



## Planning Committee

Report of Head of Planning and Building Control on 25 April 2024

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 WS9

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

**Application Number:** 23/0613

**Case Officer:** Mike Brereton

**Applicant:** Levison Rose Homes Ltd

**Ward:** Aldridge Central And South

**Agent:**

**Expired Date:** 18-Jul-2023

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

**Time Extension Expiry:** 03-May-2024



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## Recommendation

Refuse

## Current Status

At the planning committee meeting of 30 October 2023 members resolved to defer to a future planning committee to enable applicant to negotiate an improved development scheme with the local planning authority. Following receipt of amended plans on 15 January 2024 showing a complete layout re-design and re-location of the main vehicle access to the centre of the site, members of the planning committee meeting of 8 February 2024 resolved to defer the application to a future meeting for the applicant to consider and respond to concerns raised by the local highway authority in relation to those amended plans.

Further amended plans were received on 23 February in response to highway concerns. Neighbours, interested parties and relevant consultees were re-consulted on 27 February and provided with an opportunity to submit any comments by the 12 March.

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

### **Supplementary Paper**

Additional representations received following publication of the original report were set out and addressed in the supplementary paper in relation to the October meeting.

The October supplementary paper explained that original refusal reason 6 would fall away as a result of an amended visibility splay to plot 1 and plot 3 and that refusal reason 3 was updated in relation to the bin collection point.

### **Any Other Updates**

Further amended plans have since been received showing an amended layout which re-locates the main vehicle access to the centre of the site away from the shared boundary with No.29. Plots 1 and 2 fronting Little Aston Road have been reduced in height by 1m and 0.7m respectively along with the inclusion of a hipped roof adjacent the shared boundaries and an additional single storey rear 2m deep extension. All plots to rear have been changed to single storey bungalows.

The red line site boundary now includes highways land (footpath) to the site frontage and demonstrates the necessary visibility splay without encroaching on any third party land.

A bat DNA report and a completed S111 Agreement in relation to the Cannock Chase SAC mitigation payment have also been submitted to support the application.

Consultation responses received in relation to the amended plans received in January and February 2024 are summarised below (officer comments in brackets):

- **Fire Service** – general advice on Building Regulation requirements (falls outside of the planning remit)
- **Local Highway Authority** – no objection subject to conditions / works to be carried out under S278 / S38 highways agreements regarding vehicle access, re-location of telegraph pole and utility chamber, visibility splay, parking spaces and construction plan
- **Waste Management** – No objection
- **Police Architectural Liaison Officer** – No objection, offers suggested additional security measures
- **Strategic Planning Policy** – No additional comments. Previous comments remain relevant that garden land is not defined as previously developed and small net gain of 4 dwellings would make little impact on Walsall's housing supply

Representations received supporting the revised scheme shown in amended plans received in January and February 2024 are summarised below (officer comments in brackets):

- No adverse comments – revised vehicle access and visibility is an improvement and gates could be installed for additional security
- Revised scheme is a considerable improvement to street scene and positive effect on adjoining properties
- Reduced height of bungalows at rear welcomed and addresses overlooking and loss of privacy issues
- Proposal similar to other development at Branton Hill Lane, Portland Road and Whetstone Lane (each application is judged on its own merits)
- Bringing this land forward to provide housing is supported

15 identical letters of representation were submitted as a single submission objecting to this amended application and each individually signed. For the purpose of this report this submission has been deemed to form a petition. The matters raised in the petition have also been repeated within individual representations received in relation to the amended plans received in January and February 2024; these are summarised below (officer comments in brackets):

- Backland development not appropriate
- Fails to accord with linear pattern of development
- Previous appeal decision at this site
- Contrary to adopted policies and guidance
- Would set a precedent (each application is judged on its own merits)
- Forward of established building line
- Minimal impact towards housing supply
- Some small bedroom sizes (these meet national space standards)
- Scheme profitability (this is not a material planning consideration)
- Highway safety and parking provision
- Separation distances not met

- Lack of bat survey details
- Lack of acoustic boundary treatment to entire site boundary and impacts on amenity
- Impact on protected trees (no objection from council's tree officer)
- Security issues, anti-social behaviour and fear of crime
- Loss of views (this is not a material planning consideration)
- Loss of sense of seclusion (the site is already within an established residential area)
- Odours from bin store to kitchen window in plot 3
- Lack of outlook for some proposed dwellings
- Proposed height of plots 1 and 2 out of character with area
- Controls, restrictions and conditions should be included in the event permission is granted (noted)
- Loss of wildlife
- Reduced property value (this is not a material planning consideration)
- Land ownership dispute (this is not a material planning consideration; it is a civil matter between the relevant parties)
- Third party wall issues (this is not a material planning consideration; it is a civil matter between the relevant parties)

## **Assessment**

The amended plans and supporting information have been assessed against the recommended refusal reasons (summarised) and set out below.

