



Walsall Council

Planning Committee

Monday 30 October 2023 at 5:30pm

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

[Livestream Link](#)

Membership:

Councillor Bird (Chair)
Councillor M. Statham (Vice-Chair)
Councillor B. Bains
Councillor H. Bashir
Councillor P. Bott
Councillor M. Follows
Councillor N. Gandham
Councillor A. Garcha
Councillor A. Harris
Councillor C. Horton
Councillor A. Hussain
Councillor I. Hussain
Councillor K. Hussain
Councillor R. Larden
Councillor R. Martin
Councillor J. Murray
Councillor S. Nasreen
Councillor A. Nawaz
Councillor S. Samra
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
[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:

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

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

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

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

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 5 October 2023

Copy **enclosed** (pp.5-10)

- 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. Sandwell Local Plan – Issues & Options**

Copy **enclosed** (pp.11-17)

- 7. 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.18-87)

- 8. Date of next meeting**

The date of the next meeting will be 30 November 2023.

Planning Committee

Thursday 5 October 2023 at 5.30pm

In the Council Chamber, the Council House, Walsall.

Present:

Councillor M. Bird (Chair)
Councillor M. Statham (Vice-Chair)
Councillor B. Bains
Councillor P. Bott
Councillor M. Follows
Councillor N. Gandham
Councillor A. Garcha
Councillor K. Hussain
Councillor R. Larden
Councillor R. Martin
Councillor S. Nasreen
Councillor A. Nawaz
Councillor S. Samra
Councillor V. Waters

In attendance:

D. Moore	Interim Director – Regeneration and Economy
A. Ives	Head of Planning and Building Control
A. Cook	Regeneration Officer (Trees)
K. Gannon	Development Control and Public Rights of Way Manager
P. Gittins	Principal Planning Officer
K. Knight	Senior Transport Planner
G. Meaton	Team Leader Development Management
I. Rathbone	Principal Environmental Protection Officer
P. Samms	Senior Environmental Protection Officer
N. Gough	Democratic Services Officer
E. Cook	Democratic Services Officer
L. Cook	Assistant Democratic Services Officer

34 Apologies

Apologies for absence were submitted on behalf of Councillors Bashir, Harris, A. Hussain and Murray.

35 Declarations of Interest

Councillor Samra declared an interest in Plans List Item 2.

36 **Deputations and Petitions**

There were no deputations or petitions submitted.

37 **Minutes of previous meeting**

Resolved

That the minutes of the meeting held on 7 September 2023, a copy having previously been circulated to each member of the Committee, be approved and signed by the Chair as a correct record.

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

Exclusion of the Public

There were no items on the agenda to be considered in private session.

39 **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.

The Chairman advised the Committee that Plans List Item 1 – Application 21/1686 Morris Care and Commercial Vehicle repairs, Rollingmill Street - had been withdrawn at the request of the applicant.

40 **Plans List Item 2 – Application 17/1262 – 1 Freer Street & 28 Bridge Street, Walsall, WS1 1QD**

Having declared an interest in the item, Councillor Samra did not participate in discussions of the item as a Member of the Committee. Councillor Samra (hereafter Mr Samra) did address the Committee as a public speaker on the item, responding to questions asked but playing no part in the debate or questioning of officers, in accordance with the regulations for a member of the public addressing the Committee.

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

[Annexed]

The Principal Planning Officer clarified that the recommendation of the officers was to refuse planning permission for the reasons set out in the body of the report. The Chairman explained that a request had been received from the applicant to defer the application to a future meeting. As the application had been previously considered by the Committee and the existing concerns had not been addressed in two years, this request had been refused.

There was one speaker against the application, Mr Suky Samra, and one speaker in support of the application, Mr Paul Clifton. Mr Clifton explained that the issues with the Section 106 agreement were associated with a third party whose property was affected by the application. The applicant had been offered to acquire this land at an inflated price. The internal passageway had always been in the scheme and the applicant had total control over this. Mr Clifton claimed that there were existing flats in neighbouring properties which had not been granted planning permission. Mr Samra stated that the Committee had been misled by the applicant who had falsely claimed ownership of land and rights of access which they did not have. No evidence of how this could be addressed had been received and officers' time had been wasted.

Responding to questions, Mr Clifton explained that it was proposed to use a private waste management provider who would be present for only a few minutes to collect the bins and return them to their storage. The request for deferral had been to provide a report from a waste management provider. Mr Samra advised that he did not know about the purported flats without planning permission and added that these were not part of the application in question and therefore were not relevant for the Committee.

In response to questions, the Principal Planning Officer explained that the internal corridor was 19-metres long from the internal store and approximately 3-metres wide, with steps and carpeting. The Development Control and Public Rights of Way Manager explained that under normal circumstances the bins should be no more than 25- to 30-metres from where they would be collected and that BS5906 recommended no more than 15-metres and 10-metres distances for two- and four-wheeled bins respectively. The Health and Safety Executive also recommended against bins being accessed via steps. Requiring the bins to be placed on the footway was contrary to policy.

Debating the application, Members raised concerns regarding bins being stored internally and accessed inappropriately, as well as the risk of bins being placed for collection on an arterial route immediately adjacent to a bus stop. Members did express support for the principle of the development.

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

Resolved (0 against, 12 in favour)

That Planning Committee delegate to the Head of Planning, Engineering & Transportation to refuse planning permission for the reasons set out in the

officer's report and the supplementary paper, and to finalise the wording of reasons for refusal.

41 Plans List Item 3 – Application 23/0930 – 4 Calthorpe Close, Walsall, WS5 3LT

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

[Annexed]

There were two speakers against the application, Ms Christine Phillips and Councillor Singh Sohal, and two speakers in support of the application, Mr Peter Buturo and Mr Paul Singh.

Ms Phillips explained that the residents of Calthorpe Close were all opposed to the application with concerns regarding increased vehicle movements beyond those of an ordinary residential house and at unsociable hours. Other concerns included the long distance of the property from bus routes and that the application did not comply with the Council's policies H6 and HC6. Councillor Singh Sohal expressed concerns that residents had stopped being listened to and that the application would add a business into the residential street and was not a truly residential property.

Mr Singh said that the applicants had years of experience and understood the needs of its users. Concerns regarding anti-social behaviour and crime were unsubstantiated, parking provision was sufficient and the proposal was policy compliant. Mr Buturo emphasised that the proposed application would be used to house vulnerable children in a homely environment and that concerns regarding the welfare and security of children and the existing community would be addressed through correct management.

Responding to questions, Ms Phillips explained that her understanding of policies H6 and HC6 was that care homes were 'best sited in large, detached houses', which was not the case with this application. The drive could only accommodate three cars and the property was less than 2-feet away from the neighbouring property. The proposed development would lead to increased vehicle usage on the drive with regular comings and goings of staff and other support workers, including at unsociable hours, leading to a loss of amenity for neighbours. Ms Phillips added that the applicants had not engaged with residents prior to submitting their application as they should have done under planning policy. The Chairman explained to Ms Phillips that this was not a policy requirement.

Responding to questions, Mr Singh and Mr Buturo explained that discussions with planners had taken place and that a clear need for quality children's care homes had been identified. The existing facility operated by the applicants in Walsall was a larger property for 16 to 18-year-olds but had the same objective. All children's care homes were regulated by Ofsted to ensure standards were met. Regarding staff shift patterns Mr Buturo explained that shifts typically started at around 8am with some finishing at 3pm and 10pm, however, shift patterns were flexible and must be appropriate for the children residing in the facilities.

Regarding a question regarding sustainability and access to public transport, Ms Phillips explained that the nearest bus stops were located at least a 15-minute walk away via an alleyway, being unsuitable for children and staff, particularly at night-time. Mr Buturo explained that children in care would not be out at night and that they would likely have access to specialist SEN school transport.

There followed a period of questions to officers. The Team Leader Development Management explained that she believed Ms Phillips had been referring to policy HC3 in the 2019 Site Allocations document rather than HC6 and confirmed that the application did comply with policy HC3. The Principal Planning Officer explained that 'adverse impact' was a subjective term however there was no evidence to suggest there would be significant material differences arising from the development nor significant impacts on residents.

Debating the item, some Members expressed that they felt the application would introduce a business onto a residential close and that increased vehicle usage would present an adverse impact on existing residents. They also expressed concerns regarding access to public transport and whether this was a sustainable location in practice. Other Members of the Committee expressed that they felt the proposal represented a policy-compliant development and that concerns regarding shift-patterns and the number of vehicles could easily occur if a large family moved into the property, which would not be subject to any regulation or planning processes. The Chairman clarified that the application must be considered on its own merits and that similar applications considered at recent Planning Committee meetings could have no bearing on the application.

It was **moved** by Councillor Samra and **seconded** by Councillor Gandham that Planning Committee refuse planning permission contrary to the officer's recommendations due to a loss of amenities for existing residents, a lack of appropriateness and not being in a sustainable location. Upon being put to the vote, this was **rejected by 4 in favour, 8 against**

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

Resolved (3 against, 9 in favour)

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

- **No new material considerations**
- **The amendment and finalising of conditions.**
- **No further comments from a statutory consultee raising material planning considerations not previously addressed.**

Upon conclusion of the item, Councillor Bashir left the meeting.

42 **Application to remove 1 protected beech tree at 38, Middleton Road, Streetly, B74 3ES.**

The Chair advised the Committee that there had been a formal request from the applicant to defer the item because the speaker attending on their behalf was unable to do so due to a prior appointment. Members discussed whether to determine the application or defer the item to a future meeting. The Committee had the officer's report before them and as such had all the details required to make a decision. Upon being put to a vote, 3 members were in favour of deferring the item to a future meeting and 10 members were in favour of determining the application. It was agreed to determine the application.

At this point, Councillors Bains, Gandham and Samra left the meeting.

The Regeneration Officer (Trees) presented the report of the Head of Planning and Building Control.

[Annexed]

In response to questions, the Regeneration Officer (Trees) explained that no evidence of damp or damage to the property had been submitted and no apparent damage had been observed by officers on their site visit.

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

Resolved (unanimously)

That Planning Committee refuse consent for the works as specified in the application for the reasons set out in the officer's report.

Termination of meeting

The meeting terminated at 7:26pm

Signed.....

Date.....



PLANNING COMMITTEE

30 October 2023

REPORT OF HEAD OF PLANNING & BUILDING CONTROL

Sandwell Local Plan – Duty to Cooperate

1. PURPOSE OF REPORT

- 1.1 Planning Committee previously resolved to agree a response on the Sandwell Local Plan (Issues and Options Report) and refer that response to Cabinet for endorsement at a meeting on 9 March 2023. The Sandwell Local Plan was formally out for consultation in February and March 2023. Cabinet subsequently endorsed that recommendation at a meeting on 22 March 2023 and our response was sent to Sandwell MBC.
- 1.2 Walsall Council, along with the other Black Country Authorities (BCAs), have been subsequently asked to respond to a letter from Sandwell MBC on the Sandwell Local Plan, sent out on 31 May 23 under Duty to Cooperate, with particular regard to cross-boundary strategic planning matters. The purpose of this report is to agree a response to that letter.

2. RECOMMENDATION

- 2.1 To agree the response as set out in **appendix 1**, and refer it to the Director for Economy, Environment & Communities to submit the response to Sandwell MBC in consultation with the Portfolio Holder for Regeneration.
- 2.2 To grant delegated authority to the Head of Planning & Building Control to make amendments to the response to Sandwell MBC following consultation with the Portfolio Holder for Regeneration as necessary.

3. FINANCIAL IMPLICATIONS

- 3.1 None arising directly from this report.

4. POLICY IMPLICATIONS

- 4.1 Following the decisions of the four Black Country local authorities to cease work on the Black Country Plan (BCP), each authority is now beginning work on their own local plans.
- 4.2 The nature of the Black Country is that the supply of land for housing, employment and other land use requirements overlap between the authorities. Sandwell Borough is physically constrained with very little land available to meet its own needs. As a result, the BCP envisaged some of its supply being provided in neighbouring authority areas, notably in Walsall and Dudley boroughs.
- 4.3 The extent to which the proposed Sandwell Local Plan meets Sandwell's needs will therefore have implications for the needs expected to be met in the Walsall Borough Local Plan.

5. LEGAL IMPLICATIONS

- 5.1 Walsall Council is currently under a legal Duty to Cooperate with neighbouring planning authorities with regards to strategic cross boundary planning matters. Under current planning regulations, the extent of engagement with neighbouring authorities will be tested as part of the examination of both Walsall's and Sandwell's local plans.

6. EQUAL OPPORTUNITY IMPLICATIONS

- 6.1 The Sandwell 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 review is accompanied by a sustainability appraisal and Habitat Regulations assessment which will be updated as the plan is progressed.

8. WARD(S) AFFECTED

- 8.1 All.

9. CONSULTEES

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

10. CONTACT OFFICER

David Holloway – Planning Policy Manager

david.holloway@walsall.gov.uk

11. BACKGROUND PAPERS

All published Documents for the Sandwell Local Plan can be viewed at:

https://www.sandwell.gov.uk/info/200317/planning_policy/4990/sandwell_local_plan

Earlier planning committee report on Sandwell Issues & Options is available [here](#)

Appendix 1

Response from Walsall Council to Sandwell MBC - letter dated 31st May 2023 on the Sandwell Local Plan under Duty to Cooperate

Dear Philippa,

Sandwell Local Plan – Duty to Cooperate

Thank you for your letter of 31 May 2023 which helpfully sets out the timetable for the preparation of the next stages of the Sandwell Local Plan and seeks the views of Walsall Council on a number of related Duty to Cooperate issues. We address these issues in turn below.

The Strategic Issues

We note and confirm that current legislation and guidance requires that the Black Country Authorities (BCAs) have a Duty to Cooperate with each other on strategic matters that cross administrative boundaries. We agree that in a Black Country context, at this stage, the principal strategic issues that affect the preparation of the Sandwell Local Plan remain those set out in the ABCA letter of 26th April - meeting unmet housing needs, meeting unmet employment needs and strategic transport issues. There will of course be issues of more local significance including site specific proposals that will arise through the preparation of the Sandwell Local Plan and the Walsall Borough Local Plan that will require further and ongoing engagement.

There may also be intra Black Country issues that were previously to be dealt with through the BCP. These comprise matters where one or more of the BC authorities contributed to the wider needs of the BC. Examples might include minerals, mineral infrastructure and strategic waste facilities.

Strategic Housing Issues

We note that Sandwell Council will be writing to Shropshire and Lichfield Councils, regarding their submitted Local Plans, asking them to confirm that the housing 'offer' made to the Black Country as a whole remains. We also note that Sandwell Council will be writing to all other authorities where Local Plans have progressed up to Regulation 19 stage and from whom the BCAs anticipate that a potential contribution may arise (South Staffordshire (Reg 19), Stafford (Reg 18), Solihull (examination), Bromsgrove (Reg 18), Telford & Wrekin (Reg 18) and Cannock Chase (Reg 19 approved by Cabinet but not yet consulted on).

We recognise that it is important to understand how any contributions made to the Black Country as a whole can be apportioned between the BCAs in order to give certainty for individual Local Plans to progress. Specifically, given the cessation of work on the Black Country Plan, all the BCAs need to determine the extent of the shortfall between housing need and forecast supply in their area, taking into account contributions from neighbouring areas, in order to progress individual Local Plans

and inform ongoing Duty to Cooperate work. Cessation of the BCP does not alter the needs of the four BC authorities as a whole, nor the total supply within their combined areas.

We recommend that this apportionment is in two stages. Firstly, it is important to understand the extent to which existing and forecast supply can accommodate identified housing needs over the Local Plan period. This stage 1 work will establish the housing shortfall for each of the BCAs.

In the case of Walsall, our likely available housing land supply is uncertain. The supply indicated in the draft BCP, including a large number of dwellings to be allocated on land that is currently in the Green Belt, would approximately meet Walsall's local need to 2039, which was the intended end date of the BCP. However, the requirement to extend the WBLP to 2041 or 2042 as a result of the cessation of the BCP means that our local need has increased, currently by 909 dwellings per additional year according to the standard method. Walsall is therefore unlikely to be able to offer any contribution to meet Sandwell's housing need.

In addition, the proposed changes to the NPPF would, if implemented, mean that Walsall would not be expected to allocate land in the Green Belt to meet its housing need. This would result in a very large housing shortfall.

The next stage should apportion any contributions to the individual BCAs which can evidence a housing shortfall from Stage 1. It is essential that this apportionment approach is evidence based and reflects the likelihood that new homes built in the contributing authority will directly address the needs arising in the receiving authority. This likelihood can be estimated by considering historic patterns of migration between different areas, giving the apportionment figure credibility and a strong degree of certainty. On this basis, we strongly recommend that the level of apportionment is proportionate to the actual functional relationship between the exporting area and the individual BCA where the shortfall arises. The most robust dataset to base this approach on is migration data available on an annual basis from ONS, which is based on a combination of administrative data taken from the National Health Service Central Register, the Patient Register Data System and the Higher Education Statistics Agency.

This data is published over an extended period (2001-19) in the form of net flows – the difference between outflows and inflows. The relationship between the individual BCAs and Shropshire and Lichfield (those areas where Local Plan are the most progressed and where 'offers' have been made on a Black Country basis - 1,500 from Shropshire and 2,000 from Lichfield) is set out in Table 1 below.

Table 1 – net migration flows between the BCAs and Shropshire 2001-19

BCA	Net Movements to Shropshire	Proportion of all BCAs	Net Movements to Lichfield	Proportion of all BCAs
Dudley	2,702	28.7	224	3.4
Sandwell	1,614	17.2	1,208	18.5
Walsall	1,374	14.6	4,710	72.1
Wolverhampton	3,715	39.5	391	6.0
Total	9,405	100.0	6,533	100.0

This data shows that all BCAs are net ‘exporters’ of people to Shropshire and Lichfield. Wolverhampton has the strongest relationship with Shropshire (39.5% of net outflows from the BCAs), whereas Walsall has the strongest relationship with Lichfield (72.1% of net outflows). Using this approach, and subject to the stage 1 exercise, each of the BCAs would receive a proportion of the Shropshire and Lichfield ‘offers’ proportionate to their share of the net outflow figure as set out in Table 2 below.

