



Economy, Environment and Communities, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 7 March 2024

Plans List Item Number: 1

### Reason for bringing to committee

Of public interest, potential departure from the development plan

### Application Details

**Location:** THE SNEYD, 67, VERNON WAY, BLOXWICH, WALSALL, WS3 2LU

**Proposal:** PROPOSED ERECTION OF 5 NO. DWELLINGS WITH ASSOCIATED PARKING, LANDSCAPING, GARDENS AND HARDSCAPING WORKS

**Application Number:** 22/1117

**Case Officer:** Oliver Horne

**Applicant:** PSK Pubs Ltd

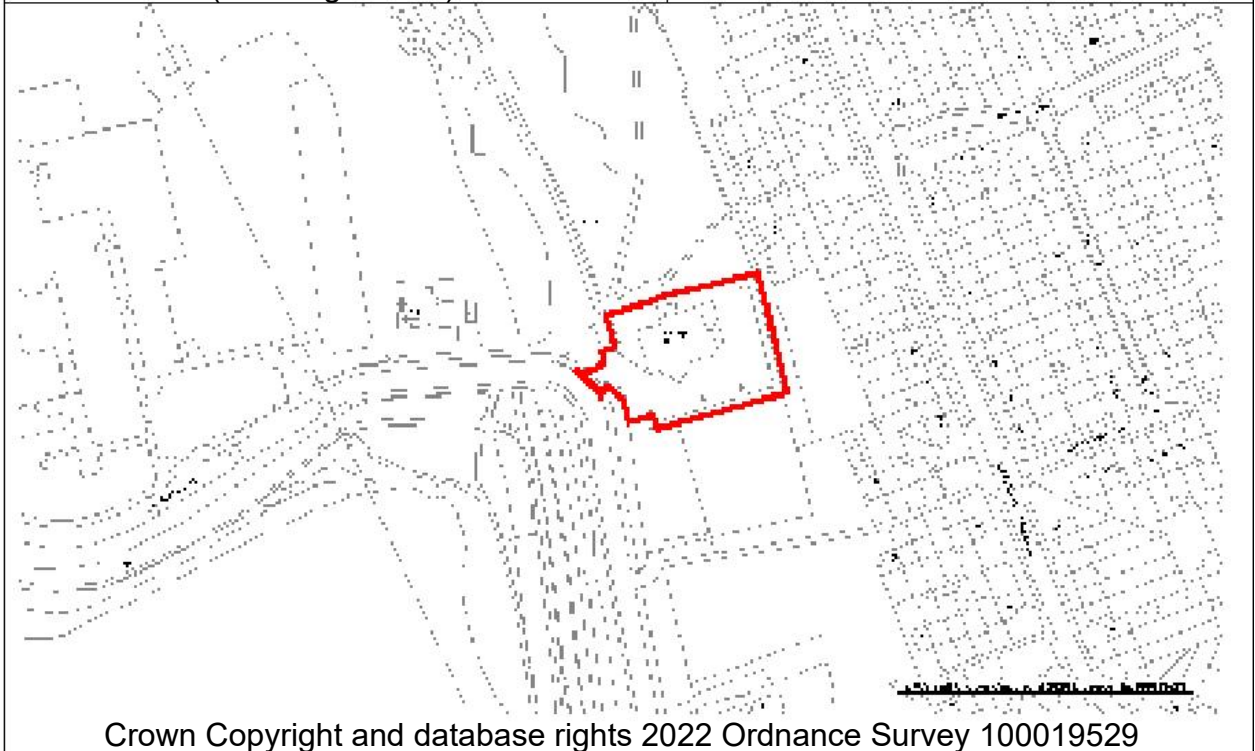
**Ward:** Bloxwich West

**Agent:** Jaspreet Bal

**Expired Date:** 04-Jan-2023

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

**Time Extension Expiry:**



### Recommendation

Refuse

## Proposal

Proposed erection of 5 no. dwellings with associated parking, landscaping, gardens and hardscaping works

## Site and Surroundings

The application site is located on the outskirts of Bloxwich, approximately 1km northwest from the mainline railway station on the eastern side of Vernon Way. The site measures 0.25Ha and comprises a vacant area of hardstanding following the removal of a former public house.

The character of the area varies considerably from the east to the west of the application site. To the east the area has a suburban feel, characterised by mid-20th Century terraced housing. To the west the land is less developed, with the Sneyd Local Nature Reserve and lake situated to the south and west, and to its north is the Sneyd Community Association and boating / activities lake. Immediately to the south of the site is the former extended car park of the pub where development has commenced in relation planning permission reference 17/0979 for the erection of 3 no. 5-bedroom dwellings, installation of public greenway route, improvements to existing boundary treatments and landscape works. Further south are two isolated houses.

The Councils proposals Map identifies the site as being located within the Mossley/Dudley Fields Neighbourhood, as well as being within a Coal Development High Risk Area and the Green Belt. A public footpath abuts the site to the west where it joins onto Vernon Way and forks northwards and eastwards away.

