



Walsall Council

PLANNING COMMITTEE

Thursday, 6 January 2022 at 5.30 pm

In the Council Chamber at Walsall Council House

Public access to meeting via: <https://youtu.be/I4vLcDC15Hg>

MEMBERSHIP:

Councillor M. Bird (Chairman)
Councillor G. Perry (Vice Chairman)
Councillor G. Ali
Councillor B. Allen
Councillor P. Bott
Councillor S. Cooper
Councillor S. Craddock
Councillor C. Creaney
Councillor A. Harris
Councillor A. Hicken
Councillor K. Hussain
Councillor J. Murray
Councillor A. Nawaz
Councillor M. Nazir
Councillor W. Rasab
Councillor I. Robertson
Councillor S. Samra
Councillor M. Statham
Councillor A. Underhill
Councillor V. Waters

QUORUM:

Seven Members

A G E N D A

PART I – PUBLIC SESSION

1. Apologies.
2. Declarations of Interest.
3. Minutes of the previous meeting – 2 December, 2021 – Copy **enclosed**
4. Deputations and Petitions.
5. **Local Government (Access to Information) Act 1985 (as amended):**

To agree that, where applicable, the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
6. Addition to the List of Buildings of Local Architectural and Historic Interest – Walsall Local History Centre, Essex Street, Walsall, WS2 7AU – Copy **enclosed**
7. Application List for Permission to Develop:
 - a) Items subject to Public Speaking;
 - b) Items 'Called-in' by Members
 - c) Items not subject to 'Call-in'
- Copy **enclosed**

PART II – PRIVATE SESSION

8. Arrow Industrial Estate, Straight Road, Willenhall, WV12 5AE – Case Reference E21/0066 – Report of the Head of Planning & Development Control – Copy **enclosed**

[Exempt information under paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)]

The Relevant Authorities (Discloseable Pecuniary Interests) Regulations 2012

Specified pecuniary interests

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

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

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

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

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

PLANNING COMMITTEE

2 December 2021 at 5.30 pm

In the Council Chamber at the Council House, Walsall

Present:

Councillor M. Bird (Chair)
Councillor G. Ali
Councillor P. Bott
Councillor S. Craddock
Councillor A. Harris
Councillor J. Murray
Councillor M. Nazir
Councillor W. Rasab (arrived at plans list item 3)
Councillor S. Samra
Councillor M. Statham
Councillor V. Waters

In attendance:

A. Ives	–	Head of Planning & Building Control
M. Brereton	–	Group Manager – Planning
A. Cook	–	Regeneration Officer – Trees
L. Wright	–	Senior Planning Officer
J. Grant	–	Environmental Protection Manager
C. Dean	–	Senior Environmental Protection Officer
K. Moreton	–	Head of Highways & Transport
A. Sargent	–	Principal Solicitor
D. Smith	–	Senior Legal Executive
F. Whitley	–	Senior Planning Enforcement Officer
I. Jarratt	–	Principal Environmental Protection Officer
N. Picken	–	Principal Democratic Services Officer
N. Gough	–	Democratic Services Officer

193/21 Apologies

Apologies for absence were submitted on behalf of Councillors B. Allen, G. Perry, K. Hussain, A. Underhill, W. Rasab, C. Creaney and A. Nawaz.

194/21 Minutes

Resolved:

That, subject to the inclusion of Councillor K. Hussain's name in the list of attendees, the Minutes of the meeting held on 4th November 2021, a copy having been previously circulated to each Member of the Committee, be approved and signed as a true record.

195/21 **Declarations of Interest**

There were no declarations of interest for the duration of the meeting.

196/21 **Deputations and Petitions**

There were no deputations introduced or petitions submitted.

Councillor P. Bott referred to page 20 of the minutes and requested confirmation of when demolition of the extension at 169 Lowe Avenue, Darlaston. This information would be provided by officers to Councillor Bott.

197/21 **Local Government (Access to Information) Act, 1985 (as amended)**

Exclusion of the Public

Resolved:

That, during consideration of the items on the agenda, the Committee considers that the relevant items for consideration are exempt information for the reasons set out therein and Section 100A of the Local Government Act 1972 and accordingly resolves to consider those items in private.

198/21 **Application to remove one protected pine tree at 25 Little Aston Road, Aldridge, Walsall, WS9 0NP**

The report of the Head of Planning and Building Control was submitted (see annexed). The Presenting Officer advised the Committee of the background to the report and highlighted the salient points contained therein.

The Committee welcomed the first speaker on this item, Mr Brindley, who wished to speak in support of the application. The Chair stated that he had met Mr and Mrs Brindley many years ago, but had not met them since.

Mr Brindley stated that the tree preservation order was placed on the tree to prevent a bungalow being built at the rear of the garden not due a perceived amenity value to the local community. The tree leaned towards neighbouring properties, the location of the tree was considered precarious for such a large tree. The tree prevented the growth of fruit, vegetables and flowers in its surroundings, and the roots had caused significant damage to the patio and a retaining wall within the garden. In 2013, the garden was landscaped, at significant cost, to mitigate the damage caused by the tree (including replacement of paths and wall). In 2021, the same progressive damage was being caused to the new landscaping by the tree and was lifting the same places. The tree could fall onto neighbouring properties and cause damage to a conservatory, however a Tree Officer visited the property but was dismissive of concerns raised in relation to the tree. Mr Brindley concluded that the family were in the process of designing a community garden in relation to their late Son, in which they would be supporting the Queen's green canopy.

The Committee welcomed the second speaker on this item, Mrs Brindley, who wished to speak in support of the application.

Mrs Brindley spoke of difficult family circumstances which had devastated aspects of their family's lives, and created financial burdens. Events had led to them making the decision to sell their family home. All prospective purchasers had commented, without exception, that the tree was large, and on the detrimental impact on plants adjacent to it and it was concluded that the removal of the TPO on the tree would be a lifeline for the family.

Members asked questions of officers in relation to determining issues, this being that the removal of the tree would be detrimental to the amenity, aesthetic and landscape value of the locality. A Member stated that there were a large number of neighbours surrounding the property and asked if it was correct that there had been no representations in objection and one representation in favour of the removal of the tree. Officers confirmed that this was correct.

A Member questioned if the tree needed maintenance, and the Regeneration Officer stated that it did not, other than the removal of deadwood, stating that this was a natural biological process.

A Member asked speakers and Officers for their comment on the lack of evidence of root instability of the tree. The Speaker, Mr Brindley, responded to state that the root instability was shown in the surrounding landscape. The significant issue was the trees movement in high winds, which caused concern for safety. The Tree Officer responded to state that there was no evidence of tree root failure or instability in the ground.

Members asked for further information on the reference to deadwood within the tree, the Regeneration Officer stated that trees contained deadwood, and this was a normal biological process. The Regeneration Officer stated that the movement to the path and wall as described by the speaker, was due to the incremental growth of the roots.

A Member suggested that the amenity value of the tree to the community was low, however the negative impact of the substantial tree in a back garden, on the family was significant. It was stressed that there was no disparity that the Officer had made his case, however it was considered that the amenity value of the tree was low.

Members concluded that reference to deadwood in the tree was a concern, there were a significant number of trees in the area, and agreed that the amenity value of this tree was low. Members discussed the determining issue related to the loss of amenity, and concluded that the loss of this tree would not be noticed – this was evidenced by lack of representations by neighbours.

Councillor Bott stated that he would be supporting Officer recommendations, however if Committee were minded to grant the application a replacement tree should be stipulated. The Head of Planning & Building Control stated that usual policy was to require a replacement tree if a tree was removed. It was noted that

the applicants were planning a memorial garden and would be contributing to the planting of trees in the local area.

It was **Moved** by Councillor Craddock, **seconded** by Councillor Bird and upon being put to the vote was:

Resolved (9 in favour, 1 against)

Approved against officer recommendation to grant consent to fell the pine tree (T1) in garden of 25 Little Aston Road, Aldridge, Walsall, WS9 0NP subject to a condition to replace the tree with another, size and species to be agreed.

199/21 **Application list for permission to develop**

The application list for permission to develop was submitted, together with supplementary papers and information for items already on the plans list (see annexed).

The Committee agreed to deal with the items on the agenda where members of the public had previously indicated that they wished to address the Committee and the Chair, at the beginning of each item for which there were speakers, confirmed they had been advised of the procedure whereby each speaker would have two minutes to speak.

At this point, Councillor Rasab joined the meeting.

200/21 **PLANS LIST ITEM NO. 3 – Application number 21/0970 – FORMER SOCIAL CARE AND INCLUSION RESPONSE CENTRE, 6, BROWNHILLS ROAD, WALSALL WOOD, WALSALL, WS8 7BS**

The report of the Head of Planning and Building Control was submitted (see annexed).

The Presenting Officer was L. Wright – Senior Planning Officer, who advised the Committee of the background to the report and highlighted the salient points contained therein.

The Committee welcomed the first speaker on this item, Mr Steven Rigby, who was in attendance on behalf of the applicant.

A Member asked the speaker what the view was on potential car parking problems. The Speaker stated that a transport specialist had reviewed the plans against the Councils policy and the plans exceeded the requirements set out.

The Senior Planning Officer was asked if the concern around ‘overlooking gardens’ had been fully investigated. The Committee were assured that there was no concerns in relation to this. The Senior Planning Officer was asked for an update on the ecology report and stated that there would be further surveys which would be conditioned, due to the potential for bats on site.

It was **Moved** by Councillor Bird, **seconded** by Councillor Statham and upon being put to the vote:

Resolved (Unanimous)

That the Head of Planning and Building Control be delegated authority to grant planning application number **21/0970** subject to conditions and subject to the amendment and finalising of conditions and the securing of final conditions from tree officers.

At this point in the meeting, Councillor Murray left the meeting.

201/21

PLANS LIST ITEM NO. 4 – Application number 20/0499 – 196, WALSALL WOOD ROAD, ALDRIDGE, WALSALL, WS9 8HB

The report of the Head of Planning and Building Control was submitted (see annexed).

The Presenting Officer was Mr M. Brereton, Group Manager – Planning, who advised the Committee of the background to the report and highlighted the salient points contained therein.

The Committee welcomed the two speakers on this item, Mr K Pala and Mr D McCarthy, in attendance in support of the application. Mr Pala stated that the development would create a further 15 jobs and Mr D McCarthy expressed his support for the application.

There were no questions for the speakers or officers.

It was **Moved** by Councillor S. Samra, **Seconded by Councillor Harris**, and upon being put to the vote was:

Resolved (unanimous)

To Delegate to the Head of Planning & Building Control to Grant Planning Permission and subject to the amendment and finalising of conditions.

202/21

PLANS LIST ITEM NO. 5 – Application number 20/0838 – LAND REAR OF 9, BASLOW ROAD, BLOXWICH

The report of the Head of Planning and Building Control was submitted (see annexed).

The Presenting Officer was Mr M. Brereton, Group Manager – Planning, who advised the Committee of the background to the report and highlighted the salient points contained therein. In addition, the Presenting Officer drew the Committee's attention to the additional information as set out in the tabled supplementary paper.

The Chair highlighted that a further matter not covered in the supplementary paper, is that the Planning Officer had requested a reduction in the massing of the application, and this had been achieved.

The Committee welcomed the first speaker on this item, Mr G. Robertson who wished to speak in objection to this application. He stated that his property was most affected by this application, all previous applications had been refused where the current proposed access had been proposed. The access passed through the boundary wall of his property and the gable wall of number 7 Baslow Road. It was formed by demolishing the attached garage, removing a hedge and infilling a water course behind the properties. Since this removal surrounding the garden had become boggy, and suggested it should be reinstated. With the proposed access the speaker would lose privacy and security would also be a compromised, as access to garden could then be achieved. It was stated that the planning report had omitted information relevant to the application, and of which were reasons for previous refusal. The Committee were urged to consider the well thought out reasons for refusal.

The Committee welcomed the first speaker on this item, Ms H. Lawrence who wished to speak in objection to this application. The speaker stated that she strongly objected to application on the basis that all previous applications had been refused, even at appeal. She questioned what was different between previous applications and the current one. It was noted that the sale of number 7 Baslow Road meant that the applicant no longer had the option to create a wider access space. This could create a safety issue on the road. It was stressed that the replacement tree (linked to a previous application) had not taken been planted.

The Committee welcomed the third speaker on this item, Mr Davis, who wished to speak in support of this application as the applicant. He stated that a design which was satisfactory to Planning Officers had now been achieved. The garage had been removed to secure the retention of trees and secure the privacy of a neighbouring property. The application included acoustic fencing, a low emissions boiler and electrical charging point.

Committee Members were then invited to ask questions of the speakers.

In response to a question, from Councillor M. Statham (who stated he lived in the area), in relation to the water course, Mr Robertson stated that the water course had been infilled by demolition material to create the access road. The applicant further responded to state that this was not the case and that there had never been a water course.

The applicant was questioned by Members, this included why this application was now considered an acceptable development despite previous refusals and why 7 Baslow Road had not been demolished as per a previous successful planning application. The applicant stated that his plans had changed due to ill health and he wished to build a bungalow for his personal use. Members asked if the replanting of the removed tree had been complied with, the applicant stated that it had not been possible to obtain a tree during the pandemic, however he was happy to comply with this requirement.

A Member noted that West Midlands Fire Service had not responded to determine if the access road was an acceptable width, noting that this was unusual. The applicant confirmed that it was wide enough for emergency vehicle use.

Committee Members were then invited to ask questions of the Officers.

Officers were asked if the determination of the land, by the Planning Inspectorate, as acceptable for back land development had influenced the decision that this application was recommended for approval (with conditions). Officers responded to state that this had provided a strong basis however 'case law' had also influenced this. It was noted that there were limited public vantage points which had contributed to this being acceptable for back land development. It was noted that planning permission for three dwellings had been granted in 2017. The Head of Planning & Building Control stated that it would be a risk for the Authority to recommend refusal due to planning case law and the previous successful application (for three dwellings).