Table 2 – potential contributions apportioned between BCAs

BCA	Apportionment from Shropshire	Apportionment from Lichfield
Dudley	431	68
Sandwell	258	370
Walsall	219	1,442
Wolverhampton	593	120
Total	1,501*	2,000

- Due to rounding up

It could be argued that migration can only arise when homes are available for households to move to. Past net migration rates therefore may not reflect future rates where an authority increases its housing supply. However, even in areas of high housing growth, new homes only account for a small proportion of the housing supply. If the Black Country met its housing needs in full (76,076 homes between 2020 and 2039), this would equate to a less than 1% annual growth in the total housing stock. Most household moves involve existing homes rather than new build. Use of past migration rates to apportion housing offers from neighbouring authorities therefore provides a robust methodology.

In order to confirm this approach, we recommend that all of the BCAs sign a single Statement of Common Ground confirming the ‘share’ of the overall BCA offer as set out in Table 2, subject to the Stage 1 exercise.

Going forward, we also recommend that this two stage process could be applied to other, less progressed Local Plans where the BCAs are seeking a contribution towards meeting unmet needs. However, in the case of contributions offered to the Greater Birmingham and Black Country Housing Market Area (HMA) as a whole, the approach would need to be widened to cover all authorities in the HMA which can demonstrate a shortfall, including Birmingham.

Strategic Employment Issues

Your letter summarises the current and potential contributions from neighbouring areas to address the shortfall of employment land which arises across the Black Country Functional Economic Area (FEMA). The FEMA corresponding to the geography of the BCAs.

Given the need to establish and plan for needs arising across FEMAs as a whole as set out in the Planning Practise Guidance (PPG), the approach to addressing the shortfall is different to that for housing. Contributions secured through current Statements of Common Ground between the BC FEMA authorities and Shropshire and South Staffordshire Councils have potential to provide some 133.6 ha towards BC FEMA needs, which would reduce the BC FEMA shortfall to 22.4 ha. The BCAs should individually and collectively continue to engage with other neighbouring authorities preparing Local Plans which have a functional relationship with the BC FEMA, to help address the shortfall across the BC FEMA as a whole. The focus for this work will be those areas identified in the EDNA as having strong or moderate relationships with the BC FEMA (Bromsgrove and Tamworth) and other areas which have an evidenced relationship with the BC FEMA (Stafford and Telford & Wrekin). At the same time, the BCAs should continue to maximise all opportunities to accommodate needs arising through the preparation of individual Local Plans. For this reason, it is not considered necessary to apportion the current and potential contributions between the BCAs.

You will be aware that the Economic Development Needs Assessment is being updated in order to provide the most up to date position on forecast employment land demand and supply. This work will confirm the scale of the shortfall that DtC activity should seek to address.

Summary

In summary, the Council welcomes the progress being made with the preparation of the Sandwell Local Plan and the proposed approach towards meeting the Duty to Cooperate. We strongly commend the proposed approach towards the apportionment of housing contributions and that for employment land. As set out above, we also recommend that this approach is formalised through a Statement of Common Ground between the BCAs.

Yours sincerely,

Director for Economy, Environment & Communities

Development Management Planning Committee

Report of Head of Planning and Building Control on 30th October 2023

CONTENTS

Item	Planning Application Number	Planning Application Site Address	Planning Application Proposal	Officer Recommendation
1 (pp.20-48)	23/0613	25 AND 27 LITTLE ASTON ROAD, WALSALL Ward: Aldridge Central And South	PROPOSED DEMOLITION OF 25 & 27 LITTLE ASTON ROAD AND THE ERECTION OF 4 NO. 4 BEDROOM DETACHED DWELLINGS AND 2 NO. THREE BEDROOM BUNGALOWS, ACCESS DRIVEWAY, LANDSCAPING AND ASSOCIATED WORKS.	REFUSE
2 (pp.49-74)	23/0248	LAND TO THE REAR 107 AND 109, LICHFIELD ROAD, BLOXWICH, WALSALL, WS3 3LU Ward: Bloxwich East	DEVELOPMENT OF FOUR, THREE BEDROOM HOUSES AND ASSOCIATED PARKING AND LANDSCAPING (RESUBMISSION OF 22/0011)	REFUSE
3 (pp.75-87)	23/0760	120, FOLEY ROAD WEST, STREETLY, WALSALL, B74 3NS Ward: Streetly	PROPOSED DEMOLITION OF EXISTING GARAGE AND MODERN EXTENSION AT 120 FOLEY ROAD WEST AND THE PROPOSED	REFUSE

			SUBDIVISION OF THE PLOT AND ERECTION OF TWO ADDITIONAL NEW DWELLINGS (PLANNING USE CLASS C3 - RESIDENTIAL DWELLINGS) TO INCLUDE 1 NO. 4 BEDROOM DETACHED TWO STOREY HOUSE AND 1 NO. DETACHED BUNGALOW WITH 2 BEDROOMS AND ASSOCIATED WORKS.	
--	--	--	---	--



Planning Committee

Report of Head of Planning and Building Control on 30 October 2023

Plans List Item Number: 1

Reason for bringing to committee

The application has been called in by Councillor Tim Wilson who supports the proposal, on the grounds that the proposal provides the opportunity for new homes to the benefit of the wider borough and the design of the proposal requires wider consideration.

Application Details

Location: 25 and 27 Little Aston Road, Walsall

Proposal: PROPOSED DEMOLITION OF 25 & 27 LITTLE ASTON ROAD AND THE ERECTION OF 4 NO. 4 BEDROOM DETACHED DWELLINGS AND 2 NO. THREE BEDROOM BUNGALOWS, ACCESS DRIVEWAY, LANDSCAPING AND ASSOCIATED WORKS.

Application Number: 23/0613

Case Officer: Helen Smith

Applicant: Levison Rose Homes Ltd

Ward: Aldridge Central And South

Agent: Vista Planning

Expired Date: 18-Jul-2023

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

Time Extension Expiry: 27-Oct-2023



Crown Copyright and database rights 2022 Ordnance Survey 100019529

Recommendation:

Refuse

Proposal

This planning application seeks consent for the proposed demolition of two residential, detached, dwelling houses no's 25 & 27 Little Aston Road along with the proposed erection of 6 new dwellings. The existing garden land serving no's 25 and 27 would be used for residential development. The proposed dwellings comprise the following:

Plot no's 1, 2, 5 & 6 – 4 bedrooms, 4 parking spaces each.

Plot no. 3 - 3 bedrooms, 2 parking spaces.

Plot no. 4 – 3 bedrooms, 3 parking spaces.

Plot no's 1 and 2 would comprise two detached houses fronting Little Aston Road with twin projecting gables and would be handed. The exterior finish would be in brick and render. Their net floor areas would be 233.6 sq. metres excluding the garage.

Plot no's 3 and 4 would be detached bungalows, faced in brickwork with rendered gables and plot 4 would have an attached garage. Their net floor areas would be 122.3 sq. metres.

Plot no's 5 and 6 would include two detached houses which would be positioned at the southernmost part of the application site. The exterior finish would be brick and render. The position of the proposed dwelling house on plot no. 5 has been revised and this would be positioned forward of the adjacent, proposed dwelling on plot no. 6 to avoid tree root protection zones. Their net floor areas would be 181 sq. metres, respectively.

Private rear amenity space for the proposed 6 dwellings would range from 97 sq. metres to 192 sq. metres.

The submission states that an area of open space to the southwest of plot no. 4 would be set aside to give space to a retained mature tree.

A refuse collection area adjacent to the boundary of the existing 29 Little Aston Road is proposed towards the front of the driveway with refuse and recycling bin storage provided for each dwelling house.

The submission includes a boundary treatment plan which includes a low-level boundary wall fronting Little Aston Road, 1.2 metres high boundary fencing and hedging to the front gardens of plots no's 1 and 2. Boundary treatment to the eastern boundary with 29 Little Aston Road would include a 1.2 metres high close boarded fence to the front boundary element with a 1.8 metres high acoustic fence along the remaining side and rear garden boundaries serving no. 29. Internal site boundaries would be defined by 1.8 metres high close boarded fencing with hedging along the southern site boundaries.

The submission includes a landscape enhancement plan which includes the installation of bat and bird boxes, hedgehog routes, new tree, and landscape planting.

An ungated, access drive is located to the east of the site, and which runs along the side boundary with 29 Little Aston Road and the proposed dwelling on plot no. 1. The access drive would terminate with a turning head. Plans have been amended to include a footpath.

The proposed site density plan states that the proposed dwellings per hectare would be 17.7 dwellings per hectare. Neighbouring streets have densities which range from 5.9 dwellings per hectare (application site) upwards to 13.7 dwellings per hectare (Chaseley Drive).

The application is supported by the following documents:

- Planning Statement
- Arboricultural Impact Assessment
- Habitat Regulation Assessment
- Phase I and II Site Investigation
- Gas Addendum Letter
- Preliminary Ecological Assessment
- Drainage Strategy
- Landscape Enhancement and Biodiversity Enhancement Scheme
- Street Scene
- Site Density Plan
- Covering Letter from Agent dated 10/08/23.
- Preliminary Bat Roost Assessment and Bird Survey

The Planning agent has provided additional information relating to other backland sites in the borough including Seeds Lane and Whetstone Lane where planning appeals were allowed.

Site and Surroundings

The application site is located within a well-established residential area located approximately 450 metres from Aldridge Primary Shopping Area.

Little Aston Road is an adopted classified road (A454), a District Distributor and part of the Key Route Network.

The area is characterised by large, detached houses and bungalows of individual design with a spacious character and mature gardens on the southern side of the road. On the opposite side of Little Aston Road there is mature planting and trees along the boundary with Cooper and Jordan Primary School, a block of three storey apartments and an access drive serving residential properties no's 18 to 22 Little Aston Road.

The application site is an irregular L- shaped plot which has an angled southern boundary and a wider part extending behind the rear garden of 29 Little Aston Road.

The proposed site is bounded by private residential gardens serving properties which front Little Aston Road, Branton Hill Lane, and Hallcroft Way.

The application site is generally flat towards the north and approximately mid-point into the site the land levels fall towards the south and southeast.

The application site has protected trees with a Deodar Cedar (TPO 06/2022) located next to the shared front garden boundary between no's 23 and 25 Little Aston Road. There are groups of protected trees located along the southwestern boundary of the application site.

The boundary of the Aldridge Conservation Area lies to the north of the application site along Little Aston Road.

The site lies within the Cannock Chase Special Area of Conservation (SAC) 15km Zone of Influence. The application site is not within designated Green Belt. The application site is located within Flood Zone 1: Low Probability. As the site is less than 1 hectare the submission of a flood risk assessment is not required in this instance.

The neighbouring properties sharing a boundary with the application site include.

29 & 31 Little Aston Road

These two dwelling houses sit to the east of the application site and have front and rear facing habitable room windows. The side garden boundary of no, 29 would be alongside the proposed access drive.

23 Little Aston Road

This detached house sits to the west of the application site and its rear facing habitable room windows face south.

5, 7, 9, 11 & 15 Branton Hill Lane

These properties are a mix of bungalows and houses, and their rear elevations face west towards the application site. These properties have rear facing habitable room windows.

66, 68, 70, 72 & 74 Hallcroft Way

Hallcroft Way comprises detached bungalows and these dwellings sit to the south-west of the application site. These bungalows have rear facing habitable room windows which face north-east.

Relevant Planning History

25 Little Aston Road

21/1345 - T1 - Pine to fell – Permission granted by planning committee on 02/12/21, decision issued 08/12/21.

12/0238/FL - Two storey front extension with first floor balcony. Two storey side extension, first floor side extension and single storey rear extension – GSC 25/06/12.

10/1175/TR – Fell one pine tree in rear garden – refused permission 11/10/10.

05/0518/OL/E4 - Outline: Change of use from Rear Garden Land to Plot for 3 Bedroomed Detached Dwelling – refused permission 06/05/05 and a subsequent appeal (ref: APP/V4630/A/05/1184341 dated 28/10/05) was dismissed on the following grounds:

- At variance with existing pattern of development.
- Isolated dwelling without direct road frontage.
- Intrusive and uncharacteristic of the area of large gardens within which it would be set.
- Positioned close to boundaries thereby would harm amenities and character of the area.
- Loss of mature trees
- New access would disrupt the street scene.
- Adverse effect on the character and appearance of the surrounding area

29 Little Aston Road

21/0847 – Erection of 5-bedroom detached replacement dwelling – GSC 19/12/21 but not implemented.

23 Little Aston Road

23/0428 – Single storey front and rear extensions – GSC 30/06/23

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

Key provisions of the NPPF relevant in this case:

NPPF 2 – Achieving sustainable development

NPPF 4 – Decision Making

NPPF 6 – Building a strong, competitive economy

NPPF 7 – Ensuring the vitality of town centres

NPPF 8 – Promoting healthy and safe communities

NPPF 9 – Promoting sustainable transport

NPPF 12 – Achieving well-designed places

NPPF 16 – Conserving and enhancing the historic environment

On **planning conditions**, the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act') sets out 9 protected characteristics which should be taken into account in all decision making. Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- EN1: Natural Environment Protection, Management and Enhancement
- EN5: Development in Conservation Areas
- T4: The Highway Network

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

- NE1 – Impact Assessment

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall SPD

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW10 Well Designed Sustainable Buildings

Policy EQ2: Cannock Chase Special Area of Conservation

Historic England Guidance

Good Practice Advice Note 3: The Setting of Heritage Assets (2017)

- Advice Note 12: Statements of Heritage Significance: Analysing Significance in Heritage Assets (2019)

Consultation Replies

Conservation Officer – No objection on heritage grounds however recommend that a planning condition is included in respect of the proposed front boundary treatment.

Ecology Officer – Objection as further bat surveys are required however there are no objections in relation to the proposed Cannock Chase SAC mitigation agreement and the proposed landscaping plan which includes acceptable biodiversity net gain. A planning condition would be required for landscape management for a period of 10 years if the application is approved.

Environmental Protection – No objections subject to conditions in respect of the submission of a Construction Environmental Management Plan and mitigation of vehicular noise impacts to existing properties. The proposed acoustic fencing would require ongoing maintenance commitment.

Fire Officer – No adverse comments

Local Highways Authority – No objections subject to the inclusion of a planning condition requiring a visibility splay in respect of plot no's 1 and 3, hard-surfacing and drainage, installation of a bell mouth entrance and the submission of a construction methodology statement if approved.

Natural England – No adverse comments received in respect of the Cannock Chase SAC Habitat Regulations Assessment.

Police – No objections subject to the implementation of principles of Secured by Design and an informative note can be included for the applicant if approved.

Severn Trent Water – No objections subject to the inclusion of a drainage condition and informative note in respect of public sewers if approved.

Strategic Planning Policy – No objections

Tree Preservation Officer – No objection

Waste Management (Clean and Green) – No objections

Representations

(Local Planning Authority comments are in italics and brackets)

A petition has been submitted with 83 signatories on the following grounds (The same 21 harms have been submitted separately by residents and are included in the separate list of objections below) A number of neighbours have sent the same petition attached to their comments:

- Inappropriate backland development
- Previous appeal dismissed at 25 Little Aston Road for backland development.
- Highway safety
- Drag-out distance for bins.
- No pavement proposed.

- Separation distances not met.
- Loss of security
- Noise
- Odour, flies and germs from bins near houses
- Brownfield sites should be used.
- Pollution from additional vehicles
- Impact on frail and elderly particularly those who fought in WWII (*comment noted but the Local Planning Authority is required to assess the planning applications put before them*)
- Cost of residents installing CCTV to protect rear gardens (*not a material planning consideration*)
- Impact on habitats
- Loss of 200 year old tree that marked out the division of land on land called Mince Pie Piece and loss of a Sycamore tree
- Agent has allegedly treated residents with disrespect (*not a material planning consideration*)
- This planning application has been pre-determined and legal advice has confirmed that the council has failed to show due diligence in this matter by giving permission to fell trees (*no evidence has provided to demonstrate that this is the case for the planning application being considered*)

Two letters of support from no's 25 and 27 Little Aston Road have been received on the following grounds:

- Housing shortage in Walsall.
- Replacement of two outdated houses with energy efficient homes
- Bungalows for older people (*Should planning permission be given, the council cannot require the bungalows are sold to older people as they are just market housing*)
- Short term disruption.
- Some neighbours want the removal of more trees not less.
- Efficient use of land and not over-development.
- Neighbours' will still back onto gardens. (*Not all neighbours with 5 of the 14 neighbours not achieving this*)
- Greater distance to no. 29 Little Aston Road so they will have more light.
- Two replacement houses at the front have a better design than the existing houses which benefit the character of the area.
- Tree roots affecting drains (*no evidence to substantiate this*)
- Other backfill cases in the borough. (*Every application is assessed on its own merits and there may be locations where backland development is appropriate*)
- Retention of trees and bushes supported.
- Addition of bat and bird boxes are positive.
- No overlooking (*This is part of the council's assessment*)
- No negative impact on privacy, amenity or daylight (*This is part of the council's assessment*)
- Sustainable development

Objections have been received from 42 residents on the following grounds:

- Impact on ecology of the site and wider area
- Loss of trees.
- Out of character
- Profiteering (*not a material planning consideration*)
- Will create a precedent (*planning applications are determined on the merits of the individual case without setting a precedent*)
- No swept path provided for fire appliance access. (*West Midlands Fire Service have been consulted*)
- Refuse bins left on Little Aston Road
- Category A trees not TPO'd.
- Backland development
- Previous appeal for backland development dismissed for one house and this would be for a further 4 houses.
- Highway safety
- 3 vehicle exits within 45 metres opening onto Little Aston Road.
- Increased traffic
- Distance of dwellings from refuse collection point for bins
- Lack of a pavement (*amended plans have been received adding a footpath*)
- Separation distance of 24 metres not achieved for all plots.
- Noise and odour from bin collection point
- Loss of green space
- Not previously developed land as defined by the NPPF.
- Noise and pollution from additional vehicles
- Noise from additional garden activity
- Fear of crime
- Impact on wildlife and protected species
- This planning application has been pre-determined and legal advice has confirmed that the council has failed to show due diligence in this matter by giving permission to fell trees (*no evidence has provided to demonstrate that this is the case for the planning application being considered*)
- Loss of privacy
- Overlooking
- Service road next to private house and impact on amenity
- De-valuation of property (*not a material planning consideration in this instance*)
- Brownfield first approach and protect green belt (*the application site is not within designated Green Belt*) .
- Over-development
- Plot sizes out of character with surrounding area
- Loss of habitat
- Street scene different if the new dwelling at no. 29 Little Aston Road is not built.
- Future pressure on tree removal from any new residents
- Lack of regard for health and safety of new owners
- Drive width does not aid legibility.
- Loss of view (*there is no right to a view in planning but there are some rights in respect of visual amenity*)
- Loss of light
- Harm would not outweigh the benefits of the proposed development.
- Chaseley Drive is not a comparable location.