## Relevant Planning History

**15/1117** - Outline application for demolition of public house and construction of 21 dwellings and access (access and layout to be considered). – **Withdrawn 4th April 2017**

**17/0152** - First floor extension and change of use of vacant pub to 6 bed dwelling. – **Granted 12th April 2017**

**17/0979** - Proposed re-development of existing former car park to public house to consist of the erection of 3 no. 5 bedroom dwellings, installation of public greenway route, improvements to existing boundary treatments and landscape works. **Granted 5th December 2018**

**19/0220** - Outline application for demolition of former public house and erection of 14 no. apartments with access and layout to be determined. – **Refused 12th June 2019** on the *following* grounds:

1. *The proposals represent inappropriate development within the Green Belt and no*

*very special circumstances have been put forward sufficient to outweigh the harm this inappropriate development would cause to the character and openness of the Green Belt. As such the proposed development would be contrary to paragraphs 144, 145 and 146 of the NPPF 2018, Policy GB1 of the Walsall Site Allocation Document 2019 and the aims and objectives of the Black Country Core Strategy, in particular Policy CSP2.*

*2. The proposed layout would create a large building and hardstanding that would dominate the site and its surroundings, be out of character with the street scene and the surrounding pattern of development, adversely impact on the openness and character of the Green Belt and create a poor residential environment for the future occupiers. As such the proposals are considered contrary to The National Planning Policy Framework, policy GB1 of Walsall's Site Allocation Document 2019, policies HOU2, ENV2, ENV3 and CSP2 of the Black Country Core Strategy and saved policies GP2, H3 and ENV32 of Walsall's Unitary Development Plan.*

*3. The submission fails to provide accurate up to date evidence about the possible presence of bats, or the impact on their roosts or habitats within the existing building or around the site. The submission is therefore contrary to saved Policy ENV23 of Walsall's Unitary Development Plan and Conserving Walsall's Natural Environment SPD.*

*4. The site sits within a Development High Risk Coal Area and the submissions fails to include a Coal Mining Risk Assessment to establish the stability of the site for development, which is contrary to Policy ENV14 of Walsall's Unitary Development Plan.*

*5. The layout of the proposed development would not integrate with the existing built development due to the high density which would be at odds with the surrounding built development along Vernon Way, contrary to the expectations of BCCS policy HOU2. For these reasons the proposal would be contrary to the aims and objectives of the National Planning Framework in particular policies 56, 58, 60, 61, 64, 79, 87, 88 and 89, The Black Country Core Strategy, policies CSP4, HOU2 and ENV3, and Walsall's Saved Unitary Development Plan policies, in particular GP2, and ENV32.*

*6. The site sits within a remote location and fails to meet the requirements within Policies T11 and T12 for distance to local shops and public transport facilities and the level of parking proposed fails to meet the requirements of Policy T13 of Walsall's Unitary Development Plan.*

*7. The proposed building and site layout design, with a single pedestrian access into the building, long corridors to serve all of the flats, front door having limited natural surveillance, lack of detail for securing the site, private amenity exposed to the public realm, lack of detail how the doors and windows of the proposed flats would be secured in a remote location would exacerbate and be at risk of anti-social behaviour to the detrimental impact of future occupiers and public safety. For these reasons the proposal would be contrary to the aims and objectives of the National Planning Policy Framework and the Walsall Council's Designing Walsall Supplementary Planning document.*

8. The submission fails to show compliance with Policy LC8 of Walsall's Unitary Development plan to justify the loss of the existing pub as a community facility.

9. The proposal fails to include details of the proposed funding, management and maintenance of the Greenway to the frontage of the site, contrary to Policy LC5 (c) of Walsall's Saved Unitary Development Plan.

10. The submission fails to demonstrate compliance with Policy LC1 of Walsall's Unitary Development Plan and Urban Open Space SPD for the delivery of Urban open Space contribution.

## 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 11 – Making effective use of land**
- **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 (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](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
- ENV7: Countryside Character
- ENV9: Environmental Improvement Initiatives
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- JP7: Use of Land and Buildings in Other Employment Areas-
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings-
- H4: Affordable Housing parts g, h, i and j
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis
- LC8: Community Facilities

### **Black Country Core Strategy**

- CSP4: Place Making
- CSP5: Transport Strategy
- DEL2: Managing the Balance Between Employment Land and Housing
- 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
- ENV8: Air Quality

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

HC2: Development of Other Land for Housing

HC3: Affordable Housing and Housing for People with Special Needs

### **CANNOCK CHASE SPECIAL AREA OF CONSERVATION (SAC) GUIDANCE TO MITIGATE THE IMPACT OF NEW RESIDENTIAL DEVELOPMENT (September 2022)**

- EQ2: Cannock Chase Special Area of Conservation

### **Supplementary Planning Document**

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

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting

### **Designing Walsall**

- DW1 Sustainability
- 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

### **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**

**Public Rights of Way: No objections** to the proposed development. There are no Definitive Public Rights of Way across or adjacent to the area of the proposed development and therefore no public rights of way conditions or requirements.

