary Development Plan, Designing Walsall SPD appendix D and the National Planning Policy Framework

#### **Notes for Applicant**

None.

**END OF OFFICERS REPORT**