- Twyford Close is not comparable as it was a former factory site.
- Maximum distance for bin drag out of 30m exceeded
- Unsightly bin collection area visible on street
- Odour, flies, and germs from bins near houses
- Misleading statement that there are insufficient brownfield sites to meet future housing needs (*there is a shortage of housing land*).
- Replace the two rear houses with bungalows.
- No visitor parking for plots 3 to 6
- Driveway too narrow and pavement has reduced this width further
- No passing bay on the driveway
- Noise from gates opening and closing (*these have been removed from the proposal*)
- No shading plan and the rear gardens of plots 5 & 6 will be heavily shaded (*there is sufficient information to assess the proposal*).
- Impact on bats from light spillage
- Wildlife habitat assessment should be completed (bat and bird survey provided).
- Personal circumstances of the applicant (*not a material planning consideration*)
- Land opposite is designated as Priority Habitat and is protected for the Willow Tit.
- Disruption during construction
- Bungalows would be houses in the future (*the Local Planning Authority is required to assess the planning application as submitted*)
- Council is being misled regarding the previous intentions to sell the property and the need for tree removal to assist the sale for personal reasons rather than for the clearance of trees to assist the sale of the land for re- development (*not a material planning consideration*).
- Sentimental value of the site to residents (*not a material planning consideration*)
- Developer should be penalised for clearing the site (any evidence of harm to nesting birds could be reported to the Wildlife Crimes Officer by residents)
- MPs refer to amending planning guidance to refuse planning applications where an applicant provides misleading and inaccurate information in a Statement of Community Involvement (*this planning application does not include a Statement of Community Involvement*)
- Proposed garden sizes are uncharacteristic in this area of large gardens.
- Land Registry Title Register provided for 27 Little Aston Road dated 6/2/08
- 6 new properties would encroach on Green Belt (*the application site is not on designated Green Belt Land and Little Aston Road separates the site from Green Belt to the north*)
- Habitats were destroyed before the ecological survey was undertaken.
- Welcome the addition of new bungalows and the site should have 4 bungalows.
- No improvements to the sewer system (*not a material planning consideration*)
- Separation distance to orangery at 9 Branton Hill Lane
- Access road does not meet 2.4 pavement width visibility rule
- Hedge obstructs the highway view and applicant has no access to this
- Plot 6 fails the minimum SPD distance

Determining Issues

- Principle of Development
- Heritage Assessment
- Design, Layout and Character
- Amenity of Existing and Future Occupiers
- Ecology
- Protected Trees
- Cannock Chase Special Area of Conservation
- Ground Conditions
- Asbestos
- Noise
- Air Quality
- Parking and Access
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

The site comprises previously developed land situated in a well-established residential area, within walking distance of shops within Aldridge Primary Shopping Area which is less than 0.5km from the site (as the crow flies).

The proposal will add to the supply of housing and can be supported on strategic planning policy grounds by the NPPF paragraph 60, as well as BCCS (Black Country Core Strategy) policy CSP2.

The latest available figures show that the council does not currently have a 5-year housing land supply, and, in addition, the council failed the Housing Delivery Test published in January 2022 based on low levels of delivery over the last 3 years. This means that the presumption in favour of sustainable development as described in the NPPF paragraph 11d) is in effect.

With respect to the agent's covering letter of 10/8/23, it is considered that the limited number of dwellings proposed in this application will make little impact on Walsall's housing land supply. NPPF paragraph 120(d) is primarily about encouraging the use of previously developed land. As garden land, this site is outside the NPPF definition of previously developed.

Paragraph 71 of the NPPF (2023) states that "Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area."

The proposal will result in backland development of residential gardens in an area that is characterised mainly by houses with large gardens. An argument could be made that the proposal would be contrary to saved UDP (Unitary Development Plan) policy ENV32 and BCCS policy ENV2. The submission states that this proposal is not backland development as two of the proposed plots front onto Little Aston Road. It is considered that as 4 of the 6 dwellings would be located behind the two proposed frontage houses, the proposal is largely backland development and is considered would cause detrimental harm to the character of the local area and to surrounding residents' amenity.

A previous planning appeal for an outline 3-bedroom detached dwellinghouse to the rear of 25 Little Aston Road was dismissed in 2005. This development was considered by the Planning Inspector to have an overbearing effect on neighbouring properties and thereby harming the amenities and character of the area along with it having an intrusive relationship to the existing pattern of development. The current proposal would add 4 backland houses, rather than just one new backland dwelling, to the joint plots of 25 and 27 Little Aston Road and the proposal is not supported for similar reasons to the previously dismissed appeal. The planning agent has stated, they consider this appeal is not a material consideration worth any weight as the current proposal is substantially different. The Local Planning Authority considers the appeal provides an important steer for any future development of the site, especially as the current proposal includes backland housing and utilises the same site.

The Planning agent has provided additional information relating to other backland sites in the borough including Seeds Lane and Whetstone Lane where planning appeals were allowed. Whilst this information is noted the sites and proposals are considered to be different in character to the current proposal and each planning application is assessed on its own merits.

Heritage Assessment

The council's (built) conservation officer has commented that the application site is located on the southern side of Little Aston Road and the site is not within Aldridge Conservation Area but sits within the setting of the Conservation Area. The conservation officer considers that the proposal would have no harm to the setting of the adjacent Aldridge Conservation Area. There are no objections to the proposal on heritage grounds subject to the inclusion of a planning condition in respect of the appearance of the low front wall.

Design, Layout and Character

Whilst the proposal would have a street frontage for two of the proposed dwellings as a result of the demolition of two existing houses it is considered that the proposal is principally backland development regardless of the planning agent's comments. The planning agent has commented, 'the application site has uncharacteristically large

rear gardens, however the introduction of 4 new dwelling on plot no's 3 to 6 would not be out of character with the pattern and density of the surrounding area'.

The NPPF (2023) states that planning decisions should support development that makes efficient use of land, taking into account:

“d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and

e) the importance of securing well-designed, attractive and healthy places.” The southern side of Little Aston Road between no's 1 to 33 (odds) comprises mainly of large, detached houses and bungalows with large private rear gardens with mature planting. To the south of Little Aston Road is Hallcroft Way which consists of detached bungalows with smaller rear gardens. Dwellings to the west of the application site along Branton Hill Lane are a mix of detached bungalows and houses with no's 5 to 15 (odds) sharing rear garden boundaries with the application site. These properties form a triangular pattern of existing development. All neighbouring properties have street frontage access which aids to provide a legible, secure well designed attractive and healthy location.

The proposed four backland plots would create a centrally positioned bank of 4 properties unrelated to this defined pattern of development which without street frontages are considered would not add to the location's legibility, reduces the locations security and does not contribute to a healthy location. Should planning committee consider the development should be approved, they should consider seeking an amended development of no more than 3 houses fronting Little Aston Road, plus the two outer plots stepping down in height to their neighbours and the rear gardens being divided between the 3 proposed houses as this would better integrate into the locality.

The proposal would be viewed in obvious contrast to the adjacent dwellings, appearing crammed into this small piece of land and as a consequence the proposal is considered forms a contrived layout due to the plot shape being out of keeping with the prevailing local character. It would have a poor relationship with the existing adjacent properties within the immediate area, resulting in the disruption of the sense of cohesiveness within the street. The proposal is considered would not make a positive contribution to the street scene of the character of the locality and as a consequence would be considered poor design.

The proposal by virtue of its scale, massing and architectural detail would represent a cramped development of the site which would appear incongruous and unrelated to the surrounding development causing harm to the character and appearance of the area. The proposal is considered fails to respond to local character, reinforce local distinctiveness or reinforce the existing urban pattern of development. The proposal is considered would be out of character with the surrounding pattern of development with plots too small compared to the surrounding pattern.

The proposed separation distances are considered would be much less than would reflect the existing situation or that neighbours are used too or should reasonably expect at this location. Plus, the introduction of noise and activity in the rear garden spaces where people should expect less noise and disturbance, opens the rear gardens of neighbours to public access, giving way to the existing neighbours to suffer from anti-social behaviour and fear of crime. Plus, the proposed rear garden spaces being much less than the prevailing character, has the potential for future occupiers to use the reduced space more intensively which would also be to the detriment of the character of the area.

The NPPF says that decisions should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the, built environment. In this instance, the proposal does not promote or reinforce local distinctiveness and does not integrate new development into the existing built environment. Where this is the case, the NPPF directs councils that permission should be refused for development of poor design that fails to take the opportunities available for improving the character. Policies CPS4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3,6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed and influenced by their context and reinforce locally distinctive elements.

This is further emphasised by the architecture of the proposed new buildings which has minimal reference to the existing buildings in the area. The design of the existing two houses at no's 25 and 27 Little Aston Road are simpler and both houses have cat-slide roofs fronting the street which are not design features incorporated into the proposed two new street frontage dwellings which would have double, two storey gable features, on plot no's 1 and 2. These existing characteristics do not feature in any part of the proposed development either. Furthermore, the existing house at no. 25 has a lower roof height adjacent to the neighbouring bungalow than the proposed replacement dwelling and the proposed height is considered looks over-dominant and jarring adjacent to the bungalow at no. 29 Little Aston Road with little attempt to integrate the new houses with the existing.

The street scene drawing shows the outline of the increased roof height of the proposed new dwelling house at 29 Little Aston Road. As the extant planning permission for this new dwelling has not yet been implemented, or is there any clear evidence at this stage, the replacement house for 29 Little Aston Road will be implemented, then this cannot be taken as mitigation when considering the heights of the proposed two new dwellings fronting Little Aston Road and the council can only consider the current proposal with the street scene as it is today.

On this basis it is considered that the design of the two plots fronting Little Aston Road would be overly dominant because of their excessive height and double fronted gable design features and would have a detrimental impact upon the character of the area.

This design seeks to maximise the potential of the site rather than seeking to integrate into the locality. The proportions of these front two buildings are considered do not relate to their surroundings and their design would over dominate the properties to either side.

Plot's 5 and 6 would be two storey dwellings in a tight location at the rear of the site and would be out of character with the locality as there are bungalows to the south on Hallcroft Way. If planning committee recommends the application be approved, despite the level of harm its likely to bring to the immediate locality, that all of the back-land dwellings should be bungalows without floor space in their roofs plus Permitted Development rights should be removed to convert the loft space to accommodation to aim to reduce some of the harm being created.

The size of the proposed rear gardens to serve the development are considered would be less than the prevailing character of neighbouring gardens and the rear garden serving plot no. 4 has a contrived design. Given the smaller scale of gardens compared the prevailing character, if planning committee were to approve the application, permitted development rights should be removed from all of the development to prevent further harm being created to the locality.

The planning agent has commented that the average density of the immediate area is 13.2 dwellings per hectare (dph) and the application site density is 17.7 dph. Hallcroft Way is 24.5dph and Branton Hill Lane 14.8dph. Whilst this comparison is noted it is considered that the application site has a different character to Hallcroft Way and Branton Hill Lane and there is limited benefit to argue density in this instance.

The bin collection point would appear prominent in the street scene and no details as to how this would be managed have been provided. The planning agent has set this back from the footpath and advises that an enclosure built from high quality materials and planting would reduce the visual impact of this area. It is also disappointing that the applicant does feel it's reasonable that a neighbour of the development should take the harm of the bin store being sighted on their boundary rather than being sighted against the boundary of plot 1, one of the proposed dwellings. Should members conclude the development is supportable, the planning authority recommends the bin store is moved to be adjacent to the boundary of plot 1. This will also allow for the applicant to further reinforce the boundary to number 29 with more planting.

The bin drag distance for future residents, particularly those occupying plot no's 3 to 6 with distances of between 34 metres to 64 metres are considered would be excessive and unacceptable for future residents' amenity. Building Regulations recommend a maximum distance of 30 metres and this proposal would fail to meet this standard although the applicants may look to use a private waste collection service although the submission does not include a waste management strategy along with confirmation that all regulations have been met around distances that residents are expected to carry waste/recycling.

Based on what is set out here, it is considered that the proposal is brings an unacceptable level of harm and is recommended for refusal.

Amenity of Existing and Future Occupiers

Plot no's 5 and 6 would be two storey backland, dwelling houses which are considered would be overbearing by way of height and closeness of relationship on neighbouring plots and would result in there being unacceptable overlooking of neighbouring private rear gardens.

The proposal is considered would introduce noise and activity in the rear garden spaces where people should expect less noise and disturbance, plus opening the existing neighbours rear gardens to public access reducing the quality of the existing neighbours amenity to levels of anti-social behaviour and fear of crime that they should not expect where their gardens were part of a defensible street block, the most secure of the urban forms of development. Notwithstanding the poor backland development being promoted, should planning committee consider the proposal is supportable, it is recommended that boundary treatments to proposed gardens especially those shared with existing dwellings, should be 1.8m high close boarded fencing with at least 0.3m high trellis on top, all with flush outer edges to reduce the opportunity for climbing aids, plus with the trellis helping trace where future unauthorised access may occur. All proposed gates should also be of the same construction, self-closing and locking again designed to minimise any potential climbing aids.

Designing Walsall SPD (Supplementary Planning Document) seeks 24 metres separation between habitable room windows and 13 metres separation between habitable room windows and blank elevations exceeding 3 metres in height for the purposes of providing sufficient privacy, outlook and access to natural light.

Plot's 1 and 2 (houses) would extend rearwards further than the existing two dwellings at 25 and 27 Little Aston Road. 23 Little Aston Road has front and rear facing habitable room windows. The rear elevations of 23 and 29 Little Aston Road and those of plots 1 and 2 would all face south which is considered that this orientation would limit the impacts on existing and future residents existing light. Plot no's 1 and 2 are considered would meet the council's 45-degree code in relation to 23 and 29 Little Aston Road.

Separation distances between habitable room windows in Plot no. 4 (bungalow) and 72 and 74 Hallcroft Way are less than the recommended 24m distance at 20.2 and 21.9 metres respectively. The proposed new dwelling is a bungalow, and it is considered that privacy could be maintained by intervening solid fencing along the shared boundary. Although it is considered there is little scope to allow for some planting to help screen the proposal from the existing Hallcroft dwellings. Should planning committee consider the development is acceptable and wish to approve the development, then permitted development rights should be removed from the whole development given the limited space there is within each plot and to prevent further

substantive harm to the locality.

There would be an 11 metres separation distance between rear habitable room windows in plot's 1 and 2 however the side elevation wall of plot 3, a bungalow, would meet the SPD requirements as the blank side elevation (albeit with a side facing non-habitable room window) would be 2.2 metres which is less than the maximum 3 metres referred to in the SPD.

Plots 5 and 6 (houses), located to the south of the application site would meet the recommended minimum separation distance to habitable room windows in 64, 66 and 68 Hallcroft Way with distances of 28 metres, 28.1 metres and 25.3 metres respectively. Whilst technically, it can be said the development meets the council's minimum standards, the council's design guide does explain, the separation distances can be extended in locations where it reflects the local character. In this instance, greater separation would be expected by existing residents, so the level of harm by introducing two storey houses at this location of the site, would be just as harmful as if they failed to meet the minimum space standards. Should planning committee disagree and consider approving this application, they should also consider swapping plots 5 and 6 for bungalows and as stated elsewhere remove permitted development rights to try to mitigate the level of harm existing occupiers will suffer from including this poor backland development.

The internal site arrangement of the proposed 6 new dwellings would meet the Council's 45-degree code between each of the 6 proposed plots which is considered would provide satisfactory light and outlook for any future occupiers.

The proposed new dwellings would sit to the north of dwellings on Hallcroft Way, and it is considered this orientation would limit the impacts of this development on neighbours existing light.

Plot no's 5 and 6 (houses) would sit to the west of 7 to 11 Branton Hill Lane. There would be a separation distance of 20 metres between the side facing wall of plot 6 dwelling to the rear habitable room window in 9 Branton Hill Lane. This would exceed the recommended 13 metres separation distance referred to in Designing Walsall SPD. The orientation of the new dwelling house would result in some loss of light to the rear garden of 9 Branton Hill Lane during the afternoon however it is considered that whilst this impact would be limited gain, however it is reasonable that Branton Hill residents should expect greater separations distances than is proposed by this development. Consequently, it is considered even with the proposal exceeding the minimum separation distances, in this instance it would be like the proposal had failed to comply with them and therefore creates a level of harm to the existing residents.

The Police have advised that the removal of the gates on the access road would increase access and vulnerability of all rear plots from a security aspect however they have not objected to the proposal subject to the principles of Secured by Design being implemented if approval is granted. If the gates were to remain, it would create a gated community, and this only serves to increase the fear of crime for the immediate

vicinity and makes the development and its immediate neighbours more likely to be targets for criminality. The best way to manage out fear of crime and anti-social behaviour is to start with a better designed proposal that has street frontages for all proposed dwellings.