**Ecology:** No objections on ecological grounds with both Cannock Chase SAC and ecological assessment sufficiently assessed as part of the assessment.

**Local Highway Authority**– Objections including width of footway, security issues, size and complexity of access point, access to Plot 2 the Greenway and maintenance of public greenspace.

**Police Liaison Officer:** No objection

**Strategic Planning Policy:** On balance the proposal can be supported on planning policy grounds, however, the interpretation of Para 154 g) is a matter of legal and planning judgement rather than a policy one.

**Environmental Protection:** No objections, subject to conditions relating to contamination and the provision of a construction management plan.

**Archaeology:** No objection

**Carden Gas Ltd:** No objection subject to an informative being included in any planning approval

**Coal Authority:** No objection subject to conditions relating to:

- 1) The undertaking of intrusive investigations prior to development taking place
- 2) The provision of a signed declaration by a suitably qualified person confirming safety of site prior to occupation

**West Midlands Fire Service:** No objections and provide general guidance to be dealt with by Building Regulations

## Representations

No comments at time of writing

## Determining Issues

- Principle of development
- Green belt assessment
- Cannock chase SAC and HRA
- Design, layout and character
- Amenity of neighbours and future occupiers
- Highways
- Ecology and Biodiversity Net Gain
- Ground Conditions and Environment
- Local Finance Considerations
- The Greenway

## Assessment of the Proposal



## **Principle of Development**

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.

Paragraph 70 of the NPPF states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. Under the provisions of Saved Policy ENV14 of the Walsall Unitary Development Plane, the Council encourages the reclamation and development of derelict and previously developed land wherever this is technically feasible and in accordance with other policies of the Plan. Saved Policy LC8 of the UDP states that the loss of community facilities, including public houses, will only be acceptable in the following four specific circumstances:

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

Under Objective 2 of the Walsall Site Allocation Document, the Council will strive to deliver sustainable communities through the development of new housing on vacant, derelict, and under-used land (including redundant employment land), as well as the regeneration of existing housing areas to provide a range of homes that meet the needs of all members of the community. Under the provisions of Policy HC2 the provision of housing on other previously developed sites will be encouraged provided specific criteria are met, such as; the residential development would not conflict with any national or local designation relating to the site itself.

In refusing the previous planning application for a residential redevelopment of the site (19/0220) the principal of the loss of the existing pub as a community facility was included as a reason for refusal, as no justification was provided. In the time that has passed since this application was determined the existing public house has been demolished; this was noted by the Councils Enforcement Officer in March 2023. It is understood that Planning Enforcement have completed their investigation of this potential breach of planning control and no further action is being pursued for the demolition of the building.

As the demolition of the pub has already occurred, saved UDP Policy LC8 no longer applies and so the principal to develop the site is supported by Saved UDP Policies H3, HOU1, HC2, ENV14 and Objective 2 and Policy HC2 of the SAD and the NPPF, subject to satisfactorily addressing other policies, such as Green Belt.

## **Green Belt Assessment**

This site lies in an isolated location within the Green Belt. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances (para 152 NPPF). Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness is clearly outweighed by other considerations (para 153 NPPF).

The NPPF paragraph 154 states that a local planning authority should regard the construction of new buildings as inappropriate development in the Green Belt, with some exceptions including part 'g' which is set out *below*:

*g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development; or – not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

Planning Practice Guidance states that the courts have identified a number of matters which need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects - in other words, the visual impact of the proposal may be relevant, as could its volume.
- the duration of the development, and its remediability - taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation.

Policy GB1 of Walsall's Site Allocation Document (SAD) states that inappropriate development as defined within the NPPF will not be supported in the Green Belt unless '*very special circumstances*' exist which clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm. Planning permission was approved for a first-floor extension and change of use of the existing public house into a 6-bedroom dwelling (ref. 17/0152); however, this was not implemented. There is no evidence that commencement works safeguarded this consent, and as such this permission is no longer extant, especially as the building that was to be extended has been removed.

In refusing the previous outline planning application for a development of 14 apartments on the site (ref. 19/0220), reason for refusal 1 stated that the proposed development constituted inappropriate development within the Green Belt. The officers report identified the vacant public house was in situ at that time and the officer considered the size, volume and position of the proposed building would adversely impact on the openness and character of the Green Belt. The proposals were larger than the existing pub and amounted to inappropriate development in the Green Belt, for which no very special circumstances were identified, in direct conflict with the NPPF.

The current proposal to erect five dwellings would be smaller in scale than the previous outline proposal, however, it is recognised that the proposed development may not represent disproportionate additions to the previous public house in terms of its floor area (22% increase in GIA). Nevertheless, the impact of the more expansive and prominent nature of the proposals including a new access road, parking and turning area, as well as gardens and new boundary treatments, is more contentious and adds a greater level of domestication to the green belt.

