



# Walsall Council

## Planning Committee

**Thursday 28 November 2024 at 5:30pm**

**Meeting Venue: Council Chamber at the Council House, Lichfield Street, Walsall**

[Livestream Link](#)

**Membership:**

Councillor M.A. Bird (Chair)  
Councillor J. Murray (Vice-Chair)  
Councillor B. Bains  
Councillor H. Bashir  
Councillor P. Bott  
Councillor S. Elson  
Councillor M. Follows  
Councillor P. Gill  
Councillor A. Hussain  
Councillor I. Hussain  
Councillor K. Hussain  
Councillor K. Margetts  
Councillor R. Martin  
Councillor L. Nahal  
Councillor A. Nawaz  
Councillor A. Parkes  
Councillor W. Rasab  
Councillor S. Samra  
Councillor M. Statham  
Councillor V. Waters

**Quorum:**

Seven Members

Democratic Services, The Council House, Walsall, WS1 1TW  
Contact name: Edward Cook Telephone: 01922 653204 Email: [edward.cook@walsall.gov.uk](mailto:edward.cook@walsall.gov.uk)  
[Walsall Council Website](#)

**If you are disabled and require help to and from the meeting room,  
please contact the person above**

## The Relevant Authorities (Disclosable 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:

<b>Subject</b>	<b>Prescribed description</b>
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> <ul style="list-style-type: none"> <li>(a) under which goods or services are to be provided or works are to be executed; and</li> <li>(b) which has not been fully discharged.</li> </ul>
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> <ul style="list-style-type: none"> <li>(a) the landlord is the relevant authority;</li> <li>(b) the tenant is a body in which the relevant person has a beneficial interest.</li> </ul>
Securities	<p>Any beneficial interest in securities of a body where:</p> <ul style="list-style-type: none"> <li>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</li> <li>(b) either: <ul style="list-style-type: none"> <li>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>(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.</li> </ul> </li> </ul>

## **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.

## **Part 1 – Public Session**

- 1. Apologies**
- 2. Declarations of Interest**
- 3. Deputations and Petitions**
- 4. Minutes of the Previous Meeting**

To approve and sign the minutes of the meeting held on 31 October 2024.

Copy **enclosed** (pp.5-16)

- 5. Local Government (Access to Information) Act, 1985 (as amended):**

To agree that the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.

- 6. Response to Lichfield Local Plan consultation**

Copy **enclosed** (pp.17-26)

- 7. Response to Dudley Local Plan consultation**

Copy **enclosed** (pp.27-32)

- 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.33-104)

- 9. Date of next meeting**

The next meeting will be held on Thursday 16 January 2024.

## **Minutes of the Planning Committee held in The Council Chamber, Walsall Council House**

**Thursday 31 October 2024 at 5.30pm**

### **Committee Members present:**

Councillor J. Murray (Vice-Chair, in the Chair)  
Councillor B. Bains  
Councillor H. Bashir  
Councillor M.A. Bird  
Councillor S. Elson  
Councillor M. Follows (arrived 5:51)  
Councillor P. Gill  
Councillor A. Hussain (arrived 5:59)  
Councillor I. Hussain  
Councillor K. Hussain  
Councillor K. Margetts  
Councillor R. Martin  
Councillor A. Nawaz (arrived 5:59)  
Councillor S. Samra  
Councillor V. Waters

### **Officers Present:**

M. Barwick	Apprentice Planning Officer
S. Bird	Senior Environmental Protection Officer
L. Forster	Principal Planning Policy Officer
K. Gannon	Development Control and Public Rights of Way Manager
S. Hewitt	Senior Planning Officer
D. Holloway	Planning Policy Manager
G. Meaton	Group Manager – Planning
R. Rowley	Senior Planning Officer
A. Sargent	Principal Solicitor
A. Scott	Senior Planning Officer
S. Wagstaff	Team Leader Development Management
L. Wright	Senior Planning Officer
E. Cook	Democratic Services Officer
L. Cook	Democratic Services Officer

### **153 Apologies**

Apologies were received from Councillors Nahal, Parkes and M. Statham.

## 154 **Declarations of Interest**

The following declarations of interest were received:

- Councillor Bird – Plans List Item 5 – non-pecuniary interest
- Councillor Nawaz – Plans List Item 5 – non-pecuniary interest (*interest declared later in the meeting, prior to the item being considered*)

Councillor Elson declared that she would take no part in the discussion of Agenda Item 7, Great Barr Conservation Area Appraisal and Management Plan (CAAMP), so as not to prejudice any future Cabinet decision she may be involved in.

## 155 **Deputations and Petitions**

There were no deputation or petitions.

## 156 **Minutes**

A copy of the minutes of the meeting held on 5 September 2024 was submitted.

[annexed]

### **Resolved**

**That the minutes of the meeting held on 5 September 2024, a copy having previously been circulated to each member of the Committee be approved and signed by the Chair as a correct record.**

## 157 **Local Government (Access to Information) Act 1985 (as amended)**

### **Exclusion of the Public**

### **Resolved**

There were no items for consideration in the private session.

## 158 **Sandwell Local Plan Regulation 19 Consultation**

The Principal Planning Policy Officer introduced the report of the Head of Planning and Building Control and provided an overview of the report.

[annexed]

A Member asked officers about the potential impact of recent developments concerning the soundness of Shropshire's local plan, on Black Country authorities' housing requirements. The Planning Policy Manager noted the concerns raised and advised that a follow-up response to the Sandwell Local Plan could be provided in future as implications became clearer.

It was **moved** by Councillor Bird and **seconded** by Councillor K. Hussain and it was;

**Resolved** (unanimously)

**That Planning Committee:**

- 1. Agree the response as set out in the appendix, and authorise the Executive Director for Economy, Environment & Communities, in consultation with the Portfolio Holder for Regeneration, to submit the response to Sandwell Council; and**
- 2. Authorise the Head of Planning and Building Control to amend the final response as necessary.**

*At this juncture Councillor Follows entered the meeting.*

#### 159 **Great Barr Conservation Area Appraisal and Management Plan (CAMMP)**

Prior to considering the item of business, the Chair stated that the proposed options for the future of the conservation area affected land held by the Barr Beacon Trust, of which Walsall Council was a Corporate Trustee. The Chair confirmed that Members would consider the item in their roles as Councillors and that Planning Committee were not making a decision, which would be the responsibility of Cabinet.

The Planning Policy Manager introduced the report of the Head of Planning and Building Control, including the additional information contained within the supplementary paper, and presented an overview of its content.

[annexed]

*At this juncture Councillor A. Hussain and Councillor Nawaz entered the meeting.*

There were two speakers on the item, Ms J. Hulme and Councillor Andrew. The Chair advised that as the procedure rules were silent regarding the time allowed for speakers at Planning Committee on items not related to specific planning applications, he had agreed to allow speakers a maximum of five minutes each.

Ms Hulme stated that she was opposed to the removal of areas from the Conservation Area and that the council should have a duty to protect the

existing Conservation Area. She stated that it was her belief that nothing had significantly changed since the Conservation Area was expanded in the 1990s to suggest that parts of it were less worthy of protection. She added that whilst there were financial costs to residents within a conservation area, costs would be incurred should protections be removed. Ms Hulme also asserted that the consultation process had been difficult, resulting in some residents not participating.

Councillor Andrew stated that he was speaking on behalf of the Barr Beacon Trust and would consider any future report to Cabinet on the matter with an open mind. He stated the importance of members contributing their views and that while it was important housing development was achieved, removing large portions of a conservation area was the wrong approach to this. He stated that the proposed removal of restrictions could have a detrimental impact on the Green Belt and acknowledged that being in a conservation area did incur additional financial costs for residents.

Responding to questions, Councillor Andrew stated that some restrictions on residents in the Conservation Area included needing planning permission to replace windows and restrictive requirements on materials which could be used for repair and development works. In response to a question, Ms Hulme acknowledged that some land, if removed from the Conservation Area, would be afforded some protection through other policies however protections would be weaker.

Discussing the item several members expressed concerns and opposition to a reduction in the Conservation Area's size, highlighting the existence of heritage assets such as Great Barr Hall gardens and stating that the area added a richness to the borough which should be preserved. A member also suggested that the restrictions on permitted materials for maintenance should be updated to help residents. The Principal Solicitor advised the Committee that as the report was brought before Planning Committee for information only, the Committee could not pass a formal resolution regarding its content other than to note the report.

**Resolved** (by assent)

**That Planning Committee note:**

- 1. the evidence and the proposed options for the future of the conservation area contained within the draft Great Barr Conservation Area Appraisal and Management Plan (CAAMP);**
- 2. that the CAAMP was being relied upon in support of the council's case at the forthcoming PLI at Chapel Lane (planning application ref. 23/1286);**
- 3. the summary of the consultation responses on the CAAMP;**
- 4. the aim to seek a report to Cabinet on the recommended adoption of the CAAMP in early 2025.**



*Councillor Elson remained present in the meeting but not participate in discussions during the item of business.*

*At this juncture Councillor Bains and Councillor Samra left the meeting and did not return.*

**160 Application List for Permission to Develop**

The application list for permission to develop (the plans list) was submitted, together with a supplementary report which provided additional information on items already on the plans list.

[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 first. 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.

**161 Plans List Item 1 – 23/1501 – Beatwaste Site, Bentley Lane, Willenhall**

The Principal Planning Officer presented the report of the Head of Planning and Building Control, including the additional information contained within the supplementary paper.

[annexed]

There were two speakers against the application, Councillor Garcha and Councillor Whitehouse, and one speaker in support of the application, Mr Conroy.

Councillor Whitehouse stated concerns regarding the highways in the area, including speeding on Bentley Lane and multiple junctions through Short Heath being narrow and unsuitable for HGVs. He added that the addition of an extra junction with HGVs was unacceptable. Councillor Whitehouse raised concerns regarding the safety of children attending local schools, especially Old Hall Special School, and the potential exacerbation of school parking issues. Councillor Garcha voiced concerns regarding the safety of children and stated that many attending Old Hall Special School were only able to travel to school by car, resulting in parking on Bentley Lane. She stated that it was unclear if sufficient mitigations were in place to avoid HGVs queueing at the site and that residents believed the development would be harmful.

Mr Conroy stated that the development would bring a potential 700 new jobs and that the land had been allocated as part of the cancelled Black Country Plan due to a lack of alternative provision. He stated that the site met the 'very

special circumstances' requirement for green belt development and commented on the design and works undertaken to remove contaminants.

Responding to questions, Councillor Whitehouse stated that the road was busy with children walking to and from schools at school-run times and that while the improvement of access for those coming via the proposed greenway was welcomed, this would not benefit children attending Old Hall Special School, many of whom travelled from further afield. In response to questions, Mr Conroy stated that multiple highway mitigations had been included at the site and the new North-South greenway would improve pedestrian access to schools. He also added that 254,000 cubic metres of soil had been removed from the site and the applicant's technical team were confident the decontamination scheme was financially and practically deliverable.

There followed a period of questions to officers. The Development Control and Public Rights of Way Manager provided an overview of the highway mitigations included in the application including travel plans, HGV routing and visibility. Officers confirmed that a travel plan would be secured via Section 106 and would require adherence by all occupiers of the site. The Senior Environmental Protection Officer advised that the applicants had only conducted a phase 1 desk-study regarding contamination and environmental matters however the primary concerns were related to landfill gas and mine-shafts.

*At this juncture, Councillor Bashir left the meeting and did not return.*

Debating the item, several members raised concerns regarding highways safety and the potential for existing traffic issues to be exacerbated. Another member expressed support for the application in principle but raised questions regarding the practicalities of decontamination and restorative works and whether sufficient liabilities could be secured to ensure the site would be left in a safe state should these works commence and be unsuccessful.

It was **moved** by Councillor Bird and **seconded** by Councillor K. Hussain and upon being put to the vote, it was;

**Resolved** (9 in favour, 3 against)

**The Planning Committee delegate to the Head of Planning & Building Control to grant planning permission for application 23/1501 subject to conditions and a Section 106 (S106) to secure a travel plan, and subject to:**

- **Call-in by Secretary of State**
- **The amendment and finalising of conditions**
- **To inclusion of additional planning obligations to be set out in the S106 agreement to include:**
  - **a highway routing plan**
  - **a remediation strategy that secures the mitigation of any land contamination prior to any further development on the site, and;**

- **a consultation with and agreement of ward councillors regarding these requirements prior to completion of the S106 agreement**

*At this juncture, Councillor A. Hussain left the meeting and did not return.*

*With the assent of the meeting, the Chair adjourned the meeting for 5 minutes at 7:35pm. The meeting recommenced at 7:43pm.*

**162 Plans List Item 2 – 23/1583 – Land at Former West Midlands Bright Bar Ltd, Middlemore Lane, Aldridge**

Prior to considering the item, it was noted by the Chair that the report initially published had been replaced by an updated version which had been circulated to all Committee members and relevant parties had been informed. It was **moved** by Councillor Murray and **seconded** by Councillor Nawaz and was;

**Resolved** (by assent)

**That the report initially published, having been replaced by an updated version, be formally withdrawn.**

The Principal Planning Officer presented the report of the Head of Planning and Building Control, including the additional information contained within the supplementary paper.

[annexed]

There was one speaker against, Mr Rose, and one speaker in support of the application, Mr Chamberlain.

Mr Rose stated that it was illegal to destroy bat habitats and that mitigations such as bat boxes would not reverse the damage already caused. He stated that while the previous buildings were set back 25 metres from residents' gardens behind an 8-metre visual and sound buffer of well-established trees, the proposed replacement buildings were higher and would be just 2 metres from residents' gardens with a border of replacement tree saplings. Mr Rose added that the development's parking provisions would exacerbate pavement parking issues and that it did not comply with current planning policies. He stated that existing planning conditions had been ignored and did not inspire confidence in residents that future conditions would be respected. Mr Rose referred to new information contained within the supplementary paper and the updated report and questioned its public availability.

Mr Chamberlain stated that the applicant had provided officers with the requested information following the previous deferral of the application. He stated that the conifers previously on site had been removed due to safety issues and that the replacement trees had been planted across the north-eastern boundary. He added that the new trees had grown equal to or higher than the

neighbouring fence line and would continue to grow and provide screening. Mr Chamberlain stated that the buildings on site were surveyed by the Ecologist in October 2023 when the previous tenants were operating on site and deemed unsuitable for supporting bat roosting features. He added that the actions of the previous tenant when vacating the property had left the buildings unsafe resulting in the site being demolished and cleared in January/February 2024, with a Section 80 Demolition Notice submitted and appropriate invoices for the disposal of waste provided.

Responding to questions, Mr Rose stated that he would feel more comfortable if the current conifer trees were replaced with more substantial trees, however, there was no comparison between the current trees and those removed. In response to questions Mr Chamberlain stated that a noise attenuation fence would be installed and the buildings would be situated so that there were no openings fronting the adjacent properties. He added that the fence would cover any area that the building didn't and within a few years the trees would be above the fence line to provide a landscape buffer. Mr Chamberlain confirmed that the applicant had removed the previous trees.

There followed a period of questions to Officers. Regarding the use of 'customer' in condition 4, the Group Manager advised that this was part of the standard conditions for operating hours however the condition would be amended to refer to anyone using the site. The Group Manager advised that the development was considered satisfactory in terms of residential amenity, adding that additional landscaping secured by conditions would be required over and above that currently on site and could be conditioned further.

*At this juncture, Cllr Bird moved and it was duly seconded, that Standing Order 9a be suspended in order to enable the remaining business to be transacted. The meeting consented.*

The Senior Planning Officer confirmed that Condition 16 of the original report was no longer required as the Ecologist was satisfied that there were no bats present on site. The Officer confirmed that as permission for the demolition was retrospective, the application still retained demolition as part of the description. Regarding the protected status of the existing replacement trees and any new trees, the Senior Planning Officer advised that they were not protected. Responding to a question on the availability of information, officers confirmed that the updated report and supplementary report was publicly available on the Council's Committee Management Information System.

Debating the application, a Member suggested that a substantial row of mature trees needed to be planted on site and protected by a Tree Preservation Order (TPO). The Principal Solicitor advised that the trees could not be protected by a TPO in a planning condition as this was only applied to trees of a certain quality.

It was **moved** by Councillor Bird and **seconded** by Councillor Follows and upon being put to the vote, it was;

**Resolved** (unanimously)

**The Planning Committee delegate to the Head of Planning and Building Control to grant planning permission for application 23/1583 subject to conditions and the securing of an s106 to secure a travel plan, 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;**
- **The inclusion of planning obligations in the s106 agreement to secure additional landscaping between the built development and the rear gardens of residential properties on Leighswood Road to include a belt of mature trees and ensure the maintenance of the landscaping scheme for at least 10 years, and;**
- **a consultation to be sent to residents on the landscaping plan prior to completion of the s106 agreement.**

**163 Plans List Item 5 – 24/1093 – 159 The Crescent, Walsall**

The Senior Planning Officer presented the report of the Head of Planning and Building Control, including the additional information contained within the supplementary paper.

[annexed]

There was one speaker against the application, Mr Poole, and one speaker in support, Mr Arshid.

Mr Poole stated that the inclusion of a bay window on the front extension would result in an invasion of privacy for neighbouring residents as it extended beyond the neighbouring property. Mr Arshid stated that the applicant had considered potential impacts on neighbours and asserted that the rear extension would not breach the 45-degree angle rule. He added that the dormer did not include side-facing windows, would not result in overlooking and the design was similar to that of 151 The Crescent approved in 2016.

Responding to questions, Mr Poole stated that he did not oppose the principle of development on the site but could not say whether a compromise could be achieved unless suitable plans were presented. He added that the proposed design was too extensive, would impose on neighbours' privacy and light and would be overbearing. Responding to a question, Mr Arshid stated that he believed amendments could be made which would overcome the objections of officers and neighbours, including changes to extensions and reducing the size of the dormer.

There followed a period of questions to officers, who confirmed the ground floor extension breached the 45-degree code by 0.8m under the plans submitted. Debating the application, a member stated they believed there was scope for a development on the site, but amendments would be required to the existing plans.

It was **moved** by Councillor Bird and **seconded** by Councillor Elson and upon being put to the vote, it was;

**Resolved** (unanimously)

**That Planning Committee defer application 24/1093 to enable further negotiations between the applicant, officers and objectors to overcome the outstanding recommended reasons for refusal and to delegate to the Head of Planning and Building Control to grant permission if satisfactory amendments are made which are considered by officers to fulfil this requirement, subject to consultation with the neighbours'**

*At this juncture Councillor K. Hussain left the meeting and did not return. Councillor Nawaz declared a non-pecuniary interest in Plans List Item 3, 54 Holtshill Lane. Councillor Bird and Councillor Nawaz, having declared an interest in the next item, left the meeting and did not return.*

#### 164 **Plans List Item 3 – 24/0201 – 54 Holtshill Lane, Walsall**

The Senior Planning Officer presented the report of the Head of Planning and Building Control.

[annexed]

The Officer identified a typing error in the report regarding the date the application was previously heard by Committee, which should have read 25 July 2024.

There was one speaker on the application, Councillor Russell, who voiced several concerns raised by neighbouring residents. She stated that residents believed there was a land grab by the applicants due to the nearby public right of way and that neighbours had concerns about a new wall which was hazardous and had already collapsed on one occasion. There were no questions to the speaker.