If the proposal is granted permission, then it is considered that permitted development rights should be removed to protect the amenity of existing and future occupiers. Plus, should the proposal be resolved to be approved, it is recommended that a condition be imposed to add security measures to the proposed dwellings. Unfortunately, that does still leave neighbours vulnerable as the planning application cannot require developments to improve the levels of security of neighbouring dwellings.

Ecology

The submission is supported by a Preliminary Bat Roost Assessment and Bird Survey. The report states that there was no evidence of birds nesting in the buildings however if the planning application is approved the demolition of the buildings and any site clearance must not occur if birds are nesting in the building until the young have fledged. This can be conditioned.

The report advises that there is no evidence of bats using the building of 25 Little Aston Road as a place of shelter however there is evidence of bats using the building of 27 Little Aston Road as a place of shelter.

Consequently, the report advises that emergence surveys of 27 Little Aston Road are needed to determine how often and what species of bats are using the building as a place of shelter and that a licence from Natural England will be required to demolish 27 Little Aston Road if planning permission is granted for the development of the site.

The emergence surveys would need to be completed between May and August 2024.

The submission states that mitigation will need to be provided in the new development for the loss of the roof space roosting for Brown long eared bats by installing an integrated bat box into the gable elevation of one dwelling. A new bat roosting opportunity can be created by installing an integrated bat box into the gable elevation of the other new dwellings, to meet the requirements of the National Planning Policy Framework (2023) and a method of working must be put in place with contractors to ensure that in the event of bats being found they will not be injured.

The council's ecologist has confirmed that roost characterisation surveys will be required to establish the numbers and type of bat roost present and these surveys should be undertaken prior to determination as bats are considered a material consideration for planning.

In addition, the council's ecologist has advised that the presence of a bat roost on this site has legal implications for the council to consider the 'three tests' set out in Conservation of Habitats and Species Regulations 2010, as part of the determination of the application. The three tests under the Habitat Regulations are set out below, together with a summary of the justifications put forward by the applicant.

Test 1: the 'Purpose' Test.

Is the development for the purpose of 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'?

Test 2: the 'No Satisfactory Alternative' Test.

Is there a satisfactory alternative?

Test 3: the 'Maintenance of Favourable Conservation Status' Test.

Will populations of the species be adversely affected?

For the Local Planning authority to address the 'three tests' the applicant will be required to submit the necessary information alongside the survey information.

The planning agent has advised that they consider that the three additional bat surveys could be conditioned if the planning application receives planning permission.

The council's ecologist has advised that attention should be drawn to the information provided within the Bat Conservation Trust Bat Surveys for Professional Ecologists Good Practice Guidelines (4th Edition)

"When presence is established, this should trigger roost characterisation surveys unless sufficient information has already been collected (using robust survey methods with no significant constraints) to inform the impact assessment and design of mitigation measures. Roost characterisation surveys include emergence surveys.

Where survey works is required, it should be designed to answer specific questions, such as:

- Are actual or potential bat roosts present?
- Which bat species use the site for roosting?
- How many bats are these roosts likely to support?
- Where are bat roost access points?
- Where are the bat roosts?
- At what times of the year are bats present? How does change seasonally?
- What types of bat roost are present e.g., day, night, feeding, transitional / occasional, maternity, hibernation, satellite
- What flight lines do the bats use after emerging from the roost?

All this information can then be used to assess the potential impacts of the proposed development activity and design suitable mitigation and monitoring strategies. For example, information on roost characteristics may be required to inform the construction of a like for like replacement roost where the original roost will be lost. This information is essential when applying for planning permission or an EPS licence.”

Currently from the preliminary Bat Roost Assessment and Bird Survey report submitted to support the application, it states the 29 medium sized bat droppings were found within the roof void and during the individual emergence survey, a brown long-eared bat was found to emerge. Therefore, an assessment was made that a brown long-eared day roost was present.

However, the council’s ecologist advises that as part of the good practice guidelines bat droppings should be DNA tested, which has not occurred and only one emergence survey at the end of the season has been undertaken. While the council’s ecologist would agree that presence has been confirmed, sufficient information has not been provided on the numbers and type of roost present.

Without a DNA analysis of the bat dropping, it cannot be confirmed that the droppings are linked to the day roost or whether there are from a different species. There is also the potential that the further survey work undertaken after permission could confirm a separate roost, at this point the Local Planning Authority would not have undertaken their due diligence in respect to the three tests set out in the Conservation of Habitats and Species Regulations 2010. In addition, as bats are a material consideration in planning, Local Planning Authorities do not condition bat surveys to comply with its legal requirement for protected species.

As stated previously, the LPA (Local Planning Authority) would need to have sufficient information, gathered using good practice guidelines, on the type and size of the roost(s) present and the impact and mitigation measures that will be provided to Natural England to obtain a mitigation licence while, also addressing the three tests set out in the Conservation of Habitats and Species Regulations 2010. This would ensure the Walsall had due diligence in only approving an application where it is believed that a Natural England licence would be granted. Therefore, the council’s ecologist has confirmed that roost characterisation surveys and DNA analysis of the dropping would be required before any approval of this application can take place.

The council’s ecologist has commented that the proposals do not include any lighting specifications or lighting. As such this has not been included within their ecologist’s assessment. If the development is to include lighting that details of this should be provided prior to determination to ensure this can be evaluated in respect to impact to light sensitive species.

The council's ecologist has advised that the proposed landscape plans include the use of native species planting and area of habitats outside residential ownership and as such they are satisfied that the development would result in a net gain in biodiversity in accordance with paragraphs 174 and 180 of the National Planning Policy Framework.

The council's ecologist would seek for the landscape plans and maintenance of the site to be secured for 10 years and this could be secured by planning condition if approved, reflective of the government's legislation.

From consultation comments provided by members of the public, it has been raised that clearance works had been undertaken prior to the ecological assessment. As clearance works have been known to reduce ecological importance and remove ecological features this required investigation.

From the investigation, the council's ecologist has advised that it was found that the clearance works was undertaken in February 2022, while the preliminary ecological appraisal was completed in April 2024. Although it is disappointing that clearance was undertaken to this extent, it was noted to be undertaken outside nesting bird season and over a year prior to the ecological survey, which has allowed self-setting trees and vegetation to grow in the interim period. Therefore, although the clearance of the garden is not recommended, it is not seen to have negatively impacted the assessment this time and should the application be recommended for approval, the applicant would still need to provide landscape and biodiversity uplift for the site compared to what it currently is.

Protected Trees

The trees on the application site are an integral part of the verdant character of the area with demonstrable visual public amenity value.

The council's tree officer has advised that most of the previous tree constraints have been removed from the site following consent being given at planning committee to remove a TPO Pine tree on 02 December 2021 and the removal of non-TPO trees on site being undertaken in February 2022.

The council's tree officer has advised that the council made TPO title no. 06/2022 in February 2022 in response to the tree removal, which was confirmed by planning committee in a modified form on 06 October 2022.

As a result, the council's tree officer has confirmed that there are currently 5 TPO trees on site including 1 Silver Birch (T3), 1 Crimson Norway Maple (T4), 1 Cedar (T5) and a group of 2 Silver Birch (G1). Except for the TPO Cedar (T5), which is adjacent, the front boundary of the site the remaining four TPO trees are situated towards the rear boundary shared with properties on Hallcroft Way.

To accommodate the proposed development, the initial submission planned to remove a large significant Sycamore (labelled T2 on the BS 5837 tree survey submitted with the application) which is south of plot 5. Using the BS 5837 categories, the tree survey categorises the tree as 'A', which is a tree of high quality with an estimated life expectancy of at least 40 years.

The council's tree officer has advised that whilst this tree does not benefit from the protection of a TPO, it is considered that its loss will be detrimental to the visual amenity of the area. In addition, plot 5 encroaches within the root protection areas (RPA) of the two TPO Silver Birch trees (G1) and Silver Birch (T3).

As a result of these concerns the planning agent has provided a revised site layout plan re-positioning plot 5 which is now outside the root protection area of the retained Silver Birch trees protected by a Tree Preservation Order. In addition, Category A sycamore labelled T2 is now shown for retention. Consequently, the Council's Tree Officer has removed their initial objections to the proposal and the submission is now considered to be acceptable in arboricultural terms.

Cannock Chase Special Area of Conservation (SAC)

The council's ecologist has advised that from a review of the Habitat Regulations Assessment form completed and submitted by the applicant, and proposed development details, they are in agreement that the development would, in line with advice from Natural England and the evidence base provided by the Cannock Chase SAC partnership, as part of the screening assessment be determined to have a likely significant impact, as a result of recreational pressures, to Cannock Chase SAC.

Therefore, an appropriate assessment would be required and would need to include suitable mitigation measures as agreed by the applicant and the Responsible Authority to avoid and or mitigate for the significant impacts identified, for the application to be approved.

As detailed within the HRA (Habitat Regulations Assessment) form provided, the applicant has agreed to utilise the financial contribute scheme for mitigation with payments going to Cannock Chase SAC partnership to pay for management of the protected site. Should the payment be secured by a unilateral undertaking and Natural England raises no objections regarding the development, the council's ecologist agrees with the conclusion stated in the HRA form on Step 3 Part 2 and have no further objections and concerns in respect of the SAC.

If the proposal receives planning consent, then a payment of £1978.98 plus legal fees will be required to be paid and this would be secured by a unilateral undertaking. The applicant wishes to proceed with this process and understands that if the planning application is refused permission any abortive legal costs are non-refundable. This would be included as a refusal reason if permission is not granted.

Ground Conditions

Environmental Protection Officers have advised that the applicant has undertaken a contaminated land and ground gas investigation, which indicated that there are no significant issues that require addressing.

Asbestos

Environmental Protection advise that existing properties were built and used during a time when asbestos containing materials were commonly used within structures and products. Should planning approval be given, the applicant will need to undertake an asbestos survey prior to any works commencing and if any is identified, then it will need to be removed under the appropriate national legislation and in accordance with relevant health and safety requirements. This can be conditioned if the proposal is approved.

The proposed construction activities, if approved, are considered would have the potential to cause local disturbance and environmental impacts, such as noise, dust, and debris. Consequently, Environmental Protection Officers require the submission of a Construction Environmental Management Plan should the development be resolved to be approved which could be a condition of approval.

Noise

Environmental Protection Officers have advised that as a new site access road is proposed this may lead to vehicular noise impacts upon neighbouring properties, in particular 29 Little Aston Road.

The planning agent has provided a proposed boundary treatment plan which indicates that there would be 1.8 metres high acoustic fencing along the shared eastern site boundary between the proposed access drive and 29 Little Aston Road (excluding alongside the existing front garden boundary with no. 29)

Environmental Protection have confirmed that the installation of proposed acoustic boundary fencing adjacent to 29 Little Aston Road should reduce some of the noise from the proposed access road upon the adjacent residential dwelling house. They have commented that given speeds are likely to be low they consider that vehicle noise levels will be reduced.

Environmental Protection Officers consider that if the planning application is approved a condition should be included requiring the maintenance and upkeep of the boundary fence to ensure that it remains in good condition, and which should ensure that noise mitigation measures will continue to remain in place for the lifetime of the development.

Air Quality

Building Regulations Part S has relevance, and the applicant will be required to install electric vehicle charging points within each of the proposed premises and the applicant should discuss this requirement with their intended Building Control Officer. This can be included as an informative note and each new dwelling would be required to have an electric vehicle charging point.

Parking and Access

The Local Highway Authority (LHA) have advised that Little Aston Road is an adopted classified road (A454), a District Distributor and part of the Key Route Network. UDP Policy T4 looks to strictly control direct frontage access onto the Key Route Network giving priority to traffic movements.

The development looks to utilise the three existing domestic vehicle access points, two to individual plots and one to a proposed shared driveway to serve the four plots to the rear.

An amended plan has been provided which introduces a segregated 1.2 metres wide footpath for pedestrians alongside the proposed access drive which the Local Highway Authority consider is acceptable. They require a planning condition if approved to provide an amended plan which improves the pedestrian inter-visibility splays at plot 1 at the corner of the 1.8 metres high garden fence and the proposed parking space to plot 3.

Further conditions would be required in respect of hard-surfacing and surface water run-off drainage, the installation of a bell mouth type access with radii kerbing and tactile paving, waste management strategy, visibility splay at the access point, the prevention of the installation of access gates and the submission of a construction methodology statement to protect residents' amenity during construction, if approved.

The additional impacts of the proposed development on existing traffic are considered by the Local Highway Authority to be negligible. Adequate parking is provided on each plot to accord with T13 parking policy.

On this basis the Local Highway Authority have advised that they have no objections to the proposal on highway grounds and the inclusion of an informative note for the applicant in respect of keeping the highway free from mud etc. would be required if the proposal is approved.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes 6 new homes (net gain of 4 new dwellings).

The Government has indicated that, for 2021-22, it will award £350 for each affordable dwelling, but the payment for all new homes (including both affordable and others) varies. There is no fixed payment of £1,000 per home: the sum will vary from £0 to an undisclosed figure. Essentially there is a fixed pot of money each year that is divided between all authorities depending on how many homes in total have been completed across the country.

The money is worked out based on performance in previous years (18 months in arrears), so the payment in 2022-23 will be based on the number of homes completed between October 2020 and October 2021.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed development would be poor design and out of character with the surrounding pattern of development with plots too small compared to the surrounding pattern and front elevations overlooking the rears of existing dwellings and the introduction of noise and

activity in the rear garden spaces where people should expect less noise and disturbance, opens the rear gardens of neighbours to public access reducing the existing neighbours to anti-social behaviour and fear of crime, rear garden spaces much less than the prevailing character to the detriment of the character of the area

This proposal is therefore considered to be unacceptable and not in accordance with local and national planning policies and guidance as set out in this report.

Whilst the council does not have a 5-year housing land supply which means that the presumption in favour of sustainable development as described in the NPPF paragraph 11d is in effect. It is considered that the limited number of dwellings proposed in this application will make little impact on Walsall's housing land supply and the harm to the character of the area and neighbours' amenity is not outweighed in this instance. NPPF paragraph 120(d) is primarily about encouraging the use of previously developed land and garden land sits outside the NPPF definition of previously developed land.

The limited benefits of the proposal are considered would not be sufficient to outweigh the harm that has been identified or the resultant development plan conflict. Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Officers have advised the applicant's agent of the council's concerns and in this instance are unable to support the proposal. Pre-application advice was not sought by the developer or their planning agents. It is considered that as an alternative three new dwellings only fronting Little Aston Road may be supported as this would be more reflective of the immediate character of the area and would reinforce local distinctiveness and assist with the new development integrating with the existing urban form and on-site development.

Recommendation

Refuse

Reasons for Refusal

1. The development would provide an unacceptable back-land development with no street frontage for plot no's 3, 4, 5 and 6 that would be out of character with the established pattern of development in the surrounding area. The proposal by virtue of its scale, excessive heights, massing, over-elaborate architectural detail, particularly for plots 1 and 2, and back-land layout is considered would represent a cramped development of the site which would appear incongruous and unrelated to the surrounding development causing harm to the character and appearance of the area. The proposal fails to respond to local character, reinforce local distinctiveness or reinforce the existing urban structure detrimentally impacting on the amenity and character of the locality. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies CPS4, HOU2, ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 of the Walsall Unitary Development Plan and policy DW3 and appendix D of Supplementary Planning Document Designing Walsall.

2. The proposed separation distances are considered would be much less than would reflect the existing situation or that which neighbours are used to or should reasonably expect in this location. The proposed habitable room windows in the front elevations of the proposed dwellings of plot no's 5 and 6 would overlook the private rear gardens of existing dwellings and the proposed back-land dwellings would introduce additional noise and activity in the rear garden spaces where people should expect less noise and disturbance. This proposal opens the rear gardens of neighbours to public access reducing the existing neighbours' defence against anti-social behaviour and serves to increase the fear of crime for existing residents. A combination of the reduced separation distances, overlooking, opening up of rear gardens to public access, creating the potential for anti-social behaviour, increasing the fear of crime all serve to detrimentally impact on the amenity of existing residents and the locality. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies CPS4, HOU2, ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 of the Walsall Unitary Development

Plan and policy DW3 and appendix D of Supplementary Planning Document Designing Walsall.

3. The proposed bin collection point is considered would result in excessive distances for future residents to drag their bins to and its proposed position against the shared site boundary with 29 Little Aston Road is considered to be an unacceptable detrimental impact to the amenities of the existing residents at number 29 from potential noise, odour and visual amenity and should be relocated within the development proposal adjacent to plot 1. No details of future waste management strategy has been provided and the proposal is considered to be contrary to saved UDP policies GP2 and ENV32 and policy ENV3 of the Black Country Core Strategy.

4. The application has failed to provide the required further surveys and DNA evidence in respect of bats, which are a protected species, or the potential impact on their opportunities to roost or the habitat that can support these protected species. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policy ENV23, and the Supplementary Planning Document Conserving Walsall's Natural Environment.

5. The proposed development falls within the 15km zone of influence relating to the Cannock Chase Special Area of Conservation (SAC) and has failed to provide any potential necessary mitigation measures or a mechanism for securing them. This proposal is therefore contrary to the Conservation of Habitats and Species Regulations 2017, Black Country Core Strategy Policies EQ2 (Cannock Chase Special Area of Conservation), CSP3 (Environmental Infrastructure), CSP4 (Place-Making) and ENV1 (Nature Conservation), UDP Saved Policy ENV23 (Nature Conservation), SAD (Site Allocation Document) Policy EN1 (Natural Environment Protection, Management and Enhancement) and the National Planning Policy Framework paragraph 181 (2023).

6. The pedestrian inter-visibility splays at plot 1 with the corner of the adjacent 1.8 metres high garden fence and the proposed parking space to plot 3 are unacceptable on highway safety grounds and the development would therefore be contrary to Walsall's Unitary Development Plan, in particular policy T7 and T13, and BCCS policy TRAN2 and Walsall's SAD policy T4.