Notwithstanding the above, since the determination of the previous application for development, the existing public house has been demolished and application site cleared, leaving just an area of hardstanding. Consequently, any comparison assessment in terms of whether the current proposal represents disproportionate additions to or is materially larger than the existing pub is no longer relevant, as it no longer exists. Given the current situation, the proposed development of a pair of semi-detached, and 3 detached dwellings would have a significantly greater impact on the openness of the Green Belt than the current open site forming an inappropriate impact on the openness of the greenbelt, both visually and spatially. As the proposal spreads the built form, it is considered the footprint has been disaggregated which has a greater impact on the green belt. The other consideration is the duration of the development and the remendability of the site to an open space. Given the proposal is for housing, it means the level of harm to the green belt will be for a considerably extended time frame. Moreover, the proposed development does not provide for any identified affordable housing need within the area and, therefore, provides no policy backed mitigating circumstances in which the principle of the development of the site would be acceptable in the green belt. For the reasons given above, the proposed development constitutes inappropriate development that fails to satisfy Paragraph 154 of the NPPF and Policy GB1 of the SAD.

It has been taken into consideration that a similar development proposal (17/0979) for three 5-bedroom dwellings was approved on 5th December 2018 on land abutting the south of the application site, which previously formed the pub car park and is also located within the Green Belt. Given the similarities between the two application sites, the following paragraphs assess the justification for the approval of this application, and its implications, or otherwise, on the current proposal for development. It should be noted that whilst this permission is no longer extant, it has been established that the construction of foundations have been substantially completed and the permission for this development is, therefore, safeguarded in perpetuity.

Planning permission for this adjacent development was recommended for refusal, however, the November 2018 planning committee concluded to approve the application against the recommendation for the following reasons:

- Site is in desperate need of redevelopment for the benefit of the wider community.
- This site has been redundant for a number of years.
- The site has seen increased numbers of antisocial behaviour.
- The site has been a cause for numerous cases of fly tipping.
- The site in question is previously developed land and is in desperate need for development.
- Residents are fully in support of the application.
- The proposals demonstrate the best use of land and bring forward the currently underused site.

The above justifications given by the Committee for approving the 2017 application do not individually or cumulatively amount to '*very special circumstances*' as defined by Paragraph 154 of the NPPF. If the current proposal were to be assessed against the same justifications, the following reasoning for non-compliance would apply:

- There is no evidence that delivering some additional open market housing at this location would bring any community benefit and this is not a very special circumstance to outweigh the harm to the greenbelt.
- There are a number of vacant sites in the Borough better placed than this Green Belt site for redevelopment. This is not a very special circumstance for setting aside the harm to the Green Belt.
- The site potential for attracting anti-social behaviour is not a material planning consideration and cannot be used for a very special circumstance. There are other powers to deal with anti-social behaviour.
- If the site attracts fly tipping, the Council has section 215 powers to address this. The potential of fly tipping on a site is not a very special circumstance to overcome the harm to the Green Belt.
- Whilst the site can be considered as previously developed land, now the landowner has cleared the former building the lawful existing development comprises an area of hardstanding. Previously developed land is not a justification for development to overcome inappropriate development in the Green Belt, nor does it form a very special circumstance unless the proposal is judged to cause less than substantial harm, and it would contribute towards meeting an identified affordable housing need. (Para 154g NPPF). The proposal fails on both counts.

- Community support of a development in the Green Belt is not a very special circumstance that can outweigh the harm the development causes to its openness and character.
- The “best use of land” is not a criterion used to address the harm caused to the openness Green Belt set by the government or the courts, nor does it form a very special circumstance. Given the biodiversity depletion across the country, actually improving the natural environment of the site and replanting with diverse local species would be the only way to demonstrate the much-needed improvement to the site.

The assessment of openness, impact or harm must be assessed based on the site as it is and there are several examples of relevant case law. As the building has been demolished, the public house is not now a consideration of the current planning application and the proposal without doubt has a greater impact on the openness of the Green Belt than the current open site. The fact that the land may be considered previously developed land is irrelevant, because the proposed development causes a greater harm/impact on the Green Belt than the existing open site, meaning that the exception provided by paragraph 154g would not apply in this instance.

Given the above reasoning, in terms of Green Belt Policy, the current proposal constitutes inappropriate development in conflict with Policy GB1 of Walsall’s Site Allocation Document and the NPPF and is recommended for refusal.

### **Cannock Chase SAC and HRA**

This proposed application is located within the 15km zone of influence of the Cannock Chase SAC and proposes a net increase of 5 dwelling/s. The Conservation of Habitats and Species Regulations 2017 (“Habitats Regulations”) place a duty on competent authorities (in this case Walsall Council) to consider the potential for effects upon sites of European importance prior to granting consent.