Members noted that the previous successful application had included the demolition of number '7 Baslow Road' to create an access road to the property, however the current application included a much narrower access road. Concerns were raised that the width of this access road was not sufficient. Officers explained that the local highway agency had determined that the access road was wide enough.

Following discussion in relation to previous applications, the Chair reminded Members that this was an application for one dwelling that the Planning inspectorate had determined this was a sustainable location. Officer's reminded Members that the latest decision of the Planning Authority had been to approve the previous application for three dwellings.

A Member asked for further information on public sewers as referred to in the report, and asked if it had been explored. The Officer stated that this was a standard response from Severn Trent – and was a note to applicant rather than a material planning consideration.

Concern was expressed by a Member that West Midlands Fire Service had not determined whether access was wide enough. The Officers stated that the fire service didn't object but ongoing discussions would continue with the applicant. It was noted that the fire service were not a statutory consultee. A Member asked for the exact width of the proposed access road. The Head of Highways and Transport confirmed that the requirement for access by a fire appliance was 3.7 metres, on the basis that the applicant anticipated that the access was 4 metres wide this would be satisfactory.

It was suggested that by approving Officer recommendations, further conditions could be included. Some Members expressed dissatisfaction that the width of the access road could not be determined, which was a fundamental part of the application and suggested that the application was deferred to allow outstanding issues to be presented to the Committee.

It was **Moved** by Councillor S. Craddock, **Seconded** by Councillor P. Bott, and upon being put to the vote was:

Resolved (5 in favour and 5 against, Chairs casting vote carried):

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to:

- The amendment and finalising of conditions;
- Concluding the existing 14 day public consultation period;
- No further material planning considerations being raised;
- Additional ecological conditions being imposed.
- The addition of a condition to secure a replacement tree in place of the tree already removed and
- Subject to approval of the access by the Fire Service.

203/21

PLANS LIST ITEM NO. 6 – Application number 21/0465 – 17, NORMAN ROAD, WALSALL, WS5 3QJ

The report of the Head of Planning and Building Control was submitted (see annexed).

The Presenting Officer was Mr M. Brereton, Group Manager – Planning, who advised the Committee of the background to the report and highlighted the salient points contained therein. In addition, the Presenting Officer drew the Committee's attention to the additional information as set out in the tabled supplementary paper.

The Committee welcomed the first speaker on this item, Mr A. Rahman, who wished to speak in support of this application. He addressed the committee to stress that this was a simple two story household development. The objections received were based on factually incorrect information. The plans fully complied with the planning policy through extensive dialogue with the Planning department. Commentary was given on the objections, with suggestions they were unjust.

There were no questions to the speaker or to officers.

The Chair informed the speaker that the Council's constitution stipulated that if there were more than three objections to an application it must be considered by the Planning Committee.

It was **Moved** by Councillor W. Rasab, **Seconded** by Councillor M. Bird, and upon being put to the vote was:

Resolved (Unanimous):

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to the amendment and finalising of conditions.

204/21 **PLANS LIST ITEM NO.1 – Application number 21/0799 – DOROTHY PATTISON HOSPITAL, ALUMWELL CLOSE, WALSALL, WS2 9XH**

The report of the Head of Planning and Building Control was submitted (see annexed).

At this point in the meeting Councillor S. Craddock left the room and so did not participate in the vote.

It was **Moved** and, **Seconded**, and upon being put to the vote was:

Resolved (Unanimous):

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and Section 106 to secure a Full Travel Plan, and subject to the amendment and finalising of planning conditions.

205/21 **PLANS LIST ITEM NO. 2 – Application number 21/0646 – LAND WEST OF WALSALL RETAIL PARK, REEDSWOOD WAY, WALSALL, WS2 8XA**

The report of the Head of Planning and Building Control was submitted (see annexed).

It was **Moved** by Councillor M. Bird, **Seconded** by Councillor W. Rasab, and upon being put to the vote was:

Resolved (Unanimous):

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to the amendment and finalising of conditions; and subject to final comments from the Council's Arboricultural Officer, Local Lead Flood Authority and Environment Agency.

Councillor Craddock returned to the meeting.

206/21 **Private Session**

Exclusion of the Public

Resolved:

That, during consideration of the following items on the agenda, the Committee considered that the items for consideration were exempt information by virtue of Paragraphs 3, 6 and 7 of Schedule 12(A) of the Local Government Act 1972 (as amended) and accordingly resolved to consider that item in private session.

Summary of matters considered in the private session

207/21 117 Sandringham Avenue, WV12 5TG – Case Reference E21/0104 – Report of the Head of Planning & Development Control

A report of the Head of Planning and Building Control was submitted which advised of alleged unauthorised development relating to 117 Sandringham Avenue, Walsall.

Members discussed the position and options following which the committee resolved to take note of the investigation and agreed the recommendations as set out within the report.

[Exempt information under paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)]

Termination of meeting

There being no further business, the meeting terminated at 7.55 pm.

Signed

Date



Walsall Council

PLANNING COMMITTEE: 6th January 2022

REPORT OF HEAD OF PLANNING & BUILDING CONTROL

Additions to the List of Buildings of Local Architectural and Historic Interest – Walsall Local History Centre, Essex Street, Walsall, WS2 7AU

1. Purpose of Report

To request that Committee agree to the permanent inclusion of Walsall Local History Centre, Essex Street, Walsall on the List of Buildings of Local Architectural and Historic Interest. The site is presently Council owned. The Listing is sought in order to protect it from future development that may result in the loss of the Heritage Asset entirely or loss of historic fabric of the building.

2. Recommendation

That Committee agrees to the permanent inclusion of Walsall Local History Centre, Essex Street, Walsall on the List of Buildings of Local Architectural and Historic Interest

3. Resource and Legal Considerations:

The Council's current criteria, as outlined in the adopted UDP, for a building to be included on the Local List are:-

- i. Possessing special architectural or historic interest but not currently enjoying statutory Listed Building status.
- ii. Definite and recognisable architectural interest (including originality of design or rarity as a type specimen).
- iii. Relating to traditional or historic industrial processes surviving in a reasonably intact condition.
- iv. Intact industrial history structures such as bridges.
- v. Buildings of character acting as landmarks in the townscape.
- vi. Associated with unusual or significant historic events or containing features of definite antiquity (ie. pre-1800).
- vii. Good quality modern architecture.

Subject to approval, property owners will be advised of the local listing of properties.

There is no right to appeal for Local Listing so the Council will not be open to legal challenge as the result of adding a building to the list.

There are no resource implications.

4. Citizen Impact:

The preservation and conservation of historic buildings creates assets available for residents of the Borough to enjoy. Historic buildings provide links from the present to the past and contribute to residents feeling proud of Walsall's culture.

5. Community Safety:

The protection of local list buildings, in conjunction with the Council's wider heritage-led regeneration work will assist in the improvement of community safety.

6. Environmental Impact:

Continued use of historic buildings is environmentally sustainable and visually contributes to the enhancement of the built environment of the Borough. Such buildings contribute significantly to the environmental quality of Walsall.

7. Performance and Risk Management Issues:

Designating a building on the Local List will contribute to the Council's wider heritage led regeneration initiatives. There is a financial risk that it will reduce any potential capital receipt for the Council as it will reduce the development potential of the site due to the presumption against demolition outlined in saved UDP policy ENV28. However, as the Council are committed to preserving the Borough's built heritage this should not constitute a significant risk.

8. Equality Implications:

Buildings of local architectural or historic interest are considered an amenity benefit for all citizens. Buildings are proposed for the local list based on their historical and architectural merit only regardless of their use or ownership.

9. Consultation:

Asset Management have been advised in writing of the intention to include the Former Walsall Local History Centre on the Local List, appendix A. They have been provided with information on the proposed addition and what this would mean for them as owners.

Asset Management have advised the local listing of the building would have a capital receipt implication, as offers received have indicated this would be subject to the demolition and redevelopment of the site.

10. Ward(s) Affected:

Blakenall

11. Background Papers:

Attached.

12. Contact Officer

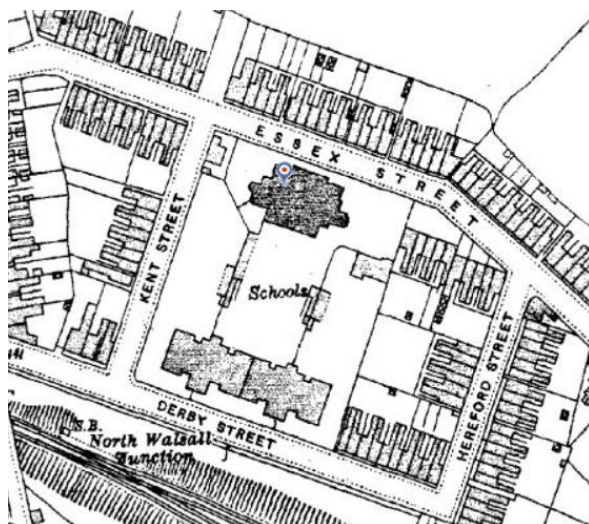
Devinder Matharu: Conservation Officer, Planning & Building Control
Devinder.matharu@walsall.gov.uk

Alison Ives

Head of Planning and Building Control

**Additions to the List of Buildings of Local Architectural and Historic Interest –
Walsall Local History Centre, Essex Street, Walsall, WS2 7AU**

13.0 The Site



13.1 The Former Walsall Local History Centre, opened in 1904, as the North Walsall Junior and Infants School. It is part of a complex of school buildings constructed in the early 20th century on the site between Derby Street and Essex Street.

Image Left: Walsall Council Historic Mapping

13.2 The site has been split with the Abu Bakr School occupying the buildings to the south of the site, fronting Derby Street, and the Former Walsall Local

History Centre to the north of the site, fronting Essex Street. Adjacent the Former Local History Centre is the former Headmaster's House.

13.3 The most recent use of the former school building, as an archive has allowed for the internal floor plan and original internal features to be retained in a largely original condition.

13.4 This building/group of existing buildings are a prominent focal feature within the street scene and makes a positive contribution to the character of the area, the street scene and local historic environment.

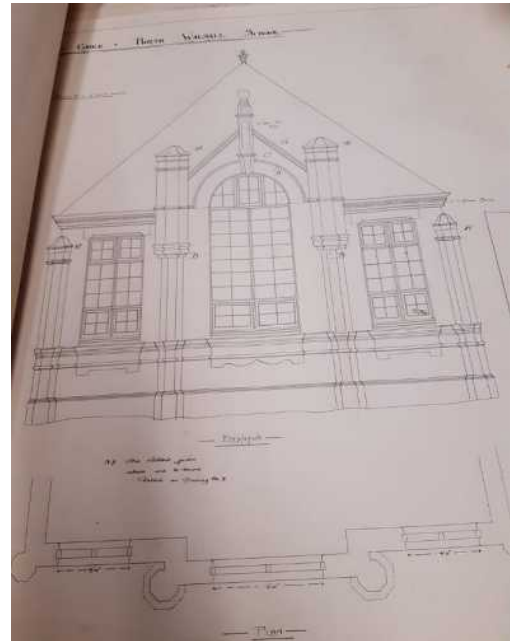
14.0 Historical Interest

14.1 Local Architect and Surveyor H.E. Lavender (b.1856 – d.1935), who certainly worked for the Walsall School Board in the first years of the 20th century, is the likely designer of the building. He had a long career, with his son Ernest Charles Lavender (b.1890 - d.1942) carrying on the family practice; the firm of Lavender and Twentyman being noted especially for their modernist churches in the West Midlands, such as the Grade II Listed Church of St. Gabriel on Walstead Street, Walsall.

14.2 Lavender Senior's most famous building is the 'New Workhouse Infirmary' on Pleck Road, now known as the Former Board of Guardians Offices, South of Manor Hospital, which is Grade II listed. He also designed temporary school accommodation for the School Boards (Walsall at the time had a severe shortage of school places).

14.3 H. E. Lavender also designed at least the Elmore Green Schools in Bloxwich and the archive (at Walsall Local History Centre) contains a bundle of 25 drawings entitled 'North Walsall Schools' which includes a detailed drawing for the main window for 'Infants School in North Walsall'. Each of the drawings at the Walsall Archives is signed at H.E. Lavender, including the main window detail. The building now known as 'Walsall Local History Centre' is the work of a regionally prominent architect.

Image right: Walsall Archives, 2021



14.4 The History of the County of Stafford: Volume 17, originally published by Victoria County History, London, 1976, describes the History of Education in Walsall:

'A survey of elementary education in the town in 1870 showed that there were 5,755 children at day schools, 462 at night schools, and 14 'half timers'. It was considered that over 2,000 extra school places were needed. A school board was formed in 1871, it was then discovered that in fact 4,000 extra places were required. A by-law making school attendance compulsory was passed in 1872, but for many years Walsall had the worst attendance record of the Black Country boroughs. It was not until c.1900, after the formation of a school attendance committee, that the position improved'.

14.5 Walsall School Board ceased to function in 1903, the County Borough took responsibility for all stages of public education. The opening of the North Walsall Junior and Infants School in 1904, marks the transition from the era of the Board School to the era of education under local authority control.

14.6 The History of the County of Stafford: Volume 17, originally published by Victoria County History, London, 1976, describes North Walsall Junior and Infants' Schools:

'Originated as a council school with senior mixed, junior mixed, and infants' departments, opened in 1904, on a site bounded by Derby, Kent, Essex and Hereford Streets. The senior school was recognised as a higher elementary school in 1906, becoming a senior school for boys in 1929 and after a secondary modern school for boys in the reorganisation after 1944. It was closed in 1965'.