Responding to questions, the Senior Planning Officer advised that an amended location plan had been submitted which excluded the public right of way. The Group Manager advised that the structural condition of the wall would be a matter for building control to consider rather than a planning issue.

The Committee moved to debate. Several Members expressed that they would like to receive further information from the applicant regarding the proposed operators and Ofsted registrations. The Senior Planning Officer

explained that these were not material planning considerations and that a representative of the applicant had attended when the item was previously heard at Committee.

During the ensuing discussion it became apparent that several Members present had not been in attendance when the application was previously considered by Committee. The number of Members present who had been in attendance previously, was below the number of quorum. Whilst the Council's Planning Protocol did not prescribe that Members previously not in attendance could not participate in a decision on an application, it stipulated that they should not do so if they were not fully appraised of all the facts and relevant information. After receiving advice from the Principal Solicitor and Democratic Services Officer present it was;

**Resolved** (through Chair's discretion)

**That Planning Committee defer application 24/0201, due to the number of Members in attendance who had been present for all the deliberations on the application and who were fully appraised of all the facts and relevant information with which to properly reach a decision, being fewer than the quorum for the meeting.**

165 **Plans List Item 4 – 24/0896 – 20 Lodge Road, Pelsall**

The Principal Planning Officer considered the report of the Head of Planning and Building Control.

[annexed]

It was **moved** by Councillor Martin and **seconded** by Councillor Waters and upon being put to the vote, it was;

**Resolved** (Unanimously)

**That Planning Committee grant planning permission for application 24/0896 subject to conditions, as set out in the officer's report.**

166 **Date of next meeting**

The date of the next meeting was 28 November 2024.

There being no further business, the meeting terminated at 9:10pm.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_





# **Walsall Council**

## **PLANNING COMMITTEE**

**28 November 2024**

### **REPORT OF HEAD OF PLANNING & BUILDING CONTROL**

#### **Response to Lichfield Local Plan Issues and Options Consultation**

##### **1. PURPOSE OF REPORT**

- 1.1 To consider and agree the council's response to the Lichfield Local Plan issues and options (regulation 18) consultation.

##### **2. RECOMMENDATION**

- 2.1 Agree the response as set out in the appendix, and authorise the Executive Director for Economy, Environment & Communities, in consultation with the Portfolio Holder for Regeneration, to submit the response to Lichfield District Council.
- 2.2 Authorise the Head of Planning and Building Control to amend the final responses as necessary.

##### **3. FINANCIAL IMPLICATIONS**

- 3.1 None arising directly from this report.

##### **4. POLICY IMPLICATIONS**

- 4.1 The supply of land for housing, employment and other land use requirements in Walsall and the wider Black Country and Birmingham area is heavily constrained, with much undeveloped land particularly in Walsall being Green Belt. We are therefore reliant on being able to 'export' some of our need to neighbouring authorities particularly in Staffordshire and Shropshire. Any under or over-supply in individual authority local plans will affect the amount of land that the other authorities will have to provide in their respective local plans.
- 4.2 Lichfield have begun to prepare a new local plan. This is to replace the former plan which was submitted for examination but then withdrawn in October 2023. The issues and options report does not allocate sites or provide preferences for where development will or will not be allocated in the new plan. However, it asks what the key issues are that the plan should address.

- 4.3 The plan is likely to have to be prepared under a new version of the National Planning Policy Framework (NPPF), based on the outcome of the government consultation in July 2024 which included proposals for a new standard method to calculate local housing need. This new method would, if introduced, substantially increase the annual housing requirement for the majority of local authorities, including Lichfield and Walsall. This increase would have to be reflected in the local plans.

## **5. LEGAL IMPLICATIONS**

- 5.1 Local planning authorities are currently subject to a Duty to Cooperate with neighbouring planning authorities with regards to strategic cross boundary planning matters. The extent of engagement with neighbouring authorities will be tested as part of the examination of the respective authority local plans.
- 5.2 Local plans are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. The NPPF states that plans are 'sound' if, amongst other requirements, they seek to meet the area's objectively assessed needs; and are 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.

## **6. EQUAL OPPORTUNITY IMPLICATIONS**

- 6.1 The Lichfield Local Plan will be required to ensure the needs of all sections of the community are met.

## **7. ENVIRONMENTAL IMPACT**

- 7.1 The issues and options report is accompanied by a sustainability appraisal and Habitat Regulations assessment which will be updated as the plan is progressed.

## **8. WARD(S) AFFECTED**

All.

## **9. CONSULTEES**

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

## **10. CONTACT OFFICER**

Neville Ball – Principal Planning Policy Officer

[neville.ball@walsall.gov.uk](mailto:neville.ball@walsall.gov.uk)

## **11. BACKGROUND PAPERS**

All published.

Documents for the Lichfield Local Plan can be viewed at  
<https://www.lichfielddc.gov.uk/localplan2043>

## Appendix

### **Lichfield Local Plan – Proposed Walsall Response to Regulation 18 Issues and Options Report consultation**

The report lists the issues that the council thinks need to be addressed by the plan, and asks 33 questions about them. The issues listed are:

- Identifying sufficient sites to meet housing needs and consideration of wider unmet needs.
- Significant housing development has taken place within and around our city and some of our existing towns and villages.
- There is a lack of affordable homes to meet the needs of our residents.
- Our growing and changing population, including an increase in the number of older persons.
- Regeneration opportunities exist including in Burntwood town centre and Lichfield city centre and across other settlements.
- There is a perception that infrastructure delivery has not kept up with new development.
- We need to protect our heritage and historic assets.
- There is a perception that the quality and design of recent new development has been poor.
- Identifying sufficient sites to meet our employment needs.
- Significant numbers of residents commute outside of the district for higher salaried job opportunities than exist within it.
- Significant reliance on the car as a method of transport and a lack of sustainable transport options.
- Pockets of deprivation exist within the district.
- Lack of overnight and longer stays within the district for tourists.
- Health inequalities and high levels of obesity in parts of the district.
- Tackling and adapting to the impacts of climate change.
- Protecting of our natural environment, including sites of international, national, and local significance.

The questions and the recommended responses from Walsall are as below:

1. Do you agree that the new local plan should cover the period of 2022 to 2043?

Agree. The plan should cover a 15 year period from the anticipated adoption date.

2. Do you agree that we need to review our existing local plan policies as set out at Appendix A?

We agree that existing policies should be reviewed but will reserve comments pending the publication of any new wording.

3. Do you agree with the proposed approach for the vision for the Local Plan 2043?

It is for the communities of Lichfield to agree the vision for their area. However, the fundamental vision for the plan should be to ensure that sufficient homes and jobs are provided for future residents, with necessary supporting infrastructure, and protection for the natural and built environment.

4. Do you agree with the key issues and objectives we have identified?

Yes, in respect of those that are relevant outside the district.

5. Do you agree that the standard method should be used as the starting point for setting out housing requirement, noting that this could become mandatory and increase significantly under proposed changes to national policy?

Given that the government consultation on changes to the NPPF and the standard method has concluded, it is now inappropriate to ask this question. We welcome however the acknowledgement in the report that Lichfield should consider whether it is able to assist in meeting the unmet housing need that exists within the housing market area.

Data published by ONS indicates that Lichfield is the largest single destination of out-migration from Walsall, with a net outflow of 680 people in the most recent published year (2022).

6. We will not be able to meet our housing requirements with existing sites, previously developed sites and other sites within our urban areas. Do you agree that we should look elsewhere in the district for sites, including potentially a new settlement, to meet our needs?

New housing and land for other uses such as employment should be provided in the most sustainable locations where residents have good access to existing or new services. Where additional housing is provided to meet needs arising from elsewhere in the housing market area, other than to serve purely local growth, this should be located close to the 'exporting' authorities, i.e. Birmingham or the Black Country. It may be that this aim can be best achieved through the development of a new settlement rather than through incremental additions to existing settlements, but this would be a matter for Lichfield to assess.

7. Which of the broad spatial options identified do you think is the most appropriate for the district or do you think there are any others options we should consider?

The report proposes four options, Option 1: Town focused, Option 2: Town and key village focused, Option 3: Dispersed development and Option 4: New settlement focused.

We have no views on these options provided, as we state in our response to question 6, any development that is intended to help meet needs arising from elsewhere in the housing market area, is located close to the 'exporting' authorities, i.e. Birmingham or the Black Country. We acknowledge that this could require a review of the Green Belt within Lichfield District.

8. Do you agree we should specify the exact level of affordable homes that we will require from a development?

The current Lichfield local plan seeks up to 40% affordable housing on qualifying sites (sites of more than 15 in Lichfield and Burntwood and 10 or more everywhere else). The exact percentage required is determined by a 'dynamic model' which considers the level which is likely to be currently viable each year. Lichfield consider there are two options for delivering affordable homes: maintain the current approach and determine the viable level of affordable homes each year; or include a specific requirement within the Local Plan which sets out the exact percentage of affordable homes which will be required.

The Lichfield plan is likely to require the provision of housing to meet need exported from Birmingham and the Black Country, so any affordable housing should also seek to meet those needs. A high proportion of that need is for affordable housing so the Lichfield plan should seek to maximise such housing. Unlike the Black Country, the majority of new build housing in Lichfield district will be on greenfield sites. These are normally more viable than brownfield sites.

We are unable to comment at this stage on the exact level of affordable housing that should be provided. We also recognise that viability can change frequently, for example due to alterations to interest rates and construction costs. This could make the use of a dynamic model helpful if it achieves the maximum amount of affordable housing that is viable at the point of construction. However, it is also recognised that such a model can cause a lack of clarity for longer term planning.

9. How do you think we should plan for meeting specialist housing needs within the district, should we identify specific sites for the needs of older people?

It is important to ensure an adequate amount of specialist housing is provided in appropriate locations, but restricting particular sites to such housing could affect the market value of sites and make developers less likely to secure funding.

10. Which approach in respect of self-build and custom housebuilding do you think is the most appropriate?

The report proposes three options: continue with the current approach which provides overall support for such development but leaves it to the housing market to deliver plots for custom and self-build when demand arises; identify and allocate specific sites for custom and self-build development which would be made available to those wishing to build their

own home; or require larger developments to include parts of their site to be set aside as serviced plots for custom and self-build development.

The demand for self and custom build is low, both in Lichfield and Walsall. In Walsall's case, a significant proportion of the new homes delivered each year are on single plots that are likely to be self build even if not specified as such. We therefore consider that continuing with the current market-led approach is most appropriate.

11. Which option, or combination of options, in respect of meeting the needs of gypsy and travellers do you think is most appropriate?

Lichfield have not been able to identify sufficient sites to meet their own needs but have adopted a criteria-based policy which identifies the locations where applications for new pitches to meet gypsy and traveller needs will be supported. We note that the call for sites in the district has only resulted in one site being suggested. This is within the Green Belt close to Brownhills.

Unlike general housing, where the total amount required and the need to ensure it is located where there are links to exporting neighbouring authorities may justify the use of land in the Green Belt, the land requirement for traveller sites is low. There is potential to use previously developed land or land beyond the Green Belt. We do not therefore consider that the use of Green Belt should be considered. We would support the continued use of a criteria-based policy to deal with individual planning applications.

12. What do you think are the main issues or deficits in our existing infrastructure provision?

Infrastructure requirements, including any possible cross-border needs, will be identified through the plan preparation process once potential site allocations are considered.

13. Do you agree we should continue to seek contributions from developers to deliver infrastructure?

Yes, where necessary to support new development in accordance with regulation 122 of the CIL regulations.

14. Do you agree with the proposed approach to heritage assets and the historic environment? Are there any other specific heritage and built environment issues that should be addressed?

This is not a cross-border matter and we have no comments to make.

15. Do you agree with the use of the Lichfield District Design Code to supplement policy and set clear guidelines for the design of future development in the district?

This is not a cross-border matter and we have no comments to make.

16. Do you agree that we should continue to prioritise previously developed sites and sites within our existing employment areas to meet our employment needs before considering new sites?

We agree that the redevelopment of previously developed sites should be prioritised. However, the provision of sites for employment should take account of evidence of need for sites of different sizes, including the recently published West Midlands Strategic Employment Sites Study. Land within existing employment areas may not be suitable for some needs, especially the need for larger units.

To date, Lichfield district has not been able to assist in meeting neighbouring authorities' employment land needs. The shortfall of employment land supply to serve the needs of the Black Country is less severe than for housing, taking account of offers already made to export to other authorities. However, we consider that Lichfield should explore the potential to provide additional land for employment, as a contribution to meeting the needs of neighbouring authorities especially those within the FEMA.

17. Which of the broad spatial options identified [for employment development] do you think is the most appropriate or do you think there are other options which we need to consider?

We note that the report identifies three broad locations around Bassetts Pole, west of Tamworth and at Wall Island, all of which could assist in meeting need for employment land arising from Birmingham and the Black Country.

18. Do you agree with the approach to identifying our town centre boundaries and the focus on regenerating Burntwood town centre and Lichfield city centre?

Provided any proposals do not undermine the vitality and viability of centres in Walsall, we have no comments to make.

19. Do you agree with our vision to provide a wider range of higher value employment opportunities within the district?

We note that this objective is aimed at reducing the need for residents to travel outside the district to access higher salaried jobs elsewhere. We welcome the desire to reduce commuter journeys, however it is important that this does not result in companies relocating from elsewhere into the district, resulting in a loss of employment in the former locations.

20. Do you agree with the direction to reduce the reliance on the private car and the ambition to improve alternative sustainable modes of travel?

Yes, we support this ambition.

21. Do you agree with the need to address pockets of deprivation within the district, by improving access to education, skills, training, health and employment opportunities?

This is not a cross-border matter and we have no comments to make.

22. Do you agree that we should aim to support the tourist economy, and encourage overnight and longer stays, with Lichfield city being the focal point?

This is not a cross-border matter and we have no comments to make.

23. We want to make it easier for our residents to live a healthy and active lifestyle, by planning for the protection and delivery of open spaces, leisure and recreation facilities. Do you agree?

This is not a cross-border matter and we have no comments to make.

24. How ambitious should the council be in requiring carbon reduction standards for all developments?

This is a matter for Lichfield to determine and we have no comments to make.

25. Are there any specific measures that you would like to see that could help to mitigate the impact of flooding?

This is a matter for Lichfield to determine and we have no comments to make.

26. Do you agree that the council should support the delivery of low carbon and renewable energy infrastructure?

This is a matter for Lichfield to determine and we have no comments to make.

27. Should the council establish standards that exceed the statutory 10% biodiversity net gain requirement for development?

This is a matter for Lichfield to determine and we have no comments to make.

28. Do you agree with the proposed approach to supporting the development of green networks across the district? Are there any specific green infrastructure issues that should be addressed?

This is a matter for Lichfield to determine and we have no comments to make.

29. Do you agree with the proposed approach to protecting the countryside?

The countryside areas in Lichfield district adjacent to Walsall's boundary are in the Green Belt so have similar protections to those proposed for open countryside. However, this is a matter for Lichfield and we have no other comments to make.

30. Do you agree that the Local Plan should contain a specific policy for the protection and management of trees, woodlands and hedgerows? Are there any other related issues that should be addressed?

This is a matter for Lichfield to determine and we have no comments to make.

31. Do you agree with the proposed approach to enhance and protect the district's landscape character? Are there any other landscape character issues that should be addressed?

This is a matter for Lichfield to determine and we have no comments to make.



32. Are there any other natural environment issues that the Local Plan 2043 should consider?

This is a matter for Lichfield to determine and we have no comments to make.

33. Do you agree that the evidence and other documents listed in Appendix B will be sufficient to support the Local Plan 2043?

We have no other comments to make.





# **Walsall Council**

## **PLANNING COMMITTEE**

**28 November 2024**

### **REPORT OF HEAD OF PLANNING & BUILDING CONTROL**

#### **Response to Dudley Local Plan Publication Version Consultation**

##### **1. PURPOSE OF REPORT**

- 1.1 To consider and agree the council's response to the Dudley Local Plan Regulation 19 Publication Version consultation.

##### **2. RECOMMENDATION**

- 2.1 Agree the response as set out in the appendix, and authorise the Executive Director for Economy, Environment & Communities, in consultation with the Portfolio Holder for Regeneration, to submit the response to Dudley Council.
- 2.2 Authorise the Head of Planning and Building Control to amend the final response as necessary.

##### **3. FINANCIAL IMPLICATIONS**

- 3.1 None arising directly from this report.

##### **4. POLICY IMPLICATIONS**

- 4.1 The nature of the Black Country is that the supply of land for housing, employment and other land use requirements overlap between the authorities. The four authorities are also constrained, with much undeveloped land particularly in Walsall being Green Belt. Any under or over-supply in individual authority local plans will affect the amount of land that the other authorities will have to provide in their respective local plans. It will also affect the extent to which we will be reliant on authorities outside the Black Country to contribute to meeting some of our needs through the allocation of land in their respective local plans, that is additional to that required to meet their local needs.
- 4.2 The proposals in the Dudley Local Plan therefore have implications for the ability of the Black Country to 'export' unmet need to other authorities, and the amount of land, including land in the Green Belt, that Walsall might have to identify and allocate in the Walsall Borough Local Plan. Other authorities and national planning policy have expected authorities that seek to 'export' need to demonstrate that they have sought to make as much use of suitable land within their own areas, using brownfield land first and then Green Belt.

- 4.3 National policy has changed since Walsall responded to consultation on the draft version of Dudley's plan on 30 November 2023. The publication version of the plan has been prepared in accordance with the revised National Planning Policy Framework (NPPF) that was issued in December 2023. The new government consulted in July 2024 on further revisions to the NPPF. The July 2024 version however proposes that local plans that are submitted for examination within one month of the publication of any new NPPF arising from the consultation will be required to comply with the December 2023 version, although they may require early revision once adopted. Dudley are seeking to submit their plan to meet this proposed deadline.
- 4.4 The current consultation from Dudley Council is in respect of the regulation 19 version of their local plan. This is the final version of the plan before it is submitted for examination. At regulation 19 stage, it is only possible to comment on whether the local plan is legally compliant and meets the tests of 'soundness' as set out in legislation and the NPPF.

## 5. LEGAL IMPLICATIONS

- 5.1 Local planning authorities are currently subject to a Duty to Cooperate with neighbouring planning authorities with regards to strategic cross boundary planning matters. The extent of engagement with neighbouring authorities will be tested as part of the examination of the respective authority local plans.
- 5.2 Local plans are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. The December 2023 NPPF sets out four tests of soundness in paragraph 35. It states that plans are 'sound' if they are.

a) **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; 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;

b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;

c) **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

d) **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.

## 6. EQUAL OPPORTUNITY IMPLICATIONS

- 6.1 The Dudley Local Plan will be required to ensure the needs of all sections of the community are met.

## **7. ENVIRONMENTAL IMPACT**

- 7.1 The Regulation 19 Publication Version of Dudley's Local Plan is accompanied by a sustainability appraisal and Habitat Regulations assessment which will be updated as the plan is progressed.

## **8. WARD(S) AFFECTED**

All.

## **9. CONSULTEES**

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

## **10. CONTACT OFFICER**

Neville Ball – Principal Planning Policy Officer

[neville.ball@walsall.gov.uk](mailto:neville.ball@walsall.gov.uk)

## **11. BACKGROUND PAPERS**

All published.

