

## **PLANNING COMMITTEE**

**Thursday, 29<sup>th</sup> March, 2012 at 5.30 p.m.**

**In the Council Chamber at the Council House, Walsall**

### **Present**

Councillor Perry (Chairman)  
Councillor Bird (Vice-Chairman)  
Councillor Ali  
Councillor Azam  
Councillor Carpenter  
Councillor Creaney  
Councillor Cook  
Councillor Ditta  
Councillor Douglas-Maul  
Councillor Harris  
Councillor James  
Councillor Madeley  
Councillor Rochelle  
Councillor Sarohi  
Councillor Thomas  
Councillor Turner

3058/12

### **Apologies**

Apologies for non-attendance were submitted on behalf of Councillors S. Fitzpatrick, Jeavons, Westley and Woodruff.

3059/12

### **Minutes**

#### **Resolved**

- (a) That the minutes of the special meeting held on 16<sup>th</sup> February, 2012, a copy having previously been circulated to each Member of the Committee, be approved and signed by the Chairman as a correct record;
- (b) That the minutes of the meeting held on 1<sup>st</sup> March, 2012, a copy having previously been circulated to each Member of the Committee, be approved and signed by the Chairman as a correct record.

3060/12      **Declarations of Interest**

Councillor Bird declared a prejudicial interest in relation to Item No. 1 on the plans list, application no. 11/0943/FL in relation to new access road to quarry off Chester Road and relocated recycling centre, including associated buildings at 30A Branton Hill Lane, Aldridge, Walsall, WS9 0NS as he had been involved in conversations but not in any decision making.

Councillor Bird declared a prejudicial interest in relation to Item No. 2 on the plans list, application no. 11/1033/TE in relation to time extension for implementing permission 06/0169/OL/E4 at 520 Chester Road, Aldridge, Walsall, WS9 0PU as he has been involved in conversations but not in any decision making.

Councillor Bird declared a personal and prejudicial interest in relation to Item No. 14 on the plans list, application no. 12/0126/FL in relation to proposed two storey side and rear extension at 56 Ganton Road, Bloxwich, Walsall, WS3 3XQ as he knows the applicant.

Councillor Carpenter declared a personal and prejudicial interest in relation to Agenda Item No. 6 on the agenda relating to Brush Garage, 86 Lichfield Road, Shelfield, Walsall, WS4 1PY as he had been involved in discussions with local residents.

Councillor Carpenter declared a prejudicial interest in relation to Item No. 11 on the plans list, application no. 12/0095/FL in relation to redevelopment of site for residential use, comprising two pairs of semi detached houses at land adjacent 10 Bosty Lane, Walsall as he knows the applicant.

Councillor Creaney declared a prejudicial interest in relation to Item No. 3 on the plans list, application no. 12/0063/FL in relation to demolition of existing derelict factory premises, roadway and ancillary buildings. Erection of new high bay warehouse with associated offices, fencing, landscaping, access roads and vehicle parking provisions at land off Park Road, Willenhall, WV13 1BU.

Councillor Madeley declared a personal and prejudicial interest in relation to Item No. 15 on the plans list, application no. 12/0280/FL in relation to single storey rear extension at 80 King Edward Street, Darlaston, WS10 8TN as the application was for his home address.

3061/12      **Deputations and Petitions**

There were no deputations introduced or petitions submitted.

3062/12      **Local Government (Access to Information) Act, 1985 (as amended)**

There were no items to be considered in private session.

The Chairman adjourned the meeting for ten minutes to enable Members to read the supplementary paper in relation to the National Planning Policy Framework which had been published on Tuesday, 27<sup>th</sup> March, 2012 and had implications for a number of items to be considered by Planning Committee.