END OF OFFICERS REPORT



Planning Committee

Report of Head of Planning and Building Control on 30 October 2023

Plans List Item Number: 2

Reason for bringing to committee

Head of Planning and Building Control requires full consideration by planning committee following committee's earlier consideration and refusal of application 20/1222 and a subsequent delegated refusal of 22/0011 which failed to address previous reasons for refusal.

Application Details

Location: LAND TO THE REAR 107 AND 109, LICHFIELD ROAD, BLOXWICH, WALSALL, WS3 3LU

Proposal: DEVELOPMENT OF FOUR, THREE BEDROOM HOUSES AND ASSOCIATED PARKING AND LANDSCAPING (RESUBMISSION OF 22/0011)

Application Number: 23/0248

Case Officer: Oliver Horne

Applicant: Eric Russell

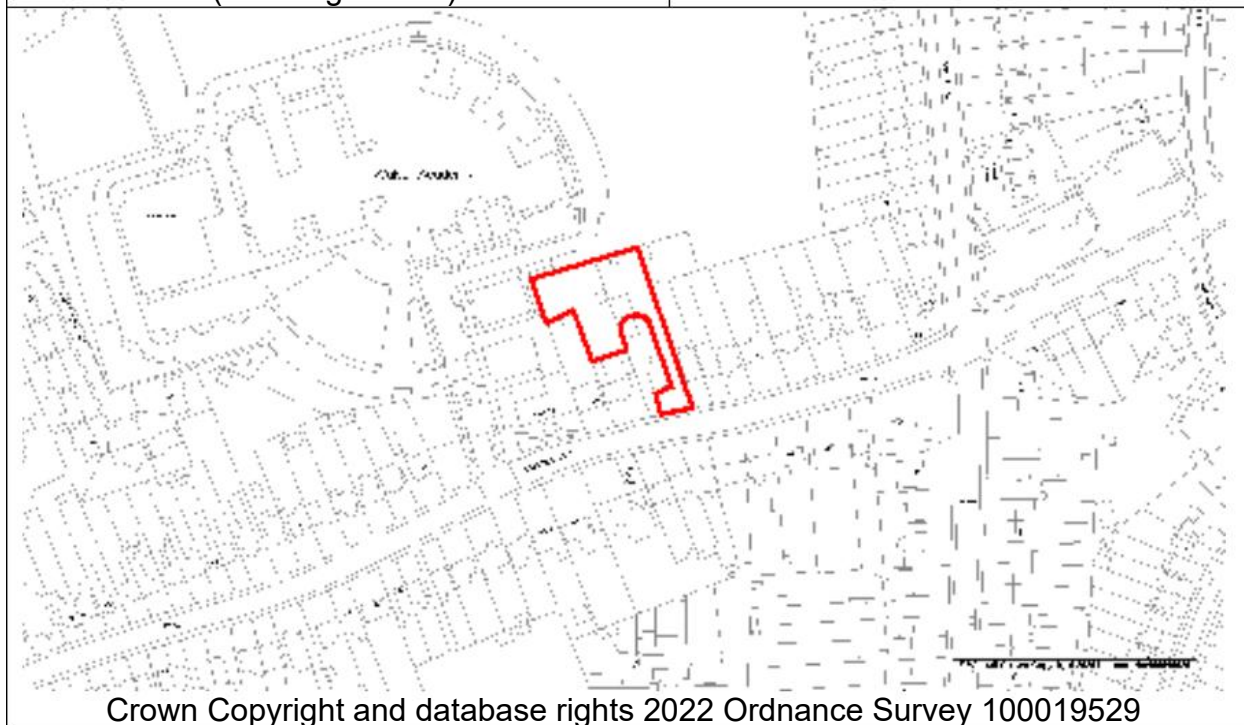
Ward: Bloxwich East

Agent: DCMS

Expired Date: 21-Apr-2023

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

Time Extension Expiry:



Crown Copyright and database rights 2022 Ordnance Survey 100019529

Recommendation:

Refuse

Proposal

This planning application seeks full planning permission for the erection of four dwellinghouses with associated parking and landscaping at land to the rear of 107 and 109 Lichfield Road, Bloxwich. The application is a repeat submission of the previously refused 22/0011 proposal at the site for the erection of four detached dwellinghouses and associated works, refused February 2023. The only change from the previous refusal, is the access to the site would be via a home zone (shared surface) for pedestrians and vehicles.

The 22/0011 application was a repeat submission of the refused application 20/1222 by the 4 November 2021 planning committee (decision issued December 2021), where the only change was to reduce the proposal from the erection of five detached dwellinghouses and associated works to four detached houses.

The current proposal is for four detached dwellinghouses, two-storey and comprising three bedrooms each. The four proposed dwellings are the same design, with no details submitted of the proposed finishing materials. The proposed dwellinghouses are 8.5m (length) x 7.6m (width) x 8.2m (height to roof ridge) x 5m (height to roof eaves). The gross internal floor areas of the proposed dwellings is 110sqm, comprising a living room, dining room, kitchen/breakfast/family room and WC at the ground floor and three bedrooms, a study and bathroom at the first floor.

The proposed site layout includes rear gardens for each new dwelling, of 70sqm (Plots 1, 2 and 3) and 208sqm (Plot 4). Each plot includes two car parking spaces located to the front of the proposed dwellings. An additional five further visitor car parking spaces are included, along with a bin storage area to the rear of 107 Lichfield Road.

The pedestrian and vehicular access serving the site is gained via Lichfield Road utilising the existing driveway for 109 Lichfield Road, located between 109 and 111. The proposals seek to modify the driveway to provide a home zone (shared surface) access for pedestrians and vehicles with a 5.5m width and 54m distance from Lichfield Road to the proposed front elevation of plot 1, the closest dwelling.

The application is supported by the following documents:

- Design and Access Statement.
- Transport Note dated 20/12/2021.

Site and Surroundings

The application site comprises land to the rear of 107 and 109 Lichfield Road in the Bloxwich East Ward. The west side of the site is also located to the rear of 105 Lichfield Road. The site is currently garden land which is in an overgrown state. The overall site area is approximately 1444sqm.

The surrounding area is primarily residential in nature and this section of Lichfield Road is characterised by detached and semi-detached dwellings of various styles and sizes. The established pattern of development comprises a linear built form with a strong consistent building line fronting Lichfield Road with driveways and landscaped areas fronting existing dwellings.

107 Lichfield Road is a large, detached dwelling set back from the highway with a gated access driveway and an area of off-road parking for four vehicles. 109 Lichfield Road is a detached two storey dwelling with a tiled gable end roof.

Millfield's Nursery and Walsall Academy are sited approximately 15m to the north of the application site. The site is not within a conservation nor is it a listed building. The area is a coal development low risk area and is within the Cannock Chase SAC.

Relevant Planning History

Land to the rear of 107-109 Lichfield Road:

22/0011 - Development of four, three-bedroom houses and associated parking and landscaping – Permission Refused 17/02/2023 as the applicant had not addressed any of the previous reasons for refusal.

20/1222 - Development of 5 x 3 bedroom houses and associated parking and landscaping – The 4 November 2021 planning committee resolved to refuse the planning application, stating; *That planning application number 20/1222 be refused on the grounds of the nine reasons as set out in the report, together with additional concerns in relation to provisions of paragraph 187 of the NPPF relating to agents of change to ensure that the school was not disadvantaged by the proposed change of use.* Decision was then issued 03/12/2021.

19/1590 - Erection of 5 x 3-bedroom detached dwellings with associated access, parking and landscaping at land to the rear of 105, 107 and 109 Lichfield Road – Application Withdrawn 21/08/2020.

17/1209 - Erection of 4 x 1-bedroom detached bungalows – Application Withdrawn 03/08/2018.

107 Lichfield Road:

20/0097 - Rebuild and extend existing garage to form garden annex granny flat – Permission Granted 23/03/2020.

06/1439/FL/H1- Two-Storey Side Extension, and Boundary Wall and Gates to Front – Permission Granted 25/09/2006.

06/0493/FL/H1 - Two-storey extension and front boundary wall – Permission Refused 21/06/2006.

02/1278/FL/H1 - First Floor Side Extension – Permission Granted 31/08/2002.

109 Lichfield Road:

No specific planning history.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding & coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

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

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the

ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV17: New Planting
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H1: Renewal of Existing Residential Areas
- T1: Helping People to Get Around
- T7: Car Parking
- T8: Walking
- T9: Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- 3LUENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems & Urban Heat Island
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- EN1: Natural Environment Protection, Management and Enhancement
- EN3: Flood Risk
- T4: The Highway Network
- T5: Highway Improvements

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

- EQ2: Cannock Chase Special Area of Conservation

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

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

Survey standards:

- NE4: Survey Standards

The natural environment and new development:

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

Development with the potential to affect trees, woodlands and hedgerows:

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

Designing Walsall

- DW1: Sustainability
- DW2: Safe and Welcoming Places
- DW3: Character
- DW4: Continuity
- DW5: Ease of Movement
- DW6: Legibility
- DW7: Diversity
- DW8: Adaptability
- DW9: High Quality Public Realm
- DW9(a): Planning Obligations and Qualifying development
- DW10: Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures

- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 – Viability

Consultation Replies

Ecology (*No new comments received, the following comments are from the 22/0011 application as this is a repeat of that earlier application*) – No objections on ecology grounds and advise that the site is within the Cannock Chase SAC 15km zone of influence and mitigation measures are therefore required.

Environmental Protection (*New comments not received, the following comments are from the 22/0011 application*) – No objections, subject to the following conditions:

- For a Desk Study and Site Reconnaissance to be conducted to identify the potential for ground contamination and ground gas.
- Submission prior to development commencing of a Site Investigation, Ground Contamination Survey, Ground Gas Assessment and Remediation Strategy (depending on the findings of the Desk Study and Site Reconnaissance).
- Submission of a Construction Management Plan.
- Installation of electric vehicle charging point and Ultra-Low NOx boilers.

Local Highway Authority the Highway Authority recommend refusal.

The submitted Pell Frischman Transport Note is identical to the one submitted under 22/0011 which was not accepted by the Highway Authority on a number of reasons based around the design of the access road and the access point onto Lichfield Road. The current application and amended site layout is not acceptable to the Highway Authority for the following reasons;

1)The site layout fails to provide the required segregated vehicle free route for residents and visitors of the development and instead implies the access way will be 'Home-zone'. A segregated footway is required to provide a traffic free, fully inclusive route for residents and visitors of the development of at least 1.5 metres width... to minimise conflicts between pedestrians and vehicular traffic along the driveway. The provision of such a footway would significantly reduce the width of the driveway available to vehicles below what would be acceptable to allow two vehicles to pass safely and satisfactorily.

2)The proposed access road/Home-zone is shown at 5.5m in width, where it passes between the building and fence line. The measurement is taken right up to the neighbouring fence boundary and gable end wall of no.109. This leaves absolutely no margin for error for passing vehicles. A 450mm stand-off is required either side (of the access route) to guide drivers away from the boundaries and avoid wing mirror damage. Taking this into account the Local Highway Authority considers it unlikely that two drivers will attempt to pass on the wider section of the Home-zone access road. This is likely to result in drivers that are attempting to enter the access 'giving way' to

oncoming egressing vehicles and hence waiting at the entrance on Lichfield Road. Further, the intensification of the vehicle access serving four additional dwellings is likely to result awkward vehicle reserving movements onto Lichfield Road which is a classified road (A4124) and a strategic highway or vehicles blocking of the highway footway at a sensitive location close to school and nursery where at times there will be relatively high footfall passing by thus causing significant harm to the highway safety of drivers, cyclists and pedestrians.

3)The 2.0m x 43m visibility splay as shown on, Block Plan 2020-109 Sheet 1b is not acceptable to the Local Highway Authority. The setback distance should be 2.4m, which is an industry wide accepted distance and the minimum recommended distance for an access serving multiple dwellings onto a 30mph road as set out in Government guidance Manual for Streets. It is clear the position of the proposed access is unable to achieve the required 2.4m set back due to third party land issues. Likewise, the required 2.4m x 3.4m pedestrian visibility splay, whilst not shown on the revised plan, is also unlikely to be achievable for the same reason. The splays are required to meet (minimum) highway design standards due to the intensification of the access, the proximity of the access to a secondary school and children's nursery entrance and the nature of Lichfield Road being a classified road (A4124) and a strategic highway.

Notwithstanding the submitted supporting transport information, the Local Highway Authority considers the cumulative impacts of the development at this particular location on the highway network will have an unacceptable impact on road and is not acceptable in accordance with the NPPF 2023 paragraph 111.

Natural England – Advise that as the site is within 15km of the Cannock Chase Special Area of Conservation (SAC), a Habitats Regulation Assessment is required and Natural England should be reconsulted once this is received and when the application progresses to an Appropriate Assessment.

Severn Trent Water (*No new comments not received, the following comments are from the 22/0011 application as this is a repeat of that earlier application*) – No objections and no conditions required.

The Coal Authority – No objections and no conditions required.

West Midlands Fire Service – No objections and provide general guidance in relation to fire safety measures for the proposal, stating that failure to meet these requirements may result in an objection and an unsatisfactory proposal.

Representations

Three letters of objection were received, based on the following grounds:

- The new application has not been changed from the previous proposal and all the same refusal reasons should remain.
- The proposed dwellings will overlook the playground of the neighbouring nursery school and the classrooms and social areas of the school. The overlooking of the nursery/school spaces raises concerns regarding safeguarding of children at the site.
- Trees at the site have already been removed by the applicant and there is no screening of the nursery/school from the application site.
- The access road is too narrow to enable vehicles to enter or exist safely.
- The proposal will result in highways and pedestrians' safety issues due to the increase in vehicles crossing the pavement in close proximity to the school's access off Lichfield Road where there is a very high number of pedestrian movements.

Determining Issues

- Principle of Development - Backland Development
- Highways Safety
- Visibility Splay
- Refuse Collection
- Impact on Neighbour Amenity
- Impact on Walsall Academy and Nursery School
- Ground Conditions and Environment
- Flood-risk and Drainage
- Ecology and Trees
- Cannock Chase Special Area of Conservation
- Local Finance Considerations
- Five-Year Housing Land Supply
- Section 70a power to decline planning applications.

Assessment of the Proposal

The current planning application is a repeat of previous planning application, 22/0011 at this site, [Development of four, three-bedroom houses and associated parking and landscaping] which was refused by the 4 November 2021 planning committee for the following reasons:

1. The application fails to provide the necessary Cannock Chase Special Area of Conservation (SAC) mitigation. The proposed development falls within the 15km zone of influence relating to the Cannock Chase SAC and has failed to provide any information in relation to likely impacts on the SAC arising from the proposed addition of 4 dwellings and has failed to provide any potential necessary mitigation measures or a mechanism for securing them. The application is therefore contrary to the Conservation of Habitats and Species

2. Regulations 2017, Policies CSP3 (Environmental Infrastructure), CSP4 (Place-Making) and ENV1 (Nature Conservation) of the Black Country Core Strategy, Saved Policy ENV23 (Nature Conservation and new development) of the Walsall Unitary Development Plan, Policy EN1 (Natural Environment Protection, Management and Enhancement) of the Walsall Site Allocation Document and the NPPF.
3. This proposal represents inappropriate backland development which would cause harm to the character and amenity of the local area, would erode the spatial characteristics of the existing site and would be poorly related to its surroundings in terms of design, density and layout, contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) and HOU2 (Housing Density, Type and Accessibility) of the Black Country Core Strategy, SAD Policy HC2 (Development of Other Land for Housing), DW3 (Character), DW4 (continuity) and DW6 (Legibility) of the Designing Walsall Supplementary Planning Document and section 12 of the National Planning Policy Framework (Achieving well-designed places).
4. The private shared driveway as shown on Block Plan 2020-109 Sheet 1, fails to include a segregated footway required to provide a traffic free, fully inclusive route for residents and visitors of the development of at least 1.5 metres width in order to minimise conflicts between pedestrians and vehicular traffic along the driveway. The provision of such a footway would significantly reduce the width of the driveway available to vehicles below what would be acceptable to allow two vehicles to pass safely and satisfactorily and is therefore contrary to saved policies GP2 (Environmental Protection), T10 (Accessibility Standards – General), TRAN2 (Managing Transport Impacts of New Development) of the Black Country Core Strategy and the NPPF 2021 para 112.
5. The 2.0m x 43m visibility splay as shown on Block Plan 2020-109 Sheet 1, is not acceptable to the Highway Authority. The setback distance should be 2.4m, which is an industry wide accepted distance and the minimum recommended distance for an access serving multiple dwellings onto a 30mph road as set out in Government guidance Manual for Streets 2. It is clear the position of the proposed access is unable to achieve the required 2.4m set back due to third party land issues. Likewise, the required 2.4m x 3.4m pedestrian visibility splay, whilst not shown on the revised plan, is also unlikely to be achievable for the same reason. The splays are required to meet highway design standards due to the intensification of the access, the proximity of the access to a secondary school and nursery entrance and the nature of Lichfield Road being a classified road (A4124) and a strategic highway. The proposal is therefore contrary to the NPPF, Saved UDP Policy GP2 (Environmental Protection), SAD Policy T4 (The Highway Network), DfT Manual for Streets guidance and to the detriment of highway safety.
6. A refuse collection vehicle (RCV) would not reverse off this section of Lichfield Road; the access is tight and therefore there is a very high probability that drivers may have to shunt in and out for positioning leaving them exposed to the traffic on the main road and in a vulnerable position for longer than could be justified in a risk assessment. Further, there is a lack of space in the site and Block Plan 2020-109 Sheet 1 shows the RCV route leaves no margin for error and would take absolute precision which could not be expected of drivers.

As such, the likelihood of causing damage due to this is too high to be acceptable. No alternative waste collections arrangements have been provided and is therefore contrary to the NPPF and the Unitary Development Plan, in particular policies GP2 (Environmental Protection), ENV32 (Design and Development of Proposals) and SAD Policy T4 (The Highway Network).