Documents for the Dudley Local Plan can be viewed at:

<https://www.dudley.gov.uk/residents/planning/planning-policy/dudley-local-plan/>

## Appendix

### **Dudley Local Plan – Proposed Walsall Response to Regulation 19 Publication Plan consultation**

Planning Committee has previously commented on 30 November 2023 on the issues and options report (regulation 18).

As reflected in our council's response, committee expressed concern that the plan proposed a reduction in the supply of land for housing compared with that proposed in the draft Black Country Plan (BCP). The surplus of 1,151 homes relative to need over the plan period proposed in the BCP was to reduce to a shortfall of 1,076 homes. This was as a result of the intention not to allocate land that is currently in Green Belt. The BCP proposals for Dudley included the provision of housing slightly in excess of local need to contribute towards the needs of Sandwell, and to a lesser extent Wolverhampton. The draft Dudley local plan however proposed to supply less than enough to meet local needs, which means that this shortfall will need to be exported to neighbouring authorities.

The issues and options report also proposed 25ha of additional employment land compared with the 22ha proposed in the BCP. Both these figures are well below the net need of 72ha. This meant that 47ha of employment land to serve Dudley would need to be 'exported'. The supply of suitable land for employment development in Dudley is physically constrained however, so it was recommended that no concerns are raised on this topic.

The publication version of the plan proposes a similar shortfall in the land to be supplied. The stated housing shortfall has reduced from 1,076 to 699 but this is because the plan period has reduced by a year to cover 2024-41 instead of 2023-41. Dudley consider that the shortfall is allowed under the December 2023 NPPF which states that "there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process".

However, the December 2023 NPPF (which was published after the planning committee report) also retains the tests of soundness in paragraph 35.

On the issue, at the issues and options stage, we questioned whether the Dudley plan could be considered as being found unsound as not being positively prepared if it failed to meet the area's objectively assessed need. Whilst some statements of common ground have been agreed with neighbouring authorities in respect of housing and other matters, the agreements to date are at Black Country level as set out in the table under paragraph 3.35 of the publication plan. They do not apportion housing land specifically to meet the needs of Dudley. The agreements also do not secure the whole of the Black Country's needs.

The draft BCP had previously demonstrated that it was practical for Dudley to accommodate some unmet housing need from neighbouring authorities.

This concern remains. Whilst the draft revised NPPF that was consulted on in July 2024 proposes transitional arrangements for local plans that are submitted within one month of its publication, it proposes that such plans that reach adoption with an annual housing

requirement that is more than 200 dwellings lower than the relevant published local housing need figure will be expected to commence review at the earliest opportunity to address the shortfall in housing need.

Factoring this proposed figure in, it is recognised that the publication plan proposes an annual housing target of 616 homes. This compares with the annual local need under the current standard method of 657 homes. The proposed local housing need however would increase this figure to 1,594 homes. As such, the plan would potentially appear to not be effective, as it would defer the provision of sufficient housing to a replacement plan.

In common with the issues and options plan, the Dudley publication plan contains a large number of policies on various topics in addition to housing and employment land targets. Most of these are site-specific or are about development management. As such, they raise no direct concerns for Walsall. The plan 'carries forward' most existing site-specific proposals. Again, these are not of direct concern to Walsall. We have however made some comments below on issues that might have wider implications.

## **Detailed Comments**

It would be helpful if the policies map included the policy numbers that relate to each of the designations, with site references for allocations.

### **Policy DLP1 Development Strategy**

The statement "Those development needs that cannot be accommodated within the Dudley administrative area will be exported to sustainable locations in neighbouring local authority areas" would not appear to be effective. Whilst the delivery of the authority's needs may require provision outside the area, a policy cannot make proposals for development outside the area of the authority.

### **Policy DLP3 Areas outside the Growth Network**

"6. Dudley's Green Belt boundaries will be maintained and protected from inappropriate development". The word 'boundaries' should be omitted: it is areas within the Green Belt that should be protected, not the boundaries.

### **Table 8.2 Accessibility Standards**

The means of transport to which these relate should be stated. Are they walking, cycling, car or bus journey times?

### **Policy DLP12 Delivering Affordable, Wheelchair Accessible and Self-Build/ Custom-Build Housing**

The policy should state that the value zones are as shown on figure 8.2 as they do not appear to be defined anywhere else.

Several policies refer to viability assessments. It may be helpful to provide standard wording to describe the circumstances when these will be required and how they should be carried out. This will provide consistency.

### **Policy DLP18 Economic growth and job creation.**

### **Policy DLP21 Other Employment Areas**

Policy DLP18 would have greater clarity if the text at the end was placed after clause 1 rather than being referred to in a footnote. It should state “Further land additional to the above figures will be required to replace any existing employment land that is lost to alternative uses. It is anticipated that this will include 26ha which is expected to be redeveloped for housing and other uses.”

It is not clear what is meant by the reference in clause 4e of policy DLP18 to “opportunities to enable those areas to be more open to, and inclusive of, the local communities which they serve”. It is understood that the two policies are intended to be used to allocate specific employment areas that are close to centres as locations suitable for local community-owned enterprises that cannot be accommodated within centres, and to improve links between those areas and the nearby centre. The supporting text gives an example of a tap house associated with a brewery. However, it would be difficult to restrict the use of premises to particular communities where the proposed use might otherwise be contrary to policies relating to acceptable uses on employment land. For the policy to be effective, it should only refer to specific industrial areas – i.e. those close to and well linked in with existing centres – that are identified as being appropriate for these uses on the policies map.

Clause 1 c. of policy DLP21 refers to community, entertainment, food and drink, or leisure and recreation uses. These are likely to be main town centre uses so should be located in centres rather than in edge of centre or out of centre sites as this clause and paragraph 9.47 would appear to support. We understand however that the policy is only intended to be used to allocate specific employment areas and to ensure that these uses are directed to sequentially acceptable sites where they cannot be accommodated within the respective centres.





## Development Management Planning Committee

Report of Head of Planning and Building Control on 28/11/2024

### CONTENTS

Item	Planning Application Number	Planning Application Site Address	Planning Application Proposal	Officer Recommendation	Page
1	23/1395	Former Mercedes Benz Dealership, Dudley Street, Walsall <b>Ward:</b> St Matthews	Change of use from a car dealership (sui generis) to supermarket (USE CLASS E) with new glass frontage associated storage and bin store, 5 no. restaurants (USE CLASS E) with ancillary take aways, new shop fronts, bin store and 24-hour security office. Reconfigured parking layout on frontage with bike store. (Adj. PROW WAL78 and 79).	Planning committee resolve to delegate to the Head of Planning & Building Control to grant planning permission subject to conditions, and subject to:  The amendment and finalising of conditions.	35-62
2	24/1087	36-40 Walsall Road, Willenhall <b>Ward:</b> Willenhall South	Retrospective full planning application for a change of use from a clothing distributor (CLASS B8) to a convenience store (CLASS E(A)).	Refuse Permission	63-73
3	24/0361	Land at, Barr Lakes Lane, Walsall	Full planning application for the proposed construction of 2no. five-bedroom open market dwellings (USE CLASS C3). The	Refuse Permission	75-88

		<b>Ward:</b> Pheasey Park Farm	proposal also includes vehicle access off Barr Lakes Lane.		
4	24/0201	54 Holtshill Lane, Walsall <b>Ward:</b> St Matthews	Proposed change of use from dwelling (USE CLASS C3) to 1no children's residential care home (USE CLASS C2) for 3 residents with 2 full time employees, demolition of existing garage for 5no. Parking spaces and erection of rear extension. (Affects public footpath WAL74).	Planning Committee resolve to delegate to the Head of Planning & Building Control to grant planning permission subject to conditions and subject to: • The amendment and finalising of conditions.	89-104



**Walsall Council**

Planning and Building Control

# **Planning Committee 28 November 2024**

Report of Head of Planning and Building Control

## **Plans list item number**

Item number: 1

## **Reason for reporting to the planning committee.**

Called in by a Councillor Bird regarding the potential for the regeneration of the application site

## **Application details.**

**Application reference:** 23/1395

**Site location:** DRAYTON GROUP - MERCEDES BENZ OF WALSALL, MIDLAND GARAGE LIMITED, DUDLEY STREET, WALSALL, WS1 3NL

**Application proposal:** Change of use from a car dealership (sui generis) to supermarket (use class E) with new glass frontage associated storage and bin store, 5 no. restaurants (use class E) with ancillary take aways, new shop fronts, bin store and 24 hour security office. Reconfigured parking layout on frontage with bike store. (Adj PROW Wal78 and 79).

**Application type:** Full Application: Major Mixed Use Classes

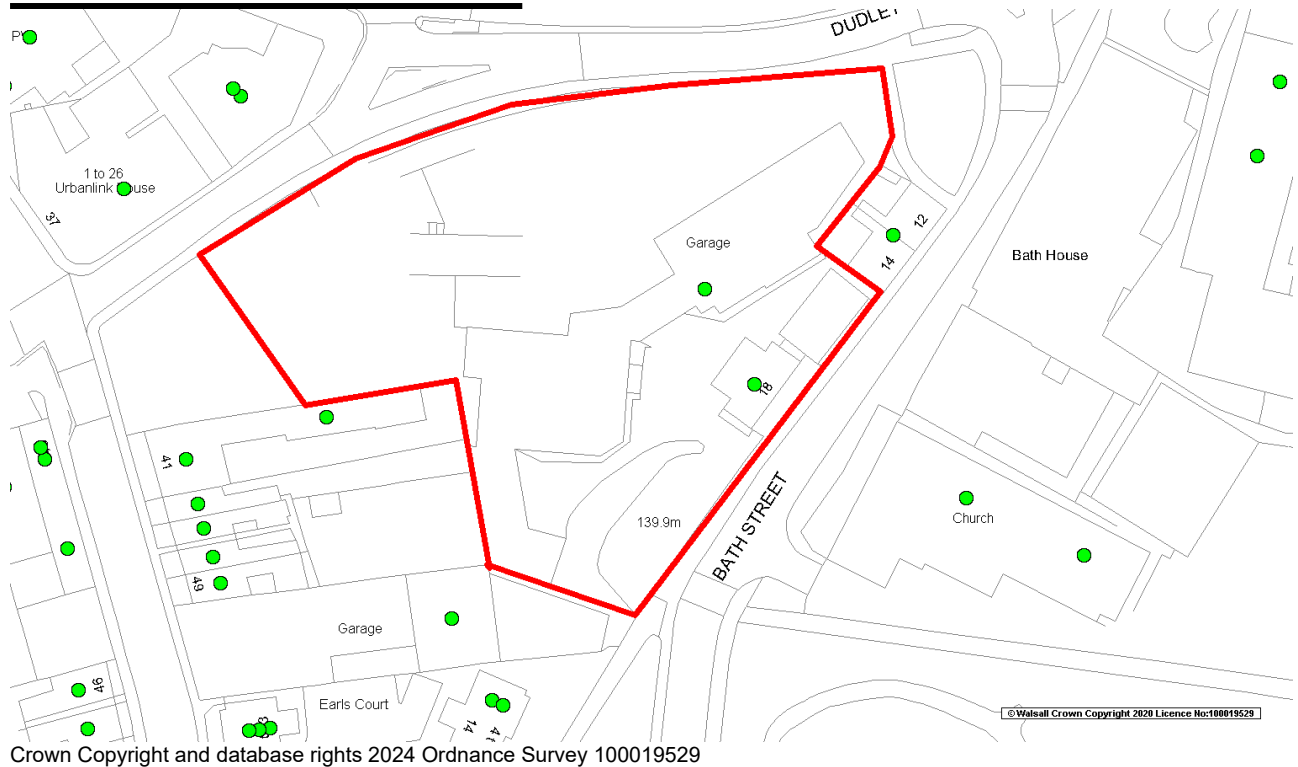
**Link to application documents:** <https://go.walsall.gov.uk/planningapps?id=23/1395>

**Applicant:** Mr Suleman, ms111 LTD ms111 LTD, 37 Allcock Street, Birmingham, West Mids, B94DY

**Planning agent:** - ryder, Architecture & Interior Design Ltd Architecture & Interior Design Ltd, 51, Coleshill Road, Hodge Hill, Birmingham, B36 8DT

**Ward:** St Matthews

## **Red line location**



## **Recommendation**

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions, and subject to:

1. The amendment and finalising of conditions.

## **Site and surroundings**

The application site forms an existing former car dealership complex and car park in the area of the junction with Bath Street and Dudley Street Walsall.

The site is situated in Flood Zone 1 as defined on the Environment Agency Flood Map for Planning and is situated outside the Walsall Town Centre. The site is adjacent to a public right of way (Adj PROW Wal78 and 79), but this is not affected by the proposal. The site is also adjacent to the Church Hill Conservation Area, and this is situated on the other side of Dudley Street. The submitted heritage assessment identifies St Matthews Church, as being Grade II\* Listed.

## **Relevant planning history**

02/2096 - Relevant A1 Retail Development, including designer outlet and multi-storey car park amendment to Reserved Matters BC57512P/C. – Granted 3 March 2003.

05/0088/FL External alterations to the existing showroom – Granted 24 February 2005.

05/1337 – 2 No. Fascia signs to front of building, 1 No. pylon sign, 2 No. free standing directional signs, 1 No. double sided free standing directional sign and 3 No. 8m high flagpoles - Granted 15 August 2005.

07/0365 Extension to existing workshop and erection of preparation building and relocation of retaining wall-Granted 04 April 2007.

14/1576 Change of use of existing public car park to parking and display of cars ancillary to adjacent Mercedes Benz Dealership - Granted 12 December 2014.

15/0586 Erection of various signage: 1 x Pylon Sign (illuminated); 1 x Gateway sign; 1 x Entrance sign; 4 x Icon signs; 1 x Information sign; 3 x Flagpoles; 1 x Star Module sign 0 Granted 4 June 2015.

## **Relevant policies**

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

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". The NPPF is a material consideration in the determination of a planning application.

### **Human rights and reducing inequalities**

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

# **Walsall Council Development Plan**

Planning law requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Our Development Plan includes:

- Black Country Core Strategy (BCCS)
- Walsall Site Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

Planning guidance is published within a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

Public consultation has been carried out in accordance with the Development Management Procedure Order and the council's Statement of Community Involvement.

## **Consultee comments (planning officer's summary)**

### **Conservation Officer**

Concerns raised regarding the submitted Heritage Statement which does not provide a detailed assessment of the impact of the proposal.

### **Ecology Officer**

No objection. Do not have any ecological comments.

### **Environmental Health**

No objection, request conditions.

### **Environmental Protection**

No objections subject to conditions.

### **Historic England**

No objections.

### **Local Highways Authority**

Supports the proposal and considers the revised 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 December 2023 paragraph 115, and supports the proposal, subject to conditions in relation to parking and turning, cycle storage facilities, and a Construction Environmental Management Plan.

## **Lead Local Flood Authority**

No objections subject to conditions.

## **Public Health**

No objection. No comment.

## **Severn Trent Water**

No objections to the proposal subject to the inclusion of a condition in relation to drainage plans for the disposal of foul and surface water flows.

## **Strategic Planning Policy**

The policy team cannot support the application on strategic policy grounds, in particular, AAP policies AAPs1, AAPs2, BCCS Policy CEN7 and UDP policy S7, especially S7 [VI]. Also, UDP policy S11 is of some relevance as insistence on the inclusion of a drive-through facility should not be a reason to require an edge-of-centre or out of centre location.

## **West Midlands Fire Service**

Note for applicant.

## **West Midlands Police**

No objection. Note for applicant.

# **Neighbour and interested parties' comments (planning officer's summary)**

## **Objections**

6 comments received objecting to proposal for the following reasons:

- Highway safety
- Congestion
- Antisocial behaviour
- Other sites more suitable for this use

Petition with more than 10 signatures against the proposal regarding an increase in congestion, traffic, and antisocial behaviour.

An objection from Valerie Vaz MP has been received regarding the impact of the proposal on Walsall Town Centre retail function. Traffic and congestion and impact on heritage assets and health caused by the negative impact of hot food takeaways on the local community and school children.

## **Support**

6 received in support of proposal for the following reasons:

- Job creation
- Economic development
- Good for the community
- Increased availability of dining and leisure facilities
- Will bring more business to the area

## **Determining issues**

1. Principle of development
2. Heritage assessment
3. Design, layout, and character
4. Amenity of neighbours and future occupiers
5. Highways
6. Ecology and Biodiversity Net Gain
7. Flood risk / Drainage
8. Ground conditions and environment

## **Assessment of the proposal**

### **Principle of development**

The application involves a change of use from a car dealership (sui generis) to supermarket (use class E) with new glass frontage associated storage and bin store, 5 no. restaurants (use class E) with ancillary take aways, new shop fronts, bin store and 24-hour security office. Reconfigured parking layout on frontage with bike store. (Adjacent to the PROW Wal78 and 79).

The application site is an existing car dealership which is now unoccupied. The proposal includes associated parking and servicing. The site is on the edge of the Walsall Town Centre.

The application is accompanied by a retail and sequential assessment. The retail and sequential assessment do not conclusively demonstrate the impact on the Walsall Town Centre.

The existing site is currently vacant since the closure of the Mercedes Benz car dealership in September 2022. The site is located within the Walsall Strategic Centre; however, it is situated outside of the Primary Shopping Area (PSA).

The proposal will retain the existing building footprint; however, the supporting drawings show that the external design will be replaced with glazed frontages,



including a glazed extension at the front of the proposed supermarket. A bin store is also proposed to the eastern corner at the side of the restaurants.

The internal layout proposes 5 no. individual take away/restaurants with kitchenettes and a separate supermarket with storage facilities. A security office is proposed between the restaurant units and the supermarket.

Relevant Development Plan policies include:

### **Black Country Core Strategy (BCCS)**

**Policy CEN2: Hierarchy of Centres.** To maximise regeneration to protect the identified centres and ensure appropriate distribution of investment. Walsall is identified as a Strategic Centre.

**Policy CEN3: Growth of the Strategic Centres.** The Strategic Centres should be the principal locations for major leisure, commercial leisure, entertainment, cultural facilities and services, such as hotels which meet the needs of the sub region and beyond.

**Policy CEN7: Controlling Out-of-Centre Development.** For retail purposes, a location that is well connected and within easy walking distance (i.e. up to 300 metres) of the primary shopping area of Strategic and Town Centres will be regarded as edge-of-centre. For all other main town centre uses a location that is well connected and within easy walking distance (i.e. up to 300 metres) of the centre boundary of Strategic and Town Centres will be regarded as edge-of-centre, unless otherwise defined in relevant saved UDP policies.

**Policy ENV2:** Development proposals will be required to preserve and, where appropriate, enhance local character and those aspects of the historic environment together with their settings which are recognised as being of special historic, archaeological, landscape or townscape quality.