3063/12

**Brush Garage, 86 Lichfield Road, Shelfield, Walsall, WS4 1PY**

*Councillor Carpenter, having declared an interest in this item, left the room and did not take part nor vote.*

The report of the Head of Planning and Building Control was submitted:-

(see annexed)

The Development Management Manager advised the Committee of the background to the report and drew Members' attention to the additional information as contained on pages 3 and 4 of the supplementary paper now submitted:-

(see annexed)

The Development Management Manager stated that officers could not support retention of the building against Counsel's view that it was a new build that, therefore, had no established rights. He recommended that Members agree to enforcement action to demolish the building.

There then followed questions to officers by Members in relation to the differences between the building that the Committee approved in August, 2010 and the current situation; was there evidence that some of the building was still in existence; what would be the financial implications to the Council and whether the Enforcement Notice required total demolition.

In response to Members' questions, officers re-iterated that in August, 2010, Members had approved the refurbishment and extension of an existing building and not the erection of a new building and that Counsel's opinion was that "there was an insignificant amount of the former building existing" to constitute a refurbishment.

In relation to the possible financial implications to the Council, the Council's solicitor reported that subsequent to planning approval in August, 2010, officers had visited the site following complaints where they had viewed the status of the development and sought Counsel's opinion. As a result, Counsel had concluded that the amount of new build had changed the status of the building from a refurbishment to a new build. If enforcement action is agreed by Members, then the applicant had a right of redress and that they could appeal to the Planning Inspectorate and the arguments tested there. The Council would incur costs in dealing with any appeal. The solicitor further advised it was important that Members also understood that even if they had considered the refurbishment permission, as officers had taken the view that there were breaches of the refurbishment permission, there was

case law citing the development as unlawful. She also advised that whether a building became a new building was a matter of fact and degree.

In response to whether the Enforcement Notice required total demolition, the Head of Planning and Building Control confirmed that the planning enforcement action required the full demolition of the building. He reported that the applicant had been given an opportunity to submit a retrospective planning application seven months ago but had not complied, therefore, the existing building was unauthorised and that the recommendations from the previous approval no longer prevailed. He explained to Members the tests of expediency. The Council's solicitor advised Members that officers had initially, in accordance with PPG18 then in force, tried to encourage the applicant to submit an application.

The Committee then proceeded to discuss the report in detail in respect of the current development compared to what Members had approved in 2010. The Committee also considered the advice that officers and the solicitor in attendance gave as to the lawfulness of the existing building as well as Counsel's opinion. Councillor Bird read out a statement as to why he had not taken part in the initial stages of the debate. The Development Management Manager read out the conditions from the planning permission the Committee had previously approved.

The Head of Planning and Building Control advised that the development would acquire immunity from enforcement action by August if the Committee did not authorise enforcement action. If the applicant does not enter into a Section 106 Agreement within three months, the matter should be brought back to Committee in July.

Members considered the report and Councillor Ali **moved** and it was **seconded** by Councillor Ditta:-

That there should be no enforcement action as Members felt there had been no significant changes to the fabric of the building in relation to height, width or massing, subject to the applicant entering into a Section 106 Agreement to cover planning conditions of 2010 by July, otherwise the matter to be brought back to Committee.

The Motion having been put to the vote was declared **carried**, with ten Members voting in favour of not taking enforcement action and two Members voting against the Motion.

### **Resolved**

That there should be no enforcement action as Members felt there had been no significant changes to the fabric of the building in relation to height, width or massing, subject to the applicant entering into a Section 106 Agreement to cover planning conditions of 2010 by July, otherwise the matter to be brought back to Committee.

Councillor Turner wished to have his name recorded as having voted against this resolution.