The applicant’s submitted Habitat Regulation Assessment demonstrates that this development would result in an increase in recreational disturbance and significant harm of the SAC.

The mitigation payment of £329.83 (until 31st March 2024) per each net new dwelling is required in accordance with Black Country Core Strategy Policy EQ2 and the Habitat Regulations. This payment is non-negotiable.

The applicant completed and submitted the Habitat Regulations Assessment form. Whilst it is likely that the applicant will agree to pay the mitigation payments, this has not yet been arranged by way of a legal agreement and this has been included as a reason for refusal in order to reflect the current situation. It is acknowledged, however, that this refusal reason may be resolved in the event of an approval.

### **Design, Layout and Character**

Paragraph 135 of the NPPF emphasises that policies should, inter alia, seek new development be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and sympathetic to local character and history, including the surrounding built environment and landscape setting’. Para 139 of the NPPF states ‘Development that is not well designed should be refused, especially

where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents.

BCCS policy CPS4 requires all development to demonstrate a clear understanding of the historic character and local distinctiveness of the area and show how proposals make a positive contribution to place-making and environmental improvement. UDP Policy GP2 expects all developments to make a positive contribution to the quality of the environment and the principles of sustainable development and will not permit development which would have an unacceptable adverse impact on the environment. Policy ENV32 states that poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. The Urban Design Policies in Walsall SPD gives more detailed guidance with regard to the qualities should be sought from development to create a successful place.

In refusing planning permission for the previous outline planning application on the site (ref. 19/0220), reason for refusal 2 of the decision notice stated the following:

*“The proposed layout would create a large building and hardstanding that would dominate the site and its surroundings, be out of character with the street scene and the surrounding pattern of development, adversely impact on the openness and character of the Green Belt and create a poor residential environment for the future occupiers. As such the proposals are considered contrary to The National Planning Policy Framework, policy GB1 of Walsall’s Site Allocation Document 2019, policies HOU2, ENV2, ENV3 and CSP2 of the Black Country Core Strategy and saved policies GP2, H3 and ENV32 of Walsall’s Unitary Development Plan”*

The current application has sought to address the above refusal by proposing a significantly reduced redevelopment of the site. Units 3, 4 and 5 as identified on the proposed site plan would conform with the approved building line created by the approved development to the south, and the proposed height and proportions are also comparable. Whilst the general design of the proposed dwellings is broadly in keeping, the proposed dwellings include a gabled roof design which would conflict with the hipped design of the adjacent approved development. Consequently, the proposals would appear bulkier with a perceptible and unwelcome increased scale and mass.

Units 1 and 2 identified on the proposed site plan would sit forward of the building line created by the approved development to the south, and that of proposed Units 3, 4 & 5. These two units would also be positioned at right angles to the adjacent development and the highway. By virtue of their siting, design and proportions, proposed Units 1 and 2 would have an awkward relationship with the adjacent development and would upset the rhythm of adjacent development. Insufficient justification has been given for the introduction of these two units in terms of why they have been set forward to step out of line with the remainder of the development on this and the adjacent site.

For the reasons outlined above, in terms of design the proposal fails to comply with BCCS Policy CPS4, UDP Policies GP2 and ENV32, and fails to reflect local design policies DW4 and DW3 of the Urban Design Policies in Walsall SPD.

### **Amenity of Neighbours and Amenity of Future Occupiers Neighbouring Residents:**

Under the provisions of Policy GP2 of the Walsall UDP the Council expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact.

Within the reasons for refusal of the planning application on the site ref. 19/0220 it was determined that the proposed development would have a detrimental impact upon the amenity of future occupiers in terms of the layout, access, surveillance and security and loss of privacy. This revised proposal has sought to address these concerns.

Proposed Unit 3 would be the closest of the proposed dwellings to the nearest existing residential property of No. 139 Glastonbury Crescent. This dwelling comprises of two storeys and is the end dwelling of a terrace of 4 properties which are set at right angles to the majority of the development that fronts the Crescent. The rear elevation of Unit 3 would be located 15m from the southern garden boundary of No. 139 and 17m from the flank elevation of the dwelling itself. The rear elevations of the other properties fronting onto the Crescent would be set approximately 45m from the rear elevations of Units 3, 4 and 5, with their gardens extending to a length of approximately 14m towards the site.

The above separation distances would ensure that sufficient space would be retained between the proposed development and the nearest neighbouring properties within Glastonbury Crescent and would ensure that daylight, privacy and outlook

currently enjoyed by occupiers would not be materially impacted. By virtue of the proposed side-by-side orientation of Unit 5 with to the dwellings within the adjacent approved development to the south, the proposals would also ensure no unacceptable impact would be suffered by future residents of these properties once completed. All separation distances between the proposed development and the adjacent existing housing and adjacent approved housing are in excess of the minimum prescribed distances contained within Appendix D of the Designing Walsall SPD. The introduction of the proposed development would bring an intensification of use to the vicinity, however, the increased vehicular and pedestrian movements associated with the occupation of the new dwellings would be unlikely to impact neighbouring residents by way of disturbance or nuisance.