14.7 The current Abu Bakr School facing Derby Street is also part of the 1904 complex of school buildings.

15.0 Architectural Interest

15.1 The existing building fronting Essex Street is a traditional red brick Victorian building with engaged octagonal piers with freestanding expressed pepper pot

turrets in between the gables. The gables have corbeled gable finials. The windows on the front elevation facing Essex Street are tripartite windows with central arched feature based on a Venetian window. The windows have a brick soldier course lintel with a pronounced keystone. Below the windows are pronounced brick work. The buildings to the side are octagonal in shape with a reflective gable roof and are of the same design and character. The buildings have chimneys. The roofs of all the buildings on site are steep and have central louvered ventilators which add to the Victorian design and character of this existing building. The front and side boundary walls and railings add to the Victorian character and design of the whole setting of the site.

16.0 Local List

16.1 There are two types of heritage assets, designated heritage assets and non designated heritage assets. Designated heritage assets are designated nationally under relevant legislation and conservation areas which are designated locally under relevant legislation.

16.2 Planning Practice Guidance states *‘Non-designated heritage assets are locally-identified ‘buildings, monuments, sites, places, areas or landscapes identified by plan making bodies as having a degree of heritage significance meriting consideration in planning decisions but which do not meet the criteria for designated heritage assets’.*

16.3 The National Planning Policy Framework defines a heritage asset as: *‘A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest’.*

16.4 Historic England Guidance Advice Note 7: Local Heritage Listing: Identifying and Conserving Local Heritage states *‘non designated heritage assets can be identified in a number of ways’.* It also states the defined heritage interests: archaeological, architectural, artist and historical provide a sound basis for a local heritage list criteria.

16.5 The Local List is a list of buildings within the Borough, considered to have historic and architectural value, that are not Statutory Listed.

16.6 Local Listing is part of a raft of measures used to preserve and enhance the character of the Borough’s historic built environment. The Council’s adopted Unitary Development Plan states that;

“The Council recognises that some buildings and areas are of local architectural and historic interest but do not benefit from protection under statutory controls. To this end, the Council will continue to compile, publish and update and List of Buildings of Local Architectural or Historic Interest.”

16.7 The inclusion of a building on the local list is purely a local designation and wholly separate from the inclusion of a building on the statutory list which can only be done by the Secretary of State for the Department for Digital, Culture, Media and Sport. Local listing does not change existing permitted development rights for a property but

it is considered as a “material planning consideration” that can be considered as part of any planning application affecting the property through UDP policy ENV28. The objective of putting a building on the Local List is not to preserve it at any cost. However, when a planning application for works to a Local List building is submitted, more care and sensitivity to the building, its fabric and its location will be expected.

16.8 Whilst the site is not in a conservation area and the buildings are not nationally or locally listed, these buildings are classed as non- designated heritage assets. Under the revised NPPF, the LPA has a duty to place great weight to the conservation and retention of non-designated heritage assets, such as this site and all the buildings on the site including the front boundary wall and railings.

17.0 Local Listing Review

17.1 In 2021, the four Black Country Authorities (Dudley, Sandwell, Walsall and Wolverhampton –) were awarded £70k by the Department for Levelling Up, Housing and Communities (formerly the Ministry for Housing, Communities and Local Government) as part of their £1.5m Local Heritage List fund.

17.2 The project aim is to update and enhance the local heritage lists for each of the authorities, to help protect and promote the historic buildings, structures and other heritage assets that do not fulfil the criteria for inclusion on the National Heritage List for England, but nonetheless play a significant role in the local character and distinctiveness of our areas.

17.3 The four Black Country Authorities have commissioned local consultants, TDR Heritage, to carry out the work. So far they have been reviewing our current local list to check these locally listed sites have not been demolished or significantly altered. In the meantime, revised selection criteria for the whole of the Black Country has been agreed (in draft) between the four authorities, with input from local societies and amenity groups.

17.4 A local heritage list contains historic buildings, structures, parks and gardens, archaeological and geological sites and other heritage assets and plays an important part in the planning system, ensuring the heritage value of a site is considered when making planning decisions.

17.5 The project is currently at the public engagement phase and are encouraging local groups, societies and individuals to get involved, to help identify buildings and other heritage assets that should be included on the local heritage lists. From 15th November 2021 to 14th February 2022, nominations will be open for members of the public, groups, and local societies to put forward buildings, structures, parks, archaeological and geological sites and public artwork that they feel have heritage value. Nominations can be submitted online via the project website, or by downloading the nomination form and returning it by email or post.

17.6 Once the nominations are in, TDR Heritage will undertake additional research and assess the sites against the selection criteria. They will then make recommendations as to whether a nomination should be locally listed, potentially

fulfils criteria for National Listing, or should be added to the councils' Historic Environment Records.

17.7 Following receipt of the recommendations there will be a public consultation on the new additions in 2022, and then adoption and publication of the updated local heritage lists for each authority.

17.8 The extension of the local list can form part of the Council's wider heritage led regeneration proposals, which aim to capitalise on the Borough's built quality and historic distinctiveness to create the conditions to support its wider economic regeneration.



Development Management Planning Committee

Report of Head of Planning and Building Control on 6th January 2022

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Item	Planning Application Number	Planning Application Site Address	Planning Application Proposal	Officer Recommendation
1	21/0113	EURO FOODS GROUP LTD, HEATH ROAD, DARLASTON, WEDNESBURY, WS10 8XL Ward: Bentley And Darlaston North	PROPOSED NEW WAREHOUSE EXTENSION (USE CLASS B8 - STORAGE AND DISTRIBUTION)	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO; NO NEW MATERIAL CONSIDERATIONS BEING RECEIVED WITHIN THE CONSULTATION PERIOD; THE AMENDMENT AND FINALISING OF CONDITIONS; NO FURTHER COMMENTS FROM A STATUTORY CONSULTEE RAISING MATERIAL PLANNING CONSIDERATIONS NOT PREVIOUSLY ADDRESSED; OVERCOMING THE OUTSTANDING OBJECTIONS RAISED BY THE FIRE OFFICER AND

				COMMENTS MADE BY NETWORK RAIL
2	21/1275	<p>HARTSHORNE MOTOR SERVICES LTD, BENTLEY MILL CLOSE, BENTLEY, WALSALL, WS2 0BN</p> <p>Ward: Bentley And Darlaston North</p>	DEMOLITION OF EXISTING BUILDINGS AND REDEVELOPMENT OF THE SITE INCLUDING THE ERECTION OF A NEW VEHICLE WORKSHOP, BODY SHOP AND ASSOCIATED OFFICE, HGV SALES, VEHICLE WASH BAY, SERVICE AREAS AND CAR PARKING (SUI GENERIS)	<p>PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND A S106 TO SECURE IMPLEMENTATION AND MONITORING OF THE TRAVEL PLAN AND SUBJECT TO;</p> <p>THE AMENDMENT AND FINALISING OF CONDITIONS;</p> <p>NO FURTHER COMMENTS FROM A STATUTORY CONSULTEE RAISING MATERIAL PLANNING CONSIDERATIONS NOT PREVIOUSLY ADDRESSED;</p> <p>OVERCOMING THE OUTSTANDING OBJECTIONS RAISED BY THE PUBLIC LIGHTING OFFICER (EXTERNAL LIGHTING), TREE OFFICER AND ENVIRONMENTAL PROTECTION (ASBESTOS)</p>
3	20/0634	QUEEN MARYS HIGH SCHOOL, UPPER FORSTER	DETAILED PLANNING PERMISSION FOR THE DEMOLITION	GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND A

		<p>STREET, WALSALL, WS4 2AE</p> <p>Ward: St Matthews</p>	<p>OF THE EXISTING RESIDENTIAL COTTAGES AT NO. 55 AND 56 LICHFIELD STREET (LOCALLY LISTED BUILDINGS) (INCORPORATED INTO D1 USE) TO FACILITATE THE CONSTRUCTION OF A NEW TEACHING ACCOMMODATION BLOCK AND THE INTERNAL REMODEL OF NO 57 LICHFIELD STREET (FODEN HOUSE) (LISTED BUILDING) AS WELL AS ASSOCIATED SITE AND LANDSCAPE IMPROVEMENTS.</p>	<p>S106 TO SECURE COSTS FOR FOUR REPLACEMENT TREES IN THE IMMEDIATE LOCATION</p> <p>PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND S106 TO SECURE COSTS FOR X4 REPLACEMENT TREES AND SUBJECT TO; THE AMENDMENT AND FINALISING OF CONDITIONS</p>
4	21/0197	<p>WEST MIDLANDS CONSTABULARY, BROWNHILLS POLICE STATION, CHESTER ROAD NORTH, BROWNHILLS, WALSALL, WS8 7JW</p> <p>Ward: Brownhills</p>	<p>ERECTION OF A FREESTANDING SINGLE STOREY RESTAURANT WITH DRIVE-THRU FACILITY, CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS, INCLUDING CUSTOMER ORDER DISPLAYS (COD).</p>	<p>PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO;</p> <p>NO NEW MATERIAL CONSIDERATIONS BEING RECEIVED WITHIN THE CONSULTATION PERIOD;</p>

				THE AMENDMENT AND FINALISING OF CONDITIONS;
5	20/0309	ROTHER, HIGHGATE DRIVE, WALSALL, WS1 3JJ Ward: St Matthews	CONSTRUCTION OF A NEW 3 BEDROOM HOUSE AND ASSOCIATED ENGINEERING WORKS TO THE REAR OF ROTHER, HIGHGATE DRIVE	REFUSE
6	21/0834	58, HIGHGATE ROAD, WALSALL, WS1 3JE Ward: St Matthews	ERECTION OF NEW DWELLING HOUSE ADJACENT TO 58 HIGHGATE ROAD WITH THE CREATION OF A NEW VEHICLE ACCESS FROM HIGHGATE DRIVE	REFUSE



Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 06 January 2022

Plans List Item Number: 1

Reason for bringing to committee

Major Application

Application Details

Location: EURO FOODS GROUP LTD, HEATH ROAD, DARLASTON, WEDNESBURY, WS10 8XL

Proposal: PROPOSED NEW WAREHOUSE EXTENSION (USE CLASS B8 - STORAGE AND DISTRIBUTION)

Application Number: 21/0113

Case Officer: Helen Smith

Applicant: Mr S. Hussain

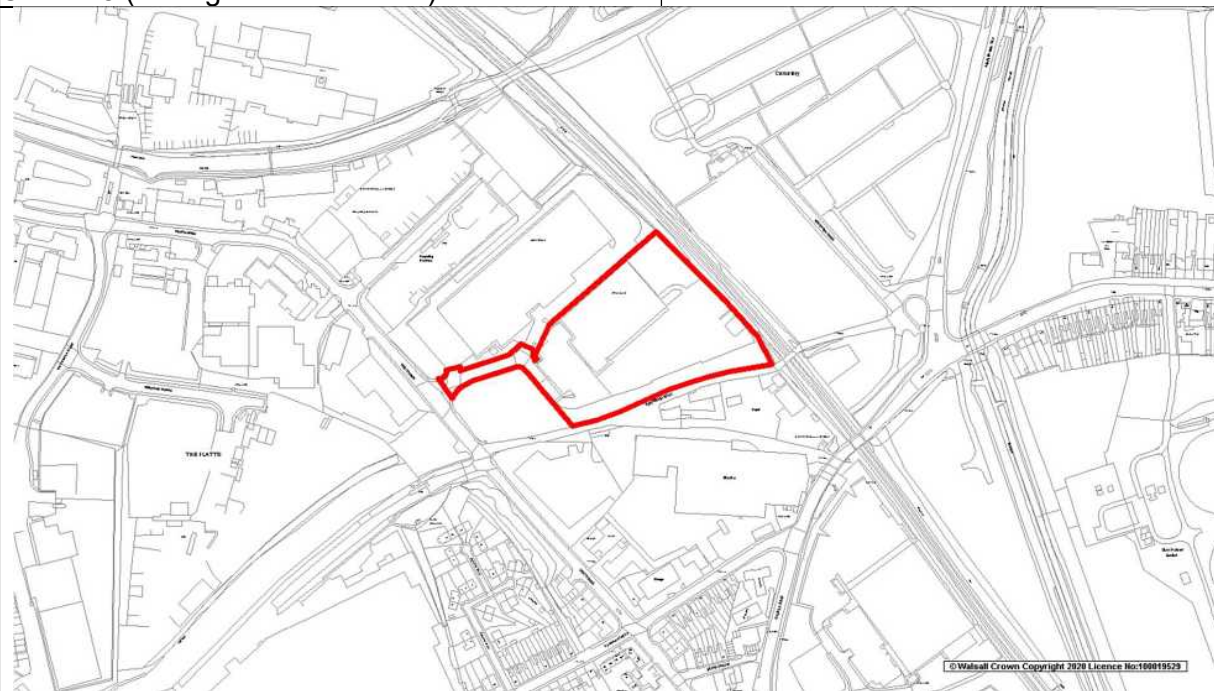
Ward: Bentley And Darlaston North

Agent: Mr Ian Williams

Expired Date: 31-May-2021

Application Type: Full Application: Major Use Class B8 (Storage or Distribution)

Time Extension Expiry:



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Recommendation:

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to;
 - No new material considerations being received within the consultation period;
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;
 - Overcoming the outstanding objections raised by the Fire Officer and comments made by Network Rail

Proposal

This application proposes an extension to an existing Planning Use Class B8 storage and distribution warehouse used by Euro Foods Group (EFG) to support their ongoing trading and expand their business. EFG are an international manufacturer and distributor of frozen and fresh foods.

The planning agent has also advised that the proposed extension has been designed to also operate as a stand-alone distribution warehouse to give the site maximum flexibility and extend the life of the building. There will be internal connections between the existing and proposed warehouse. The proposal aims to support the applicant's aspiration for the site to support a high quality distribution warehouse which takes advantage of narrow aisle high density racking systems.

The proposed new warehouse would be split into two thirds dry store and one third cold store linked by a chilled transition area. Racking systems would be accessed via specialist forklift trucks. A marshalling area accessed by two loading docks with charging points for forklift trucks would be provided along with a welfare area for staff and small first floor office.