**Policy AAPS1: Primary Shopping Area.** It is crucial that investment in retail is concentrated within the heart of the town centre and that the area provides an attractive shopping destination. The Primary Shopping Area forms the main focus of activity in the centre and the approach to development in and around the town centre should be to protect and enhance its function as the heart of Walsall Town Centre. This will be achieved by:

- a) Concentrating new retail floorspace and investment within or immediately adjacent to the Primary Shopping Area boundary.
- c) Only permitting retail development away from the Primary Shopping Area where it can be demonstrated that there are no suitable development sites or vacant premises within or immediately adjacent to it (in accordance with UDP Saved Policy S7, BCCS Policy CEN7, and Policy AAPS2). When proposals come forward that can demonstrate there are no suitable alternatives the Council will require the provision of safe, direct and attractive pedestrian links into the Primary Shopping Area.
- and d) Encouraging developments for other uses in Walsall Town Centre to improve connections to the Primary Shopping Area where possible. Any development for town centre uses that would generate significant visitor numbers will be expected to accord with Policy AAPT1 in improving linkages throughout the centre and to show

that there would be no negative impact on the Primary Shopping Area in terms of investment and footfall.

## **Policy AAPS2: New Retail Development.**

c) Any edge-of-centre proposals will be expected to:

- i) Link directly to active frontages in the Primary Shopping Area, or if not possible, to improve linkages functionally and visually to the Primary Shopping Area; and
- ii) Show that there is no significant adverse impact on the vitality and viability of the town centre and planned investment for its future (as in accordance with BCCS Policies CEN3 and CEN7).

d) Where proposals for retail are permitted away from the Primary Shopping Area planning conditions will be applied where necessary to minimise the impacts of the development on the centre by, for example, controlling the broad range of goods to be sold.

In addition, saved UDP Policies, S4 the Town and District Centre and General Principles apply, Policy S6 Meeting Local Needs, Policy S10 Hot Food Take Aways, Restaurants and other A3 (Food and Drink) Outlets, Policy ENV40 Conservation, protection and use of water resources and Policy T13 Parking Standards.

New retail development should normally be concentrated in the town centre. Policy AAPS1 Primary shopping area seeks to ensure the main focus of development is in and around the town centre. To protect and enhance the function of as the heart of Walsall.

a) Concentrating new retail floorspace and investment within or immediately adjacent to the Primary Shopping Area boundary, c) Only permitting retail development away from the Primary Shopping Area where it can be demonstrated that there are no suitable development sites or vacant premises within or immediately adjacent to it (in accordance with UDP Saved **Policy S7**, **BCCS Policy CEN7**, and **Policy AAPS2**).

When proposals come forward that can demonstrate there are no suitable alternatives the Council will require the provision of safe, direct and attractive pedestrian links into the Primary Shopping Area; and d) Encouraging developments for other uses in Walsall Town Centre to improve connections to the Primary Shopping Area where possible. Any development for town centre uses that would generate significant visitor numbers will be expected to accord with Policy AAPT1 in improving linkages throughout the centre and to show that there would be no negative impact on the Primary Shopping Area in terms of investment and footfall.

## **Policy AAPS2: New Retail Development.**

c) edge-of-centre proposals will be expected to: i) Link directly to active frontages in the Primary Shopping Area, or if not possible, to improve linkages functionally and visually to the Primary Shopping Area; and

- ii) Show that there is no significant adverse impact on the vitality and viability of the town centre and planned investment for its future (as in accordance with BCCS Policies CEN3 and CEN7).

d) Where proposals for retail are permitted away from the Primary Shopping Area planning conditions will be applied where necessary to minimise the impacts of the development on the centre by, for example, controlling the broad range of goods to be sold.

**Policy AAPLV5 states that:**

- b) Development proposals affecting sites identified as heritage assets or as areas of high sensitivity to change should demonstrate how they will be conserved and enhanced including, where appropriate:
- i) Consideration of the need to protect views and enhance the setting of heritage assets.

The current application has provided a sequential assessment in order to demonstrate how other sites including the application site have been considered. The information submitted in this Sequential Assessment does not provide sufficient evidence to be conclusive in relation to the impact of the proposed development on the Walsall Town Centre Shopping Area. However, the proposed development will bring the site back into use which would ensure that the site is regenerated and is not left vacant.

The site is situated on the edge of Walsall Town Centre but outside the Primary Shopping area and the site can be regarded as an edge of centre location. The site is separated from the town centre by an existing dual carriageway through the area and on that basis cannot be considered a preferred edge of centre site if there are no suitable sites identified as available within the centre of Walsall. Paragraph 92 of the NPPF advises when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Paragraph 91 of the NPPF advises that main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

The applicants have submitted additional information to identify other sites that have been considered but these were discounted either due to their size or parking arrangements or availability. The applicant advises that they consider the presence of the highway should not act as a significant barrier due to the presence of a crossing point opposite the application site which would allow pedestrian access to the Primary Shopping Area. Notwithstanding this information, the site is separate from the Primary Shopping Area.

Further comments from the Strategic Policy Officer advise the following on the additional information submitted in the sequential supporting statement.

*“The revised sequential assessment refers to the Old Square but does not refer to the Saddlers Centre. Both these sites have numerous vacant units and on-site parking. This parking is multi-storey which might limit access to larger vehicles, but other food stores in the Primary Shopping Area manage to operate with multi-storey car parks. Both Asda and Tesco sell bulky food items.*

*Therefore, this proposal would dilute the Primary Shopping Area still further. Given our shortage of land for housing and employment, we need to ensure that land is used effectively in accordance with NPPF paragraphs 123 and 124, and that town centre uses are not allowed to spread into surrounding areas. As previously mentioned, the effect of a new convenience store and restaurant / takeaway facilities outside of the Primary Shopping Area would divert spending from existing shops and cannot be supported on strategic policy grounds”.*

The supporting statement advises that the applicants have considered all potential opportunities to utilise town centre sites whilst considering edge of centre sites. Edge of centre locations should be used when no sequentially preferable sites are available. The supporting statement advises that there would be no harmful impacts on the Primary Shopping Area and that the current proposal would provide investment to the application site. The supporting statement does not however provide any conclusive explanation on how the site will impact the Primary Shopping Area and only makes a statement to say that the proposal would not be harmful. The proposal includes five take away restaurants which would not normally be supported in this location outside the primary shopping area. On that basis it is considered that the policy concerns have been overcome in so far as the site will be brought back into a sustainable use appropriate to the location.

The application is contrary to the Walsall Town Centre Area Action Plan, policies AAPS1, AAPS2, BCCS Policy CEN7 and UDP policy S7, especially S7 [VI] land is used effectively in accordance with NPPF paragraphs 123 and 124, and that town centre uses are not allowed to spread into surrounding areas.

As previously mentioned, the effect of a new convenience store and restaurant / takeaway facilities outside of the Primary Shopping Area would be contrary to the BCCS Policy CEN2: Hierarchy of Centres. To maximise regeneration to protect the identified centres and ensure appropriate distribution of investment. Walsall is identified as a Strategic Centre.

Policy CEN3: Growth of the Strategic Centres and Policy CEN7: Controlling Out-of-Centre Development, and Saved Policy S1 of the UDP Definition of Town Centre Uses, S2 The Hierarchy of Centres, S3 integration of developments into centres, to ensure that proper integration of developments in or on the edge of centres should be of a scale and nature appropriate to the size and function of the centre concerned. Policy S4 Town and district centres General Principles seeks to ensure that town centres will sustain and enhance the range and quality of shopping, leisure and other town centre uses which these centres provide consistent with the role and function a centre.

The proposal has not conclusively demonstrated that the role and function of the centre will not be adversely affected by the proposed development, on balance however the use is appropriate in scale and siting and will provide regeneration for the site in a sustainable location and retains a retail function which will augment the existing town centre retail function of Walsall. The proposal will provide 20 full time jobs and 10 part time jobs as set out in the submitted application form. It is considered that a restriction on the use classes proposed should be conditioned to define the development proposal to those uses in Class E that are appropriate to the Town Centre for commercial, business and services.

## **Heritage assessment**

The site is within the setting of Church Hill Conservation, a designated heritage asset. The Conservation Area is listed on Historic England's Heritage at Risk Register as being in a very bad condition. The site is within the setting of Walsall Memorial Gardens, a Grade II Registered Park and Garden, which have not been referenced in the Design and Access Statement. The amended Design and Access Statement only identifies St Matthews Church, as being Grade II\* listed.

Paragraph 200 of the NPPF states "in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum, the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation". Furthermore, the historic environment record has not been consulted.

Historic England (HE) Advice Note 12: Statements of Heritage Significance provides guidance on preparing heritage statements. In this case, the heritage section within the Design and Access statement does not include a more detailed Heritage Assessment in accordance with the NPPF and HE advice note 12.

The NPPF defines significance as "the value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic, or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting".

The NPPF defines setting as "the value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic, or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance".

The submitted Design and Access Statement includes a section on heritage but does not provide sufficient detail to inform the impact of the proposal on existing designated heritage assets. However, the proposals do not involve any material extensions or alterations to the footprint of the proposed development and changes to the external appearance are minimal. It is considered that the proposal will not result in any significant harm to existing designated and non-designated heritage assets and will have a low impact therefore on existing heritage assets within the surrounding area. Whilst the proposal fails to accord to the advice in paragraph 200 of the National Planning Policy Framework the impact on the existing heritage assets would not undermine their character, appearance or setting in relation to Saved UPD Policy ENV27 Buildings of Historic or Architectural Interest.

## **Design, layout, and character**

The proposal involves the change of use of the existing building for retail and leisure facilities including restaurants, takeaway with new shop fronts, a security office, bin store, bike store and revisions to the existing parking area layout.

In relation to the visual impact of the development the existing building is a low-level single storey building which is a former car sales showroom. The existing footprint of the buildings is arranged behind a car parking area to the frontage of the site. The proposed changes to the frontage of the building from a visual point of view are the creation of shop frontages to accommodate the proposed supermarket, restaurant



and take away. The footprint of the building will remain similar to the existing footprint with reconfigured internal space to facilitate the proposed new uses. Five new restaurants with ancillary take aways within use class E are proposed together with associated kitchen, storage and bin storage areas. Adjacent to the restaurant/takeaway is a cycle store with disabled parking bays. The parking area to the front of the site will be rearranged to accommodate marked parking and turning areas adjacent to the building.

Adjacent to the larger unit the proposed Class E Supermarket are storage areas and a security office which will be linked to both buildings. Behind the proposed supermarket is a bin storage area and vehicular access for deliveries.

There are no objections to the design of the proposed buildings which will utilise existing buildings. There will be no changes to the buildings to the rear of the proposed restaurant and supermarket which are shown as existing on the proposed drawings. In relation to visual impact there are no objections.

The proposal is contrary to Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, DW3 Character and the revised NPPF 2023.

## **Amenity of neighbours and future occupiers**

The application site is situated on the edge of the town centre. There are no nearby residences immediately affected. However, suitable conditions to control the hours of operation of the premises to avoid adverse impacts on the nearby properties can be conditioned. The Design and Access statement advises that the hours of opening for the site will be 08:00 to 23:00 Monday to Saturday and 10:00 to 23:00 on Sundays and Bank Holidays.

The Environmental Protection Officer advises that it will also be necessary to identify whether there is any contamination/ground gas present that may be a risk to the proposed structures or future occupants of the development. Results of a desk study and site reconnaissance will be required and a condition to ensure that these matters are addressed to ensure that the site is not adversely affected by contamination. If ground gas is found mitigation measures will be required to deal with any potential hazards.

In addition, an acoustic impact assessment will be required to ensure that noise from future activities within the site including noise from machinery/extraction equipment/ventilation and deliveries will not result in significant impacts to nearby properties. Details of any extraction and ventilation equipment would need to be demonstrated to be submitted and agreed in writing by a condition.

There is no demolition proposed however the Environmental Protection Officer advises that the buildings are surveyed for the potential for asbestos presence which can be dealt with under the contamination conditions suggested.

Environmental Health have commented there is potential for odour nuisance to the occupants of nearby properties. No information has been provided with regard to how this will be controlled. Full details of the type and specification of plant and

equipment installed for the purposes of ventilation and extraction of cooking odours can be secured by condition.

Environmental Health also advise there is potential for noise disturbance to the occupants of nearby properties from plant noise and noise from goods deliveries. No information has been provided with regard to how this will be controlled. An assessment of noise emanating from the proposed development, including noise from plant and goods deliveries to the premises, shall be undertaken. A report detailing the findings and any recommendations for mitigation measures can be secured by condition.

Deliveries of goods should be restricted to between the hours of 07:00am and 21:00pm.

In the interests of maintaining the free flow and capacity of the drainage system, and to prevent pollution of the system a means of preventing fat, oil and grease entering the drainage system (such as a grease trap) must be installed and maintained thereafter which can also be secured by condition.

In accord with the Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), and ENV3 (Design Quality) Designing Walsall SPD in particular policies DW1 Sustainability, DW3 Character and DW9 High Quality Public Realm, together with the design advice in Chapter 12 of the NPPF Achieving well-designed places and the revised NPPF 2023.

## **Highways**

The Highway Authority considers the proposal 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 December 2023 paragraph 115 and supports the proposal subject to conditions in relation to parking and turning, pedestrian safety, cycle storage and a construction management plan. The main site access is from Dudley Street to the front of the site. There are 64 parking spaces, 12 disabled spaces and 12 EV charging spaces. There is access to the rear of the site for delivery vehicles from an existing access situated on Bath Street.

## **Ecology and Biodiversity Net Gain**

The Council's Ecologist has no objections to the proposal and there are no ecological implications. There are no BNG implications for this proposal as the application was submitted prior to the current regulations coming into force. To accord with the Black Country Plan policy ENV1, saved Unitary Development policy ENV23 and Supplementary Planning Document Conserving Walsall's Natural Environment.

## **Flood Risk / Drainage**

Severn Trent have confirmed that they have no objections to the proposal subject to the inclusion of a condition in relation to drainage plans for the disposal of foul and surface water flows.



The site is low risk regarding flooding. The site is in Flood Zone 1 and is not at risk of surface water flooding for all events up to the 100-year return period. There is some minor ponding of surface water on the building's southern elevation during the 1000-year event, however, this is not a major risk to the existing building and could be reduced by installing water butts on downpipes during any refurbishment works. The proposals demonstrate that the existing building is to be retained and re-furbished, and that no additional impermeable area is proposed. As such, the runoff generated by the site following refurbishment works will remain as existing.

The Lead Local Flood Authority have no objection to the proposals subject to the inclusion of a condition to ensure that a CCTV survey is undertaken to demonstrate that the sites existing drainage system is in good condition and that a management and maintenance plan is provided with a named contractor for undertaking maintenance of the retained system over the lifetime of the development.

A condition requiring the submission of a sustainable drainage plan and management and maintenance scheme is advised as the suggested condition above can be incorporated into the drainage plan for the site which needs to be submitted and agreed upon in writing with the LPA prior to the development being commenced and those agreed details shall be implemented prior to the development being first brought into use.

The site is situated in Flood Zone 1 as defined on the Environment Agency Flood Map for Planning and the proposal is considered to be acceptable in terms of flood risk and drainage and is in accord with the Black Country Core Strategy ENV5: Flood Risk, Sustainable Drainage Systems, Urban Heat Island and NPPF Chapter 14 of the revised NPPF December 2023. Meeting the Challenge of climate change flooding and coastal change.

## **Ground conditions and environment**

The site lies in an area at low risk of legacy coal mining development no further action is required. The Environmental Protection Officer advises that a survey to identify any potential contamination including ground contamination from the existing buildings and previous use shall be conducted and submitted to the Local Planning Authority and any mitigation measures shall be agreed in writing prior to the occupation of the development.

The proposal is considered to accord with "Saved" Unitary Development Plan Policy ENV10: Pollution and The Black Country Core Strategy ENV8 Air Quality.

## **Conclusion and reasons for decision**

On balance, this application is considered to accord with local and national planning policies and guidance as set out in this report. Officers have worked with the applicant in a positive and creative way in accordance with the National Planning Policy Framework paragraph 38 in asking for further information to support the proposal.

This amended information in support of the sequential assessment does not fully inform the likely impact of the proposal on town centre retail functions however on balance the proposal will regenerate a site which is now vacant and has a link to the

town centre via vehicular access and pedestrian access across the highway as there is a crossing outside the premises. The application is considered to be beneficial to the regeneration of the Walsall Centre.

Taking into account the above factors it is considered that the application should be recommended for approval.

## **Recommendation**

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions, and subject to:

1. The amendment and finalising of conditions.

## **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:

- 2022-0 REV C Existing plans and elevations. dated 4 April 2024
- 2023-124 REV C and D Proposed elevations dated 23 April 2024
- 2023-124 REV D Proposed, and existing site and car parking plan dated 23 April 2024.
- 2023-124 REV B Site location plan dated 23 April 2024
- Design and access statement revised to include heritage statement received 03 July 2024

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).

3a: Prior to the commencement of development hereby permitted a drainage scheme for the discharge of surface water and disposal of foul sewerage and a management and maintenance scheme for all existing and proposed underground services and sewers including a CCTV survey investigation report of the drainage system at the point of outfall. The approved drainage scheme shall include a named maintenance provider responsible for the maintenance and a management of the agreed drainage scheme, shall be submitted in writing to and approved in writing by the Local Planning Authority.

3b: The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.

3c: The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

4a: Prior to the commencement of development, 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:

- Construction working hours
- Parking and turning facilities for vehicles of site operatives and visitors
- Loading and unloading of materials
- Storage of plant and materials used in constructing the development
- A scheme for recycling/disposing of waste resulting from works
- Temporary portacabins and welfare facilities for site operatives
- Site security arrangements including hoardings
- Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- Measures to prevent flying debris
- Dust mitigation measures
- Measures to prevent site drag-out (including need for wheel cleaning)
- Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

4b: 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.

5a: Prior to the occupation of the development hereby approved full details of the type and specification of plant and equipment installed for the purposes of ventilation and extraction of cooking odours shall be submitted to and agreed in writing with the Local Planning Authority.

5b: The agreed extraction equipment shall be installed and maintained thereafter in accordance with the agreed details.

Reason: To ensure the satisfactory functioning of the development and to ensure the development does not cause odours in the interests of the amenities of the locality. In accordance with UDP Policy GP2.

6a: Prior to commencement of the development hereby permitted a site survey to identify any potentially hazardous materials shall be carried out and a Method Statement detailing actions to be taken and timescales for the taking of such action to prevent localised contamination shall be submitted in writing to and approved in writing by the Local Planning Authority.

6b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved Method Statement.

6c: Following demolition of the building hereby permitted and removal of the demolition material but prior to any building or engineering operations a validation report shall be submitted in writing to the Local Planning Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials and the building and to verify that the approved Method Statement has been carried out.

Reason: To prevent potential contamination of the ground due to any potentially hazardous materials associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

7a: Prior to the commencement of the development hereby permitted a Noise Impact Assessment together with noise mitigation measures including an Acoustic Design Statement shall be submitted in writing to and approved in writing by the Local Planning Authority.

7b: Prior to occupation the approved Acoustic Design Statement shall be carried out to the satisfaction of the Local Planning Authority.

7c: Noise from external plant and flues shall not exceed a noise rating of NR45, one metre from habitable room windows between the hours of 23:00 and 07:00 and NR60 between the hours of 07:00 and 23:00.

7d: Doors and windows facing residential properties shall remain closed when the units are not operational except from access and egress purposes.

7e: The development hereby permitted shall not be carried out otherwise in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: To protect to amenities of nearby occupiers in compliance with saved Policies GP2 and ENV32 of the UDP.