Overall, in terms of all the amenity issues detailed above, it is considered that the proposal would not have any unacceptable adverse impact on adjoining neighbours and the application is in compliance with Saved Policy GP2 of the Unitary Development Plan and the Designing Walsall SPD, subject to overcoming the harm to the greenbelt.

### **Future Occupiers:**

#### Light impact, outlook and privacy:

No flank elevation windows are proposed in Units 1-4, and the windows in the flank elevations of Unit 5 would comprise obscure glazing and be fixed shut below 1.7m above internal floor levels. Proposed Units 3-5 are oriented side by side and in line with each other, therefore, there would be no loss of amenity in terms of any undue loss of privacy or harmful impact upon daylight between these properties. Proposed Units 1 and 2 are sited at right angles and in front of Units 3 and 4, and the rear garden of Unit 2 would be located less than 13m away from the primary window serving the front first-floor bedroom of Unit 3. Unimpeded views of the rear garden of Unit 2 would be available, however, the minimum required 13m separation gap between habitable windows and blank walls, as required by Appendix D of the Designing Walsall SPD, would be satisfied. Consequently, in terms of the daylighting, privacy and outlook, potential future occupiers of the proposed development should be satisfactorily safeguarded.

If planning permission were to be approved, then a suitably worded condition requiring that any side facing windows in the proposed development should be obscure glazed and fixed shut below 1.7m above internal floor areas. However, as the application is being refused on other grounds, the imposition of such a condition is not necessary.

#### Standard of accommodation

The National Design Guide 2021 forms part of the Governments Planning Practice Guidance and provides detailed advice pertaining to the principles of good design. The National Design Guide and Technical Housing Standards – nationally described space standard (DCLG March 2015) sets out minimum floor areas for residential development.

The proposed development provides two 3-bed dwellings (108sqm GIA, over 3 stories), two 4-bed dwellings (158sqm GIA, over 3-storeies), and one 5-bed dwelling (150sqm GIA, over 2-storeis plus significant loft space). These proposed dimensions



are in compliance with the above standards and the proposals would provide a sufficient quantum of internal living space for future occupiers. All proposed bedroom sizes meet the minimum requirement and adequate storage could be provided within the internal layouts.

#### Private amenity space:

The guidance contained within Appendix D within the Designing Walsall SPD advises gardens have a minimum length of 12m or a minimum area of 68sqm usable space. All the proposed gardens fall short in terms of the required length, ranging from 9m (plot 1) to 11m (plot 3). However, in terms of useable areas, adequate garden spaces can be provided, ranging from 65sqm (plot 1) to 203sqm (plot 5). Consequently, in terms of amenity space, the proposals are considered to provide sufficiently sized usable gardens for future occupiers.

Overall, in terms of the standard of accommodation for future occupiers, the application is in compliance with Saved Policy GP2 of the Unitary Development Plan, the Designing Walsall SPD, The National Design Guide 2021 and the nationally described space standard (DCLG March 2015) subject to overcoming the harm to the green belt.

#### **Highways**

Policy TRAN2 requires development to manage its transport impacts. Policy GP2 of the UDP requires development to be accessible by a choice of means of transport and to provide adequate parking provision. Policy T7 requires an adequate level of car parking to meet operational needs whilst not exceeding any maximum parking standards that are specified within Policy T13. Policy T13 requires provision of 2 spaces per 3-bedroom dwelling and 3 spaces per dwelling with 4-bedrooms or above. The Air Quality SPD requires that electric vehicle charging points and cycle/electric cycle parking provision is provided within new development.

The proposed development provides private off-street parking for two cars per three-bedroom dwelling and 3 cars for the 4 and 5 bedroom dwellings in accordance with the above Policy. Vehicle tracking has been shown to demonstrate that a refuse truck could enter the development, turn, and exit in a forward gear.

The Highways Authority were consulted when the application was originally submitted, and a number of amendments were requested to the proposed layout, access, footpaths and parking. These amendments were subsequently made, and the proposal now appears to be acceptable. It is noted that the previous planning application on the site (ref. 19/0220) was refused planning permission and a reason for refusal included that the proposal failed to meet the requirements within Policies T11 and T12 for distance to local shops and public transport facilities. This previous proposal also failed to meet parking standards, whereas this revised proposal, does not. Consequently, residents of the proposed development would be less reliant upon walking and public transport and the proposal is acceptable.

On balance, the proposed development is in compliance with Policy TRAN2 of the Core Strategy and Policies GP2, T7 and T13 of the UDP.

## **Ecology and Biodiversity Net Gain**

Policy ENV1 of the Black Country requires development to safeguard nature conservation. Core Strategy Saved Policy EN1 of the Walsall UDP requires development to safeguard nature conservation and the Natural Environment SPD provides guidance on complying with the Black Country Core Strategy and Unitary Development Plan policies for the protection of the natural environment.