*Reason 1. Unacceptable cramped back-land development, scale and design out of character and incongruous with the established pattern and design of surrounding development*

The overall reduction in height to plots 1 and 2 along with the removal of one gable to the front elevation and replacement with a small dormer window and cat-slide roof is considered to be an improvement and would better reflect the local vernacular.

The reduced height and addition of a part-hipped roof to the side elevations when combined with increased gaps between these plots and the adjacent neighbouring properties over and above the existing relationship is also considered would better reflect the existing situation.

Furthermore, work has recently begun at neighbouring property No.29 including demolition of the existing dwelling in relation to an extant planning permission for a larger, and higher, replacement dwelling at No.29 which this revised proposal would integrate well with. Additional weight is therefore now given to this acceptable relationship in the street scene.

Plots at rear have also been reduced to single storey in height and views of built form at rear would be more apparent from the street scene at a distance of 41m to the nearest plot (plot 3) as opposed to 70m on the previous layout to plot 6.

The 2005 dismissed appeal at this site comprised a two-storey dwelling sited 21m south of No.25 (around 51m from back of footpath) with a narrow vehicle access to the east of No.25 (next to No.27). The Inspector concluded it would be at variance with the existing pattern of development, would introduce an isolated dwelling without direct road frontage and that the new access would disrupt the street scene.

While the reduced distance to built form at rear from back of footpath in this revised proposal is an improvement it is considered that this does not fully address the key issue around the unacceptable principle of back-land development in this location as set out in the above appeal decision.

The submitted site density plan demonstrates that while the proposed rear garden sizes would all exceed the council's recommended minimum of 68sqm per dwelling, they would fail to reflect the pattern of development in the immediate area comprising properties within large plots fronting Little Aston Road with large rear gardens. The plan also demonstrates the proposed density at 17.7 per hectare would be over and above the average existing density taken across all surveyed areas at 13.2 dwellings per hectare, and would be higher than the existing density of properties fronting Little Aston Road (5.9, 10.7 and 9.5 respectively).

There has been no reduction in the quantity of proposed dwellings and it is considered the layout would still therefore result in a cramped form of backland development that would be out of character and incongruous with the established pattern and design of surrounding development.

As part of a recent appeal decision dated 8 January 2024 in relation to a backland residential proposal in East Suffolk (APP/X3540/W/23/3318779) the Inspector made clear that “...*Each application is decided on its own site-specific merits and reference to development elsewhere carries little weight...*”.

Notwithstanding this, the Inspector concluded “...*the siting of dwellings set back from the highway towards the rear of the site would be incongruous in the immediate context, where dwellings largely front the street...Even acknowledging that the backland development could comprise bungalow dwellings of a reduced height, they would remain notable additions of permanent built form. Due to their placement towards the rear of the site, they would fail to respect the predominant pattern of development...harming the character of the area...The subdivision of the site to accommodate four dwellings would result in four separate plots of notably smaller dimensions, resulting in the site appearing unduly cramped and contrived in context...*”

While this application has been assessed on its own merits, and taking account of the 2005 dismissed appeal at the application site there are also some parallels that can be drawn from the above recent 2024 appeal decision in relation to this current proposal in terms of backland appearance and a cramped development comprising bungalows of a reduced height.

On balance, while this current layout is an improvement it is the planning officer's view that the proposal would fail to provide an appropriate street frontage appearance to Little Aston Road and would not therefore reflect the character of the locality.

The National Planning Policy Framework, at paragraph 70d, requires great weight to be given to windfall sites and the proposal would make a modest contribution to the supply of housing in the borough. However, this benefit is considered would not outweigh the harm arising to the character of the area. Furthermore, garden land is not defined as previously developed land which is the focus of new development within the NPPF and less weight is therefore attributed to any modest housing contribution in this instance.

The first refusal reason is considered has not been fully addressed.

*Reason 2. Insufficient separation distances, overlooking, additional noise and activity to neighbouring rear garden spaces, anti-social behaviour and increased fear of crime.*

The amended layout has reduced the plots at rear to single storey bungalows. There are a limited number of side facing windows and rooflights to all proposed dwellings which mostly serve non-habitable rooms and could be conditioned where necessary to be obscurely glazed to safeguard neighbours amenity should permission be granted. In particular, the submitted boundary treatment plan for the site would serve to minimise any potential views from ground floor windows serving the proposed bungalows and would also reduce the level of actual, and perceived sense of, overlooking to adjacent neighbours rear gardens.

Furthermore, the re-location of the vehicle access to the centre of the application site would help to move some associated noise arising from vehicle movement away from neighbouring garden areas which is deemed to be the most incongruous form of noise that would otherwise arise. When combined with the proposed 1.8m close boarded boundary treatment including an acoustic 1.8m fence directly to the rear of No.29 next to the turning head and parking area serving plot 6 it is considered this would reduce noise levels over and above the previous layout and is acceptable. Environmental Protection do not object on noise grounds and conditions could be included to secure the boundary treatment along with secure by design measures and defensive planting within the site to reduce anti-social behaviour and fear of crime.