7. Plot 4 would introduce habitable room windows at ground and first floor which would introduce a direct form of overlooking to the rear amenity space serving No.105 Lichfield Road. Furthermore, the provision of the turning head and vehicle parking directly adjacent the rear garden of No.105 would also introduce an unacceptable level of additional noise and disturbance from vehicle movement, doors closing, and people congregating resulting in significant additional overlooking, loss of privacy and noise and disturbance to the detriment of this neighbour's amenity. The proposal is contrary to Saved UDP Policy GP2 (Environmental Protection) and the NPPF.
8. The proposed main access directly adjacent No.113 would also introduce an unacceptable level of vehicle movement which would result in an unacceptable level of additional noise and disturbance to the rear garden amenity area serving this neighbour, and increased light pollution, particularly to ground floor habitable windows in the front elevation. The proposal is contrary to Saved UDP Policy GP2 (Environmental Protection) and the NPPF.
9. The proposed development would not integrate effectively with the nearby school Walsall Academy and nursery Millfield's Nursery School, and it is considered that these existing facilities could have the potential to have unreasonable restrictions placed on them as a result of development permitted after they were established. The proposal is therefore contrary to paragraph 187 of the NPPF

This submission is an identical proposal to the previous refusal only amending the access to the site describing it as a home zone (shared surface) for pedestrian and vehicular access. The issue of shared surfaces was debated at length by the 4 November 2021 planning committee that then subsequently resolved to refuse planning application 20/1222.

The Local Planning Authority refused application 22/0011, on the 17th Feb 2023 as the applicant had not addressed any of the previous reasons for refusal that had been considered by the 4 November 2021 planning committee for application 20/1222. The local planning authority considers that, the current planning application, there has been no significant attempt change to the proposed development to address any of the previous reasons for refusal set out in both planning application decisions of 22/0011 or 20/1222, consequently, this planning application is also recommended for refusal as the applicant has not overcome the previous reasons for refusal.

Principle of Development - Backland Development

This current proposal still represents inappropriate backland development which would cause harm to the character and amenity of the local area, would erode the spatial characteristics of the existing site and would be poorly related to its surroundings in terms of design, density and layout.

The current application site has the same red line boundary as the previously refused applications 20/1222 and 22/0011, still proposes a poor back-land style development utilising parts of the rear gardens of 107-109 Lichfield Road. The only real change in this fourth iteration of the proposed scheme in comparison to the first (19/1590) is plot 5 of the proposed site layout was removed for 20/1222 application, with the current proposal being virtually identical to the refused applications 20/1222 and 22/0011 save the access way now gaining the words 'home zone' and losing any footway. The rest of the proposal is exactly the same as previously proposed and refused, with their front elevations facing the rear gardens of 105, 107 and 109 Lichfield Road to the South and their rear elevations facing the Walsall Academy and Nursery School site to the North.

Whilst the removal of Plot 5 was acknowledged in both the determination of 20/1222 and 22/0011, they did not overcome the previous reasons for refusal and the current application has not addressed any of the previous reasons for refusal including those debated and resolved by the 4 November 2021 planning committee to refuse the 20/1222. The proposed development is still forms a poor back-land style of development of garden land, which is considered to be contrary to the characteristics of the local area, which primarily features detached/semi-detached dwellinghouses with large rear gardens, set within a strong building line fronting Lichfield Road. Whilst the existing dwellings at 107-109 Lichfield Road would be retained, this repeat proposal introduces a tandem style of development where the new dwellings would be sited to the rear of the Lichfield Road frontage properties, entirely disconnected from the established street frontage, overlooking the rears of the Lichfield Road properties and failing to tie into the existing established pattern of development in the area. The removal of Plot 5 for the 20/1222 refused application made no difference to the overall impact of the scheme, or the impact to the character and appearance of the area, with the current repeated proposal still relating poorly to its surroundings, resulting in an erosion to the spatial characteristics of the local area and not addressing any of the previous reasons for refusal.

In summary, whilst the council does recognise the need for new housing, the application has not overcome previous reason for refusal 2 of 22/0011 or refusal reason 1 of 20/1222 and the current proposal is still considered to be an unacceptable and poorly related back-land development which detrimentally impacts on the character of the local area and is contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) and HOU2 (Housing Density, Type and Accessibility) of the Black Country Core Strategy, SAD Policy HC2 (Development of Other Land for Housing), DW3 (Character), DW4 (continuity) and DW6 (Legibility) of the Designing Walsall Supplementary Planning Document and section 12 of the National Planning Policy Framework (Achieving well-designed places).

Highways Safety

This application is a repeat of the refused application 22/0011 and the previously refused applications 20/1222 and 19/1590 which included highway safety reasons for refusal. The current application only attempted to address the previous highway reasons for refusal by changing the access to a 'home zone' (a shared surface with no separate pedestrian route). The 4 November 2021 planning committee debated shared surfaces (home zones) before resolving to refuse 20/1222. The applicant's subsequent applications 22/0011 and 23/0248 the current application are still essentially repeats of the 20/1222 refusal. The Local Highway Department were consulted regarding this current application, providing detailed comments dated 22nd August 2023, which are repeated below:

"The current application and amended site layout is not acceptable to the Highway Authority for the following reasons;

1. *The site layout fails to provide the required segregated vehicle free route for residents and visitors of the development and instead implies the access way will be 'Home-zone'. The segregated footway is required to provide a traffic free, fully inclusive route for residents and visitors of the development of at least 1.5 metres width in order to minimise conflicts between pedestrians and vehicular traffic along the driveway. The provision of such a footway would significantly reduce the width of the driveway available to vehicles below what would be acceptable to allow two vehicles to pass safely and satisfactorily and is therefore contrary to saved policies GP2 (Environmental Protection), T4, T10 (Accessibility Standards – General), TRAN2 (Managing Transport Impacts of New Development) of the Black Country Core Strategy and the NPPF 2023 para 112.*

2. *The proposed access road/Home-zone is shown at 5.5m in width, where it passes between the building and fence line. The measurement is taken right up to the neighbouring fence boundary and gable end wall of no.109. This leaves absolutely no margin for error for passing vehicles. A 450mm stand-off is required either side to guide drivers away from the boundaries and avoid wing mirror damage. Taking this into account the Highway Authority considered unlikely that two drivers will attempt to pass on the wider section of the Home-zone access road. This is likely to result in drivers that are attempting enter the access 'giving way' to oncoming egressing vehicles and hence waiting at the entrance on Lichfield Road. Further, the intensification of the vehicle access serving four additional dwellings is likely to result awkward vehicle reserving movements onto Lichfield Road which is a classified road (A4124) and a strategic highway or vehicles blocking of the highway footway at a sensitive location close to school and nursery where at times there will be relatively high footfall passing by thus causing significant harm to the highway safety of drivers, cyclists and pedestrians contrary to saved policies GP2, T4, T10, General TRAN2 of the Black Country Core Strategy.*

3. The 2.0m x 43m visibility splay as shown on, Block Plan 2020-109 Sheet 1b is not acceptable to the Highway Authority. The setback distance should be 2.4m, which is an industry wide accepted distance and the minimum recommended distance for an access serving multiple dwellings onto a 30mph road as set out in Government guidance Manual for Streets. It is clear the position of the proposed access is unable to achieve the required 2.4m set back due to third party land issues. Likewise, the required 2.4m x 3.4m pedestrian visibility splay, whilst not shown on the revised plan, is also unlikely to be achievable for the same reason. The splays are required to meet highway design standards due to the intensification of the access, the proximity of the access to a secondary school and nursery entrance and the nature of Lichfield Road being a classified road (A4124) and a strategic highway. The proposal is therefore contrary to the NPPF, Saved UDP Policy GP2, SAD Policy T4, DfT Manual for Streets guidance.

TRANSPORT STATEMENT 24-02-23

The applicant has submitted a Transport Note to support the current application. This is identical to the Transport Note submitted under the previous application 22/0011.

The Highway Authority disagrees with the submission on a number of points below;

2.4 'The site will be accessed via a 5.3m wide driveway...' Block Plan 2020-109 Sheet 1 shows the access at 5.5m. Which is correct?

'It is important in this regard that the correct terminology be used. In previous applications, the LHA have referred to an 'access road'. Whilst this is not technically incorrect, it suggests a greater form and function than is the case. The previous application consisted of a carriageway and segregated footway serving five houses. To all intents and purposes, as far as the Highway Authority is concerned, it is a 'road' albeit privately maintained but also accepts the term 'Driveway' in this scenario.

2.5 to 2.7 - References to Warrington Council Design Guide are considered irrelevant in this instance.

2.8 to 2:10 - The examples given of the extensive use of shared space driveways on the Millers Walk Estate are of designs approved over 20 years ago and are not considered relevant to meet current fully inclusive design standards. The Highway Authority does not dispute that Shared Private Driveways are commonplace, but they were assessed under previous design guidance and there are ongoing concerns around the use of Shared Space designs for disabled users and, in particular, those with visual impairments. As far as Walsall Highways are concerned these concerns have not yet been satisfactorily addressed. Walsall Highways want to ensure all developments where-ever possible are of a fully inclusive design as part of its duties under the Equalities Act 2010.

3.7. *The existing accesses to neighbouring dwellings are historic. The development looks to utilise the existing access to form a driveway to four additional dwellings. It is not considered unreasonable to expect visibility to be improved when considering new developments with current design guidance. (The planning authority confirms, we are required to determine current applications using current legislation, policies and guidance)*

3.12 *The Highway Authority disputes this is a 'slow speed' environment. Lichfield Road is a 30 mph, as stated in 2.2 above. It is classified road and carries relatively high levels of strategic and local traffic. The Highway Authority considers the use of a 2.0m x distance appropriate in traffic calmed, residential locations which cannot be said of the site location.*

MfS2 para 10.5.8 goes on to state that 2.0m will mean some vehicles protruding into the highway (the footway). Taking into account the relatively high level of pedestrian movements at this location at times, being close to the main Academy entrance, this is considered unacceptable.

Para 10.5.6 of MfS2 states that an X distance of 2.4m should normally be used in most built –up areas as this represents a reasonable maximum distance between the driver's eye and the front of the car.

4.0 *Walsall Highways use a pedestrian visibility splay measuring 2.4m (x) by 3.4m (y). This is so that emerging drivers are able to see approaching pedestrians before manoeuvring out over highway footway and vice-versa. The proposed development has failed to demonstrate that this can be achieved at the site access within the red line boundary. At times, the location has relatively high levels of passing pedestrian movements being close to the main Academy entrance and so the Highway Authority considers this extremely important safety requirement.*

5.1 *This would appear to be incorrect. The previous planning scheme submitted under drawing Block Plan REV 1E of the 1st November 2021 shows the driveway had an initial width of 4.8m narrowing to about 3.4m for a 20m section. This was to enable a segregated pedestrian route alongside the driveway. 5.3 metres was not available along the driveway for vehicular traffic.*

Para 112 of the NPPF 2023 is quite specific in that applications for development should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

d) allow for the efficient delivery of goods, and access by service and emergency vehicles.

Notwithstanding the submitted supporting transport information, the Highway Authority considers the cumulative impacts of the development at this particular location on the highway network will have an unacceptable impact on road safety and is not acceptable in accordance with the NPPF 2023 paragraph 111.”

For the reasons set out above, the applicant’s proposal to include a limited change to a shared space access still does not provide sufficient room for vehicles passing, thereby causing significant harm to the highway safety of drivers and cyclists. This revised arrangement would now result in a greater likelihood of conflict between pedestrians and vehicles along the driveway. The proposed access arrangement is therefore still considered to be unacceptable with added concerns regarding pedestrian/highway safety. The amended proposal has also failed to demonstrate that the required visibility splay can be achieved at the site’s access.

For the above reasons and despite revisions to the proposed access the application has not overcome previous reasons for refusal 3 and 4 of 22/0011 the proposal is contrary to saved policies GP2 (Environmental Protection), T10 (Accessibility Standards – General) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, Policy T4 (The Highway Network) of the Walsall Site Allocation Document, DfT Manual for Streets guidance and the National Planning Policy Framework and Policy TRAN2 (Managing Transport Impacts of New Development) of the Black Country Core Strategy and the National Planning Policy Framework.

Refuse Collection

The proposed access arrangements to the site show the width of the driveway being 5.3m-5.5m. The proposed site plan shows a Swept Path Analysis demonstrating how a refuse vehicle could enter/exit and manoeuvre within the site. The Council’s Local Highway Authority has assessed these submissions and advise that the proposed site layout is unsuitable for refuse vehicles. Whilst the applicant has made minor changes to the width of the private shared drive, increasing it by virtue of the removal of the footway, the access to the site off Lichfield Road itself is tight and would likely result in refuse collection vehicles having to shunt in and out of position, leaving them exposed to traffic and in a vulnerable position on Lichfield Road. The Swept Path Analysis also still shows a lack of manoeuvring space, leaving minimal margin for error which would require absolute precision from refuse vehicle drivers, which could not be reasonably expected. It also does not consider the potential for existing and future residents parking in places that would further hamper the manoeuvring of the refuse vehicle.

Moreover, given that the proposed driveway will be private, it is considered extremely unlikely that a refuse collection vehicle would actually enter the site and will instead park on the kerbside on Lichfield Road. Whilst refuse collection already takes place in this manner for the existing dwellings fronting Lichfield Road, the distance from the furthest of the proposed dwellings (Plot 4) to the highway is approximately 75m, which exceeds the overall maximum distance recommended in Manual for Streets of 55m, for residents to carry waste (30m) and for collection operatives to walk to collect bins (25m). No proposals for alternative refuse collection arrangements have been submitted in support of the application which would justify such an arrangement.

Given the above, the proposal has failed to overcome reason for refusal 5 of application 22/0011 and is considered contrary to saved policies GP2 (Environmental Protection) ENV32 (Design and Development of Proposals) of the Walsall Unitary Development Plan, policy T4 (The Highway Network) of the Walsall Site Allocation Document and the National Planning Policy Framework.

Impact on Neighbour Amenity

Part of the front elevation of the Plot 4 dwelling will directly face the rear garden of 105 Lichfield Road, with a separation distance of just 1.8m from the ground and first floor windows of the proposed dwelling (Plot 4) to the rear garden of 105 Lichfield Road. This arrangement with habitable windows directly facing the neighbour's rear garden would result in a significant loss of neighbour privacy, particular through the introduction of the first-floor bedroom window at the Plot 4 dwelling and is therefore considered to be unacceptable reduction in privacy for the occupiers of 105 Lichfield Road.

In addition, the proposed turning head and vehicle parking spaces will be located directly adjacent to the rear garden of 105 Lichfield Road, resulting in an unacceptable level of additional noise and disturbance from vehicle movements, doors closing and people congregating in the area, to the detriment of the amenity of the occupiers of 105 Lichfield Road. No amendments to the scheme, further information or justification for this has been provided by the applicant and this arrangement is considered to be unacceptable and detrimental impact on the occupiers of 105 Lichfield Road's amenity.

Furthermore, the proposed main access to the site provided by the private shared driveway will be located adjacent to 111 Lichfield Road. It is considered that this would introduce a level of vehicle movement which would result in an unacceptable level of additional noise and disturbance to the rear garden amenity area serving this neighbour and increased light pollution, particularly to ground floor habitable windows in the front elevation. The applicant has provided no further information or justification for this arrangement or mitigation to address the concerns.

The proposal has failed to overcome reasons for refusal 6 and 7 of 22/0011 and is considered to have an unacceptable impact on the amenities of neighbouring occupiers, by virtue of the overlooking and privacy of the private amenity space of 105 Lichfield Road from the front elevation of the proposed Plot 4 dwelling and due to noise and disturbance impacts and increased light pollution on the rear gardens of 105 and 111 Lichfield Road detrimental to the amenities of the existing occupiers. The proposal is contrary to saved policy GP2 (Environmental Protection) of the Walsall Unitary Development Plan and the National Planning Policy Framework.

Impact on Walsall Academy and Nursery School

The proposed layout of the site and proximity of the proposed dwellings rear elevations to the boundary with the Walsall Academy and Nursery School site to the north would be at a distance of 7.7m. Objections have been received regarding the proximity of the proposed dwellings to the school and the subsequent overlooking of school social spaces, as well as safeguarding concerns. No further justification or mitigation to this issue has been provided by the applicant within the current proposal. The proposal is therefore still considered to be unacceptable with regards to the impact on the Walsall Academy and Nursery School site and it is considered that these existing facilities could have the potential to have unreasonable restrictions placed on them as a result of development permitted after they were established. The proposal has failed to overcome reason for refusal 8 of application reference 22/0011 or 20/1222 and is contrary to Paragraph 187 of the National Planning Policy Framework which requires that new development integrate effectively with existing community facilities and facilities should not have unreasonable restrictions places on them as a result of new development. This point was requested by the 4 November 2021 planning committee to form part of the reasons for refusal.

Ground Conditions and Environment

No information has been submitted regarding ground conditions at the site and no information was provided regarding any contamination or ground gas issues. As such, Environmental Protection have advised that as a minimum a desktop survey and site appraisal is undertaken to determine whether an intrusive investigation is required. Given the applicant has not provided the basic desk top survey and site appraisal to determine whether a further intrusive investigation is required, this will have to form a reason for refusal as the council would be unable to draft conditions to secure the desktop appraisal and then draft further conditions for any eventuality that may emerge from the desktop appraisal conclusions.

Flood-risk and Drainage

The site is located outside of flood zones 2 and 3, within an established residential area generally at low risk of flooding. The proposal will continue the existing residential use of the site albeit with the addition of four dwellings and is not considered likely to result in any increase in flood-risk or additional pressures on the drainage system in the area. Severn Trent Water raise no objections to the proposal and would not require a drainage condition to be included in the event of an approval. The application is therefore considered to be acceptable with regards to flood-risk and drainage matters, although given the level of proposed hard surfacing it would be prudent to require drainage that prevents water run-off from the site into any public highway drains or on to any public highways for safety reasons plus downstream potential for flooding especially in poor weather conditions.