8a: Prior to the occupation of the development hereby permitted mitigation measures shall be submitted and agreed to prevent pollution of the drainage system from cooking fat, oil and grease entering the drainage system (such as a grease trap).

8b: The agreed mitigation measures shall be installed and maintained thereafter in accordance with the agreed details.

Reason: To ensure the satisfactory functioning of the development and to ensure the drainage system is not contaminated to prevent pollution in the interests of the amenities of the locality. In accordance with UDP Policy GP2.

9a: The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been laid out in accordance with drawing number 2023-124 Rev D Proposed and existing site and car parking plan dated 23 April 2024.

9b: The access, turning area and parking facilities shall not be used for any purpose otherwise than for access, turning and parking respectively.

Reason: To reduce the need for on street parking in the interest of highway safety and ensure surface water does not run onto the highway and to avoid increased surface flooding to comply with Walsall's Unitary Development Plan saved policies GP2 and ENV40.

10: Prior to any unit on the development first coming into use, the revised car parking layout, including the pedestrian ramp, pedestrian zones, car free forecourt area, and associated bollards, signing and lining, shall be fully implemented in accordance with the approved details shown on drawing number 2023-124 REV D and shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development and in accordance with UDP policy GP2, T7 and T13.

11: Prior to any unit on the development first coming into use, the proposed cycle shelter, shown on drawing number 2023-124 REV D which shall be secure, covered and illuminated, shall be fully implemented and shall thereafter be retained and used for no other purpose.

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

12a: 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.

13b: 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.

14: The development hereby permitted shall not be open to customers otherwise than between the hours of 0800 hours to 2300 hours Mondays to Saturdays and 1000 hours to 2300 hours Sundays, Bank and Public Holidays.

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

15: The development hereby permitted shall not be used otherwise than for the purposes of Class E and shall not be used for any other purpose including any other

purpose in Class E(a),(b) and (c) of Part A of Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Order revising, revoking or succeeding that Order with or without modification.

Reason: To protect the amenities of the area and to ensure that the site is not used for unauthorised use that would be contrary to policies UDP policies GP2 and ENV32.

16: No machinery shall be operated, process shall be carried out, or deliveries taken at or despatched from the site otherwise than between the hours of 0700 hours to 2100 hours Mondays to Saturdays and 0700 hours to 2100 hours Sundays, Bank and Public Holidays.

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

17: No storage of goods, material or equipment shall take place within the parking/turning/vehicle manoeuvring/bin storage area/open area/outside the buildings.

Reason: To ensure satisfactory functioning of the development, in the interests of highway/pedestrian and the prevention of the potential for pollution in accordance with saved UDP policies GP2 T7, T13, ENV10 and ENV32.

## **Case specific notes for applicant**

### **Environmental Protection**

#### **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 and the persons/business responsible for the Building Regulation compliance. For example, photographs of earthworks, 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. The Validation Report shall be written by a Technically Competent person/company. CL4 The desk study and site reconnaissance shall have regard to previous unknown filled ground and materials used and processes carried on. A further detail on the matters to be addressed is available in 'Model Procedures for the Management of Contamination' (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

## **West Midlands Police**

Ensure security between any public and private areas of commercial premises. Particularly security of offices cash, higher value items. Crime reduction measures are encouraged to current standards at time of construction.

Consider construction security.

Security is important.

A change of environment requires review of safety and security and an opportunity for improvement.

Any measures are more easily included during construction or alterations.

A review of security including alarm, cctv, lighting and access control.

Suitable lighting provides some security.

External LED lights with daylight sensors to external walls, particularly by entrances and lighting to parking areas.

Other lighting should not be located close to fencing to provide a climbing aid.

Low bollard style lighting is not a security feature providing poor visibility and identification.

Any cycle storage should be located close to entrances in clear view, natural surveillance.

Alarm and cctv installers should be approved by NSI, SSAIB or both

I would recommend security using the principles of Secured By Design.

Below is a link to secured by design guides, police approved crime reduction information.

The applicant may wish to consider crime prevention and home security advice contained within SBD New Homes.

If required cycle stores, approved products, are recommended (SBD Homes 2023 page 85, 64

Secured By Design security standards are explained.



# West Midlands Fire Service

## **Approved Document B, Volume 2, Buildings other than Dwellings, 2019 edition incorporating 2020 and 2022 amendments – for use in England Requirement**

B5: Access and facilities for the fire service

These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

### **Requirement**

Limits on application Access and facilities for the fire service B5.

(1) The building shall be designed and constructed so as to provide reasonable facilities to assist fire fighters in the protection of life.

(2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.

### **Intention**

Provisions covering access and facilities for the fire service are to safeguard the health and safety of people in and around the building. Their extent depends on the size and use of the building. Most firefighting is carried out within the building. In the Secretary of State's view, requirement B5 is met by achieving all of the following.

- a. External access enabling fire appliances to be used near the building.
- b. Access into and within the building for firefighting personnel to both:
  - i. search for and rescue people
  - ii. fight fire.
- c. Provision for internal fire facilities for firefighters to complete their tasks.
- d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required. Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult)

### **Section 15: Vehicle access**

#### **Buildings not fitted with fire mains**

15.1 For small buildings (up to 2000m<sup>2</sup>, with a top storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

- a. 15% of the perimeter.
- b. Within 45m of every point of the footprint of the building (see Diagram 15.1).

15.2 For all other buildings, provide vehicle access in accordance with Table 15.1.

15.3 Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance

between doors, or between a door and the end of the elevation, is 60m (e.g. a 150m elevation would need a minimum of two doors)

### **Buildings fitted with fire mains**

15.4 For buildings fitted with dry fire mains, both of the following apply.

- a. Access should be provided for a pumping appliance to within 18m of each fire main inlet connection point. Inlets should be on the face of the building.
- b. The fire main inlet connection point should be visible from the parking position of the appliance and satisfy paragraph 16.10.

15.5 For buildings fitted with wet fire mains, access for a pumping appliance should comply with both of the following.

- a. Within 18m, and within sight of, an entrance giving access to the fire main.
- b. Within sight of the inlet to replenish the suction tank for the fire main in an emergency.

15.6 Where fire mains are provided in buildings for which Sections 16 and 17 make no provision, vehicle access may be as described in paragraphs 15.4 and 15.5, rather than Table 15.1.

### **Design of access routes and hard-standings**

15.7 Access routes and hard standings should comply with the guidance in Table 15.2. Requirements can only apply to the site of the works. It may not be reasonable to upgrade the route across a site to a small building. The building control body, in consultation with the fire and rescue service, should consider options from doing no work to upgrading certain features, such as sharp bends.

15.8 Where access to an elevation is provided in accordance with Table 15.1, the following requirements should be met, depending on the building height. a. Buildings up to 11m, excluding small buildings (paragraph 15.1): pump appliance access should be provided adjacent to the building for the specified percentage of the total perimeter. b. Buildings over 11m: access routes should comply with the guidance in Diagram 15.2.

15.9 Where access is provided for high reach appliances in accordance with Table 15.1, overhead obstructions (such as cables and branches) should be avoided in the zone shown in Diagram 15.2.

15.10 Dead-end access routes longer than 20m require turning facilities, as in Diagram 15.3. Turning facilities should comply with the guidance in Table 15.2.

### **Overall**

Access routes should have a minimum width of 3.7m between kerbs, noting that **WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes** (ADB Vol 2, Table 15.2)

### **Dead Ends including cul-de sacs**

Dead ends including cul-de sacs should be avoided but where not possible the following should be applied.

The main problem with dead ends and cul-de sacs is access in an emergency and the issue of obstructions such as parking. In these circumstances fire service personnel are committed to approach on foot carrying equipment to deal with the situation. 225 to 250 metres carrying equipment is considered a maximum for efficient fire-fighting operations.

Dead ends/cul-de sacs roadways should be a minimum of 5.5 metres in width.

## **Vehicle Access**

Dead end/cul de sac access routes must not exceed 180 metres in length unless.

- a) an emergency vehicle access is provided which complies with item 3.8.2, or
- b) the carriageway width is increased to 7.3 metres and complies with the requirements of item 3.8.3. The provision of an emergency vehicle access is preferred to the alternative of increasing the carriage width to 7.3 metres.

### **3.8.2 Emergency Vehicle Access**

- a) A suitable means of preventing the use by other vehicles must be provided at the time of construction.
- b) The height of 4.1 metres minimum, width 3.7 metres minimum and the construction of the access road are sufficient to allow the free passage of fire appliances.
- c) Neither end is obstructed by parked cars.
- d) The emergency vehicle access may incorporate a pedestrian route but must not be used by statutory undertakers to accommodate underground services or public sewers.

### **3.8.3 Increased Carriageway Widths**

- a) The carriageway width is increased to 7.3 metres from the entrance to the route to the point where it is 180 metres to the end of the dead end in accordance with 3.8.3b immediately below.
- b) The subsequent reduction in the width from 7.3 to 5.5 metres must occur at a road junction, at which point parking for the fire appliance at the end of the dead end must be within vision and a fire hydrant is on the pavement or ground alongside the parking space.

### **3.8.4 General**

- a) There is no maximum length to a dead end/cul-de sac access route, however, it should accommodate no more than 150 dwellings.
- b) A turning circle or hammer head should be provided in any dead end greater than 20 metres in length. It should be provided either at the end or within 25 metres of the end please see Approved Document B – Volume 2.
- c) When inspecting plans with regard to access it may be necessary to accept a temporary situation or phased approach until the matter can best be resolved.

## **Industrial Estates**

- a) In order to accommodate very long articulated vehicles carriageways should be 9 metres wide but certainly not less than 7.3 metres.
- b) The estate should be designed so that there is adequate off-street parking and there is no loading, unloading or long-term parking on the carriageway.
- c) Dead end access routes must not exceed 180 metres in length from a junction which provides two alternative routes out of the industrial estate, unless an emergency vehicle access is provided from the dead end, as described in 3.8.2.

## **Section 16: Fire mains and hydrants**

### **Provision of fire mains**

16.2 Buildings with firefighting shafts should have fire mains in both of the following.

- a. The firefighting shafts.
  - b. Where necessary, in protected escape stairs.
- The criteria for providing firefighting shafts and fire mains are given in Section 17.

16.3 Buildings without firefighting shafts should be provided with fire mains where fire service vehicle access is not provided in accordance with Table 15.1. In these cases, outlets from fire mains should be located as described in paragraph

16.4, with a maximum hose distance of 45m from the fire main outlet to the furthest point, measured on a route suitable for laying a hose. Stairs do not need to be designed as firefighting shafts.

### **Provision of private hydrants**

16.8 A building requires additional fire hydrants if both of the following apply.

- a. It has a compartment with an area more than 280m<sup>2</sup>.
- b. It is being erected more than 100m from an existing fire hydrant.

16.9 If additional hydrants are required, these should be provided in accordance with the following.

- a. For buildings provided with fire mains – within 90m of dry fire main inlets.
- b. For buildings not provided with fire mains – hydrants should be both of the following.

- i. Within 90m of an entrance to the building.
- ii. A maximum of 90m apart.

16.10 Each fire hydrant should be clearly indicated by a plate, fixed nearby in a conspicuous position, in accordance with BS 3251. 16.11 Guidance on aspects of provision and siting of private fire hydrants is given in BS 9990.

## **Water Supplies**

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 16 and “National Guidance Document on the Provision for Fire Fighting” published by Local Government Association and WaterUK:

For further information please contact the WMFS Water Office at the address given above or by email on [Water.Officer@wmfs.net](mailto:Water.Officer@wmfs.net)

The approval of Building Control will be required to Part B of the Building Regulations 2010.

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, Section 8).

The external access provisions for a building should be planned to complement the internal access requirements for a fire attack plan. (CIBSE Guide E, Fire Safety Engineering 2010, p. 13-14).

**End of report**





**Walsall Council**

Planning and Building Control

# Planning Committee 28 November 2024

Report of Head of Planning and Building Control

## **Plans list item number**

Item number: 2

## **Reason for reporting to the planning committee.**

Called in by Councillor Cheema on the grounds that redevelopment offers an improvement to the character/amenities of the surrounding area to outweigh any potential harm and there would be no significant harm to the amenities of the surrounding area from parking/traffic/noise/disturbance/odour.

## **Application details**

**Application reference:** 24/1087

**Site location:** 36-40, WALSALL ROAD, WILLENHALL, WV13 2EG

**Application proposal:** Retrospective full planning application for a change of use from a clothing distributor (Class B8) to a convenience store (Class E(a)).

**Application type:** Full Application: Change of Use

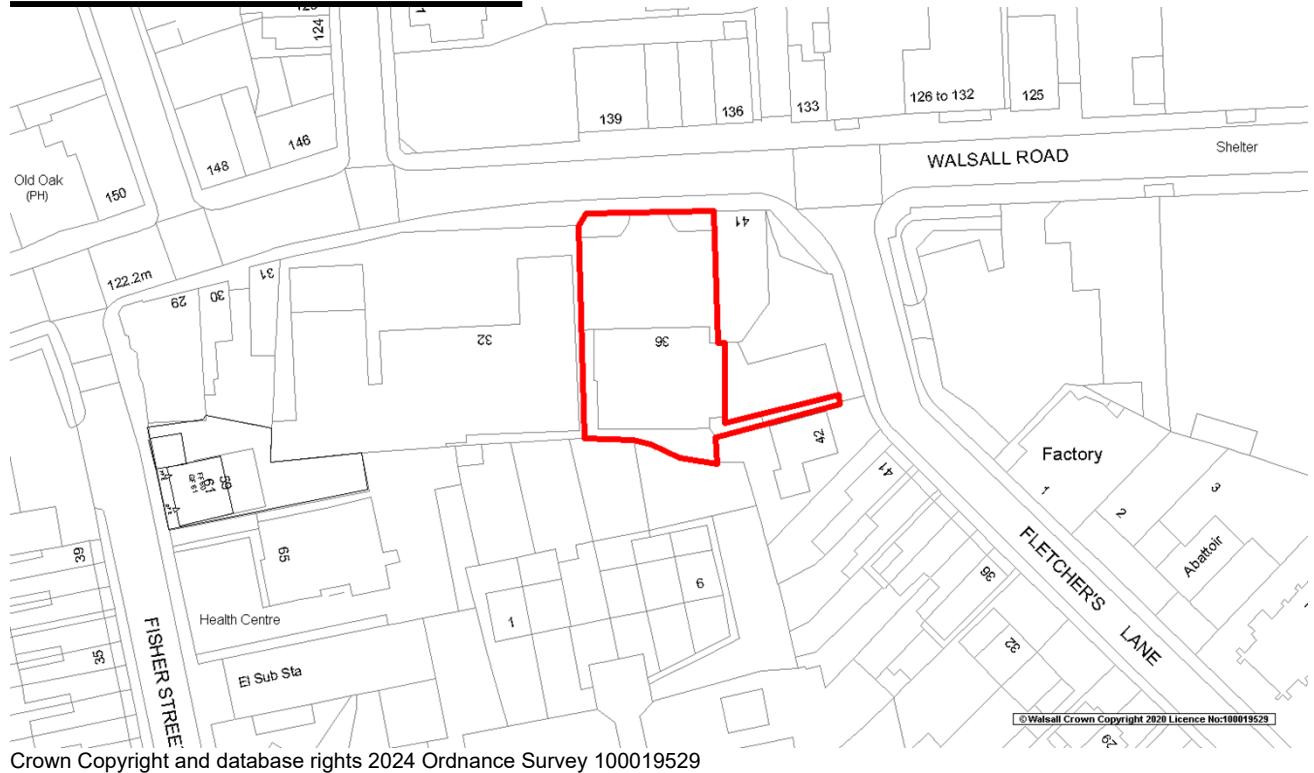
**Link to application documents:** <https://go.walsall.gov.uk/planningapps?id=24/1087>

**Applicant:** R Singh, GNG Stores Uk Ltd Daner Ltd, 36, Walsall Road, Willenhall, WV13 2EG

**Planning agent:** David Pattison, DPM (Design Project Management) Services DPM (Design Project Management) Services, 9 Marlborough Way, Ashby De La Zouch, LE65 2NN

**Ward:** Willenhall South

# Red line location



# Recommendation

Refuse

# Site and surroundings

The application site comprises a single storey unit originally of industrial appearance. The unit has an area of approximately 270m<sup>2</sup> and is set back by 16.7m from the highway, the B4464 Walsall Road, which is a district distributor with peak hour parking restrictions. It has a front parking area which is accessed via a dropped kerb footway crossing from the highway, which can accommodate up to 11 vehicles.

The extant planning use class of the building is B8 as a clothing warehouse and distributor. The use of the building as a supermarket and meat shop in planning use class E(a) has commenced and associated branding has been installed.

The site is 0.5km to the eastern side of the boundary with Willenhall District Centre. The main road in the vicinity of the application site has a number of retail units including convenience and food sales, take away food shops, a beauty store, and a barber shop, that are of neighbourhood level significance to the surrounding residential streets. There are also several light industrial uses in the vicinity.

The front part of the site lies within Flood Zone 2, and the site is in an area of High Coal Risk. It is not within the vicinity of any heritage assets.



# **Relevant planning history**

## **At application site**

24/0752	Retrospective planning application for a change of use from a clothing distributor (Class B8) to a retail store (Class E(a)) with front fenestration.	Withdrawn Full Valid Application	02/08/2024
22/0677	Demolition of an existing commercial unit and an erection of 6 no 2 bed houses	Withdrawn Full Valid Application	08/08/2023
BC31876P	Erection of 1.8m high railings and use of building for storage of clothing	Grant permission subject to conditions	12/04/1991

## **At 136-142 Walsall Road (on the opposite side of Walsall Road to the application site)**

18/0864	Sub-division of an existing unit to form 3 retail units (planning use class A1) with external alterations to units 2 & 3 to include new shop window, door, perforated external shutter and shutter box and external 1:12 ramp and protective barrier	Grant Permission Subject to Conditions	01/10/2018
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# **Relevant policies**

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

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". The NPPF is a material consideration in the determination of a planning application.

## **Human rights and reducing inequalities**

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

## **Walsall Council Development Plan**

Planning law requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Our Development Plan includes:

- Black Country Core Strategy (BCCS)
- Walsall Site Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

Planning guidance is published within a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

Public consultation has been carried out in accordance with the Development Management Procedure Order and the council's Statement of Community Involvement.

## **Consultee comments (planning officer's summary)**

### **Environment Agency**

Outside scope of development for comments.

### **Environmental Health**

No response received.

## **Environmental Protection**

No objection, no requirements.

## **Flood Risk Manager**

This appears to be a non-major development, which lies outside our agreement for statutory consultation. Fee required for comments.

## **Local Highways Authority**

Concerns raised on the grounds of insufficient parking provision which could lead to an overspill of on-street parking onto district distributor Walsall Road (B4464) The development must provide car parking provision to meet its own operational needs. There is no safe pedestrian crossing for customers accessing the proposed convenience store from the proposed overflow car park.

## **Strategic Planning Policy**

Objection – This is a centre use in an out-of-centre location, no sequential test submitted.

## **Waste Management (Healthy Spaces)**

No response received.