While the amended layout would result in some light pollution to two habitable windows in plot 3 serving kitchen and bedroom areas from headlights of vehicles entering the proposed shared access, these properties would be 'bought as seen' by any prospective purchaser and would not warrant a refusal on this basis alone.

On balance, it is considered that refusal reason 2 has been satisfactorily addressed and mitigation measures can be secured by condition if permission were to be granted.

*Reason 3. Excessive distance of bin collection point and detrimental impact to the amenities of the future residents at plot 1 from potential noise, odour and amenity*

The bin collection point has been re-located away from plot 1 at a distance of between 32m to 38m from plots 5 and 6, 25m from plot 4 and adjacent to plot 3. While this is an improvement it would still fail to meet Building Regulations recommended maximum distance of 30 metres for plots 5 and 6.

Furthermore, the bin collection area location would be located at only 1.4m distance from a side facing habitable window serving kitchen to plot 3 which is considered would result in a detrimental impact to the amenities of the future residents at plot 3 from potential noise, odour and amenity.

However, the recently submitted tracking plan demonstrates that a refuse vehicle can access and exit the site and the applicant's planning agent explains that the road can be built to adoptable standards. The local highway authority has confirmed acceptance of this position. The bin store could therefore be removed from this proposal to enable traditional door-to-door bin collections to all dwellings.

While this matter could be easily addressed by way of a suitably worded condition on any potential planning permission, the refusal reason remains at this time on the basis the recommendation remains one of refusal on principle grounds. It should be noted that the bin-store refusal reason would very likely fall away should an Inspector allow the principle of development at any future appeal submitted by the applicant.

*Reason 4. Insufficient evidence submitted in relation to potential impact on protected species (bats)*

A bat DNA report has since been submitted which confirms the presence of a day roost for brown long-eared bats as identified within the previous survey work. This now provides a suitable level of detail to enable conditions and notes to be included should permission be granted to safeguard bats along with precautionary working methods and appropriate mitigation measures.

It is considered that refusal reason 4 has been satisfactorily addressed and measures can be secured by condition if permission were to be granted.

*Reason 5. Failure to provide necessary mitigation measures in relation to the Cannock Chase SAC*

The applicant has provided the necessary mitigation by way of a S111 agreement and the fifth and final refusal reason has therefore been addressed.

## **New material matters**

Comments received refer to the replacement dwelling at No.29 subject of existing planning permission reference 21/0847 having been requested to reflect the wider building line. It should be noted that the original proposal at No.29 was some 3.3m forward of the building line to No.31, and 3.5m forward of No.27 before being revised to better reflect the building line in this location.

By comparison, projecting gable features to plot 1 the subject of this current application would only sit 0.9m forward of the building line to No.29 (1.9m forward adjacent the new proposed vehicle access further west) and the principle front elevation respects the existing building line. The existing property at No.27 includes a forward projecting garage that already sits 2m forward of the wider building line.

Plot 2 would only sit 0.6m forward of the building line to No.23 (0.7m forward adjacent the new proposed vehicle access further east) and the principle front elevation sits slightly behind the existing building line.

On balance, taking the above into account this is not considered to result in significant additional harm to the character or appearance of the area to warrant a refusal reason.

## **Conclusion**

Improvements have been made resulting in some issues having been addressed. Two issues remain that have not been addressed and the recommendation remains one of refusal for the following reasons. As mentioned above, it should be noted that the second bin-store refusal reason would very likely fall away should an Inspector allow the principle of development at any future appeal submitted by the applicant.

## **Updated reasons for refusal**

1. The development would provide an unacceptable back-land development with no street frontage to Little Aston Road 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 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 CSP4 (Place Making), HOU2 (Housing Density, Type and Accessibility), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) of the Black Country Core Strategy, saved policies GP2 (Environmental Protection), 3.6 (Environmental Improvement) and ENV32 (Design and Development



Proposals) of the Walsall Unitary Development Plan and DW3 (Character) of Designing Walsall Supplementary Planning Document.

2. The proposed bin collection point is considered would result in excessive distances for future residents of plots 5 and 6 to drag their bins to and its proposed position in close proximity to habitable windows serving kitchen to plot 3 is considered would result in an unacceptable detrimental impact to the amenities of the future residents at plot 3 from potential noise, odour and amenity. The proposal is contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan and policy ENV3 (Design Quality) of the Black Country Core Strategy.

**Petition March 2024 - copy of first page:**



## THE ORIGINAL REPORT FOLLOWS:

### 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.

### Recommendation:

1. 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.

## **Relevant Policies**

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

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

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

Key provisions of the NPPF relevant in this case:

**NPPF 2 – Achieving sustainable development**

**NPPF 4 – Decision Making**

**NPPF 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](http://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
- Amenities 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, is 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 Permission

### **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