Ecology and Trees

With regards to ecological impacts at the site, a bat survey is not required for this application. The site is predominantly surrounded by built form and does not fall within the Council's bat buffer zone. Whilst there are some trees present at the site, a tree survey has not been submitted; none are protected by a Tree Preservation Order, and none appear to be of significant quality so as to warrant protection. The application is therefore considered to be acceptable with regards to the impact on ecology and trees at the site.

Cannock Chase Special Area of Conservation (SAC)

Pursuant to the Habitats Directive (92/43/EEC), where a plan or project is not connected with the nature conservation management of a European designated site, the competent authority must determine whether the plan or project is likely to have a significant effect on the site, either alone or in combination with other plans or projects. This is reflected in national law in the Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations"), which place a duty upon competent authorities to consider the potential for effects upon sites of European importance prior to granting consent. This is referred to as a screening assessment. If likely significant effects are identified by the screening assessment, the competent authority must then undertake an Appropriate Assessment of the implications.

Approximately 20% of Cannock Chase falls within the Cannock Chase Special Area of Conservation ("SAC"), allocated primarily for its dry heathland. Council areas in the vicinity of the SAC have formed a Partnership and commissioned reports to assess impacts upon the SAC and how they arise. The evidence indicates that development which would increase visitors within 15km of the SAC may have a significant impact.

Walsall Council joined the Cannock Chase SAC Partnership on 17th October 2022 and has implemented Black Country Core Strategy Policy EQ2 which enables the collection of payments to mitigate against impacts arising from new relevant development falling within the 15km Zone of Influence of the Cannock Chase SAC. The mitigation payment of £329.83 per each net new dwelling is non-negotiable.

Permission must be refused where appropriate mitigation is not provided pursuant to the Conservation of Habitats and Species Regulations 2017 (“Habitats Regulations”).

The Project has been screened to identify whether potential effect pathways between the Project and the SAC are present which are likely to result in significant effects upon the SAC. The screening exercise carried out on April 1st 2022 by the SAC Partnership authorities found likely significant effects on the SAC arising as a result of increased recreational activity from new residential development and related population growth that is likely to disturb the ground. A 21/12/12 Cannock Chase SAC Visitors Survey investigating visitor access patterns found that the majority (75%) of visitors originated from within a 15km distance of the SAC (also supported by 2018 visitor survey data) and The Cannock Chase SAC Planning Evidence Base Report Stage 2 (12/07/21) determined that within this 15km ‘zone of influence’, measures to reduce recreational pressure would be most effective.

The Habitat Regulation Assessment Stage 1: Screening Assessment has been undertaken using the available information associated with this planning application. The screening assessment is designed to check if an application is likely to have a significant effect on Cannock Chase SAC’s conservation objectives, based on available evidence. Should it be determined that no significant affects are likely, no further assessment in respect to the SAC is required. Please note as per guidance and CJEU ruling (case C323/17), mitigation measures cannot be taken into account at the screening stage of the HRA assessment.

The proposed application is situated within 15km of the Cannock Chase SAC and proposes a net increase of four dwellings. This development would result in an increase in recreational disturbance resulting in significant harm of the SAC and should progress directly to Stage 2 the undertaking of an Appropriate Assessment.

While Walsall Council, as the Competent Authority, will carry out HRA Stage 2: Appropriate Assessment, which will include the consultation of key stakeholders including Natural England, it will be the responsibility of the applicant to provide and secure suitable mitigation on which to base the Appropriate Assessment. Suitable mitigation should be in the form of the necessary mitigation payment of £329.83 per each net new dwelling which can be secured by a Unilateral Undertaking, or within a Section 106 Agreement when other obligations are required.

The applicant was contacted on March 14th 2023, requesting a Habitat Regulation Assessment be completed as part of the Cannock Chase SAC assessment process. However, whilst the applicant has submitted a draft Unilateral Undertaking in relation to the mitigation payment, they have not yet submitted the Habitat Regulation Assessment. Whilst it is accepted that as the applicant has submitted the Unilateral Undertaking, it is likely they will agree to pay the mitigation payments, given that this has not yet been agreed and they have not yet submitted a Habitat Regulation Assessment. The proposal, therefore, has failed to overcome reason for refusal 1 of application reference 22/0011 and this has been included as a reason for refusal for this current application in order to reflect the current situation. It is acknowledged, however, that this refusal reason may be resolved in the event of an approval.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes four new homes. The Government has indicated that, for 2022-23, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Five-Year Housing Land Supply

Notwithstanding the previous concerns raised, it is acknowledged that the proposal will provide new housing at the site and will therefore contribute to Walsall's housing supply, in a situation where the Council is no longer able to demonstrate a five-year housing land supply and has failed the housing delivery test published in January 2022, based on low levels of housing delivery over the last 3 years. For these reasons the presumption in favour of sustainable development as described in Paragraph 11d of the NPPF is in effect, meaning that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the proposal.

For the reasons given in the preceding paragraphs it is considered that the adverse impacts of the proposal do significantly and demonstrably outweigh any benefits of delivering four additional houses in this instance.

Section 70a power to decline planning applications.

Section 70A of the planning act gives the council the power to decline to determine applications and decline to determine subsequent application, if within the period of two years ending with the date on which the application is received, in the opinion of the authority there has been no significant change since the refusal so far as material to the application, or in any other material considerations.

For the purposes of this, an application for planning permission for the development of any land shall only be taken to be similar to a later application if the development and the land to which the applications relate are in the opinion of the local planning authority the same or substantially the same.

In this instance, the planning authority is processing the fourth planning application that is materially the same as earlier applications and in the past two years, the planning authority has determined two previous applications that were materially the same where the applicant has not attempted to address the previous reasons for refusal. Consequently, this application does trigger the opportunity for planning committee to choose to not determine the application rather than refuse as set out in the report above and the reasons below. Given the significant level of harm the proposal brings to the locality and the genuine concerns for highway and pedestrian safety including pedestrians of school age, the planning authority is recommending either refusal as set out or not to determine the application in accordance with Section 70a of the planning act. This will offer the applicant time to substantially revise and amend their proposal addressing the concerns as set out in this report and the previous decision documents.

Conclusions and Reasons for Decision

The application proposes a back land style of development of existing garden land, which would be entirely disconnected from the street frontage and would fail to tie into the established pattern of development in the area, does not mitigate the harm of the proposal on the character and appearance of the area as the overall site plan still inserts new dwellings to the rear of the established building line which is at odds with the character of the area.

The proposed access to the site is also still unacceptable as the alterations to provide a shared access and thereby removing the segregated pedestrian footpath fails to resolve the highways and pedestrian safety concerns. The amended access will now also result in conflicts between pedestrians and vehicles, visibility at the site's access will be insufficient to meet the relevant highways safety standards in this location and the access route will be impractical for refuse vehicles. This issue has not been resolved within any iteration of the various schemes at the site and continues to present a challenge to achieving a development of this nature at the site.

The first-floor bedroom window at the proposed Plot 4 dwelling will be located at just 1.8m from the boundary of the rear private garden of 105 Lichfield Road, resulting in a significant harm to this neighbour's amenity due to the direct overlooking of their existing private amenity space. There is no existing boundary treatment at the site or any other circumstances which would mitigate the overlooking of the garden and this arrangement will therefore result in a significant loss of neighbour privacy. The introduction of the proposed access and parking adjacent to existing rear gardens will result in a further loss of amenity to neighbouring properties.

The impact on Walsall Academy and Nursery School has not been addressed and the proposal has the potential to place unreasonable restrictions on the existing facility which is contrary to the NPPF. A further reason for refusal is also included on the grounds that the applicant has not yet formally agreed to provide any Cannock Chase SAC mitigation measures/payments, although it is accepted that this issue could be resolved in the event of the approval of the application.

In summary, when viewed collectively, the totality of the harm which would be caused by the proposed development is considered to be highly significant and demonstrable including human health impacts, highway and pedestrian safety, restrictive impacts on the adjacent Academy, detrimental harm to the character of the area, plus amenity impacts on the adjacent neighbours and harm to the environment as defined by the habitats regulations all of which outweigh any benefits of the proposal in providing four new houses in the Borough within the context of the lack of five-year housing land supply. It is also considered the delivery of 4 additional houses would not contribute sufficiently to the boroughs housing supply to warrant an approval in this instance. For these reasons, given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal. Worse still, this is another repeat application following previous applications that have been refused which triggers Section 70a of the Town and Country legislation that the council should be choosing to not determine as the applicant has made no attempt to resolve the serious concerns the proposal brings to the locality.

Positive and Proactive Working with the Applicant

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

Recommendation

Refuse

Reasons for Refusal

- 1) The application fails to provide the necessary Cannock Chase Special Area of Conservation (SAC) mitigation. The proposed development falls within the 15km zone of influence relating to the Cannock Chase SAC and has failed to provide any information in relation to likely impacts on the SAC arising from the proposed addition of 4 dwellings and has failed to provide any potential necessary mitigation measures or a mechanism for securing them. The application is therefore contrary to the Conservation of Habitats and Species Regulations 2017, Policies CSP3 (Environmental Infrastructure), CSP4 (Place-Making) and ENV1 (Nature Conservation) of the Black Country Core Strategy, Saved Policy ENV23 (Nature Conservation and new development) of the Walsall Unitary Development Plan, Policy EN1 (Natural Environment Protection, Management and Enhancement) of the Walsall Site Allocation Document and the NPPF.
- 2) This proposal represents inappropriate backland development which would cause harm to the character and amenity of the local area, would erode the spatial characteristics of the existing site and would be poorly related to its surroundings in terms of design, density and layout, contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development

Proposals) of the Walsall Unitary Development Plan, policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) and HOU2 (Housing Density, Type and Accessibility) of the Black Country Core Strategy, SAD Policy HC2 (Development of Other Land for Housing), DW3 (Character), DW4 (continuity) and DW6 (Legibility) of the Designing Walsall Supplementary Planning Document and section 12 of the NPPF 2023 (Achieving well-designed places).

- 3) The private shared driveway as shown on Block Plan 2020-109 Sheet 1, fails to include a segregated footway required to provide a traffic free, fully inclusive route for residents and visitors of the development of at least 1.5 metres width in order to minimise conflicts between pedestrians and vehicular traffic along the driveway. The provision of such a footway would significantly reduce the width of the driveway available to vehicles below what would be acceptable to allow two vehicles to pass safely and satisfactorily and is therefore contrary to saved policies GP2 (Environmental Protection), T10 (Accessibility Standards – General), TRAN2 (Managing Transport Impacts of New Development) of the Black Country Core Strategy and the NPPF 2023 para 112.
- 4) The 2.0m x 43m visibility splay as shown on Block Plan 2020-109 Sheet 1, is not acceptable to the Highway Authority. The setback distance should be 2.4m, which is an industry wide accepted distance and the minimum recommended distance for an access serving multiple dwellings onto a 30mph road as set out in Government guidance Manual for Streets 2. It is clear the position of the proposed access is unable to achieve the required 2.4m set back due to third party land issues. Likewise, the required 2.4m x 3.4m pedestrian visibility splay, whilst not shown on the revised plan, is also unlikely to be achievable for the same reason. The splays are required to meet highway design standards due to the intensification of the access, the proximity of the access to a secondary school and nursery entrance and the nature of Lichfield Road being a classified road (A4124) and a strategic highway. The proposal is therefore contrary to the NPPF, Saved UDP Policy GP2 (Environmental Protection), SAD Policy T4 (The Highway Network), DfT Manual for Streets guidance and to the detriment of highway safety.
- 5) A refuse collection vehicle (RCV) would not reverse off this section of Lichfield Road; the access is tight and therefore there is a very high probability that drivers may have to shunt in and out for positioning leaving them exposed to the traffic on the main road and in a vulnerable position for longer than could be justified in a risk assessment. Further, there is a lack of space in the site and Block Plan 2020-109 Sheet 1 shows the RCV route leaves no margin for error and would take absolute precision which could not be expected of drivers. As such, the likelihood of causing damage due to this is too high to be acceptable. No alternative waste collections arrangements have been provided and is therefore contrary to the NPPF and the Unitary Development Plan, in particular policies GP2 (Environmental Protection), ENV32 (Design and Development of Proposals) and SAD Policy T4 (The Highway Network).

- 6) Plot 4 would introduce habitable room windows at ground and first floor which would introduce a direct form of overlooking to the rear amenity space serving No.105 Lichfield Road. Furthermore, the provision of the turning head and vehicle parking directly adjacent the rear garden of No.105 would also introduce an unacceptable level of additional noise and disturbance from vehicle movement, doors closing, and people congregating resulting in significant additional overlooking, loss of privacy and noise and disturbance to the detriment of this neighbour's amenity. The proposal is contrary to Saved UDP Policy GP2 (Environmental Protection) and the NPPF.

- 7) The proposed main access directly adjacent No.111 would introduce an unacceptable level of vehicle movement which would result in an unacceptable level of additional noise and disturbance to the rear garden amenity area serving this neighbour, and increased light pollution, particularly to ground floor habitable windows in the front elevation. The proposal is contrary to Saved UDP Policy GP2 (Environmental Protection) and the NPPF.

- 8) The proposed development would not integrate effectively with the nearby school Walsall Academy and nursery Millfield's Nursery School, and it is considered that these existing facilities could have the potential to have unreasonable restrictions placed on them as a result of development permitted after they were established. The proposal is therefore contrary to paragraph 187 of the NPPF.

- 9) The applicant has failed to provide sufficient evidence in the form of a desktop appraisal to determine the potential presence of land contamination and/or ground gas. In the absence of this evidence the Council is unable to assess whether conditions would be appropriate for the requirement of further investigations and/or mitigating measures to be implemented. The proposal is therefore contrary to Saved UDP Policies GP2 (Environmental Protection) and ENV14 (Development of Derelict and Previously Developed Sites).

END OF OFFICERS REPORT



Planning Committee

Report of Head of Planning and Building Control on 30 October 2023

Plans List Item Number: 3

Reason for bringing to committee

Called in by a Councillor Cooper on the grounds that there will be:

- Inadequate parking/access arrangements that could lead to cars being parked on street detrimental to amenity/highway safety
- Increased traffic in the area over and above that which the existing road network could cope with detrimental to highway safety
- Overdevelopment

Application Details

Location: 120, FOLEY ROAD WEST, STREETLY, WALSALL, B74 3NS

Proposal: PROPOSED DEMOLITION OF EXISTING GARAGE AND MODERN EXTENSION AT 120 FOLEY ROAD WEST AND THE PROPOSED SUBDIVISION OF THE PLOT AND ERECTION OF TWO ADDITIONAL NEW DWELLINGS (PLANNING USE CLASS C3 - RESIDENTIAL DWELLINGS) TO INCLUDE 1 NO. 4 BEDROOM DETACHED TWO STOREY HOUSE AND 1 NO. DETACHED BUNGALOW WITH 2 BEDROOMS AND ASSOCIATED WORKS.

Application Number: 23/0760

Case Officer: Fiona Fuller

Applicant: Findlay

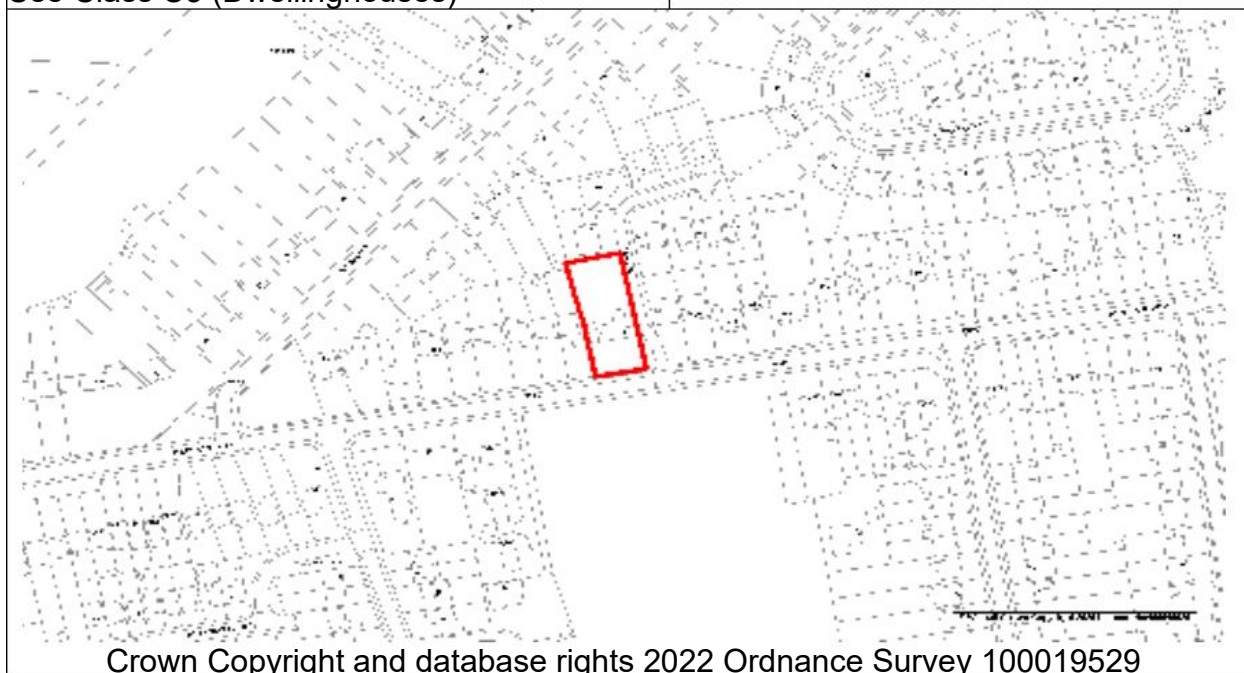
Ward: Streetly

Agent: ADC Ltd

Expired Date: 28-Sep-2023

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

Time Extension Expiry:



Recommendation:

Refuse

Proposal

The applicant seeks full planning permission for the proposed demolition of existing garage and modern extension at 120 Foley Road West. The proposed subdivision of the plot and erection of two additional new dwellings (planning use class C3 - residential dwellings) to include 1 no. 4 bedroom detached two storey house (to front and be accessed from Foley Road West) and 1 no. detached bungalow with 2 bedrooms and associated works (to front and be accessed from The Glade).