## **West Midlands Fire Service**

Does not object to this proposal. However, this proposal for 36-40, WALSALL ROAD will need to meet all the functional requirements stated within B5: Access and facilities for the fire service of Approved Document B Volume 2: Building other than dwellings, 2019 edition incorporating 2020 and 2022 amendments – for use in England.

These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

Note for applicant.

## **West Midlands Police**

No response received.

# **Neighbour and interested parties' comments (planning officer's summary)**

## **Objection(s)**

0 comments received objecting to proposal.

## **Support**

0 comments received in support of proposal.

## **Determining issues**

1. Principle of development
2. Design, layout, and character
3. Amenity of neighbours and future occupiers
4. Highways
5. Flood risk / Drainage
6. Ground conditions and environment

## **Assessment of the proposal**

### **Principle of development**

The application seeks retrospective planning permission for a change of use from a clothing distributor (planning use class B8) to a retail store (planning use class E(a)).

This is a resubmission of application 24/0752 which was withdrawn following concerns raised with the applicant's agent regarding the principle of use and parking requirements. The current application appears to be identical apart from the inclusion of an overflow parking area on the opposite side of the road.

The proposed use as a convenience store is a Town Centre Use as defined by saved UDP policy S1 and 'Town Centre Use' is confirmed by the NPPF to include district centres and local centres but exclude smaller parades of shops of neighbourhood significance.

The application site is an out of centre location that is identified by Walsall's Site Allocation Document as 'consider for release' employment land, part of site reference IN221 listed under policy IND4: 'Local Industry Consider for Release'. This policy states that the sites are allocated and safeguarded as Local Quality Industry but will be considered for release to other uses under the provisions of BCCS policy DEL2: 'Managing the Balance Between Employment Land and Housing', and subject to the need to ensure that the stock does not fall below the minimum requirement set out in BCCS policy EMP3: 'Local Quality Employment Areas'. In these areas, redevelopment or re-use for Town Centre Uses as defined in the National Planning Policy Framework will not be permitted except where local need is demonstrated and

the sequential approach is applied in accordance with BCCS Policies CEN6: 'Meeting Local Needs for Shopping and Services' and CEN7: 'Controlling out-of-centre development', and UDP Saved Policies S6: 'Meeting Local Needs' and S7: 'Out of Centre and Edge of Centre Developments'.

BCCS policy CEN6 considers new small-scale local facilities outside defined centres of up to 200 square metres gross. Any larger scale proposals will have to meet the requirements of Policy CEN7. The application form confirms that the floorspace is 287m<sup>2</sup>. The area measured from the site plan is 270m<sup>2</sup> but in either case, the floor area exceeds the threshold of BCCS policy CEN6 and must meet the requirements of policy CEN7.

BCCS policy CEN7 confirms that there is a presumption in favour of focusing development in centres and continues:

*"Proposals for out-of-centre development will have to demonstrate that development cannot be provided in-centre or at edge-of-centre locations of existing Centres appropriate to the hierarchy."*

*"Any out-of-centre proposal which is considered to fall within the catchment area of a relevant centre will be required to include that centre in any sequential test."*

Planning Policy Officers have advised that there are a significant number of vacant units in nearby centres such as Willenhall that could accommodate the proposed use and this has not been considered in the details submitted with this application.

UDP saved policy S7 states:

*"Proposals for the establishment or expansion of retailing or other town centre uses in out-of-centre or edge-of-centre locations (except where in accordance with Policy S6 or where existing commitments or proposals of the Plan) will only be permitted where it can be demonstrated that all of the following tests are fulfilled: -*

*I. There must be evidence to demonstrate the need for the facility. Depending on the nature of the proposal, this should be assessed not only in terms of the availability of consumer expenditure to support a commercial scheme (taking into account not only existing provision, but also committed developments, and also proposals - i.e. the proposals of this Plan, and of other up-to-date development plans and Supplementary Planning Guidance or Documents - in Walsall Borough and in surrounding areas), but also evidence of the adequacy of existing provision in the area (including its accessibility for people within the catchment area of the proposed development) and/or public support for an expression of community need.*

*II. The development must be shown to accord with the sequential approach (see paragraphs 5.4 - 5.7), there being no more centrally located sites, buildings or opportunities which could be used to serve the catchment area of the use proposed."*

NPPF Paragraph 91 states that *"Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if*

*suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”*

The development represents a town centre use in an out of centre location which has failed to be justified under the sequential test and no evidence has been provided to demonstrate the need for the proposed use, considering the existing local provision. The Design and Access statement acknowledges that the proposed use is contrary to local planning policy but does not offer justification of any significance.

Even if the size of the unit were reduced, it is unlikely that the proposal could be shown to improve access to meet local needs under BCCS policy CEN6, as there are two convenience stores on the opposite side of the highway within 100m of the application site, as well as an afro Caribbean food store in a unit opposite the current application premises.

Furthermore, the area on the opposite side of the road described as overflow parking serves the existing premises on that side of the road so should not be considered as additional parking.

The principle of the use is therefore contrary to BCCS CEN7, saved UDP policy S7 and NPPF paragraph 91.

## **Design, layout, and character**

There are no proposed changes to the existing site layout. The introduction of a shop frontage to the site building would reflect the character of the locality where there are a number of retail units offering neighbourhood level provision. The proposed development would accord with BCCS policy ENV2 and saved UDP policies GP2 and ENV32.

## **Amenity of neighbours and amenity of future occupiers**

Environmental Protection is of the opinion there are no significant industrial/commercial noise impacts that are material planning considerations for this application.

The areas to the southern and south-eastern sides of the application site are residential. It is considered that the proposed use would not cause significant additional harm to the amenity of these neighbouring occupants by way of noise or comings and goings, beyond that generated by the extant use of the building as a warehouse and existing uses in the locality which are a mix of light industrial and retail uses. The proposed use is considered to comply with the requirement of saved UDP policy GP2.

## **Highways**

The site is accessed by a pedestrian / vehicle crossover via Walsall Road (B4464) on the north boundary of the site. Walsall Road is a district distributor road and is subject to a 30mph speed limit. There are parking restrictions on Walsall Road.

Walsall Saved UDP Policy T13 outlines the following car parking requirements for the existing and proposed use:

Planning Use Class	Policy Requirement	Required Parking Provision
B8	1 car park space per 50m <sup>2</sup> of gross floorspace up to 250m <sup>2</sup> ; then 1 space per 100m <sup>2</sup> up to 2500m <sup>2</sup> ; then 1 space for every 500m <sup>2</sup> of gross floorspace	6no. spaces
Food and convenience goods shops (planning use class E(a))	1 car park space per 14m <sup>2</sup> of gross floorspace	21no. spaces.

The development proposals include 11no. car parking spaces inclusive of 1no. Disability Discrimination Act compliant space. The Design and Access Statement calculates the parking requirement of the use for the trading floor area only. The Local Highway Authority have advised that this calculation is incorrect and should be calculated based on the floor area of the entire unit.

The Local Highway Authority have therefore raised concerns with the proposed car parking provision as the development would only provide 52% of the maximum required provision. There is concern that the insufficient parking provision could lead to an overspill of on-street parking on Walsall Road (B4464) which is a district distributor road with peak hour parking restrictions on the highway around the entrance to the site between the hours of 8.00am-8.30am and 4.00pm-6.30pm Mondays to Fridays with full parking restrictions around the nearby junctions.

The block plan submitted with the application refers to an overflow car park on the opposite side of Walsall Road to the site. This proposed overflow car parking area serves 3 retail units opposite the application site as permitted by application 18/0864. It was observed in the planning report for that application that to accord with saved UDP policy T13, the three units would require 27 parking spaces. Only 17 spaces could be provided, and the application was supported 'on balance' with a shortfall of 10 spaces. Therefore, given the existing shortfall of parking at the proposed overflow car park, any additional parking requirement from the proposed development could result in more vehicles being displaced onto the surrounding highway. In addition, there is no safe pedestrian crossing for customers accessing the proposed convenience store from the overflow car park.

The development fails to provide car parking provision to meet its own operational needs, contrary to the requirements of saved UDP policy T13, and saved UDP policy GP2. Displacement of vehicles onto the highway and lack of safe pedestrian crossing from use of the proposed overflow car park could impact on highway and pedestrian safety, contrary to the requirements of the NPPF paragraph 110b.



## **Flood Risk / Drainage**

The front 10.5m of the application site falls within Flood Zone 2 with the limits of Flood Zone 2 being approximately 8m away from the front elevation of the retail unit building. No Flood Risk Assessment has been submitted which is contrary to the requirements of the NPPF paragraph 167 and Walsall's Site Allocation Document Policy EN3, which require a Flood Risk Assessment for all developments in Flood Zones 2 and 3.

## **Ground conditions and environment**

Environmental Protection is of the opinion there are no concerns regarding contaminated land or air quality that are material planning considerations for this application.

## **Conclusion and reasons for decision**

This application has failed to provide sufficient information regarding the provision of a town centre use in an out of centre location by way of a sequential test or demonstrating a local need for the use. Furthermore, the development fails to provide sufficient on-site parking provision to meet its own needs.

No Flood Risk Assessment has been submitted which is contrary to the requirements of the NPPF paragraph 167 and Walsall's Site Allocation Document Policy EN3, which require a Flood Risk Assessment for all developments in Flood Zones 2 and 3.

On balance, this application is considered does not accord with local and national planning policies and guidance as set out in this report. As the use is already operational, and it is not clear how the applicant could demonstrate a need for the proposed use, and there is no further space to provide additional parking on site, it was not considered relevant to seek amendments to the application or additional details in this instance.

The material planning considerations weigh against the proposal such that it is recommended for refusal.

## **Recommendation**

Refuse

## **Reasons for refusal**

1. The application fails to provide a sequential test to justify the proposed development, which is a town centre use in an out of centre location. The application also fails to demonstrate the need for the proposed facility, taking into account the existing provision in the locality and evidencing the adequacy of existing provision in the area. It is therefore contrary to the requirements of



paragraph 91 of the NPPF, Black Country Core Strategy policy CEN7, and saved Unitary Development Plan policy S7.

2. The development fails to provide sufficient on-site car parking provision to meet its own operational needs, contrary to the requirements of saved UDP policy T13, and saved UDP policy GP2. Displacement of vehicles onto the highway and lack of safe pedestrian crossing from the proposed overflow car park could impact on highway and pedestrian safety, contrary to the requirements of the NPPF paragraph 110b.
3. The front 10.5m of the application site falls within Flood Zone 2. The application fails to provide a Flood Risk Assessment, which is contrary to the requirements of the NPPF paragraph 167 and Walsall's Site Allocation Document Policy EN3, which both set out the requirement for a Flood Risk Assessment for all developments in Flood Zones 2 and 3.

**End of report**





# Walsall Council

Planning and Building Control

## Planning Committee 28 November 2024

Report of Head of Planning and Building Control

### **Plans list item number**

Item number: 3

### **Reason for reporting to the planning committee.**

Called in by a Councillor Saiqa Nasreen on the grounds that there is no significant harm to the amenities of the surrounding area from parking/ traffic /noise /disturbance /odour or loss of TPO trees.

### **Application details.**

**Application reference:** 24/0361

**Site location:** LAND AT, BARR LAKES LANE, WALSALL

**Application proposal:** Full planning application for the proposed construction of 2no. five bedroom open market dwellings (Use Class C3). The proposal also includes vehicle access off Barr Lakes Lane.

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

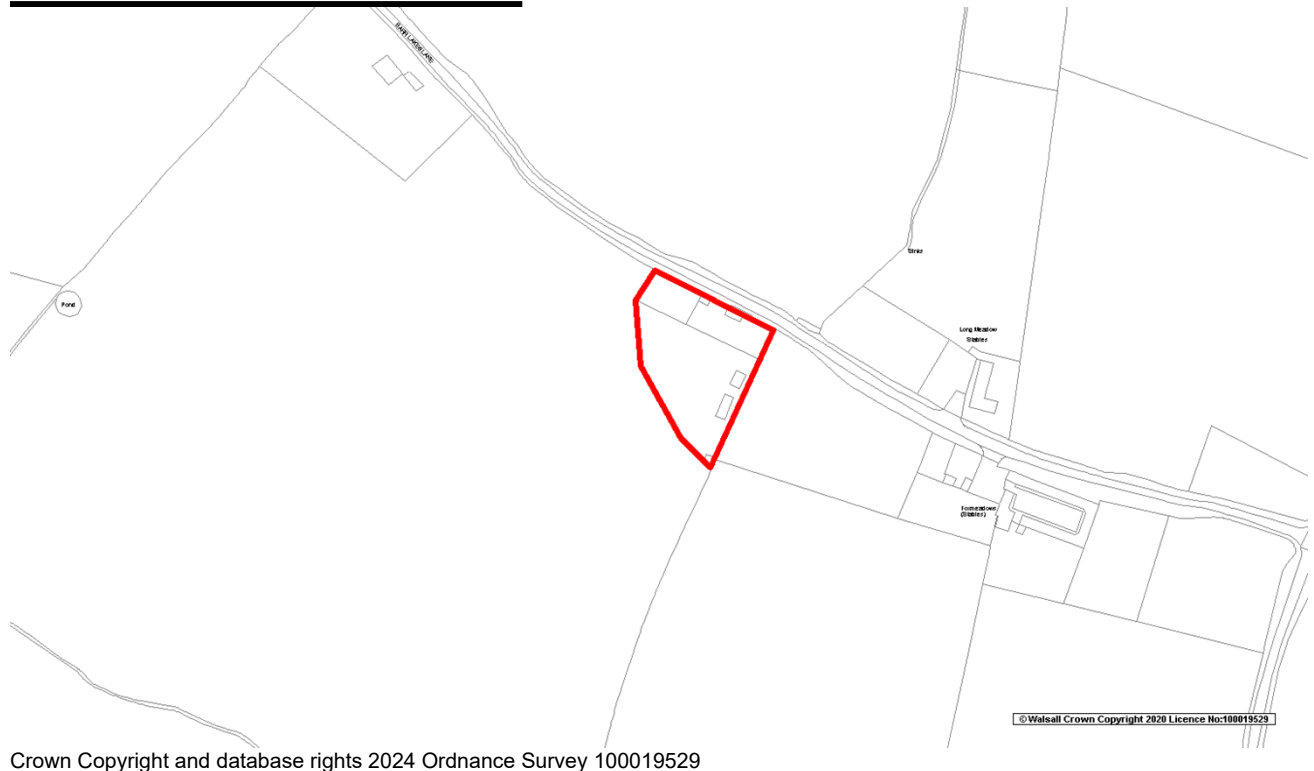
**Link to application documents:** <https://go.walsall.gov.uk/planningapps?id=24/0361>

**Applicant:** Shahzad Akram 775 Washwood Heath Road, Birmingham, B8 2NP

**Planning agent:** N/A

**Ward:** Pheasey Park Farm

# **Red line location**



# **Recommendation**

Refuse

# **Site and surroundings**

The applicant seeks full planning permission for the proposed construction of 2no. five bedroom open market dwellings (Use Class C3). The proposal also includes vehicle access off Barr Lakes Lane.

The proposed dwellings will be positioned to the east of Barr Lakes Lane.

Plot One includes:

Lounge, lounge/dining, kitchen, study, utility, garage, W/C on the ground floor and dressing room, en-suite and five bedrooms.

Plot Two includes:

Lounge, study, hall, lounge/dining, kitchen, W/C, utility, garage on the ground floor and dressing room, en-suite and five bedrooms

The house designs are two- storey dwellings include a main pitched roof with gable end, to the front with main access, main habitable room windows to the front and rear elevations.

The key measurements are:

Plot One:

16.3 metres deep maximum  
15.2 metres wide  
4.4 metres high to the eaves  
7.6 metres high to the roof ridge

Plot Two:

16.4 metres deep maximum  
15.2 metres wide  
4.4 metres high to the eaves  
7.6 metres high to the roof ridge

Amended plans have been received but do not address the issues of the principle of development and accessibility issues.

To support the application, the applicant has submitted the following documents:

- Site Layout Plan
- Design and Access Statement

The site is located on Barr Lakes Lane within the designated Green Belt area. It spans approximately 2670m<sup>2</sup> and is currently undeveloped. The site is surrounded by generally open agricultural fields with minor individual developments of dwelling houses in the near vicinity. A golf course is also located to the south.

The site also lies within Great Barr Conservation Area, Ecological site (with possible bats in the vicinity) and in a low coal risk area.

## **Relevant planning history**

23/1068 - Proposed change of use of disused agricultural land to a burial ground - Permission Refused - 21-Nov-2023.

Reasons for refusal:

1. Insufficient information has been submitted to demonstrate that an acceptable drainage strategy is proposed as the proposed development may present risks of flooding on site, and, or off site if surface water runoff is not effectively managed. The absence of an adequate drainage strategy is therefore contrary to Black Country Core Strategy Policy ENV5 (Flood Risk, Sustainable Drainage Systems and Urban Heat Island) and the National Planning Policy Framework paragraphs 167 and 169.

2. The application fails to provide sufficient evidence to demonstrate whether there would be any adverse impact upon protected species, or their habitats and the proposals are therefore contrary to UDP Saved Policy ENV23 (Nature Conservation and New Development), Black Country Core Strategy Policy ENV1 (Nature Conservation), SAD Policy EN1 (Natural Environment Protection, Management and

Enhancement), Supplementary Planning Document: Conserving Walsall's Natural Environment and the National Planning Policy Framework paragraph 182.

3. Sufficient information has not been provided to determine the harm by way of inappropriateness that the proposed development would cause to the Green Belt, including its openness. The proposal is contrary to Saved Policy GP2 (Environmental Protection) of the Walsall UDP, Policy GB1 (Green Belt Boundary and Control of Development in the Green Belt) of the Walsall Site Allocation Document and the National Planning Policy Framework paragraph 147.

4. The level of car parking within the site is inappropriate development in the Green Belt for which there are no very special circumstances to outweigh the harm arising to the Green Belt by way of the proposed intensification and urbanisation. The proposal is contrary to Saved Policy GP2 (Environmental Protection) of the Walsall UDP, Policy GB1 (Green Belt Boundary and Control of Development in the Green Belt) of the Walsall Site Allocation Document and the National Planning Policy Framework paragraph 147.

5. The application fails to provide sufficient evidence to determine whether the proposal would not have an unacceptable impact on road safety contrary to the NPPF paragraph 111. The proposal is therefore contrary to Black Country Core Strategy Policy TRAN2 (Managing transport impacts of new development), and saved policies T7 (Car Parking), T13 (Parking Provision for Cars, Cycles and Taxis) of the Walsall UDP.

6. The proposed development by virtue of the proximity to adjacent trees would have an adverse impact on the trees due to potential for root severance and consequent tree failures that would have a detrimental impact on the amenity of the area contrary to saved UDP policy ENV18 (Existing Woodlands, Trees and Hedgerows), ENV32 (Design and Development Proposals), GP2 (Environmental Protection), Policies NE7 (Impact assessment) and NE8 (Retained Trees, Woodlands and Hedgerows) of the Conserving Walsall's Natural Environment SPD.

7. The site is within Great Barr Conservation Area, a designated heritage asset, no Heritage Statement has been submitted with the application. The proposal is contrary to paragraph 194 of the NPPF.