The proposal would include;

- 3111 sq. metres gross internal floor space
- Above figure includes 36.8 metres sq. first floor office area
- 2 heavy goods vehicle loading docking bays
- 25 parking spaces
- 2 accessible parking bays
- 2 electric car charging bays
- 8 covered cycle parking locations
- 2 external fire exit staircases
- Staff room
- Office at first floor with internal staircase
- Disabled W.C. facility
- Plant room

Access would be retained via the existing shared access from Heath Road which is designed to accommodate HGVs. Certificate B has been completed with the requisite notice served on interested parties as included on the application form.

An existing storage building of approximately 142.8 metres sq. would be demolished. A dedicated cycle access is proposed on the south eastern boundary and the north east boundary

of the site abuts the proposed site for a new railway station which is the subject of planning application reference 20/0746 which is currently under assessment.

The existing warehouse and proposed new extension would be connected to the north east elevation of the proposed new extension with the loss of a loading door and associated access.

The proposed new unit would have a steel frame with exterior profile steel cladding to match the existing unit with subdivision into coloured panels to reduce its perceived mass. The proposed colour palette would be mostly mid grey, light grey to the top of the building and a series of dark grey panels. Solar photovoltaic panels are to be fitted on the roof and exterior lighting information will be provided with details to be agreed.

Hours of opening would be as follows;

Monday to Friday – 00.01hrs to 23.59hrs

Saturdays – 08.00hrs to 16.00hrs

Sunday and Bank Holidays – 12.00hrs to 23.59hrs

The key dimensions would be;

- Height to eaves 16.2 metres to 17.6 metres
- 17.7 metres to 18.9 metres high to the ridge
- Length 113.6 metres
- Between 28.9 (northern element) and 31 metres wide

The planning application states that landscaping will be designed to support local wildlife and plants to add to the diversity of the site. The site currently has 50 full time employees and 4 part time employees. The proposal states that 25 full time equivalent additional staff would be employed to serve the proposed development.

The plans have been amended to accommodate the requirements of Network Rail and ensure that the proposed development does not conflict with the new railway station (planning application reference 20/0746).

The application is supported by the following documents;

- Design and Access Statement (Revision B) 202103 01) which states the proposal would;
 - Develop an existing site which is not being intensively used
 - Support the expansion of an existing local employer
 - Provide new employment
 - Provide a purpose built, high quality modern distribution warehouse to meet current and future needs of the area.
- Surface Water Drainage Strategy
- Ecological Impact Assessment
- Energy Statement
- Flood Risk Assessment
- Geotechnical Summary Report
- Planning Statement
- Transport Statement
- Coal Mining Risk Assessment

Site and Surroundings

The application site sits within 2.2 hectares of land to the east of Heath Road and north of its junction with Kendricks Road.

To the north of the site is an existing warehouse and yard operated by Acerinox and to the east is a railway line. A new railway station including two platforms, footbridge and parking is proposed on land to the north of the application site (planning application reference 20/0746).

The application site is located within an established industrial estate and an existing group of industrial units of significant size. The existing yard is concreted with parking and access for heavy goods vehicles. The site is mostly level and an existing storage building site on the site would be demolished.

The site is located within a designated Flood Zone 2 area and a Development High Risk Area for Coal. This site is allocated as existing high quality employment land, part of site IN97 listed under Walsall's Site Allocation Document Policy IND1.

Relevant Planning History

The application site:

19/0183 - Prior approval for the installation of solar photovoltaics on the roof – Prior Approval Granted 20/03/19

13/1116/FL - Change of use of part of existing warehouse to allow Cash and Carry and trade counter use (floor space maximum of 320 sq. m.) – GSC 22/11/13

BC52714P – Construction of 3no. Production/warehouse buildings with ancillary office and associated works. Granted 13/10/98.

Former AB Waste Site, Cemetery Road, Darlaston:

20/0746 - Construction of new railway station including two platforms, footbridge, installation of steps and lift, platform furniture, lighting, soft and hard landscaping, flood mitigation, services and boundary treatment and other associated works.

Construction of car park (up to 300 spaces) incorporating accessible spaces and parking, charging facilities for electric vehicles, parking for cycles and motorcycles and installation of measures to restrict vehicular access to Kendricks Road bridge –

On 15/10/20 Planning Committee resolve to delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and the securing of a S106 Agreement for a river level gauge, plus off-site way finding along Bentley Mill Way and works to the adjacent canal towpath including improving accessibility via a financial contribution for the proposed improvement works and subject to ...

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;

- Overcoming the outstanding objections from the Local Lead Flood Authority and Archaeologist plus finalising negotiations between the applicant the Canal and River Trust regarding wayfinding and improvements for accessibility and use of the towpath.

The decision notice has not been issued pending conclusion of the above outstanding matters.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural 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.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- S1: Definition of Town Centre Uses
- S4: The Town and District Centres: General Principles
- S7: Out-of-Centre and Edge-of-Centre Developments
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- IND1: Existing High Quality Industry
- IND5: New Employment Opportunities
- EN1: Natural Environment Protection, Management and Enhancement
- EN3: Flood Risk
- T3: The Rail Network
- 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

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW7 Diversity
- DW8 Adaptability
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Archaeology – No objections

Coal Authority – No objections subject to the inclusion of planning conditions to secure intrusive site investigation works, if necessary, remediation of coal mining legacy affecting the site and development with a suitably designed piled foundation

Community Safety Team – No objections

Environment Agency – No objections and require the inclusion of a planning condition to ensure that the development does not contribute to water pollution from previously unidentified contamination sources.

Environmental Heath – No objections

Fire Officer – Object as the proposal does not appear to meet the requirement for the provision of water for firefighting (parts 16.8 a & b of Approved Document B, Volume 2, Buildings other than Dwellings, 2019 – see *Notes for Applicant*)

Highways England – No objections

Historic England – No comments

Lead Local Flood Agency – No objections

Local Highways Authority – No objections subject to the inclusion of planning conditions in respect of access ways, parking bays, vehicle manoeuvring, surfacing, and cycle shelters.

Natural England – No comments

Network Rail – No objection

Pollution Control – No objections subject to the inclusion of planning conditions in respect of contaminated land investigations.

Severn Trent Water – No objections following agreement to a sewer diversion approved by their Developer Service Team and subject to the inclusion of a planning condition in respect of the disposal of foul and surface water.

Sport England – No objection

Strategic Planning Policy – No objections

Structures & Geotechnics – No objections

Transport West Midlands – no response

Representations

None

Determining Issues

- Principle of Development
- Darlaston Railway Station
- Design Appearance and Character
- Amenity
- Ecology
- Ground Conditions
- Flooding and Drainage
- Access and Parking

Assessment of the Proposal

Principle of Development

The site is allocated as existing high quality employment land, part of site IN97 listed under SAD policy IND1. The proposed development can therefore be strongly supported on planning policy grounds. The site lies next to the proposed Darlaston Railway Station and is considered to be a sustainable location and would increase the employment opportunities available on the site. The existing permission is for a warehouse with an ancillary trade counter and the current application is therefore considered acceptable on planning policy grounds. Whilst the proposed office would be ancillary to the warehouse a safeguarding condition can be included to meet the requirements of the development plan as this is not a town or local centre site.

Darlaston Railway Station

In October 2020 planning committee resolved to approve the construction of new Darlaston railway station, which includes two platforms, footbridge, installation of steps and lift, platform furniture, lighting, soft and hard landscaping, flood mitigation, services and boundary treatment, 300 space car park and other associated works

The proposed location for the railway station is adjacent the site of the original station known as James Bridge Station which was built on the Grand Junction Railway in 1837 and closed in January 1965. This site sits to the north east of the application site.

Transport West Midlands and Network Rail have been consulted as part of this current planning application being considered. Network rail have provided detailed requirements and conditions as the proposed development includes works less than 10 metres from the railway boundary and the applicants will be required to interface with Network Rail to ensure the safe operation and integrity of the railway is maintained during construction and as a permanent arrangement. Network Rail initially objected to the proposed positioning of the unit. To address this, the applicant's plans have been amended to increase the distance from the new railway station to accommodate a 3 metres wide easement. Updated comments have been received from Network Rail advising that the revised magenta coloured line shown on the revised plan excludes the land West Midlands Combined Authority and Network Rail requires for the station, however the red line of the application remains the same. Network Rail consider that the red outline should be amended to exclude Network Rail land. The planning agent has confirmed that this land is in the applicants' ownership and so should remain until Network Rail have bought the land. The LPA agrees with this point. Land ownership is a civil matter between the applicant and network rail to now secure the land for themselves.

The planning agents have confirmed that the red line shown on drawing PL-16 represents the extent of the land in the ownership of the applicant. They have confirmed that they have demonstrated that their clients are not constructing the proposed new extension on any of the land required by Network Rail for the new station and therefore should not preventing the determination of their planning application.

Network Rail have also commented that Plan 71130-297173 appears to show footpaths etc. around the new extension. Network Rail would need to be satisfied again that these are not within the land required for the station. The Planning agent has confirmed that the footpaths around the perimeter of the extension will not be constructed on land required for the new station. The Local Planning Authority does not have a copy of this plan however the LPA has sufficient information to determine the application. However, this objection is not sufficient to hold the application up and a matter between landowners. Land ownership is a civil matter and the planning agents' advices that the red line is correct must be taken at face value.

Design Appearance and Character

The proposed scale and layout of the new extension along with the proposed exterior materials is considered acceptable and would reflect the design and appearance of the existing industrial units on this estate. The proposed use of three grey colour tones of profile metal sheeting is considered would break up the perceived bulk of the new unit, if the application is approved.

The floor plan has been amended to re-locate part of the proposed extension further away from the proposed new railway station as required by Network Rail.

Photovoltaic panels would be added to the roof which can be conditioned to ensure contain anti-reflective glass. Details of a landscaping scheme can be required by planning conditions as this would soften the appearance of the development and provide biodiversity enhancement.

Amenity

The nearest residential properties are approximately 200 metres away from the proposed building on Station Street and are screened from the application site by intervening industrial units. Consequently, it is considered that the proposal would have a limited impact on the amenity for neighbouring occupiers because of the separation distance and intervening buildings.

It is considered, the proposal would have little additional impact on the operation of neighbouring commercial units.

Ecology

The Ecological Impact Assessment report prepared by Midland Ecology, dated 14 January 2021 confirms that the application site is not subject to any statutory or non-statutory designations. Tree lined boundaries are considered to serve a landscape scale-role in connecting nearby woodland to the wider landscape and so are ecologically valuable green infrastructure when evaluated at the district scale. The site boundaries are known to support nesting birds and have the potential to support hedgehog and foraging/commuting bats. The report states that all other protected species are likely absent from the site due to unsuitable habitats, levels of disturbance, species range and/or landscape context. However, the report specifically recommends that care is taken to protect bats, breeding birds, badger and hedgehogs that may be on the site post ecological survey. Safeguarding conditions can be included.

No invasive and non-native species were observed during the ecological survey.

The report advises that further ecological surveys are not considered to be necessary providing recommended avoidance measures can be accommodated in respect of protected species and nesting birds as outlined in the report. Ecological enhancements to secure a net gain for biodiversity are recommended. The ecologist has advised that should the following measures be implemented in full then only residual ecological impacts are anticipated;

- Design of wildlife friendly lighting
- Measures to protect trees from construction activities
- Inclusion of plant species of known value to wildlife in any landscape proposals
- Design and implementation of measures to improve ecological connectivity; such as strengthening the tree-lined boundaries into hedgerows. These are to contain a minimum of 6 suitable native hedgerow species.

These matters can be secured and safeguarded by planning conditions that meet the 6 tests if the application is approved.

Ground Conditions

Contaminated Land

The Council's Pollution Control Team have advised that the applicant will need to undertake a contaminated land and ground gas investigation for the area where the extension is proposed to ensure that any potential contamination and ground gas mitigation measures are considered within the building design.

The Geotechnical Information Summary also indicates the need for ground testing to be undertaken to determine appropriate foundation design. Therefore, the Applicant should combine the contamination/ground gas/geological testing to ensure appropriate foundation design is incorporated into the proposed building. Suitable conditions in respect of these requirements can be included if the proposal is approved.

Coal

The application site falls within the defined Development High Risk Area. The Coal Authority's information indicates that the site lies in an area where historic unrecorded shallow coal mining activity is likely to have taken place in the past.

The Coal Authority records indicate the presence of two recorded mine entries (shafts 398297-048 and 398297-049) close to the south western boundary of the application site, for which The Coal Authority hold no details of any past treatment. Whilst the potential zones of influence associated with these shafts may encroach into the application site, they are a significant distance away from the area where development is proposed.

The Coal Authority withdrew their objection to the planning application on 17/8/21 subject to relevant planning conditions being imposed on any planning permission granted.

The Coal Authority advised that following receipt of a Coal Mining Risk Assessment (dated 23 March 2021, prepared by the commercial arm of the Coal Authority) this report reiterated that shallow underground coal (and possibly ironstone) mining activity posed a risk to the proposed development, but also identified that the potential failure of off-site recorded mine shaft 39827-021, located to the north of the site, posed a potential stability risk to the development due to the significant depth of superficial deposits in the locality.

The Coal Mining Risk Assessment recommended that a ground investigation should be carried out before finalising the development layout, in order to establish the likely extent of instability in the event of an off-site shaft collapse and to demonstrate that the development will be sited outside the affected area. As these works had not been carried out and no information had been submitted to demonstrate that the layout of development avoids the area of instability associated with the shaft, the Coal Authority objected to the application in our consultation response letter of 28 April 2021.

The applicants subsequently submitted a Coal Mining Risk Assessment – Summary Review (undated, prepared by Morgan Structural Ltd) which has been prepared following a discussion with The Coal Authority.