The reasons for refusal of the previous planning application on the site (ref. 19/0220) included that the submission failed to provide accurate up to date evidence about the possible presence of bats, or the impact on their roosts or habitats within the existing building or around the site. The current proposal was accompanied by a Preliminary Ecological Appraisal completed by Brown Fisher Environmental.

The Councils Ecology officer was consulted with respect to the application proposal and found that the site has been fully assessed in respect to potential onsite ecological features and protected species. The officer concluded that, should the precautionary methods of working and mitigation measures outlined within the report be implemented, no ecological reasons for refusal would remain. It was recommended that, should planning permission be approved, two planning conditions be imposed relating to a Biodiversity Enhancement Strategy and the implementation of the mitigation and precautionary measures outlined within the submitted Assessment.

Providing the above conditions are imposed the proposal is in compliance with Core Strategy Policy ENV1, UDP Policy EN1 and the Natural Environment SPD.

## **Ground Conditions and Environment**

The NPPF identifies the protection and enhancement of the environment as being one of the three overarching objectives of sustainable development. Policies ENV8 of the Black Country Core Strategy, saved policies GP2, and ENV23 of the Walsall Unitary Development Plan, Policy EN5 and EN6 of the SAD and Conserving Walsall's Natural Environment SPD are all relevant in this regard.

The reasons for refusal of the previous planning application on the site (19/0220) included that the submission failed to include a Coal Mining Risk Assessment to establish the stability of the site for development. This current application was supported by a Coal Mining Risk Assessment, dated 21st October 2022 and prepared by Brown Fisher Environmental. This report appears to have been informed by a range of sources of information. The Coal Authority assessed the report and reviewed the available coal mining and geological information the authors of the Coal Mining Risk Assessment. The report concluded that there is a potential risk posed to the development by past coal mining activity and recommend intrusive site investigations should be carried out on site in order to establish the exact situation in respect of coal mining legacy features. Suggested conditions for inclusion within any planning permission were provided by the Coal Authority, however, as the application is being recommended for refusal on other grounds, this risk posed to development will have to form a reason for refusal.

Environmental Protection were also consulted with respect to the application proposals. The advice received informed officers that as the site is located within

close proximity to an area of the M6 motorway, which is identified as a 'First Priority Area' within the West Midlands Noise Action Plan on account of excessively high traffic noise levels and, therefore, should be given priority investigation in the context of noise action planning. Consequently, it was advised that applicant should conduct an acoustic survey prior to any planning permission being granted to characterise the area, with the subsequent aim of any remedial measures to meet internal levels specified within British Standard BS8233:2014. However, as the application is being recommended for refusal on other grounds it would not be expedient to request the undertaking of an acoustic survey, and this risk posed to amenity will have to form a reason for refusal.

Environmental Protection also advised that the site was likely to suffer from localised land contamination. In the event that planning permission were to be approved, it was advised that a condition should be imposed requiring investigations and any remediation measures be undertaken before any building work commences on site. However, as the application is being recommended for refusal on other grounds, this risk posed to public health will have to form a reason for refusal. A further condition requiring the submission of a Construction Management Plan was also recommended to safeguard against any undesirable impacts from the construction process.

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

### **The Greenway**

Policy T8 of the UDP the Council encourage the greater use of walking by means such as safeguarding, promoting and constructing a network of segregated Greenways. SAD Policy LC5 requires developers of sites which include or adjoin parts of the Greenway network to fund the construction or improvement Greenways, together with any necessary links from the Greenway network into the development.

The councils footpath officer was consulted with respect to the application proposals and raised no objections as there are no Definitive Public Rights of Way across or adjacent to the area of the proposed development, therefore, there are no public rights of way conditions or requirements. Notwithstanding the above, a designated Greenway runs north/south across the frontage of the site and across its access.

The reasons for refusal of the previous planning application on the site (19/0220) included that the proposal failed to include details of the proposed funding, management and maintenance of the greenway, contrary to Policy LC5 (c) of Walsall's Saved Unitary Development Plan.

The current proposed site layout shows that the alignment of the greenway relocated from the former vehicle access to the Sneyd Public House and onto the footway alongside Vernon Way. A proposed greenway is not part of the adopted highway maintainable at public expense, or a Definitive Public Right of Way and, therefore, no Stopping Up and Diversion Order is required to achieve the proposed revised greenway layout. The greenway, green space and site access do, however, appear to be in Walsall Council Ownership and Public Rights of Way made the *following* recommendations:

- *Clean and Green Services and Planning Policy are to be consulted on the proposed changes to the greenway alignment and green space, between the adopted footway and planning red boundary site outline.*
- *Asset Management are to be consulted on the proposed site access. As the site access is not part of the adopted highway maintainable at public expense, there may be a requirement for the developer and/or proposed residents to agree private access rights to the proposed development with Asset Management.*
- *The revised proposed greenway alignment for the current proposed development 22/1117 does not appear to meet up with the proposed greenway alignment for the adjacent development 17/0979. The proposed greenway alignment and design must provide continuous level and inclusive access between both development sites. The design should not create a cul-de-sac as this may be unsafe for inclusive pedestrian access and encourage ASB/ fly-tipping.*