The submitted planning statement and the proposed plans sets out the proposed development.

The application site is not in a Conservation Area, it is not a Listed Building or in the setting of Listed Buildings but there are Protected Trees on the application site.

Site and Surroundings

The application property is (120 Foley Road West). It is a detached cottage dating back to 1900's it was formerly known as Yew Tree Cottage and occupies a corner position, facing Foley Road West whilst its side elevation faces The Glade, a cul de sac.

The dwelling lies within a continuous built-up frontage with fairly recent residential development to the West and North.

The existing dwelling has large open and mature gardens to the front and rear with a pair of trees which have a Tree Protection Order (TPOs).

The area is residential in nature consisting of a mix of single and two storey detached dwellings and a mix of ages and designs generally red brick construction with tiled roofs. The Foley Road West dwellings benefit from longer rear gardens, whilst The Glade dwellings, have smaller rear gardens. To the west of the application site, there are 3 1980's detached infill houses, with for today's standards, long mature gardens, backing on to 3 1970's style detached infill dwellings again benefitting from long mature gardens. To the left of the application site, is The Glade cul-de-sac and then 2 1960's style infill style bungalows similar to The Glade bungalows with smaller mature rear gardens. To the north of the application site, is an extended bungalow fronting The Glade with a small mostly hard surfaced rear garden. To the south of the application site, is Foley Road West and then Foley Wood, 2.6 hectare of protected trees.

Relevant Planning History

02/1390/OL/E5 - Outline: Erection of detached bungalow. Rear garden of 120 Foley Road West – Refused - 13-Sep-2002

The application failed to demonstrate that a satisfactory residential amenity could be provided for future residents of the dwelling, nor that a satisfactory amenity could be maintained for occupants of neighbouring dwellings, the application failed to demonstrate that sufficient off-street parking or safe access could be provided, the proposal would represent over-development and would result in the loss of two attractive trees.

04/1778/FL/H5 - Single storey rear extension & conservatory - Permission Granted - 08-Oct-2004

05/1677/FL/H1 - Erection of one detached bungalow - Permission Refused - 13-Oct-2005

1. *The proposal fails to provide an adequate level of amenity space for future residents of the proposed dwelling, with a very short rear garden and most of the front garden occupied by the spread of the protected trees. The close proximity of the development is therefore likely to cause an unacceptable level of disturbance to the gardens of neighbouring properties and lead to pressure in the future for the removal of the trees. The proposal would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV18, ENV32 and H10, and the Residential Development Standards.*

2. *The provision of the visibility splay required to serve the proposed access would lead to the loss of much of the existing hedge. In addition, the splay cannot be achieved on one side because of the garden wall to number 18, which lies outside the control of the applicant. The limited length of the proposed drive in front of the garage would also lead to vehicles overhanging the road, to the detriment of the free flow of traffic. The proposal would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV18, T7 and T13.*

3. *The application fails to include sufficient information to demonstrate the potential impact on trees on the site, including an arboricultural impact assessment, construction details for the driveway, service details including sustainable drainage, levels and site access, storage, fuelling, mixing, welfare points and car parking area for on site staff. The application is therefore contrary to Walsall's Unitary Development Plan, in particular policies GP2 and ENV18.*

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

All the core planning principles have been reviewed and those relevant in this case are:

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

- NPPF 2 – Achieving sustainable development
- NPPF 4 – Decision Making
- NPPF 8 – Promoting healthy and safe communities
- NPPF 9 – Promoting sustainable transport
- NPPF 12 – Achieving well-designed places

On planning conditions the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On decision-taking the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- DEL1: Infrastructure Provision
- ENV3: Design Quality
- TRAN2: Managing Transport Impacts of New Development

Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- ENV14: Development of Derelict and Previously Developed Sites
- ENV 18: Trees and Woodlands
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing

T4: The Highway Network

Conserving Walsall's Natural Environment

Development with the potential to affect trees, woodlands and hedgerows

- NE10 – Tree Preservation Order

Designing Walsall

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall and Conserving Walsall's Natural Environment SPD's are consistent with the NPPF.

Consultation Replies

Planning Policy – Supports - adds to the housing supply. Attention must be drawn to the previous refusal application 05/1677/FL/H1

West Midlands Fire Service – No objection - No adverse comments

The Highway Authority – Supports - 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 2023 paragraph 111. They offered frontage parking area shall be fully consolidated, frontage parking area shall be fully consolidated and 2.4m x 3.4m pedestrian visibility splay conditions should be imposed.

Environmental Protection: Raised concerns: Air quality/ smoke control, construction management plan, asbestos and demolition plan conditions should be imposed.

Ecology – Object on the grounds that a HRA form should be completed

Arboriculturists- Object to the proposal as plot 2 of the proposal has an unacceptable relationship existing trees that make a useful contribution to the amenity of the locality. The trees are easily seen when entering The Glade and from properties in The Glade, creating an important element of landscape of this location and characteristic of the street scene.

Representations

(Local Planning Authority comments in brackets and italics)

Councillor Samra was concerned about the lack of neighbour notification *(The Local Planning Authority consulted neighbours in accordance with the statutory requirements of the national planning legislation)*

Councillor Cooper – Called the application in and objected on the grounds of inadequate parking/access arrangements that could lead to cars being parked on street detrimental to amenity/highway safety, increased traffic in the area over and above that which the existing road network could cope with detrimental to highway safety and overdevelopment (*These points will be addressed in the report*)

Seven neighbours were notified via letter. There were five letters of objections on the following grounds:

Removal of the hedges of the existing dwellings will expose the objector's dwelling

- The proposed development will cause overlooking
- The proposed development will block views
- Sewers suspected blockage/ concerns about the sewerage (*This is not a material planning consideration and residents need to contact their statutory undertaker regarding this matter*)
- Are there foul waste improvements mitigations in place
- The objectors suffer from mental health issues (*noted, this is not material planning consideration*)
- The development will exacerbate the objector's mental health (*noted, this is not material planning consideration*)
- Plot 1 will cause overshadowing/ reduce light/ impact on privacy
- Plot 1 is not in keeping with the site surrounding/ intrusive.
- Plot 1 and Plot 2 will spoil the character of the area.
- The community and the elderly community don't want the development/ The development will affect the vulnerable residents (*noted, these points are not material planning considerations*)
- Increase in noise and traffic construction will have detrimental impact on the objector's mental health.
- The objector has tried to speak to the case officer but keeps on going to the answering machine/ no answer. (*Noted, this is not a material planning consideration and the planning authority offers a duty planning officer each day that can answer general enquiries about planning applications*)
- The objector has complained to the Councillor. (*Noted*)
- Sites of ecological and historical significance will be damaged by the developers (*This has limited weight in the assessment of the current application as the neighbour has not explained which ecological or historic site will be damaged*)
- No.120 will devalue the property by development (*This is not a material planning consideration*)
- Proposed plans will set a precedent (*Each planning application and application site has its own unique set of circumstances; planning decisions do not set precedents*)
- Cram houses in a plot purely for profit (*Not a material planning consideration*)
- Little thought for the community and the Conservation (*This is not a material planning consideration and the neighbour has not explained what conservation so this has limited weight in the assessment of the application*)
- Breach of tenancy agreement (*Not a material planning consideration, this would be a civil matter between those involved in the tenancy agreement*)

- Need clear access to their premises – include bin collection/ emergency services.
- Large plant and other large vehicles will block off access.
- Site too small for two developments leaving existing property No120 remaining.
- Removing garage etc will have a structural impact on the existing property.
(This is not a material planning consideration and will be a matter for the building inspector overseeing any construction)

Determining Issues

- Principle of Development
- Design and Character of Area
- Amenity of Nearby Residents
- Protected Trees
- Cannock Chase SAC
- Parking

Assessment of the Proposal

Principle of Development

The site is situated within a well- established residential area within a location served by public transportation into Walsall and Birmingham. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP.

Whilst it is noted that this site has been the subject of a previous refusal of planning permission for a bungalow in the rear garden. Application 05/1677/FL/H1 was refused in 2005 on the grounds of lack of amenity space for the proposed dwelling, loss of hedge and the impact on trees. These issues would still apply, however the two proposed dwellings would be similar in scale to the respective existing dwellings that they are to lie alongside, with a house facing Foley Road West and a bungalow in The Glade.

Notwithstanding above comments, the current proposal still has to address the previous concerns and this is set out in the rest of the report.

The latest available figures show that the Council does not currently have a 5-year housing land supply and, in addition, the Council failed the Housing Delivery Test published in January 2022 based on low levels of delivery over the last 3 years. This means that the presumption in favour of sustainable development as described in the NPPF paragraph 11d) is in effect.

Under emerging national legislation, provision for biodiversity net gain will be required, either on part of the site or elsewhere.

Design and Character of Area

Foley West Road is located within a predominately residential area of mixed character. Properties along Foley West Road and the wider area (including The Glades) comprises a mix of semi-detached single storey and two storey properties and bungalows. There are grassed spaces between and around properties with long garden areas to the front and the rear. The spaciousness of the area is further reinforced through wide, grassed verges, with properties set back from the pavements. The variation in property types and open spaces between and around the built development contributes to the character and appearance of the area.

The site comprises a large garden area that serves No.120 Foley West Road. Properties on Foley West Road are two storey, detached property, with front and rear garden. These properties have a largely uniform appearance, with space between each dwelling. An area of open space laid to grass with trees within it and its rear garden contributes towards the character of the area.

The proposed development consists of the proposed demolition of existing garage and modern extension at 120 Foley Road West and the proposed subdivision of the plot and erection of two additional new dwellings- namely Plot 1 and Plot2.

Plot 1 will be a two-storey detached dwelling and Plot 2 will be a detached bungalow. The size of the proposed site, in particular Plot 2 appears to be smaller than that of its neighbours on The Glades. The proposed development (Plot 2) would extend the full width of the site, thereby would be close to the boundary of No. 18. The Glade. The proposed development would appear to be a dominant appearance as a result of its location and width of the proposed dwelling (Plot 2), thus it would give an unacceptable impact of the character and appearance along this section of The Glade, to the detriment of residents' amenity.

The design of the proposed property (Plot 1) reflects the properties on Foley West Road and whilst the properties on The Glades are predominately bungalows – which Plot 2 will be. The frontage of the proposed property (Plot 1) is shown broadly in line with the frontage of Foley West Road houses, although the applicant is relying on the front frontage garage to position Plot 1. Ideally it needs to be set back a least another two metres which would better reflect the building line and would ensure that the openness of the site frontage is maintained.

Unfortunately, the re-positioning of Plot 1 would create an awkward relationship Plot 2 which already has an awkward relationship with no. 18 The Glade based on the scale of the proposed dwelling (Plot 2). This arrangement, together with the design and siting of the proposed property (Plot2) wouldn't reflect the layout of nearby bungalows in The Glades. Therefore, it is the opinion of the Local Planning Authority that the proposed development would be an incongruous form of development with the prevailing character and appearance of the area.

Amenity of Nearby Residents

The proposed Plot 2 would be a two-storey dwelling with obscured glazed windows to the side. It will be positioned 1.3metres from the boundary line within a limited plot of land. Whilst the neighbouring property (No. 18 The Glade) which is detached bungalow would be 1.1 metres from the shared boundary. The proposal would have a significant overbearing impact thus is unacceptable.

Protected Trees

The proposed sub-division of the existing plot and creation of a new plot (2) to the rear of the site would have a detrimental impact on the long-term health, condition and amenity value of the existing protected and non-protected trees.

The building is located in close proximity to 2 protected trees situated directly to the east. These will cast an unacceptable level of shade on the building for the whole morning period leading to requests to undertake unsympathetic pruning or even felling works that the Council may find difficult to refuse, even though they provide a positive amenity contribution to the street scene and locality.

In addition, the building is close to 2 evergreen trees situated in the northwest corner (rear garden). These trees will also cast an unacceptable level of shade onto the private amenity space to the rear, which will place the Council under pressure to allow unsympathetic pruning or felling works to these trees. They provide a useful degree of amenity value to the locality and their retention is desirable.

The proposed parking area to the front of the site will have a detrimental impact on a row of Cypress trees. They provide a useful degree of amenity value in the locality and their retention is desirable.

The location of the proposed dwelling (plot2) has an unacceptable relationship to T1 Cypress, T2 Beech and two other Cypress trees in the northwest corner (noted as T5 and T6 in the Tree Survey). T1 and T2 are significant trees that make a useful contribution to the amenity of the locality. They are easily seen when entering The Glade off Foley Road West, from Foley Road West, and from properties in The Glade and Wood Lane. They are important elements of the landscape when viewed from these locations and characteristic of the street scene. Locating a dwelling so close to protected trees does not accord with the paragraphs 130 and 174 of the NPPF, Black Country Core Strategies CSP4, ENV1 and ENV3, Saved policy ENV18 of the Walsall UDP 2005, and policy NE8 of the Walsall SPD (Conserving Walsall Natural Heritage). The relationship will inevitably lead to calls to fell or prune the trees and arguments that 'the trees are covered by a TPO and such could therefore be successfully resisted' are simplistic and run counter to the thrust of the TPO system which makes provision for the preservation of tree(s).

Cannock Chase SAC

Objection at this current time as there are ecological matters to be resolved before this application can be determined.

Approximately 20% of Cannock Chase falls within the Cannock Chase Special Area of Conservation (SAC), an internationally protected site. The site was designated in 2005 under the European Habitats Directive primarily for its dry heathland, an Annex I habitat.

Pursuant to the Habitats Directive (92/43/EEC), where a plan or project is not connected with the nature conservation management of a European designated site, the competent authority must determine whether the plan or project is likely to have a significant effect on the site, either alone or in combination with other plans or projects. This is reflected in national law in the Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations"), which place a duty upon competent authorities to consider the potential for effects upon sites of European importance prior to granting consent. This is referred to as a screening assessment. If likely significant effects are identified by the screening assessment, the competent authority must then undertake an Appropriate Assessment of the implications.

Council areas in the vicinity of the SAC have formed a Partnership and commissioned reports, to assess impacts upon the SAC and how they arise. The evidence indicates that development, which would increase visitors within 15km of the SAC may have a significant impact from recreational disturbance, this include development that will lead to a net increase in dwellings.

Walsall Council, acting as the Competent Authority, must ensure that planning decisions do not have any negative impact on the SAC. Should a planning application be found to do so the Council must either refuse permission or ensure that the applicant secures the appropriate mitigation measures.

Walsall Council joined the Cannock Chase SAC Partnership on the 17th October 2022 and has implemented Black Country Strategy Policy EQ2 which has enabled the collection of payments to mitigate against impacts arising from new relevant development falling within the 15km Zone of Influence of the Cannock Chase SAC.

As the development lies within the 'zone of influence' of Cannock Chase SAC and includes the net increase of a single residential dwelling, through change of use, Walsall Council as the competent authority is required to undertake the Habitat Regulations Assessment (HRA) as part of the planning application process. The HRA is informed by information provided by the applicant. This information should be provided through the completion of a Habitat Regulation Assessment form. From a review of the associated documents provided with the planning application, this form does not appear to have been provided.

Therefore, a HRA form completed by the applicant is required in support of this application.

In addition, should the development be acceptable, there will be a need for bat and bird boxes within any approved development and a condition to manage light spill to protect protected species.

Parking

Objectors and the local councillors concerns of inadequate parking/access arrangements, leading to on street parking being detrimental to amenity/highway safety, plus increased traffic in the area over and above the existing road network can cope with would be detrimental to highway safety has been weighed in the overall assessment of the application, as well as taking into account the highway authorities comments.

The proposed off-road parking for each new dwelling, in the form of a driveway parking and access, is considered to accord with the Councils UDP parking standards. The local highway authority has no objections to the development subject to conditions being imposed.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed dwellings would not reflect the character and appearance of the other properties around the area. The proposal is considered to have a detrimental impact on the character of the wider area and the amenity for neighbouring occupiers. The application fails to demonstrate the potential impact on trees on the site which is unacceptable. Finally, in the absence of a Habitat Regulations Assessment document it is possible to assess the likely significant effects of a proposal on the integrity of the site and its conservation objectives. As such the development does not meet the aims and objectives of the National Planning Policy Framework CSP4, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2, ENV18, ENV23: and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

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

Positive and Proactive Working with the Applicant

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

Recommendation

Refuse

Reasons for Refusal

1) The proposal fails to provide an adequate level of amenity space for future residents of the proposed dwelling, with a very short rear garden and most of the front garden occupied by the spread of the protected trees. The close proximity of the development is therefore likely to cause an unacceptable level of disturbance to the gardens of neighbouring properties and lead to pressure in the future for the removal of the trees. The proposal is contrary to the National Planning Policy Framework, Policies HOU2, CSP4, ENV2 and ENV3 of the Black Country Core Strategy, Saved Policies GP2, ENV32, ENV17, ENV33 and H3 of the Walsall Unitary Development Plan, Policies DW3, DW9 and DW10 of Designing Walsall SPD

2 The proposed development falls within the 15km zone of influence relating to the Cannock Chase Special Area of Conservation (SAC) and has failed to provide any potential necessary mitigation measures or a mechanism for securing them. This proposal is therefore contrary to the Conservation of Habitats and Species Regulations 2017, Black Country Core Strategy Policies EQ2 (Cannock Chase Special Area of Conservation), CSP3 (Environmental Infrastructure), CSP4 (Place-Making) and ENV1 (Nature Conservation), UDP Saved Policy ENV23 (Nature Conservation), SAD (Site Allocation Document) Policy EN1 (Natural Environment Protection, Management and Enhancement) and the National Planning Policy Framework paragraph 181 (2023)..

END OF OFFICERS REPORT