This report states, *"There is mine entry on the adjacent land to the rear (not on the site). There is superficial fill on the adjacent site. In the event of a collapse, there is a risk that part of the fill may encroach into our site. However, this will not affect the structure on our site because the*

foundations are supported on piles which are socketed into bedrock which will be unaffected by this. In summary the risk of collapse of superficial fill from adjacent site, affecting the structure in our site is not deemed significant, due to robust piled foundation solution.”

The Coal Authority have commented, whilst the applicant has not demonstrated the proposed extension will be clear of the area of land associated with an off-site collapse. They have clarified the building will be constructed with piled foundations, which the Coal Authority are satisfied will mitigate against instability posed by a collapse of the site.

Based on the submitted information and the professional opinions contained therein, and in light of the scale of the proposed development and constraints to repositioning the extension elsewhere on site, The Coal Authority withdrew their objection to the application. This withdrawal is subject to the construction of the development with a suitably designed piled foundation and the imposition of conditions to secure the investigation and, if necessary, the remediation of coal mining legacy affecting the site, as set out in their initial consultation response letter

Flooding and Drainage

Flooding and surface water drainage matters will be updated in the supplementary planning paper once comments have been received from the Lead Local Flood Agency.

Severn Trent Water advised, the applicant would need to divert the sewer, providing full clearance (5m either side of the pipe 10m across the diameter. Not to be offset). The developer liaising with Severn Trent Water, confirmation was received on 26/10/21, the proposed sewer diversion has been approved by Severn Trent's Developer Service Team (sap reference 10001403). Severn Trent Water require the inclusion of a planning condition in respect of drainage.

The Environment Agency have commented solely in respect of 'Controlled Waters', advising in reference to the 1:50,000 scale geological map, this indicates the site is located on the Pennine Lower Coal Measures and Superficial Glaciofluvial deposits are also indicated. Both strata are designated a Secondary A Aquifer by the Environment Agency. These are permeable strata capable of supporting water supplies at a local rather than strategic scale and in some cases forming an important source of base flow to rivers. The site is not located within a groundwater Source Protection Zone and there are no licensed abstractions within 1km of the site. The River Tame is located approximately 280 metres to the east of the development site.

Reviewing the Geotechnical Summary submitted by the Environment Agency ('Proposed New Warehouse Heath Road Wednesbury WS10 8XL Geotechnical information Summary', Morgan Structural Limited), it is considered contains a basic preliminary assessment, identifying the need for further investigations to assess the contamination risk.

The Environment Agency recommend a condition be included on any planning permission, to deal with any significant contamination that may represent a risk to controlled waters. They recommend that initially the applicant should undertake a comprehensive Phase I desk study review to determine the potential for ground contamination. A conceptual site model should be produced, to include identifying potential pollutant linkages with respect to controlled waters. Appropriate site investigations should then be scoped based on the findings of the desk study. Safeguarding conditions are imposed that meet the 6 tests.

The Lead Local Flood Agency have confirmed they are satisfied with the submission and have no objections to the granting of planning permission on flooding grounds.

Access and Parking

Access onto Heath Road is via a private access road which the Local Highways Authority considers is adequate to serve the development.

In terms of parking, the existing development currently has provision for 57 car parking spaces, which is inclusive of 5 disabled spaces. There are currently 8 articulated lorry bays at loading docks, as well as 2 fuelling bays.

An additional 25 parking spaces, inclusive of 2 disabled spaces and 2 electric charge point equipped parking spaces are to be provided. It is also proposed that 2 articulated lorry bays will be provided at loading docks. The additional parking provision is considered acceptable.

The Local Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2018 paragraph 109

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance, it is considered the proposed development to extend a previously approved warehouse will not involve any change in the use. The existing permission is for a warehouse with an ancillary trade counter and the current application is therefore considered acceptable on planning policy grounds.

Subject to the resolution of Network Rail's concerns regarding the proposal of the development next to the new Darlaston Railway Station and Fire Officers concerns the proposal is considered acceptable on planning policy grounds and would provide additional employment opportunities for the borough.

The nearest residential properties are approximately 200 metres away from the proposed building on Station Street and are screened from the application site by intervening industrial units. Consequently, it is considered that the proposal would have a limited impact on the amenity for neighbouring occupiers because of the separation distance and intervening buildings.

The use of safeguarding conditions will further ensure that the neighbours' amenity and impacts on the environment are protected and that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework (para 127), policies CSP3, CSP4, CSP5, EMP1, EMP2, CEN1, TRAN2, TRAN 4, TRAN5, ENV2, ENV3, ENV5, ENV7 and ENV8 of the Black Country Core Strategy and saved policies GP2, GP6, ENV10, ENV11, ENV14, ENV17, ENV32, ENV35, ENV40, T7, T8, T9, T10, T11, T12 and T13 of Walsall Unitary Development Plan, policies IND1, IND5, EN3, T3 and T4 of Walsall's Site Allocation Document and Supplementary Planning Documents Designing Walsall and Air Quality. Taking into account the above factors it is considered that the application should be recommended for approval.

The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment.

Positive and Proactive Working with the Applicant

Officers have liaised with the Planning Agents to assist with addressing consultee concerns prior to this application being heard at planning committee

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to;
 - No new material considerations being received within the consultation period;
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;
 - Overcoming the outstanding objections raised by the Fire Officer and comments made by Network Rail

Conditions and Reasons

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. This development shall not be carried out other than in conformity with the following approved documents and plans: -

- Block Plan, drawing no. PL-03 Revision A, deposited 01/03/2021
- Proposed Site Layout Plan with Metro Station Build Area Overlay, drawing no. PL- 16, deposited 22/11/21
- Design and Access Statement, Revision D- 2021 11 18, deposited 22/11/2021
- Surface Water Drainage Strategy prepared by Avocet dated January 2021, deposited 08/11/2021
- Ecological Impact Assessment prepared by Midlands Ecology dated 14/01/2021 and deposited 28/01/2021
- Energy Statement prepared by Watt Design dated January 2021, deposited 28/01/2021
- Existing Site Layout Plan, drawing no. PL-02 Revision A, deposited 01/03/2021
- Existing Plans and Elevations Building (To be Demolished) drawing no. PL-06, deposited 28/01/2021
- External Works Plan, drawing no PL-12 Revision C, deposited 22/11/2021
- Flood Risk Assessment prepared by Avocet dated January 2021, deposited 28/01/2021
- Geotechnical Information Summary prepared by Morgan Structural Ltd, deposited on 28/01/2021
- Planning Statement by Mango Planning and Development Ltd, reference AH/200123/R0001VFINAL/A dated January 2021, deposited 28/01/2021
- Proposed Elevations, drawing no. PL-09, Rev. A deposited 17/11/2021
- Proposed Outline Section, drawing no. PL10, deposited 28/01/2021
- Proposed Plan, drawing no. PL08 Rev. A, deposited 17/11/2021
- Proposed Roof Plan, drawing no. PL11, Rev. A deposited 17/11/2021
- Proposed Site Layout Plan, drawing no. PL-07 Rev D, deposited 22/11/2021
- Site Location Plan, drawing no. PL-01 Rev A, deposited 23/02/2021
- Transport Statement prepared by Cotswold Transport Planning dated January 2021, deposited 28/01/2021.

- Flood Exceedance Route, drawing no. AVO-20079-PLA-003, Rev. A01, deposited 08/11/21
- Proposed Drainage Strategy, drawing no. AVO-20079-PLA-001 Rev. A03, deposited 08/11/21
- Coal Mining Risk Assessment – Summary Review by Morgan Structural Ltd, Version 1.0616, deposited 02/08/21
- Coal Mining Risk Assessment by The Coal Authority dated 26/03/21 deposited 16/04/2021

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3: a) Prior to the commencement of development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary porta-cabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
- xiii) Re-covering of holes, escape from holes, tree/hedgerow protection for terrestrial mammals etc.

3: b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties, to safeguard the railway and its boundary from demolition machinery and dust and debris and to control the

environmental and highway impacts of the development in accordance with saved policies GP2, ENV10, ENV32, T7 and T13 of Walsall's Unitary Development Plan.

4: a) Prior to the commencement of development hereby permitted a remediation strategy to deal with the risks associated with contamination of the site and the proposal shall be submitted in writing to and approved in writing by the local planning authority. This strategy shall include the following components:

(i) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site

(ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

(iii) The results of the site investigation and the detailed risk assessment referred to in (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

(iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

Reasons: To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution from previously unidentified contamination sources at the development site and to minimise the risk of pollution and to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40

5: a) Prior to the commencement of the development hereby permitted until the following the details set out in parts I to IV have been submitted in writing to and approved in writing by the Local Planning Authority;

- I. Details of intrusive site investigations for past coal mining activity;
- II. the approved details of intrusive site investigations shall be undertaken and a report of findings arising from the intrusive site investigations including the results of any monitoring;
- III. details of remedial works;
- IV. Details of a suitably designed piled foundation;

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

5: c) Prior to the first occupation of the development hereby permitted until a signed statement/declaration prepared by a suitably competent person confirming the site has been made, safe and stable for the permitted development shall be submitted in writing to and approved in writing by the Local Planning Authority. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure the safety and stability of the development, to safeguard the amenities of occupants and to comply with NPPF Paragraph 109 and saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

6: a). Prior to the commencement of any development hereby permitted a method statement and risk assessment relating to the operation of the railway during remediation and construction of the building shall be submitted in writing to and approved in writing by the Local Planning Authority

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

Reason: To ensure that the construction and subsequent maintenance of the proposal can be carried out without adversely affecting the safety, operational needs or integrity of the railway and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

7: a) Prior to the commencement of the development hereby permitted details of the disposal of both surface water and foul water drainage directed away from the railway shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

Reason: To protect the adjacent railway from the risk of flooding, soil slippage and pollution and in accordance with saved policies GP2, ENV10 and ENV32 of Walsall's Unitary Development Plan.

8: a) Prior to the commencement of the development hereby permitted full details of ground levels, earthworks and excavations to be carried out near to the railway boundary shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

Reason: To protect the adjacent railway and its boundary and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

9: a) Prior to the commencement of the development hereby permitted details of scaffolding works within 10m of the railway boundary shall be submitted in writing to and approved in writing by the Local Planning Authority

9: b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development construction period.

Reason: In the interests of protecting the railway and its boundary from over-sailing scaffolding and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

10: a) Prior to the commencement of the development hereby permitted any proposed vibro-impact works on site, a risk assessment and method statement shall be submitted in writing to and approved in writing by the Local Planning Authority

10: b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development construction period.

Reason – to prevent any piling works and vibration from de-stabilising or impacting the railway and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

11: a) Prior to the commencement of the development hereby permitted details of appropriate vehicle safety protection measures along the boundary with the railway shall be submitted to the Local Planning Authority

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

Reason: to prevent the design and layout of the road and parking spaces from impacting the adjacent operational railway with accidental vehicle incursion and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

12: i) Prior to the commencement of the development hereby permitted a site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken (see Note for Applicant CL1)

12: ii) Prior to the commencement of the development hereby permitted a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be submitted in writing to and approved in writing by the Local Planning Authority (see Note for Applicant CL2)

12: iii) Prior to the commencement of the development hereby permitted a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted in writing to and approved in writing by the Local Planning Authority (see Note for Applicant CL2)

12: iv) The remedial measures as set out in the 'Remediation Statement' required by part iii) of this condition shall be implemented in accordance with the agreed timetable.

12: v) If during the undertaking of the approved remedial works or during the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered, development shall cease until

the 'Remediation Statement' required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and has been submitted in writing to and agreed in writing by the Local Planning Authority.

12: vi) Prior to the first occupation of the development hereby permitted until a validation report setting out full details of the remedial measures implemented and cross referencing those measures to the approved Remediation Statement together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted in writing to and agreed in writing by the Local Planning Authority. (See Note for Applicant CL3)

12: vii) The development shall not be carried out otherwise than in accordance with the approved Remediation Statement and the remedial measures shall thereafter be retained for the lifetime of the development.

Reason: To ensure safe development of the site and to protect human health and the environment. In addition, to meet the requirements of the National Planning Policy Framework (2019) 170 and 178.

13: a) Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF14, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

14: a) Prior to commencement of any building operations above the damp proof course of the development hereby permitted details of the proposed finished floor levels, ridge and eaves heights of the buildings hereby permitted shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding properties.

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

Reason: In the interests of the amenities of the area in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

15: a). Prior to the commencement of the development hereby permitted details of landscaping including both hard and soft landscape works with plants species of known value to wildlife, including strengthening the tree-lined boundaries into hedgerows with a minimum mixture of 6 approved native hedgerow species to improve ecological connectivity, and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.

15: b) Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

15: c) If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: In the interests of the visual amenities of the area in accordance with saved policies ENV17 and ENV33 of Walsall's Unitary Development Plan.

16: a) Prior to the commencement of building operations above damp proof course of the development hereby permitted until details of the proposed boundary treatment of the site, including heights, positions and extents, materials, colours and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

16: b) The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

16: c) prior to the first occupation of the development hereby permitted until all boundary treatments have been erected in accordance with the approved schedule and thereafter be maintained and retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

17: a) Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

17: b) The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 Walsall's Unitary Development Plan.

18: Prior to the occupation of the development hereby permitted all access ways, parking bays, vehicle manoeuvring and turning areas shall be consolidated, drained and hard surfaced, together with the clear demarcation of all parking bays. These areas shall thereafter be retained for the lifetime of the development and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2, ENV40, T7 and T13.

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

19: b) The development shall not be carried out otherwise than in accordance with the approved details and the approved cycle shelter shall thereafter be retained for the lifetime of the development and used for no other purpose.

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

20: a) Notwithstanding the Ecological Impact Assessment carried out by Midland Ecology dated 14 January 2021 all workers on the site shall be made aware that bats and badgers may be present and shall not undertake demolition works including the dismantling of roofs, soffits, gables or in the vicinity of cracks and crevices otherwise than with the use of hand tools. All roofing materials shall be listed carefully (and not dragged or slid) and the undersides examined for bats or bat droppings.