It is accepted, subject to resolving the harm to the green belt, that the above matters could potentially be addressed through negotiation with the applicant, however, as the proposal is being recommended for refusal on other grounds, it is considered expedient to issue the recommendation rather than incur additional delays. Given the above, the previous reason for refusal of application reference 19/0220 has not been overcome by this revised proposal, which also fails to include details of the proposed funding, management and maintenance of the Greenway to the frontage of the site, contrary to Saved Policy LC5 of Walsall's Site Allocations Document.

## **Conclusions and Reasons for Decision**

This application has failed to provide SAC mitigation payment and the proposal does not accord with local and national planning policies and guidance as set out in this report. The proposal represents inappropriate development in the Green Belt, fails to take account of the local distinctiveness and rural character of the area and the proposed built development would poorly relate to approved adjacent development in terms of scale, mass, design, density and layout. The proposal also fails to include details of the proposed funding, management, and maintenance of the Greenway.

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

Officers have corresponded with the applicant's agent, however, in this instance there are no material planning considerations in support of the proposals. It is concluded that this application should be recommended for refusal.

## **Recommendation**

**Refuse planning permission.**

### **Reasons**

1. The proposal represents inappropriate development in the Green Belt and the applicant has failed to demonstrate that either very special circumstances exist or that the harm to the openness both spatially and visually has been outweighed by other considerations. The proposal is therefore in conflict with the NPPF 2023 paragraphs 152, 153 and 154, and Policy GB1 (Green Belt Boundary and Control of Development in the Green Belt) of Walsall's Site Allocation Document (SAD).
2. Proposed Units 1 and 2 would have an awkward relationship with the adjacent approved development, would upset the rhythm as perceived from the highway and cause harm to the open character and visual amenity of the local area. Insufficient justification has been given for the introduction of these two units in terms of why they have been set forward to step out of line with the remainder of the development on this and the adjacent site in conflict with Policies CPS4 (Place Making), ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) and HOU2 (Housing Density, Type and Accessibility) of the Black Country Core Strategy, UDP Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), SAD Policy HC2 (Development of Other Land for Housing), and fails to reflect local design policies 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).
3. The bulky gabled roof design of proposed Units 3, 4 and 5 would poorly relate to the approved adjacent development in terms of scale, mass and design, 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).
4. The application fails to provide the necessary Cannock Chase Special Area of Conservation (SAC) mitigation. The proposed development falls within the 15km zone of influence relating to the Cannock Chase SAC and has failed to provide any information in relation to likely impacts on the SAC arising from the

proposed addition of 6 dwellings and has failed to provide any potential necessary mitigation measures or a mechanism for securing them. The application is therefore contrary to the Conservation of Habitats and Species Regulations 2017, Policies CSP3 (Environmental Infrastructure), CSP4 (Place-Making) and ENV1 (Nature Conservation) of the Black Country Core Strategy, Saved Policy ENV23 (Nature Conservation and new development) of the Walsall Unitary Development Plan, Policy EN1 (Natural Environment Protection, Management and Enhancement) of the Walsall Site Allocation Document and the NPPF.

5. The applicant has failed to provide sufficient evidence in the form of proposed funding, management, and maintenance of the Greenway to the frontage of the site, contrary to Saved Policy LC5 (Greenways) of Walsall's Site Allocations Document.
6. The applicant has failed to undertake an appropriate investigation to determine the potential presence of land contamination and/or ground gas to address known ground conditions. In the absence of this evidence the Council is unable to assess whether conditions would be appropriate for the requirement of further investigations and/or mitigating measures to be implemented. The proposal is therefore contrary to Saved UDP Policies GP2 (Environmental Protection) and ENV14 (Development of Derelict and Previously Developed Sites).
7. The applicant has failed to provide sufficient evidence in the form of a noise survey to determine whether the site is suitable for residential development, including any amenity areas from motorway traffic noise. In the absence of this evidence the Council is unable to assess whether conditions would be appropriate for the requirement of further investigations and/or mitigating measures to be implemented. The proposal is therefore contrary to Saved UDP Policies GP2 (Environmental Protection).
8. The applicant has failed to undertake an appropriate investigation to determine the potential risk posed to land stability and public health from former coal mining activity. In the absence of this evidence the Council is unable to assess whether conditions would be appropriate for the requirement of further investigations and/or mitigating measures to be implemented. The proposal is therefore contrary to Saved UDP Policies GP2 (Environmental Protection) and ENV14 (Development of Derelict and Previously Developed Sites).

### **Notes to applicant**

N/A

## END OF OFFICERS REPORT