3064/12

## **2 Isis Grove, Willenhall, Walsall, WV13 1JD**

The report of the Head of Planning and Building Control was submitted:-

(see annexed)

The Development Management Manager advised the Committee of the background to the report and drew Members' attention to the additional information as contained on pages 4 and 5 of the supplementary paper now submitted:-

(see annexed)

### **Resolved**

- (1) That authority be granted for the issuing of an Enforcement Notice under the Town and Country Planning Act, 1990 (as amended), to require remedial actions to be undertaken as set out in 2.3 of the report now submitted;
- (2) That authority be granted for the decision as to the institution of prosecution proceedings, in the event of non-compliance with an Enforcement Notice, or the non-return of Requisitions for Information or a Planning Contravention Notice, and the decision as to the institution of Injunctive proceedings, in the event of a continuing breach of control, be delegated to the Head of Legal and Democratic Services, in consultation with the Head of Planning and Building Control;
- (3) That, in the interests of ensuring an accurate and up-to-date notice is served, authority be delegated to the Head of Legal and Democratic Services, in consultation with the Head of Planning and Building Control to amend, add to, or delete from the wording set out in the report stating the nature of the breaches and the reasons for taking enforcement action, the requirements of the Notice, or the boundaries of the site.

At this juncture in the meeting, the Chairman proposed to take the items on the agenda where members of the public had previously indicated that they wished to address the Committee. The Chair, at the beginning of each item for which there were speakers advised of the procedure whereby the speaker would have three minutes to speak and then at two minutes they would be reminded that they had a minute left.

3065/12      **Application List for Permission to Develop**

The application list for permission to develop was submitted, together with the supplementary papers and additional information for items already on the plans list:-

(see annexed)

3066/12      **Item No. 1 - 11/0943/FL- new access road to quarry off Chester Road and relocated recycling centre, including associated buildings at 30A Branton Hill Lane, Aldridge, Walsall, WS9 0NS**

*Councillor Bird, having declared an interest in items 1 and 2, left the room and did not take part nor vote.*

The Planning Officer advised the Committee of the background to the report and the information contained on pages 5 and 7 of the supplementary paper now submitted:-

(see annexed)

The Committee then welcomed the first speaker on this application, Mrs. Thomas, who spoke in objection to the application.

The Committee then welcomed the second speaker on this application, Mrs. Mannion, who also spoke in objection to the application.

The Committee then welcomed the third speaker on this application, Mr. Morris, who spoke in support of the application.

The Committee then welcomed the fourth speaker on this application, Mrs. Hoskisson, who also spoke in support of the application.

There then followed a period of questioning by Members to the speakers and officers, including whether speed restrictions would be imposed; how many passing places were proposed and who had been notified of the consultation. In response, officers stated there were no formal speed restrictions on the access road due to unlimited visibility; the application included a number of passing places; and that all consultation procedures had been followed.

The Committee then proceeded to discuss the application further and it was felt that the benefit to the residents of Branton Hill Lane by the relocation of the access road outweighed the harm from inappropriate development on Green Belt land.

Members considered the application and Councillor Rochelle **moved** and it was duly **seconded** by Councillor Creaney:-

That planning application no. 11/0943/FL be granted, subject to conditions as set out in the report and a Section 106 Agreement relating to the enabling development and quarry access arrangements; and subject to referral to the National Planning Case Work Unit and subject to additional conditions to ensure the protection of the sewers crossing the site and to secure longer sections of bound surface for the access road.

The Motion having been put to the vote was declared **carried**, with fifteen Members voting in favour of approval and none against.

**Resolved**

That planning application no. 11/0943/FL be granted, subject to conditions as set out in the report and a Section 106 Agreement relating to the enabling development and quarry access arrangements; and subject to referral to the National Planning Case Work Unit and subject to additional conditions to ensure the protection of the sewers crossing the site and to secure longer sections of bound surface for the access road.

3067/12 **Item No. 2 - 11/1033/TE - time extension for implementing permission 06/0169/OL/E4 at 520 Chester Road, Aldridge, Walsall, WS9 0PU**

The Planning Officer advised the Committee of the background to the report and the information contained on page 5 of the supplementary paper now submitted:-

(see annexed)

**Resolved**

That planning application no. 11/1033/TE be granted, subject to conditions and a Section 106 Agreement for variation for the unilateral undertaking and subject to no new material planning issues being raised on expiry of the notification period for the revised land ownership Certificates and subject to referral to the National Planning Case Work Unit under the departure Regulations.