20: b) If during the construction period bats or evidence of bats or their roosts are found:

- i. bats and badgers shall not be handled or touched
- ii. The vicinity of any bat roost or badger sett shall be immediately reinstated.
- iii. No further destructive works shall be carried out until the need for Natural England licence has been established.
- iv. Within one week of finding a badger sett and/or bats or evidence of bats or their roosts, a written report by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy shall be submitted in writing to and approved in writing by the Local Planning Authority. The report shall record what was found, and propose appropriate mitigation measures, including a timetable for their implementation
- v. Work shall not continue otherwise than in accordance with the approved mitigation measures and the approved timetable

Reason: To conserve local bat and badger populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

21: Site clearance and dismantling works shall be undertaken outside the bird nesting season. The bird nesting season extends between March and August inclusive but is weather dependant and nesting may take place outside this period. If nesting birds are discovered, clearance works should be delayed until the young have fledged.

Reason: To conserve local bird populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

22: Site clearance and dismantling works shall be undertaken outside the hedgehog hibernation season between September and March inclusive but is weather dependant and hibernation may take place outside this period. If hedgehogs are discovered, care should be taken to avoid disturbance.

Reason: To conserve local bird populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

23: a) Prior to the installation of any external lighting on the site until details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

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

Reason: In the interests of the visual amenities of the area and to minimise ecological impacts in accordance with saved policies GP2, ENV11, ENV23 and ENV32 of Walsall's Unitary Development Plan.

24: No loading and unloading of goods or storage of goods materials or equipment shall take place within the parking/turning/vehicle manoeuvring/bin storage areas and open areas outside the building.

Reason: To ensure the satisfactory functioning of the development and in the interests of highway safety and to prevent pollution in accordance with the saved Walsall's Unitary Development Plan policy GP2, T7, T13, ENV10 and ENV32.

25: a) The solar PV panels will consist of anti-reflective glass and this shall be retained as such thereafter.

25: b) The solar PV equipment or solar thermal equipment is removed as soon as reasonably practicable when no longer needed

Reason: To prevent glare and safeguard the amenity of neighbours and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

26: Notwithstanding the information submitted as part of this application the hereby permitted two offices shall remain ancillary to the family assessment centre at all times.

Reason: To define the permission and to safeguard the amenities of the occupiers of adjoining premises, to prevent an open office use in this out of centre location and to comply with saved policies S1, S4, S7 and GP2 of the Walsall Unitary Development Plan.

Notes for Applicant

Highway Authority

The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

Fire Officer

Approved Document B, Volume 2, Buildings other than Dwellings, 2019.

Requirement B5: Access and facilities for the fire service

The proposal does not appear to meet the requirement for the provision of water for firefighting (See below 16.8 a & b).

Section 15: Vehicle access

Buildings not fitted with fire mains

15.1 For small buildings (up to 2000m², with a top occupied storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

a. 15% of the perimeter.

b. Within 45m of every point of the footprint of the building (see Diagram 15.1).

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

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

Design of access routes and hard-standings

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

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

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

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

Overall

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

Section 16: Fire mains and hydrants

Provision of private hydrants

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

a. It has a compartment with an area more than 280m².

b. It is being erected more than 100m from an existing fire hydrant.

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

a. For buildings provided with fire mains – within 90m of dry fire main inlets.

b. For buildings not provided with fire mains – hydrants should be both of the following.

i. Within 90m of an entrance to the building.

ii. A maximum of 90m apart.

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

Water

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

<https://www.water.org.uk/wp-content/uploads/2018/11/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net

The approval of Building Control will be required to Part B of the Building Regulations 2010. Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, Section 8)

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

Contaminated Land

CL1

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2018; British Standard BS10175: 2011 +A2:2017 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); Land contamination risk management (LCRM) or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3

Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

Network Rail Notes

This proposal includes works less than 10m from the railway boundary – therefore the proposal WILL require the applicant to interface with Network Rail and conditions to be applied to ensure the safe operation and integrity of the railway is maintained both during construction and as a permanent arrangement.

Measurements to railway tracks and railway boundary

When designing proposals, the developer and council are advised, that any measurements must be taken from the operational railway / Network Rail boundary and not from the railway tracks themselves. From the existing railway tracks to the Network Rail boundary, the land will include critical infrastructure (e.g. cables, signals, overhead lines, communication equipment etc.) and boundary treatments (including support zones) which might be adversely impacted by outside party proposals unless the necessary asset protection measures are undertaken. No proposal should increase Network Rail's liability. To ensure the safe operation and integrity of

the railway, Network Rail issues advice on planning applications and requests conditions to protect the railway and its boundary.

RAMS

The developer is to submit directly to Network Rail, a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway under Construction (Design and Management) Regulations, and this is in addition to any planning consent. Network Rail would need to be re-assured the works on site follow safe methods of working and have also taken into consideration any potential impact on Network Rail land and the existing operational railway infrastructure. Builder to ensure that no dust or debris is allowed to contaminate Network Rail land as the outside party would be liable for any clean-up costs. Review and agreement of the RAMS will be undertaken between Network Rail and the applicant/developer. The applicant /developer should submit the RAMs directly to:

AssetProtectionLNWSouth@networkrail.co.uk

Encroachment

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail land and its infrastructure or undermine or damage or adversely affect any railway land and structures.

- There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land or under the Network Rail boundary.
- All buildings and structures on site including all foundations / fencing foundations must be constructed wholly within the applicant's land ownership footprint.
- Buildings and structures must not over-sail Network Rail air-space.
- Any future maintenance must be conducted solely within the applicant's land ownership.
- Rainwater goods must not discharge towards or over the railway boundary
- Should the applicant require access to Network Rail land to facilitate their proposal they would need to approach the Network Rail Asset Protection Team at least 20 weeks before any works are due to commence on site. The applicant would be liable for all costs incurred in facilitating the proposal and an asset protection agreement may be necessary to undertake works. Network Rail reserves the right to refuse any works by an outside party that may adversely impact its land and infrastructure.
- Any unauthorised access to Network Rail air-space or land will be deemed an act of trespass.

Scaffolding

Scaffolding which is to be constructed within 10 metres of the Network Rail / railway boundary must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffolding must be installed. The applicant / applicant's contractor must consider if they can undertake the works and associated scaffolding / access for working at height within the footprint of their land ownership boundary. The applicant is reminded that when pole(s) are erected for construction or maintenance works, they must have

a minimum 3m failsafe zone between the maximum height of the pole(s) and the railway boundary.

This is to ensure that the safety of the railway is preserved, and that scaffolding does not:

- Fall into the path of on-coming trains
- Fall onto and damage critical and safety related lineside equipment and infrastructure
- Fall onto overhead lines bringing them down, resulting in serious safety issues (this is applicable if the proposal is above the railway and where the line is electrified).

Vibro-Impact Machinery

If vibro-compaction machinery / piling machinery or piling and ground treatment works are to be undertaken as part of the development, details of the use of such machinery and a method statement must be submitted to the Network Rail for agreement.

- All works shall only be carried out in accordance with the method statement and the works will be reviewed by Network Rail. The Network Rail Asset Protection Engineer will need to review such works in order to determine the type of soil (e.g. sand, rock) that the works are being carried out upon and also to determine the level of vibration that will occur as a result of the piling.
- The impact upon the railway is dependent upon the distance from the railway boundary of the piling equipment, the type of soil the development is being constructed upon and the level of vibration. Each proposal is therefore different and thence the need for Network Rail to review the piling details / method statement.

Maximum allowable levels of vibration - CFA piling is preferred as this tends to give rise to less vibration. Excessive vibration caused by piling can damage railway structures and cause movement to the railway track as a result of the consolidation of track ballast. The developer must demonstrate that the vibration does not exceed a peak particle velocity of 5mm/s at any structure or with respect to the rail track.

Demolition

The demolition works on site for the existing structure close to the railway boundary must be carried out so that they do not endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures and land. The demolition of the existing building(s), due to its close proximity to the Network Rail boundary, must be carried out in accordance with an agreed method statement. Review of the method statement will be undertaken by the Network Rail Asset Protection Engineer before the development and any demolition works on site can commence. Network Rail would like to add that the applicant is strongly recommended to employ companies to demolish buildings / structures belonging to the National Federation of Demolition Contractors. This will ensure that all demolition works are carried out to professional standards and the company itself will also include liability insurance as part of its service.

Drainage proposals and Network Rail land

The NPPF states:

178. Planning policies and decisions should ensure that:

a) A site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability.

And

163. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.

In order to comply with the NPPF, the applicant must ensure that the proposal drainage does not increase Network Rail's liability, or cause flooding pollution or soil slippage, vegetation or boundary issues on railway land. Therefore, the proposed drainage on site will include the following:

- All surface waters and foul waters must drain away from the direction of the railway boundary.
- Soakaways for the proposal must be placed at least 30m from the railway boundary.
- Any drainage proposals for less than 30m from the railway boundary must ensure that surface and foul waters are carried from site in closed sealed pipe systems.
- Suitable drainage or other works must be provided and maintained by the developer to prevent surface water flows or run-off onto Network Rail's land and infrastructure.
- Proper provision must be made to accept and continue drainage discharging from Network Rail's property.
- Drainage works must not impact upon culverts, including culverts/brooks etc. that drain under the railway. The applicant will not be permitted to direct surface or foul waters into culverts which run under the railway – any discharge of surface water under the railway via a culvert will require review and agreement from Network Rail who reserve the right to refuse use of any culverts.
- The developer must ensure that there is no surface or sub-surface flow of water towards the operational railway.
- Rainwater goods must not discharge in the direction of the railway or onto or over the railway boundary.

NB: Soakaways can materially affect the strength of soil leading to stability issues. A large mass of water wetting the environment can soften the ground, and a build-up of water can lead to issues with the stability of Network Rail retaining walls/structures and the railway boundary. Network Rail does not accept the installation of soakaways behind any retaining structures as this significantly increases the risk of failure and subsequent risk to the travelling public.

If the developer and the council insist upon a sustainable drainage and flooding system then the issue and responsibility of flooding, water saturation and stability issues should not be passed onto Network Rail. We recognise that councils are looking to proposals that are sustainable, however, we would remind the council that flooding, drainage, surface and foul water management risk as well as stability issues should not be passed 'elsewhere', i.e. on to Network Rail land.

The drainage proposals are to be agreed with Network Rail and surface water drainage on the site should be removed by a closed sealed pipe system.

The HSE identifies railways as a Major Hazard Industry. An earthwork failure within a high-hazard area has the potential to result in a catastrophic accident with multiple fatalities or long-

lasting environmental issues. It should be noted that where the actions of an adjacent landowner have caused a landslip on the railway the loss adjusters are likely to advise recovery of Network Rail costs from the 3rd party, which would include costs of remediation and recovery of costs to train operators. Many railway earthworks were constructed in the Victorian period and are susceptible to failure by water saturation. Water saturation leads to an increase in pore water pressure within the earthwork material. Please also note that railways, and former railway land adjacent to it, is considered as contaminated land due to historic use of railways, which can affect the suitability of infiltration drainage.

Excavation and Earthworks and Network Rail land:

The NPPF states:

178. Planning policies and decisions should ensure that:

a) A site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability.

In order to comply with the NPPF, the applicant will agree all excavation and earthworks within 10m of the railway boundary with Network Rail. Network Rail will need to review and agree the works to determine if they impact upon the support zone of our land and infrastructure as well as determining relative levels in relation to the railway. Network Rail would need to agree the following:

- Alterations to ground levels
- De-watering works
- Ground stabilisation works
- Works to retaining walls
- Construction and temporary works
- Maintenance of retaining walls
- Ground investigation works must not be undertaken unless agreed with Network Rail.
- Confirmation of retaining wall works (either Network Rail and/or the applicant).
- Alterations in loading within 15m of the railway boundary must be agreed with Network Rail.
- For works next to a cutting or at the toe of an embankment the developer / applicant would be required to undertake a slope stability review.

Network Rail would need to review and agree the methods of construction works on site to ensure that there is no impact upon critical railway infrastructure. No excavation works are to commence without agreement from Network Rail. The council are advised that the impact of outside party excavation and earthworks can be different depending on the geography and soil in the area. The council and developer are also advised that support zones for railway infrastructure may extend beyond the railway boundary and into the proposal area. Therefore, consultation with Network Rail is requested. Any right of support must be maintained by the developer.

3m Gap

Network Rail requires that the developer includes a minimum 3 metres gap between the buildings and structures on site and the railway boundary. Less than 3m from the railway boundary to the edge of structures could result in construction and future maintenance works being undertaken on Network Rail land, and close to the railway boundary potentially impacting support zones or lineside cabling. All the works undertaken to facilitate the design and layout of the proposal should be undertaken wholly within the applicant's land ownership footprint including all foundation works. Network Rail requires a minimum 3m easement between structures on site and the railway boundary to ensure that we can maintain and renew our boundary treatments.

Trees

Proposals for the site should take into account the recommendations of, 'BS 5837:2012 Trees in Relation to Design, Demolition and Construction', which needs to be applied to prevent long term damage to the health of trees on Network Rail land so that they do not become a risk to members of the public in the future.

No trees shall be planted next to the boundary with the railway land and the operational railway, except for evergreen shrubs which shall be planted a minimum distance from the Network Rail boundary that is equal to their expected mature growth height. The vegetation planting must be in line with the attached matrix which has been agreed with the Tree Council. This is to prevent long term issues with leaf fall impacting the operational railway.

Parking / Hard Standing Area

As the proposal calls for the following adjacent to the boundary with the operational railway, running parallel to the operational railway or where the existing operational railway is below the height of the proposal site:

- hard standing areas
- turning circles
- roads, public highways to facilitate access and egress from developments

Network Rail requests the installation of suitable high kerbs or crash barriers (e.g. Armco Safety Barriers).