8. The proposed use of the site as a burial ground together with proposed seated areas, hard surfaced access way, parking areas associated with a cemetery use, and the erection of multiple monument structures (headstones, grave marker, tombstone, memorial) associated with a cemetery use would have a detrimental visual impact upon the open rural character of the area, the proposed use would eliminate the agricultural character of the existing site, as well as introducing an isolated cemetery feature amongst existing open agricultural fields, failing to enhance and preserve the character and appearance of the Great Barr Conservation Area. The proposal is contrary to Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, Saved Policies GP2, ENV32 of the UDP and Policy EN5 of the SAD.

9. The application fails to provide sufficient evidence to determine whether the proposal would not have an unacceptable impact on both the application site and wider area's archaeology. The proposal would be contrary to policy ENV25 of Walsall's

Unitary Development Plan and paragraphs 192 and 194 of the National Planning Policy Framework.

10. The application fails to provide sufficient evidence to determine whether the proposal would not have an unacceptable risk of pollution groundwater. The proposal would be contrary to paragraph 174 of the National Planning Policy Framework.

## **Relevant policies**

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

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". The NPPF is a material consideration in the determination of a planning application.

### **Human rights and reducing inequalities**

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

### **Walsall Council Development Plan**

Planning law requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Our Development Plan includes:

- Black Country Core Strategy (BCCS)
- Walsall Site Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

Planning guidance is published within a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

Public consultation has been carried out in accordance with the Development Management Procedure Order and the council's Statement of Community Involvement.

## **Consultee comments (planning officer's summary)**

### **Conservation Officer**

Objection – in the absence of a Heritage Assessment to evaluate the development against the Conservation Area Appraisal and Management Plan.

### **Ecology Officer**

Objection on the grounds that there was a failure to provide a Preliminary Ecological Assessment

### **Local Highways Authority**

Objection on the grounds that lack of visibility splays details, lack of public amenity services to travel in and around the site, fails to meet the aims and objectives of the NPPF 2023 and will have an unacceptable impact of road safety aspect.

### **Severn Trent Water**

No objection on the grounds that a drainage plans for the disposal of foul and surface water flows conditions and an informative is attached to the decision notice.

### **Strategic Planning Policy**

Objection on the grounds that the proposed development is contrary to policy NPPF and GB1 – inappropriate development in Green Belt.

### **West Midlands Fire Service**

No objection and suggested a B5 - Access and Facilities for the fire service informative.



# **Neighbour and interested parties’ comments (planning officer’s summary)**

## **Objections**

Eighteen occupiers of neighbouring properties were notified via letter and a site notice was.

One letter of objection was received and there was one letter of support from a local councillor.

Letter of objection on the grounds that:

- Proposal is contrary to the National Planning Policy Framework Green Belt policy
- Inappropriate development in the Green Belt
- No regards to the site surroundings
- The proposal is ‘opportunistic’
- Impact on transport safety
- Impact of new access on a restricted and narrow lane
- Isolated location that is not served by public amenity/ highways networks/local services.
- Site notice on a road speed sign in Barr Lakes Lane.
- Residents were not notified including the Beacon Action Group
- Applicant is the same as the applicant for application refused on the site in 2023.
- Inappropriate development in Conservaton Area
- Potential Flood Risk
- Impact on existing ecology and potentially protected species and vegetation
- There is no sewage system on the site
- Drainage leads to a brook that leads to the Holbrook where there are White Clawed Crayfish and Newts.
- Crook Lane, Skip Lane and Chapel Lane are unsuitable for heavy goods vehicles.
- The farmer will need to use the access to his land at all times of the day for his business
- The loud noise from the development will affect quality of life and nearby ponies
- Potential archaeology
- The development will encourage Urban Sprawl

Councillor Saiqa Nasreen – Supports the development on the grounds that there are no significant harm to the amenities of the surrounding area from:

- parking/ traffic
- Noise
- Disturbance

- Odour
- Loss of TPO trees

# **Determining issues**

1. Principle of development / Green Belt assessment
2. Heritage assessment / Great Barr Conservation Area
3. Design, layout, and character
4. Amenity of neighbours and future occupiers
5. Highways
6. Ecology and Biodiversity Net Gain
7. Flood risk / Drainage
8. Other key determining issues

## **Assessment of the proposal**

### **Principle of development / Green Belt assessment**

The application site lies in the Green Belt as defined by SAD policy GB1. It also lies in the Great Barr Conservation Area.

SAD policy GB1 states that in the Green Belt, UDP saved policies will apply as well as the relevant provisions within the NPPF, BCCS and policies contained within this document.

Inappropriate development, as defined in the NPPF, will not be supported in the Green Belt in Walsall unless 'very special circumstances' exist which clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm.

NPPF (December 2023) paragraph 154 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, with a small number of exceptions. These include ... 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.

The NPPF defines previously developed land as "Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape."

Planning practice guidance states "Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a

number of matters which may 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 ramifiability – 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.

The application site is currently a field with several single-storey structures in the corner, some of which are now derelict and replaced by tipping. These structures appear to be associated with the use of the field for keeping horses. There is no record of any planning permission for this use or for the structures, although aerial photographs suggest that the structures and use have been present for at least 10 years so will now be lawful.

The existing structures are unsightly, but they are low key and are associated with a use of land that is not inappropriate in the Green Belt. The proposed new dwellings however would be two-storey and, with associated parking and other domestic paraphernalia, would harm the openness of the green belt, as well as the character of the conservation area. They would therefore represent inappropriate development.

NPPF paragraph 84 also states that planning policies and decisions should avoid the development of isolated homes in the countryside unless certain circumstances apply, none of which are relevant in this case.'

Barr Lakes Lane is an area of large mixed fields that has landscape sensitivity that is high to medium landscape value. The introduction of the proposed development will have a significant visual impact on the openness of the Green Belt.

The proposed development is considered inappropriate in the Green Belt with no very special circumstances to outweigh Green Belt Policy, therefore is contrary to the national and local policies of NPPF 13 – Protecting Green Belt Land, SAD policy GB1 and saved UDP policies G2 of the Walsall Unitary Development Plan.

## **Heritage assessment / Great Barr Conservation Area**

The applicant has failed to provide a Heritage Statement. A Heritage Statement is a statutory and local requirement when submitting an application that lies in/ adjacent to a Listed Building or a Conservation Area. This is in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990. A Heritage Statement would be required to justify the impact upon the value or 'significance' heritage asset and its setting.

The site comprises open countryside used as agricultural land, sparsely populated with farmsteads and other sporadic residential development of twentieth century date. In general, field boundaries have formed through the amalgamation of smaller parcels of land since the land was enclosed in the eighteenth century, with further changes

undertaken in the twentieth century. This is most obvious in the land to the east. Land to the west however also includes the twentieth century “Beacon Heights” a static home settlement. The area now has large elements of horse paddock, with associated buildings and stables. This area also includes the northern portion of the locally designated Area of High Historic Townscape Value “Settlement at Over End”, lying directly north of the core of the old Great Barr Estate’. Currently, on the application site there appears to be some field shelters which are assumed to be removed as part of the development.

The introduction of two properties of a poor design and layout fails to reflect or enhance the character of the Great Barr Conservation Area. Also, it fails to demonstrate that the development would not result in harm to the immediate and wider setting. The proposal would result in less substantial harm through inappropriate positioning and design and there are no substantial public benefits arising which would outweigh the identified harm.

The area of the application site is proposed to be removed from the Conservation Area as set out within, The Great Barr Conservation Area Appraisal Plan document (CAAMP). This document has been out to public consultation which finished on the 11th October 2024. At present, it shows the application site lies outside the proposed revised boundary of the Conservation Area. The conclusions of the plan were noted by Planning Committee on 31st October 2024 however the document is yet to be formally adopted. Limited weight can be given to the CAAMP at this stage therefore the planning application must be assessed against the current Conservation Area boundary.

This application is contrary to Saved Unitary Development Plan Policies GP2 (Environmental Protection), ENV32 (Design and Development Proposals) and ENV33 (Landscape Design), Black Country Core Strategy Policy ENV2 (Historic Character and Local Distinctiveness), Site EN5 (Development in Conservation Areas) and DW3 (Character) of the Designing Walsall SPD and the National Planning Policy Framework.

## **Design, layout, and character**

The proposed layout of the site includes two properties accessed from Barr Lakes Lane with significant hard standing to the front of the properties to be utilised for car parking. The layout of the site is not considered to relate to its surroundings and would introduce urban features within this rural Green Belt Area. The applicant has not provided elevational plans of plot 2 although have stated that it is to mirror plot 1.

The unsympathetic design including the height, scale and proportion causes a detrimental visual impact to the site and wider area. The proposed design is considered not to integrate in the site surroundings thus is out of character within the area and impacts on the openness of the Green Belt land and the current Conservation Area.

The character of the area is defined by openness in the Green Belt Land. The introduction of the two x two storey detached dwellings in the Green Belt will be dominant in a rural setting. By virtue of the poor design and lack of consideration to the site surrounding the proposal is inappropriate in the setting.

In the interests of fire safety as recommended by the West Midlands Fire Officer the development is required to meet fire safety standards.

The proposed development will have a visual impact on the rural setting which will be affected by this character. Thus, the development is , ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality), Site Allocation Document Policy GB1 (Green Belt Boundary and Control of Development in the Green Belt), NE7 to NE10 of the Conserving Walsall's Natural Environment SPD, DW3 of the Designing Walsall SPD and the National Planning Policy Framework.

## **Amenity of neighbours and amenity of future occupiers**

The nearest housing estate to the proposed development is approximately 0.75 metres to the west. The nearest frequent bus stops are on Park Hall estate over 1km away from the development site or 1.7km to the north on Sutton Road.

The proposed development would have a limited impact upon the amenity of nearest neighbouring residents by virtue of loss of privacy, outlook, or loss of light due to the significant distance.

The location is rural in character and consider not to in a sustainable location for residential development. The site does not have access to any public transport and the narrow road with no path for pedestrians could result in conflict between pedestrians and vehicles.

The proposal is contrary to Saved Policy GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall UDP.

Objections have been received by local residents in relation to the location of the site notice and not receiving neighbour/consultee notification letters. To confirm, the consultation on this application has been carried out in line with statutory requirements.

## **Highways**

There will be sufficient parking for two vehicles per property with a garage for the new dwellings which accords with the Council's parking standards of T13 Parking Policy. However, the applicant has failed to address the poor visibility splay from the existing point. No details were provided to overcome this issue. Therefore, this is contrary to aims and objectives of the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

Also, it is considered that the proposed development for residential use at this location fails to meet the aims of the NPPF and is unacceptable also from a road safety aspect. The application site is not in a sustainable location. It is not properly connected by public transport. The site does not have the benefit of segregated pedestrian footway links to the built-up areas to access to the bus stops thus the residents of the development would have difficulty to safely benefit from public transport.

The applicant has failed to provide additional information to address the highways concerns about visibility splays. The proposal is unacceptable and contrary to saved UDP policies T7 and T13 of the Walsall Unitary Development Plan. Development in this location fails to meet the aims of the NPPF 2023 Paragraph 9 'Promoting Sustainable Transport'.

## **Ecology and Biodiversity Net Gain**

The application site comprises of a semi-natural habitat, including grassland and hedgerows. The applicant has failed to provide a Preliminary Ecological Assessment to support the application.

A Preliminary Ecological Assessment would be able to determine whether there are habitats present and assess the risk and potential impact to protected species and sites and ecologically valuable habitat and other possible issues associated with the proposal i.e. if a further survey work to be undertaken. In the absence of this document, the proposal is contrary to the aims and objectives of the saved policy ENV23 of the Walsall Unitary Development Plan, policy ENV1 of the Black Country Core Strategy and NPPF paragraphs 174 and 180.

In relation to Biodiversity Net Gain, this application was submitted on the 18<sup>th</sup> March 2024 and encompasses an area totalling less than 1 hectare. As such the application is considered exempt under the temporary exemption for minor applications until 2<sup>nd</sup> April 2024.

## **Flood risk / Drainage**

Severn Trent are satisfied with the proposed drainage details subject to a drainage condition and informative being attached to the decision. The proposed development complies with Walsall's Unitary Development Plan saved policies GP2 and ENV40.

## **Other key determining issues**

The case officer requested that the agent provide additional information to support the application, this has not been forthcoming therefore the application has been assessed on the information submitted.

## **Conclusion and reasons for decision**

The principle of development is contrary National and local Green Belt policy as it is inappropriate development within the Green Belt with no very special circumstances to outweigh Green Belt policy.

The applicant has failed to provide Heritage Statement to assess the significance of the Great Barr Conservation area and to ascertain the impact of the proposal on Great Barr Conservation Area.

Due to the remote location, lack of safe accessibility to the site on foot, by cycle or public transport could cause highway and safety issues for future occupiers.



The applicant has not provided a Preliminary Ecological Impact Assessment to assess the risk and potential impact to protected species and sites and ecologically valuable habitat

This proposal is therefore considered to be unacceptable and in contradicts with local and national planning policies and guidance set out in this report. Considering the above factors, it is considered that the application should be recommended for refusal.

## **Recommendation**

Refuse

## **Reasons for refusal**

1. The proposed erection of two dwellings, associated vehicle access and driveway in the Green Belt is considered to be inappropriate development for which there are no very special circumstances to outweigh Green Belt Policy. The proposal is contrary to The National Planning Policy Framework paragraph 154, 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 application site is within Great Barr Conservation Area. No Heritage Statement has been submitted with the application. This it is contrary to the policies of the NPPF 2023 and the aims and objective of Policies GP2 and ENV32 of the UDP and The Planning (Listed Buildings and Conservation Areas) Act 1990.
3. The application fails to provide sufficient evidence to determine whether the proposal would not have an unacceptable impact on pedestrian or road safety contrary to the NPPF paragraph 111. The proposal is therefore contrary to Black Country Core Strategy Policy TRAN2 (Managing transport impacts of new development), and saved policies T7 (Car Parking), T13 (Parking Provision for Cars, Cycles and Taxis) of the Walsall UDP.
4. The application fails to provide sufficient evidence to demonstrate whether there would be any adverse impact upon protected species, or their habitats and the proposals are therefore contrary to UDP Saved Policy ENV23 (Nature Conservation and New Development), Black Country Core Strategy Policy ENV1 (Nature Conservation), SAD Policy EN1 (Natural Environment Protection, Management and Enhancement), Supplementary Planning Document: Conserving Walsall's Natural Environment and the National Planning Policy Framework paragraph 185.

**End of report**





# Walsall Council

Planning and Building Control

## Planning Committee 28 November 2024

Report of Head of Planning and Building Control

### **Plans list item number**

Item number: 4

### **Reason for reporting to the planning committee.**

Called in by a Councillor Russell on the grounds that the proposal causes demonstrable harm to the amenities currently enjoyed by occupiers of neighbouring properties.

### **Application details.**

**Application reference:** 24/0201

**Site location:** 54, HOLTSHILL LANE, WALSALL, WS1 2JA

**Application proposal:** Proposed change of use from dwelling (use class C3) to 1no children's residential care home (use class C2) for 3 residents with 2 full time employees, demolition of existing garage for 5no. parking spaces and erection of rear extension. (Affects Public Footpath Wal74).

**Application type:** Full Application: Change of Use

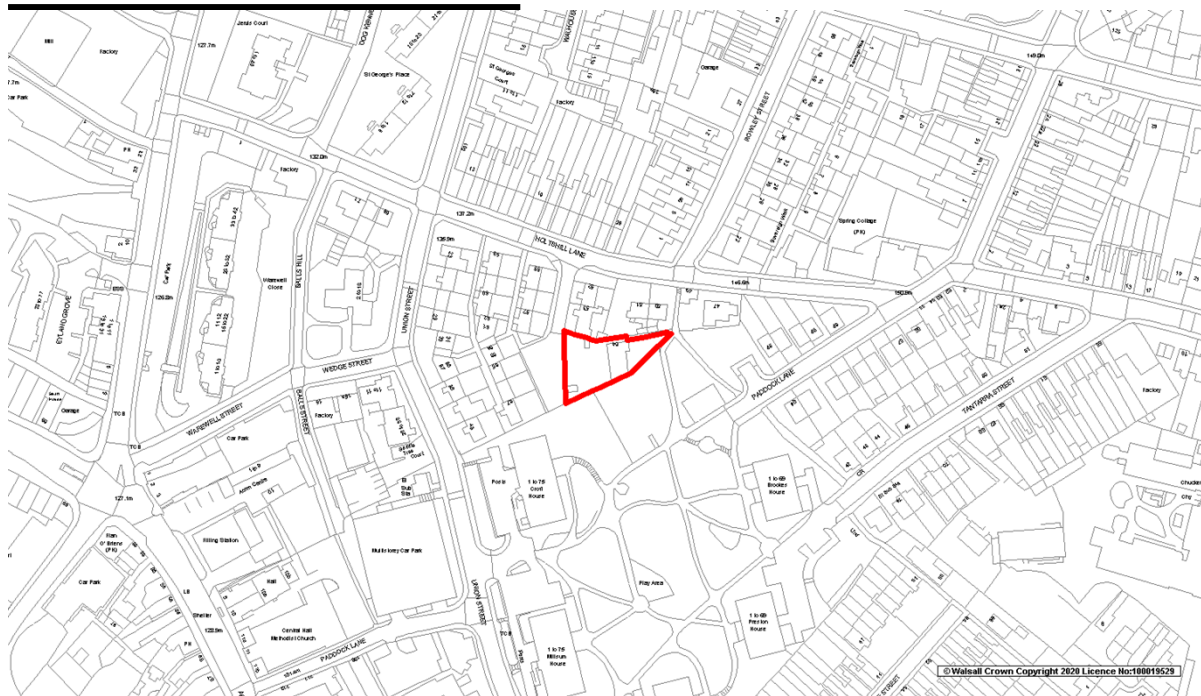
**Link to application documents:** <https://go.walsall.gov.uk/planningapps?id=24/0201>

**Applicant:** Mr Sinha, St Benedicts Care Solutions Ltd. 54, HOLTSHILL LANE, WALSALL, WS1 2JA

**Planning agent:** Mr Larry Priest, BPN Architects 3 Mary Street, Birmingham, B3 1UD

**Ward:** St Matthews

# **Red line location**



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## **Current Status**

At the Planning Committee meeting of 25<sup>th</sup> July 2024 members resolved to defer the application to a future Planning Committee for additional information to be provided on the impact on the public right of way and the status of the enforcement case.

The following section of this update report will set out any changes since the original report (which follows), including matters to be addressed which were contained within the previous supplementary paper.

At the Planning Committee meeting of 31st October 2024 this application was deferred at the Chair's discretion due to the number of Members in attendance who had been present for all the deliberations on the application and who were fully appraised of all the facts and relevant information to properly reach a decision, being lower than the quorum for the meeting.

## **Supplementary Paper**

There were no matters regarding this application presented within the previous supplementary paper.

## **Any other updates**

Since the originally submitted report, an amended location plan has been submitted which has excluded the public right of way. It is considered there will be no impact to the public right of way. All neighbours and consultees were re-consulted on the change and the following consultation comments have been received:

**Coal Authority:** We have reviewed the site location plan provided and can confirm that the site falls within the Coal Authority's defined Development Low Risk Area. On this basis we have no specific comments to make.