3068/12 **Item No. 17 - 11/0980/FL - part two storey, part single storey side and rear extension. Single storey front extension and loft conversion (re-submission of 10/1575/FL) at 12 Bell Road, Walsall, WS5 3JW**

The Planning Officer advised the Committee of the background to the report and the information contained on page 5 of the supplementary paper now submitted:-

(see annexed)

The Committee then welcomed the first speaker on this application, Ms. Cran, who spoke in objection to the application.

The Committee then welcomed the second speaker on this application, Mr. Sagoo, who spoke in support of the application.

The Committee then welcomed the third speaker on this application, Mr. Singh, who also spoke in support of the application.

There then followed a period of questioning by Members to the speakers and officers, including how much increase the extension would have on the existing property.

The Committee then proceeded to discuss the application in detail, including how the road was characterised by different house shapes. Members considered the application and Councillor Perry **moved** and it was duly **seconded** by Councillor Madeley:-

That planning application no. 11/0980/FL be refused for the reasons contained within the report.

The Motion having been put to the vote was declared **carried**, with nine Members voting in favour of refusal and four against.

### **Resolved**

That planning application no. 11/0980/FL be refused for the reasons contained within the report.

3069/12

### **Item No. 13 - 12/0122/FL - change of use to a three bed residential children's care home (age 11 - 18 yrs) at 31 Ida Road, Walsall, WS2 9SS**

The Planning Officer advised the Committee of the background to the report and the information contained on pages 5 and 9 of the supplementary paper now submitted:-

(see annexed)

The Committee then welcomed the first speaker on this application, Mr. Nawaz, who spoke in support of the application.

The Committee then welcomed the second speaker on this application, Mr. Rashid, who also spoke in support of the application.

There then followed a period of questioning by Members to the speakers and officers, including how the residential home would be funded and what qualifications the staff would have. In response, the speaker stated the residential home would be funded through the Local Authority and that all staff would have the required qualifications in child care and management.



The Committee then proceeded to discuss the application in detail, including how the residential children's home would provide a family environment to three local children. Members considered the application and Councillor Madeley **moved** and it was duly **seconded** by Councillor Harris:-

That planning application no. 12/0122/FL be granted, subject to the conditions as set out in the report and supplementary paper now submitted.

The Motion having been put to the vote was declared **carried**, with fifteen Members voting in favour of the Motion and one against.

**Resolved**

That planning application no. 12/0122/FL be granted, subject to the conditions as set out in the report and supplementary paper now submitted.

At this juncture in the meeting, Councillor Bird **moved** and it was duly **seconded** by Councillor Madeley:-

That Standing Order No. 9(a) of the Council's Constitution be suspended in order for the Committee to conclude the remainder of its business.

The Motion having been put to the vote was declared **carried**, with sixteen Members voting in favour of the Motion and none against.

**Resolved**

That Standing Order No. 9(a) of the Council's Constitution be suspended in order for the Committee to conclude the remainder of its business.

3070/12

**Deed of Variation to Section 106 Agreement for Bovis Development on site of former St. Margaret's Hospital- Application No. 02/2417/OL/E2**

The report of the Head of Planning and Building Control - Regeneration was tabled on the evening:-

(see annexed)

Members considered the report and Councillor Bird **moved** and it was duly **seconded** by Councillor Harris:-

That the request for a Deed of Variation to the Section 299A Agreement to release the developer from the obligations relating to provision of a community facility on site in lieu of a contribution towards improvements to an existing community facility in the neighbourhood be granted, subject to negotiation with the developers for agreement of an appropriate compensatory sum.

The Motion having been put to the vote was declared **carried**, with sixteen Members voting in favour of the Motion and none against.

**Resolved**

That the request for a Deed of Variation to the Section 299A Agreement to release the developer from the obligations relating to provision of a community facility on site in lieu of a contribution towards improvements to an existing community facility in the neighbourhood be granted, subject to negotiation with the developers for agreement of an appropriate compensatory sum.