BAPA (Basic Asset Protection Agreement)

As the proposal includes works which could impact the existing operational railway and in order to facilitate the above, a BAPA (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail. The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs / presence, site visits, review and agreement of proposal documents and any buried services searches. The BAPA will be in addition to any planning consent.

The applicant / developer should liaise directly with Asset Protection to set up the BAPA.

AssetProtectionLNWSouth@networkrail.co.uk

Should the above proposal be approved by the council and should there be conditions, where the proposal interfaces with the railway (as outlined in this response) the outside party is advised that a BAPA (Basic Asset Protection Agreement) must be in place, in order for Network

Rail to review and agree the documentation and works outlined in conditions (and those areas covered by the discharge of conditions).

The applicant is advised that before the proposal progresses (should it be approved) they will be required to submit the development form to Network Rail's Asset Protection team and agree the BAPA before any works commence on site.

Network Rail is a Government funded Organisation and we are expected to recover our involvement costs from this type of interface, to proceed in more detail with discussions a signed Basic Asset Protection Agreement (BAPA) would be required to be in place.

Permanent impacts of development are usually material considerations (such as the position of permanent structures, or drainage design etc.) and where these are likely to occur, requests for planning conditions or scheme amendments are requested to protect the existing railway infrastructure from the impacts of the works on site and as a permanent arrangement. Controls on the temporary impact of construction to outside party land should also be picked up via building control, or in some cases a party wall surveyor.

Once the attached Asset Protection Questionnaire has been completed and forwarded to the team the enquiry will then be processed and an email sent to the applicant giving a project reference number and name of person with the asset protection team that will deal with the enquiry.

For further information on interfacing with Network Rail please see Working by the railway - Network Rail

Severn Trent Water

Severn Trent Water advise that there is a public 300-375mm foul sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or is not permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

Please note if you wish to respond to this email please send it to Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. Alternately you can call the office on 0345 266 7930

Coal

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: <https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information (such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.

In formulating this response, The Coal Authority has taken full account of the professional conclusions reached by the competent person who has prepared the Coal Mining Risk Assessment or other similar report. In the event that any future claim for liability arises in relation to this development The Coal Authority will take full account of the views, conclusions and mitigation previously expressed by the professional advisers for this development in relation to ground conditions and the acceptability of development.

Environment Agency

The Environment Agency recommend that initially the applicant should undertake a comprehensive Phase I desk study review to determine the potential for ground contamination. A conceptual site model should be produced that should include identifying potential pollutant linkages with respect to controlled waters. Appropriate site investigations should then be scoped based on the findings of the desk study.

We recommend that developers should:

- Follow the risk management framework provided in Land Contamination Risk Assessment when dealing with land affected by contamination.
- Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The local authority can advise on risk to other receptors, such as human health.
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed.
- Refer to the contaminated land pages on GOV.UK for more information.

We would like to refer the applicant/enquirer to our groundwater position statements in 'The Environment Agency's approach to groundwater protection', available from gov.uk. This publication sets out our position for a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heat pumps
- Drainage

Additionally, it should be noted that in accordance with Government policy detailed in the National Planning Policy Framework (paragraph 188), 'where a site is affected by contamination or land stability issues responsibility for securing a safe development rests with the developer and/or landowner'. Therefore, should any significant contamination subsequently become apparent then responsibility will remain with these parties.

Further Advice

Should you wish us to review any technical documents or want further advice to meet the requirements of the conditions recommended, we may do this as part of our charged for planning advice service.

Further engagement will provide you with certainty of our position as to what our response to your application to discharge conditions will be. It should also result in a better quality and more environmentally sensitive development.

As part of our charged for service we will provide a dedicated project manager to act as a single point of contact to help resolve any problems. We currently charge £100 per hour, plus VAT. We will provide you with an estimated cost for any further discussions or review of documents. The standard terms of our charged for service are available [here](#).

If you would like more information on our planning advice service, including a cost estimate, please contact us on the details provided below. Please consult us on the details submitted to your authority to discharge this condition and on any subsequent amendments/alterations.

Planning Application Advice

Should the applicant or any subsequent owners wish to create a separate planning unit with the proposed new warehouse then planning permission shall need to be sought and obtained.

END OF OFFICERS REPORT



Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 06 January 2022

Plans List Item Number: 2

Reason for bringing to committee

Major Application

Application Details

Location: HARTSHORNE MOTOR SERVICES LTD, BENTLEY MILL CLOSE, BENTLEY, WALSALL, WS2 0BN

Proposal: DEMOLITION OF EXISTING BUILDINGS AND REDEVELOPMENT OF THE SITE INCLUDING THE ERECTION OF A NEW VEHICLE WORKSHOP, BODY SHOP AND ASSOCIATED OFFICE, HGV SALES, VEHICLE WASH BAY, SERVICE AREAS AND CAR PARKING (SUI GENERIS)

Application Number: 21/1275

Case Officer: Helen Smith

Applicant: Andrew Fletcher

Ward: Bentley And Darlaston North

Agent: Paul Shuker

Expired Date: 18-Nov-2021

Application Type: Full Application: Major Use Class Sui Generis

Time Extension Expiry:



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Recommendation:

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and a S106 to secure implementation and monitoring of the Travel Plan and subject to;
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;
 - Overcoming the outstanding objections raised by the Public Lighting Officer (External Lighting), Tree Officer and Environmental Protection (Asbestos)

Proposal

This planning application seeks consent for demolition of existing buildings and redevelopment of the site including the erection of a new vehicle workshop, body shop and associated office, HGV sales, vehicle wash bay, service areas and car parking (Use Class Sui Generis). Since this planning application was submitted the planning agents have submitted a separate prior approval application for demolition. The total gross new internal floor space proposed is 900 sq. metres.

The total number of full-time equivalent employees at the site would increase from 75 to 90. The Planning Agent has advised that the application site is currently in 24 hour use and the requirement is to continue with this.

The proposal states that the applicants wish to rationalise their existing site to be able to provide a more efficient facility with scope to accommodate future change in relation to vehicle servicing and the potential consideration of servicing electric powered vehicles in the future. The proposal would redevelop an existing brownfield site.

The proposal considers the phasing and delivery of the building to enable the existing site to function and deliver current services whilst the new facility is under construction. To enable continued working during construction the existing workshop and offices and parts departments would be retained during phase 1 whilst the new workshop, offices and parts department are built and then demolished as part of phase 2.

The proposal states that its aims are to design a building that proposes sustainability through using technologies such as photovoltaics to assist in energy production to supplement building running costs.

A proposed new portal framed, workshop facility would include 7 bays for the servicing and repair of heavy goods vehicles, buses, refuse trucks and emergency vehicles. 6 of the bays would have a drive through arrangement to improve manoeuvring and safety. This would be located to the north of the site with external concrete hardstanding areas for vehicle manoeuvres, layovers, and external storage.

Ancillary to the workshop bays would be a reception, drivers rest room, meeting room, office, parts storage, and welfare facilities located to the eastern end of the building.

Most of the site to the south would be allocated for vehicle layover, parking and an area would be used for new and used truck sales display. There would be a 20 bay layover area, 46 car parking spaces including 3 accessible bays and service provision for electric vehicle charging. A covered 10 cycle shelter would be provided, and new gatehouse located adjacent to the secure access gate. A temporary security cabin would be installed during construction.

Staff and visitor parking and truck sales display would be located on the south eastern corner of the site. An area is identified and allocated on the site layout plan to provide for external storage, skip compound and waste segregation and recycling. Parts will be delivered to the rear of the workshop building into the parts store and there is internal access through to the reception and workshop areas.

The workshop and attached two storey office area would be;

- 10 metres high (*existing workshop between 10.4 and 10.6 metres high*)
- 7 metres high haunch height to provide HGV operating headroom
- 29.7 metres wide
- 68.8 metres long

Proposed materials for the new development include grey colour profiled metal cladding, anthracite grey colour aluminium framed windows, insulated grey colour spandrel panels, anthracite grey colour aluminium framed curtain walling, black brick, fair faced blockwork, and steel and sectional personnel and loading bay doors colour grey.

A wash bay facility would be provided adjacent to the workshop and this would be partially enclosed with block built walls to the sides and rear. This facility would be for the sole use by Hartshorne Motor Services for washing serviced and repaired vehicles on site and would not be open for use by the public. A new Armco safety barrier would be installed along the western elevation of the wash bay.

The first floor of the workshop would provide office accommodation, conferencing with a 20 person board room and meeting room facilities, breakout and changing facilities. There would also be a first floor parts storage area to the rear with a gated balustrade to enable forklift access from ground floor. Stairs, kitchenette, and a lift would be included.

The existing 2 bay MOT workshop to the west of the application site would be retained and extended by 1 bay and refurbished into a new body shop facility. This would involve re-cladding, new roofing, and sectional doors with existing slab/pits to be retained.

The site would be secured by the existing boundary conditions to the northern, western, and southern boundaries (i.e. security fence and soft landscaping/trees). The southern boundary consists of a 2 metres high solid concrete panel fence.

A new 2.4 metres high weld mesh powder coated black, paladin type security fence designed to prevent climbing is proposed along Bentley Mill Close and the eastern boundary. Gates will be electrically operated sliding automated access gates with a new security kiosk at the end of Bentley Mill Close. A full external CCTV will be designed and installed on site if approved.

New concrete wheel stop to the south would be installed and located to prevent vehicle clashing with existing trees. The existing boundary fence to the south would be retained and made good.

Proposed external lighting details have been provided which consider the avoidance of overspill towards any area of permanent residency.

A number of trees including an Ash (T7), Whitebeam, Sycamore and Norway Maple (LG8) would require removal and are all reported to be Category C – Low Quality trees by the submitted Arboricultural Assessment Report. There are no protected trees on or adjacent to the application site however there are trees considered to be of high amenity value.

A separate Prior Approval application for demolition has been submitted since the planning application was made.

The application is supported by the following documents;

Air Quality Assessment August 2021 by WSP which concludes the following;

- Through good site practice and the implantation of suitable mitigation measures the impacts of dust and particulate matter releases on local air quality from construction site activities will be not significant
- Operational phase impacts are deemed to be not significant and there is no specific requirement for mitigation, however the installation of electric vehicle charging points and the implementation of a travel plan would further reduce emissions to air associated with the proposed development.

Arboricultural Assessment Report August 2021 by WSP

- Removal of 4 Category C – Low Risk trees would be necessary
- The loss of LG8 trees would have an amenity impact on residents from the loss of screening. These trees will need to be replaced to mitigate the screening value.
- Tree T13 (Category U) is recommended for removal in the interests of public safety rather than as necessary to facilitate the proposed development.
- Some works would be within the RPAs of retained trees (LG1, T2, T4, T5, LG6 and LG9) and the impacts are considered minimal and acceptable provided a sympathetic methodology is adhered to as outlined in Appendix H of the report.

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- Crowns on G11 and G12 will need to be managed to avoid conflict with the workshop.
- Tree pruning and management will be required to minimise the potential for branch damage to occur during construction. These works will need to be specified once contractors' spatial requirements are known.
- All vegetation clearance should be completed outside of bird nesting season (March to September inclusive)
- Potential for net gain in amenity value and tree canopy if the existing trees are supplemented with additional new planting and an appropriate working methodology.

Asbestos Demolition Survey dated 15 & 18 October 2021 prepared by William Martin Compliance which includes details of their survey assessment, recommended actions, and timescales.

Badger Technical Note dated 01/09/21 by WSP which concludes:

- Badger are considered likely absent from the survey area and no further surveys are requested to inform the planning application however as woodland to the north of the site retains suitability for badger.
- A pre-commencement walk-over of the woodland area is recommended immediately prior to construction to assess any changes to the baseline presented in the report.

Bat Roost Survey Report August 2021 prepared by WSP which concludes;

- Dusk emergence/dawn re-entry surveys carried out on all 3 buildings and identified low roosting suitability within the site. No bat roosts were identified, and overall levels of bat activity were relatively low.
- As no bat roosts were recorded no avoidance, mitigation or compensation measures are recommended. However, enhancement opportunities as detailed in the report are recommended.

Construction Environmental Management Plan (CEMP) dated 17/11/21 by Blue Earth Construction which provides details on;

- Waste, noise, maintenance, training, emissions to air, vehicles and vehicle routing and lighting during the proposed demolition and construction phase.

Design and Access Statement July 2021 prepared by Jefferson Sheard Architects which includes the following comments;

- The proposed main workshop building has been located away from the southern boundary to minimise impacts on residential properties to the south.
- Much needed modernisation of the exiting site re-utilising a brownfield site within a predominantly industrial area
- Designed with due regard to relevant planning policies of Walsall Council promoting high quality and efficient design to ensure successful future operations for a key service providing essential vehicle repair and restoration services to the area.

- Accessibility has been incorporated into the building design as required by the Equalities Act.

Design and Operational Statement – 1927 prepared by Jefferson Shead Architects which explains the processes undertaken prior to the submission of the planning application including discounting the feasibility of temporary relocation of the business during construction works and the operational requirements for the site.

Exterior Lighting Details dated 29/11/21

Flood Risk Assessment dated 3/8/21 prepared by Eastwood & Partners Consulting Engineers which concludes;

- The site is in Flood Zone 1 not at significant risk of fluvial flooding
- Ground levels on site would be altered to remove localised depressions and new surface water drainage provided which follows the SuDS hierarchy
- Surface water discharge to sewers restricted to brownfield rate subject to Severn Trent Water approval.
- Attenuation of rainfall events up to 1 in 100 year plus climate change will be provided by proprietary below ground storage units and oversized pipes
- All surface water run-off from hard paved area should pass through an oil interceptor before discharging off site
- Foul effluent should discharge via gravity to the on-site public foul sewer running parallel to Bentley Mill
- The level of risk and safeguards available are considered appropriate for this class of development

Geotechnical and Geo Environmental Desk Study dated 30/07/21 prepared by Eastwood & Partners Consulting Engineers recommends further ground contamination works by means of intrusive ground investigations are undertaken along with a site specific risk assessment and method statement prior to any site works which would include the potential presence of the contaminants identified and voids.