However, in the interest of public safety, it is requested that the Coal Authority's Standing Advice note is drawn to the applicant's attention, where relevant.

**Local Highway Authority:** Subsequent to the Committee deferral, the Highway Authority has undertaken a comprehensive site visit to understand the issues raised by Members regarding the possible encroachment over the public highway.

The Highway Authority can now confirm that the Public Right of Way is not impacted or affected by the development and hence there are no objections from the Highway Authority.

**West Midlands Fire Service:** This proposal does not appear to have a detrimental impact on B5 Access & Facilities. No adverse comments, however, consideration should be given to the functional requirements of the Approved Document and the impact that this proposal has.

Members also requested an update on the associated enforcement case, E24/0189 which refers to works prior to planning permission.

The applicant had made a start with the small rear extension. Enforcement have visited the site and note that planning consent would regularise the construction and this is considered acceptable.

## **Conclusion**

The recommendation remains as per the original report and there are no changes to the originally proposed conditions or informatives.

## **The Original Report**

### **Recommendation**

1. Planning Committee resolve to delegate to the Head of Planning & Building Control to grant planning permission subject to conditions and subject to:
  - The amendment and finalising of conditions.

## **Proposal**

This application proposes a change of use from dwelling (use class C3) to 1 no children's residential care home (use class C2) for 3 residents with 2 full time employees, demolition of existing garage for 5 no. parking spaces and erection of rear extension. The application affects Public Footpath Wal74.

The Planning Statement confirms that there will be a manager or deputy manager on the premises during working hours along with 1-2 carers.

Vehicular access to the site is off the main thoroughway off Holtshill Lane. A refuse and recycling area will be located within the external amenity area.

## **Site and Surroundings**

The application site is a large, detached dwelling sited to the eastern side of Holtshill Lane. The dwelling is set back from the main road and from the established building line.

There is a metal gate with chain and padlock on the upper part of the cul-de-sac to restrict unauthorised parking.

In addition to the dwelling, there is also a single storey garage to the front of the plot.

The property is not within the Green Belt, nor is it within a Conservation Area.

## **Relevant Planning History**

No relevant history.

## **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". The NPPF is a material consideration in the determination of a planning application.

## **Human rights and reducing inequalities**

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been considered in reaching the recommendation contained in this report. The articles/protocols identified below were considered of relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and

persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

## **Walsall Council Development Plan**

[Read more on the development plan published on the council website.](#)

Planning law requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Our Development Plan includes:

- Black Country Core Strategy (BCCS)
- Walsall Site Allocations Document
- Unitary Development Plan
- Walsall Town Centre Area Action Plan

Planning guidance is published within a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment. Public consultation has been carried out in accordance with the Development Management Procedure Order and the council's Statement of Community Involvement.

## **Consultation Replies**

### **Coal Authority**

The site falls within the Coal Authority's defined Development Low Risk Area. No specific comments to make. Coal Authority's Standing Advice is recommended.

### **Community Protection**

No comments/concerns.

### **Environmental Health**

No material comments. Advisory regarding food safety and hygiene.

### **Environmental Protection**

No significant industrial or commercial environmental impacts, or any concerns about air quality or contaminated land that are material planning considerations for this application.

### **Highways**

Support. Condition shall be imposed requiring the new parking spaces to be fully implemented prior to the care home first coming into use and thereafter retained and for a proposed cycle shelter.

### **Housing Standards**

Property is in additional licencing area and may require licensing. Not been able to confirm room sizes as not all dimensions given.

### **Planning Policy**

No objection.

### **Severn Trent Water**

Due to a change in processes, we no longer look at extensions under the planning application process. All extensions are dealt with by Building Regulations, and if an asset is affected by the works, then the applicant will need to contact STW.

### **West Midland Fire Service**

Proposal will need to meet all the functional requirements stated within B5: Access and facilities for the fire service of Approved Document B, 2019 edition incorporating 2020 and 2022 amendments – for use in England.

### **West Midlands Police**

No objection, recommend principles of secure by design.

## **Representations**

At the time of writing this report, eight objections had been received (some from the same person/address) which are summarised as follows (Officer's comments in italics).

- The site is a residential family area and is not appropriate for this type of business (Proposal would retain the residential character of the area and would not affect the built fabric of the area. C2 use is not considered over and above what would be expected by any other residential property in the locality).
- Work on the building ongoing before planning application. This shows that the company who have bought this have zero interest in local residents (This is noted. Extension has been included in the description of development).
- Before the barrier on the car park there were issues with substance abuse and prostitution and therefore nature of the use is in poor taste (Police and Environmental Protection have no objections to the application. Fear of crime is only a material consideration where there is current evidence of such).
- Worried about abuse of parking and insufficient parking for residents (Highways consider the parking provision to be appropriate).
- Proposed use has the potential to de-value properties (Not a material planning consideration).
- Not comfortable with residents with a history of substance abuse and nearby private vehicles. Major security concern (Behaviour of people and safeguarding are outside of planning legislation).
- WHG owns the access road and applicant claims they have access. No consultation with WHG in this regard (Land disputes are a legal issue and are outside the planning legislation).
- WHG object on the basis that the proposals indicate five spaces off the access road which would negatively impact on the amenity of existing customers (Highways have considered the parking to be appropriate).
- Increased traffic impact (Highways have no objections to development subject to conditions).
- Increased noise and activity (No objection raised from Environmental Protection).
- Concern with future security measures to ensure the safety and security of young residents and surrounding community (A condition will be included in



regard to secure by design to ensure the implementation of appropriate security measures).

- Approval will set a precedent for other non-residential uses in the area (The proposed use is considered appropriate, and each planning application is considered on its own merits).
- Fence erected which encroaches onto property and is attached to supporting wall. Worried it will cause damage to property and could cause subsidence due to soil type (Issues with land ownership are a legal issue and are not material planning concerns).
- Proposed plans show land which does not belong to the owner (As above).
- Substantial tall trees and hedges surrounding the property. Application states the opposite (There are no protected trees on site. The extension to the rear is minor and the application is for a change of use).
- Problems in this area due to past mining, necessitating extensive foundations and substantial buttressing to be made when excavating any ground in the vicinity. Should be incorporate into any development work on the property (Coal Authority have no objections).

## Determining Issues

- Principle of development
- Design, layout, and character
- Neighbouring amenity
- Safety and security
- Drainage / Flood risk
- Highways safety / access

## Assessment of the Proposal

### Principle of development

The application site lies within a well-established, built-up urban area with good access to local transport links serving both local and wider areas.

There are no policies in the development plan specifically about children's care homes. Saved UDP policy H6 is about nursing homes and rest homes for the elderly but contains advice about parking and the types of property that will be suitable. Paragraph (b) VIII states that large, detached properties are the most obviously suitable for these uses. Paragraph (b) X states that the Council will take account of the accessibility of a property to local amenities and public transport.

SAD policy HC3 states that the Council will encourage the provision of housing for people with special needs, including single people, the elderly, people with disabilities and any other groups who require specialist accommodation, in locations that would be acceptable for general housing.

The minister of state for housing and planning made a written statement to Parliament on 23<sup>rd</sup> May about planning for accommodation for looked after children:

<https://questions-statements.parliament.uk/written-statements/detail/2023-05-23/hcws795> . This states:

"I ...wish to set out the Government's commitment to support the development of accommodation for looked after children, and its delivery through the planning system.

The planning system should not be a barrier to providing homes for the most vulnerable children in society. When care is the best choice for a child, it is important that the care system provides stable, loving homes close to children's communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love.

Today we use this joint statement to remind Local Planning Authorities that, as set out in paragraph 62 of the National Planning Policy Framework, local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions.

Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country. It is important that prospective applicants talk to local planning authorities about whether their service is needed in that locality, using the location assessment (a regulatory requirement and part of the Ofsted registration process set out in paragraph 15.1 of the Guide to the Children's Homes Regulations) to demonstrate this."

This is a detached dwelling close to Walsall town centre. As such, it would appear to be a suitable location for this type of use.

Paragraph 135 of the National Planning Policy Framework 2023 states that:

135. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming, and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The proposal accords with paragraph 135 in that it would retain the residential character of the area, would not impact on the built fabric of the area, and would provide for inclusive and accessible housing for vulnerable people.

The subject property is a large, detached house. Whilst it is not directly in a centre, it is approximately 0.6 miles from Walsall town centre and is therefore considered a sustainable location. It is considered there is the potential for the proposed use to give rise to noise disturbance. This would be mostly consolidated to the external areas such as private amenity space. Notwithstanding this, it is considered that the number of children proposed to be resident would be no different to the number in a



single-family household. The application can therefore be supported on planning policy grounds.

As such, subject to the wider considerations within this report, the works are deemed acceptable in principle.

## **Design, layout, and character**

The application proposes a single storey rear extension which will form an additional bedroom. There will be a walkway linking the extension to the dwelling and the corridor would have skylights and there is a new door and fenestration proposed to the extension. The extension is of an appropriate scale in comparison to the dwelling and is a minor addition to this large dwelling.

There are also minor internal changes proposed to facilitate the change of use to a children's home.

The change of use from residential to another residential use, in this residential area is considered compatible.

The subject property would continue to have the appearance of a dwellinghouse and a safeguarding condition preventing any external advertisements to the property will be attached to any permission granted to retain this residential character.

As such, subject to conditions, the works are deemed acceptable in respect of design and visual impacts.

## **Neighbouring amenity**

The neighbouring properties are residential. The existing building is a detached dwelling and would continue to be used for residential living accommodation with the same level of amenity and similar relationship to neighbouring houses as is already the case. The level of noise is anticipated to be no greater than would be expected than any other residential property in the locality.

Environmental Protection and Environmental Health have no objections to the proposed change of use.

No evidence has been provided to demonstrate that there would be any safety issues as a result of this proposal, nor any reasonable fear of crime as a result.

Housing Standards have questioned the room dimensions, however there are no minimum requirements for C2 care homes.

It is always necessary for developments to take into account the residential amenity of neighbours and impact on the environment. In this case, the proposal complies with the principles of good neighbourliness and the protection of existing residential amenities.

As such, the proposal would not likely lead to any materially harmful impact on residential amenity by way of loss of light, loss of outlook, loss of privacy or overbearing impacts.

## **Safety and security**

Whilst the fear of crime is a material consideration in planning decisions, the weight that can be given, is dependent on whether there is significant evidence to show that the increased fear of crime would actually occur in relation to this specific proposal and the specific future occupiers.

The police have no objections to the proposal. A condition will be included to ensure that the proposal meets safety and security requirements for residents and surrounding occupiers.

The behaviour of people in the street and safeguarding are all matters outside the scope of the planning legislation to consider.

## **Drainage / Flood risk**

No concerns are raised in respect of drainage / flood risk. The works would not increase the level of flood risk vulnerability.

As such, the works are deemed acceptable in respect of drainage / flood risk.

## **Highways safety / Access**

Vehicular access to the site is achieved via Holtshill Lane.

The site is positioned on the edge of Walsall Town Centre and as such is located within a sustainable location with a variety of local amenities and sustainable transport links accessible within a short distance of the site.

The development proposals will include 5no. car parking space. Walsall Unitary Development Plan (UDP) Policy T13 requires 1 car parking space per 3 beds. 3 bedrooms / 3 = 1 car parking space. The Highway Authority accepts the car parking provision.

Appropriate cycle parking needs to be provided and should be located within a secure and sheltered location; this can be secured by a condition.

In line with the comments from the Local Highway Authority it is considered that 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 December 2023 paragraph 115.

The proposal is therefore supported from a highways perspective subject to conditions requiring the consolidation of the parking area and full details of a proposed cycle shelter.

## **Conclusions and Reason for Decision**

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, it is considered that the proposal would be an acceptable use of this previously developed site within an existing residential area.

## **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.

# Recommendation

Planning Committee resolve to delegate to the Head of Planning & Building Control to grant planning permission subject to conditions and subject to:

- The amendment and finalising of conditions.

## 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:

- 3101 REV 01- Existing Ground Floor Plan- rec 19/02/2024
- 3201 REV 01- Proposed Ground Floor Plan- rec 19/02/2024
- 3401 REV 01- Existing Elevations- rec 26/03/2024
- 3402 REV 01- Proposed Elevations- rec 26/03/2024
- 3002 REV 02- Existing Site Plan- rec 21/05/2024
- 3001 REV 02- Location Plan- rec 21/05/2024
- Planning, Design and Access Statement- rec 19/02/2024
- 3003 REV 02- Proposed Site Plan- rec 21/05/2024

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).

3a: Prior to occupation of the site, the frontage parking area shall be fully consolidated, hard surfaced and drained so that surface water run-off from the area does not discharge onto the highway or into any highway drain, full details of which shall be submitted to and approved in writing by the Local Planning Authority.

3b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the parking spaces shall thereafter be retained for the purposes of parking vehicles and for no other purpose for the lifetime of the development.

Reason: In accordance with the requirements of saved Unitary Development Plan policies GP2, T7, T13 and ENV40 and in the interest of highway safety.

4a: Prior to the occupation of the development hereby permitted, details of a secure, covered and illuminated cycle shelter, shall be submitted in writing to and approved in writing by the Local Planning Authority.

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 and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with the Black Country Core Strategy Policy TRAN4.

5: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details of a residential care home for up to a maximum of up to three children and for no other purpose (including any other purpose in Schedule 1, Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To control the level of parking demand and vehicle movements at the property in accordance with UDP Policy T7 and T13 and in the interests of highway safety.

6: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and there shall at no time be any advertisement(s) displayed to the frontage of the property.

Reason: In the interests of maintaining the character of the area in accordance with saved UDP policy GP2.

7. Notwithstanding the information shown on submitted plans, the development hereby permitted shall not be carried out otherwise than to meet the following minimum-security measures and thereafter the security measures shall be retained for the lifetime of the development;

- All external doors to be PAS24; 2022
- All ground floor windows and over accessible roofs to be PAS24; 2022
- All ground floor windows and over accessible roofs including French doors and patio doors to have not less than one pane of 6.4mm laminated glass.
- Dusk until dawn lights (white light source) to be installed adjacent to each door including either side of garage doors

Reason: To ensure the safety and security of the development and its occupiers, given the isolated nature of the development in compliance with NPPF 12 and saved policy ENV32 of Walsall's Unitary Development Plan.

## Notes for Applicant

1: Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse available as an alternative, other sustainable methods should also be explored. If these are found unsuitable satisfactory evidence will need to be submitted before a discharge to the public sewerage system is considered. No surface water to enter the foul or combined water systems by any means.

# Food Safety

There is limited information concerning the kitchen facilities as part of the application. The provision of suitable food preparation facilities is crucial for maintaining good food hygiene. The kitchen must be designed and built to allow for easy cleaning organised/set out to permit hygienic food preparation which promotes, where necessary appropriate allergens control. Floors, walls, and surfaces in contact with food must be in good condition, smooth, hard-wearing, and washable. With an adequate number of suitable food prep/ utensil wash sink(s) and wash hand facilities. Toilet facilities must be available, and they should not lead directly into food areas.

## West Midlands Fire Service

Approved Document B, Volume 2, Buildings other than Dwellings, 2019 edition incorporating 2020 and 2022 amendments – for use in England Requirement B5: Access and facilities for the fire service.

These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

### Requirement

Limits on application Access and facilities for the fire service B5.

(1) The building shall be designed and constructed so as to provide reasonable facilities to assist fire fighters in the protection of life.

(2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.

### Intention

Provisions covering access and facilities for the fire service are to safeguard the health and safety of people in and around the building. Their extent depends on the size and use of the building. Most firefighting is carried out within the building. In the Secretary of State's view, requirement B5 is met by achieving all of the following.

- a. External access enabling fire appliances to be used near the building.
- b. Access into and within the building for firefighting personnel to both:
  - i. search for and rescue people
  - ii. fight fire.
- c. Provision for internal fire facilities for firefighters to complete their tasks.
- d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required. Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult)

### Section 15: Vehicle access

#### Buildings not fitted with fire mains

15.1 For small buildings (up to 2000m<sup>2</sup>, with a top storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

- a. 15% of the perimeter.
- b. Within 45m of every point of the footprint of the building (see Diagram 15.1).

15.2 For all other buildings, provide vehicle access in accordance with Table 15.1.

15.3 Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m (e.g. a 150m elevation would need a minimum of two doors)

#### Buildings fitted with fire mains

15.4 For buildings fitted with dry fire mains, both of the following apply.

- a. Access should be provided for a pumping appliance to within 18m of each fire main inlet connection point. Inlets should be on the face of the building.
- b. The fire main inlet connection point should be visible from the parking position of the appliance, and satisfy paragraph 16.10.

15.5 For buildings fitted with wet fire mains, access for a pumping appliance should comply with both of the following.

- a. Within 18m, and within sight of, an entrance giving access to the fire main.
- b. Within sight of the inlet to replenish the suction tank for the fire main in an emergency.

15.6 Where fire mains are provided in buildings for which Sections 16 and 17 make no provision, vehicle access may be as described in paragraphs 15.4 and 15.5, rather than Table 15.1.

#### Design of access routes and hard-standings

15.7 Access routes and hard-standings should comply with the guidance in Table 15.2. Requirements can only apply to the site of the works. It may not be reasonable to upgrade the route across a site to a small building. The building control body, in consultation with the fire and rescue service, should consider options from doing no work to upgrading certain features, such as sharp bends.

15.8 Where access to an elevation is provided in accordance with Table 15.1, the following requirements should be met, depending on the building height. a. Buildings up to 11m, excluding small buildings (paragraph 15.1): pump appliance access should be provided adjacent to the building for the specified percentage of the total perimeter. b. Buildings over 11m: access routes should comply with the guidance in Diagram 15.2.

15.9 Where access is provided for high reach appliances in accordance with Table 15.1, overhead obstructions (such as cables and branches) should be avoided in the zone shown in Diagram 15.2.

15.10 Dead-end access routes longer than 20m require turning facilities, as in Diagram 15.3. Turning facilities should comply with the guidance in Table 15.2.

#### Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 2, Table 15.2)

#### Dead Ends including cul-de sacs

Dead ends including cul-de sacs should be avoided but where not possible the following should be applied.

The main problem with dead ends and cul-de sacs is access in an emergency and the issue of obstructions such as parking. In these circumstances fire service personnel are committed to approach on foot carrying equipment to deal with the situation. 225 to 250 metres carrying equipment is considered a maximum for efficient fire-fighting operations.

Dead ends/cul-de sacs roadways should be a minimum of 5.5 metres in width.

# Vehicle Access

Dead end/cul de sac access routes must not exceed 180 metres in length unless.

- a) an emergency vehicle access is provided which complies with item 3.8.2, or
- b) the carriageway width is increased to 7.3 metres and complies with the requirements of item 3.8.3. The provision of an emergency vehicle access is preferred to the alternative of increasing the carriage width to 7.3 metres.

## 3.8.2 Emergency Vehicle Access

- a) A suitable means of preventing the use by other vehicles must be provided at the time of construction.
- b) The height of 4.1 metres minimum, width 3.7 metres minimum and the construction of the access road are sufficient to allow the free passage of fire appliances.
- c) Neither end is obstructed by parked cars.
- d) The emergency vehicle access may incorporate a pedestrian route but must not be used by statutory undertakers to accommodate underground services or public sewers.

**End of report**