3071/12

**Item No. 3 - 12/0063/FL - demolition of existing derelict factory premises, roadway and ancillary buildings. Erection of new high bay warehouse with associated offices, fencing, landscaping, access roads and vehicle parking provisions at land off Park Road, Willenhall, WV13 1BU**

**Resolved**

That planning application no. 12/0063/FL be granted, subject to the conditions as set out in the report and the information contained on pages 5 and 7 of the supplementary paper now submitted.

There was no discussion on this item and as Councillor Creaney had earlier declared an interest, he took no part in the voting.

3072/12

**Item No. 4 - 12/0109/FL and 12/0110/LB - application for highway works, realignment and traffic signalisation and engineering works relating to James Bridge Aqueduct at Bentley Mill Way and junction with Darlaston Road, Walsall**

**Resolved**

That planning application no. 12/0109/FL and 12/0110/LB be granted, subject to the conditions, and grant Listed Building Consent, as set out in the report and the information contained on pages 5, 7 and 8 of the supplementary paper now submitted.

3073/12

**Item No. 5 - 12/0097/FL - demolition of existing factory building and erection of four storey building (including basement parking) for banqueting, conferences and training facility with ancillary manager's accommodation on the second floor at Century Works, Midland Road, Walsall, WS1 3QQ**

## **Resolved**

That planning application no. 12/0097/FL be granted, subject to the conditions as set out in the report and the information contained on pages 5 and 8 of the supplementary paper now submitted.

3074/12 **Item No. 6 - 12/0092/FL - variation of Condition 13 of 09/1342/FL relating to works to the railway cutting to allow for a flexible phasing plan to works at Ex-railway cutting between Mill Street and Reedswood Way, Walsall**

## **Resolved**

That planning application no. 12/0092/FL be granted, subject to the conditions as set out in the report and the information contained on page 5 of the supplementary paper now submitted.

3075/12 **Item No. 7 - 12/0151/RM - reserved matters application to determine appearance, landscaping, layout and scale for residential development of 24 houses and provision of details of community centre at a later date (outline permission 10/1706/FL) at former Redhouse School (JMI), Gorseway, Aldridge, Walsall, WS9 0EQ**

## **Resolved**

That planning application no. 12/0151/RM be granted, subject to the conditions as set out in the report and the information contained on pages 5 and 6 of the supplementary paper now submitted.

3076/12 **Item No. 8 - 12/0066/FL - variation of condition 2 of permission 10/1593/FL to allow substitution of house type on all 36 new dwellings at land off Watermead Grange/Silver Street, Walsall**

## **Resolved**

That planning application no. 12/0066/FL be granted, subject to the conditions as set out in the report and the information contained on pages 5 and 9 of the supplementary paper now submitted.

3077/12 **Item No. 9 - 12/0113/FL - variation of condition 17 of planning permission 09/1695/FL to substitute house types on plots 9- 11 at plots 9 - 11, land off Bell Lane, Bloxwich**

## **Resolved**

That planning application no. 12/0113/FL be granted, subject to the conditions as set out in the report and the information contained on page 5 of the supplementary paper now submitted.

3078/12 **Item No. 10 - 12/0150/FL - variation of condition 20 attached to planning approval 09/0645/FL to provide a change to the mix of tenures to include social rent, intermediate rent and market sale at land at the junction of High Street and Ogley Road, Brownhills, WS8 6DW**

**Resolved**

That planning application no. 12/0150/FL be granted, subject to the conditions as set out in the report and the information contained on page 5 of the supplementary paper now submitted.

There was no discussion on this item and as Councillor Carpenter had earlier declared an interest, he took no part in the voting.

3079/12 **Item No. 11 - 12/0095/FL - redevelopment of site for residential use, comprising two pairs of semi detached houses at land adjacent 10 Bosty Lane, Walsall**

*Councillor Carpenter, having earlier declared an interest in this item, left the room and did not take part nor vote.*

The Planning Officer advised the Committee of the background to the report and the information contained on pages 6 and 9 of the supplementary paper now submitted:-

(see annexed)

The Committee then proceeded to discuss the application in detail, including the unsightliness of the Green Belt land due to the two derelict buildings and the evasive fly tipping; that too many builds should not be permitted on Green Belt land; the land was deteriorating badly and was an eyesore and that there had been two other properties on the land a number of years ago.

Members considered the application and Councillor Perry **moved** and it was duly **seconded** by Councillor James:-

That planning application no. 12/0095/FL be granted, subject to conditions to be delegated to officers on the grounds that the applicant has satisfactorily demonstrated that there are special circumstances to outweigh the harm to the character and openness of the Green Belt caused by the redevelopment of the site comprising of two pairs of semi detached houses as the development will tidy up a problem site which had suffered constant fly tipping; it would bring the land back into residential use and would enhance the amenity of adjoining neighbours and the local community.

The Motion having been put to the vote was declared **carried**, with thirteen Members voting in favour of the Motion and two against.

### **Resolved**

That planning application no. 12/0095/FL be granted, subject to conditions to be delegated to officers on the grounds that the applicant has satisfactorily demonstrated that there are special circumstances to outweigh the harm to the character and openness of the Green Belt caused by the redevelopment of the site comprising of two pairs of semi detached houses as the development will tidy up a problem site which had suffered constant fly tipping; it would bring the land back into residential use and would enhance the amenity of adjoining neighbours and the local community.

3080/12 **Item No. 12 - 12/0057/FL - new detached 3 bedroom dwelling at land adjacent to 59 Fordbrook Lane, Pelsall, Walsall, WS3 4BW**

### **Resolved**

That planning application no. 12/0057/FL be granted, subject to the conditions as set out in the report and the information contained on page 5 of the supplementary paper now submitted.

3081/12 **Item No. 14 - 12/0126/FL - proposed two storey side and rear extension at 56 Ganton Road, Bloxwich, Walsall, WS3 3XQ**

Councillor Bird, having declared an interest in this item, left the room and did not take part not vote.

### **Resolved**

That planning application no. 12/0126/FL be granted, subject to the conditions as set out in the report and the information contained on page 5 of the supplementary paper now submitted.

3082/12 **Item No. 15 - 12/0280/FL - single storey rear extension at 80 King Edward Street, Darlaston, WS10 8TN**

Councillor Madeley, having declared an interest in this item, left the room and did not take part not vote.

### **Resolved**

That planning application no. 12/0280/FL be delegated to the Head of Planning and Building Control to grant permission, subject to the conditions as set out in the report and the information contained on page 5 of the supplementary paper now submitted and no further representations in objection being received which are material planning considerations.

3083/12 **Item No. 16 - 12/0084/FL - remove existing hedges and erection of new timber fence and gates. Alteration to existing 2m high fence and driveway, including new dropped kerb at 28 Kestrel Grove, Willenhall, WV12 5HQ**

**Resolved**

That planning application no. 12/0084/FL be granted, subject to the conditions as set out in the report and the information contained on page 5 of the supplementary paper now submitted.

3084/12 **Item No. 18 - 12/0209/FL - change of use to garden land and retain fence at 39A Jerome Road, Walsall, WS2 9SX**

**Resolved**

That planning application no. 12/0209/FL be granted, subject to the conditions as set out in the report and the information contained on page 6 of the supplementary paper now submitted.

3085/12 **Item No. 19 - 12/0187/FL - demolition of existing greenhouses and dilapidated brick built stores and construction of 3 new detached dwellings on land adjacent to 830 Chester Road at land adj. and rear of 830 Chester Road, Aldridge, WS9 0LS**

This item had been withdrawn from the meeting.

**Termination of meeting**

There being no further business the meeting terminated at 8.35 p.m.

Signed: .....

Date: .....