Phase 2 Geotechnical and Geo Environmental Site Investigation Report dated 30/7/21 prepared by Eastwood & Partners Consulting Engineers which recommends further work to investigate ground contamination and investigation of soils on site, gas monitoring wells etc.

Noise Assessment dated August 2021 by WSP which provides an initial estimate of noise impacts and concludes;

- Noise from external plant (jet wash), noise breakout from the workshop and body shop, HGV movements have been assessed and the assessments indicates that the rating level does not exceed the background sound level, this is an indication of low impact depending on the context.
- The main sources of noise associated with the development have been assessed and it has been concluded that there would be no adverse noise impacts and that the proposal is compliant with local and national policies with respect to noise.

Planning Statement dated 18/08/21 prepared by Lambert Smith Hampton which concludes;

- The proposals meet the requirements of the relevant policies within the adopted Walsall development plan in relation to flood risk, drainage, noise, amenity, ecology, bio-diversity, air quality, arboricultural, transportation and highway matters and contaminated land.
- The proposal amounts to sustainable development and there are no significant demonstrable adverse impacts arising from the proposals that would outweigh the considerable benefits of the scheme.
- Proposals wholly accord with the Policies contained within the Development Plan bearing in mind Section 38(6) of the Planning and Compulsory Purchase Act 2004, they consider planning permission should be granted for the proposed development without delay.

Preliminary Ecological Appraisal August 2021 by WSP which concludes:

- The site and its immediate surroundings had the potential to support protected species and further surveys for bats (*provided by the planning agent*) and badgers are recommended.
- A number of mitigation and environmental best practice measures are recommended to avoid adverse impacts on the surrounding environment, and any protected species or habitats.
- These include sensitive lighting and best practice working with regards to pollution control to avoid impacts on local designated sites.

Transport Statement dated August 2021 prepared by WSP which comments;

- The overall impact of the proposed development would be minor.
- As demonstrated the proposed development is in a sustainable location that is accessible by a variety of travel modes
- No unacceptable impact on highway safety or a severe impact on the road network
- Proposed development aligns with the NPPF, regional and local transport policies and strategies including Transport in Walsall Strategy and Walsall's UDP.

Travel Plan dated November 2021 prepared by WSP which states;

- That the Travel Plan includes measures that will encourage a variety of travel options
- Targets will apply once construction is complete and progress towards these targets will be monitored after 6 months and then every 2 years.
- Key steps are included which include the appointment of a travel co-ordinator for the site.

Site and Surroundings

Hartshorne Motor Services Ltd are located to the west of Junction 10 of the M6 just off Bentley Mill Close and to the south of the Black Country Route (A454) which forms part of the Strategic Highways Network. Access to the site would be unchanged and is via Bentley Mill Close.

The application site is a well-established commercial vehicle servicing and sales site located on a triangular area of land which includes a range of buildings of various age and purpose. There is a dense tree belt to the north of the site between the site and the A454. There are mature trees along the western and southern boundaries which screen the application site from residential properties.

The ground level of the application site is approximately 3.2 metres higher than houses on Wrexham Avenue as levels increase in a northerly direction. A sectional drawing indicating the levels in relation to neighbouring buildings has been provided.

Along the southern edge of the application site there is a strip of urban open space utilised as allotments separating the site from residential properties fronting Wrexham Avenue. The rear habitable room windows serving houses on Wrexham Avenue are a minimum of 35 metres from the southern boundary of the application site. The immediate surrounding area consists of a mix of residential, industrial, and commercial uses.

The site area is circa 13,680 sq. metres (1.37ha).

To the south east of the site there is a designated SLINC which form part of the Anson Branch Canal which is 180 metres from the application site. To the north west of the application site is the Anson Road designated SLINC which is 58 metres from the site and located on the opposite side of the Black Country Route.

The site is allocated as potential high quality employment land with site reference IN91.2 under policy IND2 of Walsall's Site Allocation Document.

Cadent Gas have advised that the proposal is in close proximity to their medium and low pressure assets.

Relevant Planning History

21/1594 – Prior Approval: Phases 1 & 2 demolition of workshops and offices – under assessment.

18/0848 - Installation of new vehicle Spray Booth within existing building, and associated galvanised extract flues, through existing roof –GSC 16/08/18

17/1453 - Display of various illuminated and non-illuminated advertisements, including fascia and free standing advertisements – GSC 20/12/17

11/0486/FL - Construction of a new parts storage facility – GSC 3/11/11

06/2015/FL/W5 – Internal alterations and replacement of existing flat roof with mono pitched roof – GSC 15/01/07

02/1607/FL - Proposed alterations sales office block – GSC 28/10/02

BC56340P - Proposed two storey gatehouse building – GSC 18/08/00

BC55174P - 1 No Freestanding Pole Sign 2000 x 875m – GSC 03/12/99

BC51792P - Installation of Extract Stacks for Commercial Vehicle Spray booth – GSC 21/07/98

BCW440 – Erection of a commercial vehicle MOT testing station – GSC 30/01/95

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding, and coastal change**

On **planning conditions**, the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. 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.

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows

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- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- JP8: Bad Neighbour Industrial Uses
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- EMP3: Local Quality Employment Areas
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

IND2: Potential High Quality Industry

EN1: Natural Environment Protection, Management and Enhancement

EN3: Flood Risk

T4: The Highway Network

T5: Highway Improvements

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

- 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

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Archaeology – No objections

Asset Management – concerns raised as ownership of land within the plan is being reviewed with Legal Services

Cadent Gas – They have advised that the proposal is in close proximity to their medium and low pressure assets however they have no objections to the proposal and require the inclusion of an informative note to be included into the decision notice if approved.

Coal Authority – No objections subject to the inclusion of planning conditions requiring intrusive site investigations to be undertaken and the submission and implementation of an agreed scheme of remedial works

Community Safety Team – No objections and recommend the inclusion of PIR lighting around the car park and boundary to alert any incursion to the site.

Environmental Protection (Pollution Control) – No objections subject to the inclusion of planning conditions in respect of asbestos, CEMP, air quality and contaminated land, if approved.

Fire Officer – No objections subject to compliance with Approved Document B, Volume 2, Buildings other than Dwellings, 2019 edition incorporating 2020 amendments – for use in England, Requirement B5: Access and facilities for the fire service. An informative note can be included.

Highways England – No objections

Local Highways Authority – No objections subject to the inclusion of planning conditions in respect of hard-surfacing, modification of the dropped kerb crossing, cycle shelter details and travel plan, if approved. Please note that the Travel Plan would require securing by a S106 agreement rather than a planning condition if required.

Natural England – No objections

Police, Designing out Crime Officer – No objections and recommend the principles of Secured by Design which can be included as an informative.

Public Lighting Officer – Further information is required in the form of an obtrusive light report before final comments are made. This will be updated at planning committee if received beforehand.

Severn Trent Water – No objections subject to the inclusion of a drainage condition if approved. An informative note can be included for the applicant.

Strategic Planning Policy – No objections

Tree Officer – Objects and requires further information to be provided

Representations

Officers' comments in italics

Objections have been received from 6 residents on the following grounds;

- Noise and pollution from lorries moving to the south of the site nearer to houses
- No details of the spray booth (*the planning agents have advised there will be no spray booth on the site as the body shop will be demolished*)
- Discrepancy on hours of work in relation to previous planning approvals and the report by Lambert Smith Hampton (paragraph 2.2.4) which states 0600 to 22:00hrs 7 days a week. Their last planning application stated 08:00 to 18:00 hour Monday to Friday and 08:00 to 13:00hrs Saturday not to include Sundays or bank holidays and doors should remain closed at all times. (*the current planning statement provided by Lambert Smith Hampton does not include a paragraph 2.2.4*)
- Loud music played at 2am (*Noise nuisance is investigated via third party environmental legislation and outside the scope of planning enforcement*)

- Horns at all hours of the day and night (*Noise nuisance is investigated via third party environmental legislation and outside the scope of planning enforcement*)
- Detrimental impact on health
- Loss of property value (*not a material planning consideration in this instance*)
- Permission for 24 hour lighting previously given and further lighting may cause a nuisance to residents.
- Spray from vehicle washing drifted into the gardens on Wrexham Avenue and clarification needed on the wash bay location (*the new wash bay is proposed to be located centrally on the site at the western end of the proposed new workshop and 51.7 metres from the southern site boundary*)
- Will the southern boundary fence be made good as per the plans as the fence is in a poor state of repair due to the tree line being planted too close and the roots are lifting the fence
- New MOT bay planning application reference BCW440 included time restrictions for its use which have never been adhered to.

Determining Issues

- Principle of Development
- Design, Appearance and Character
- Amenity of Neighbours
- Ground Conditions
- Ecology
- Trees
- Flood Risk / Drainage
- Noise
- Air Quality
- Asbestos
- External Lighting
- Parking and Access

Assessment of the Proposal

Principle of Development

The application site is allocated in Walsall's Site Allocation Document as potential high quality employment land and is part of site reference IN91.2 under policy IND2.

This proposal seeks to upgrade the current site to provide modern premises for the existing use, so is considered will help to implement policy IND2. The site lies close to the M6 motorway Junction 10 which is currently being upgraded and the Black Country Route (A454) along with Wolverhampton Road West which has a bus route to Walsall Town Centre. This site is considered to be a sustainable location and would provide increased employment opportunities on the site. The proposal is therefore supported on strategic planning policy grounds.

The proposed development would be phased to ensure the continued operation of the business during the redevelopment. The existing workshop, offices and parts departments would be retained during phase 1 whilst the new workshop, offices and parts department are built and then demolished as part of phase 2.

The Council's Asset Management Team have concerns that part of the land within the red line may not be in the applicant's ownership. This is being reviewed as a separate legal matter to the planning application being considered and does not prevent the determination of a planning application.

Design, Appearance and Character

The scale of the proposed new workshop and alterations to the site layout along with the proposed exterior materials are considered acceptable and would reflect the design and appearance of the existing buildings on the site and surrounding area.

The proposed palette of materials for the new development are considered would break up the perceived bulk of the new workshop and office building, if approved.

Specific materials details can be required by planning condition along with details of the proposed cycle shelter and the design of the proposed new gatehouse and boundary treatments.

The Designing Out Crime Officer has provided site security recommendations in accordance with Secured by Design which have been included as an informative note for the applicant.

The proposals aim to rationalise the existing site and provide a more efficient operation and whilst the layout and buildings on site would change if approved, it is considered that the commercial character of the site would essentially remain the same as the existing site.

Amenity of Neighbours

The separation distance between the proposed new workshop, offices and wash bay and residential properties on Wrexham Avenue would increase from approximately 40 to 86 metres which is considered would limit the impacts of the operations carried out within these areas on neighbours existing amenity.

The existing tree line would continue to provide visual screening for residents and where trees will need to be removed, if agreed by the Council's Tree Officer, a replacement planting/landscape mitigation scheme can be required by planning condition to continue to protect residents' visual amenity in the longer term.

Layover parking for HGVs would be relocated along the southern boundary where space for 21 parking bays. The plans indicate that two HGVs can be accommodated in each layover parking space. This use would be closer to residential properties than the current layover parking which is further north on the site which may result in some disturbance from reversing alarms and headlights. There is a 2 metres high solid concrete fence along the boundary which provides an acoustic barrier and has been considered in greater detail in the Noise paragraph below. This fencing requires some repair and lengthening along the entire southern boundary to address noise concerns in line with the Noise Assessment report which can be included in a safeguarding

condition for boundary treatment. This development is considered to be in accordance with UDP saved policy JP8.

Planning application 18/0848 which was approved on 16/8/18 included a condition restricting the hours of operation for the paint spray booth only to the hours of 08:00am to 18:00pm Monday to Friday and 08:00 to 13:00pm Saturday and this planning condition can be carried forward if approved. However, the planning agent has advised that as the body shop is being demolished there will be no spray booth as this would not form part of the future operation.

The proposed new wash bay is proposed to be partly enclosed and located centrally on the site at the western end of the proposed new workshop and 51.7 metres from the southern site boundary which is considered would limit any impacts on neighbours existing amenity.

The previous MOT bay planning application reference BCW440 included time restrictions for its use which residents' state have never been adhered to. This condition can be carried forward to the current application if approved and residents may consider submitting a formal complaint to the Planning Enforcement Team.

Neighbours have commented that loud music is played at 2am and vehicle horns are being sounded during unsociable hours causing disturbance. UDP saved Policy JP8 requires that sites must be subject to stringent operational control to minimise disturbance to nearby firms or other uses. Noise nuisance can be dealt with via third party environmental legislation. Residents can raise complaints via the council's website for environmental protection officers to investigate, monitor and if needed take action.

Neighbours have commented that this development would have a detrimental impact on health however no evidence or further detail has been provided to corroborate this statement. Consequently, this concern will have limited weight in the assessment of the application. Given the location is a mix of commercial and residential, it is accepted that locations in these situations, it is acknowledged that noise and pollution levels tend be a little higher than suburban residential areas.

This is a long established motor vehicle servicing site which currently operates on a 24 hour basis. The current proposed redevelopment of the site is considered would on balance have limited additional impacts on neighbouring residential properties over and above that already experienced.

The additional impacts on neighbouring commercial premises are considered would be limited in this industrial location.

Ground Conditions

Coal

The Coal Authority state that the application site falls within the defined Development High Risk Area and therefore within the application site and surrounding area there

are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The Coal Authority (CA) records indicate that three recorded mine entries (shafts) are present within the planning boundary, with a further mine entry (shaft) very close to the application boundary. Their records also indicate, the site has been subject to historic recorded underground coal mining at shallow depth and is likely to have been subject to historic unrecorded underground coal mining at shallow depth. Thick coal seams also outcropped across the site.

The applicant previously submitted a Geotechnical and Geo-Environmental Desk Study (30 July 2021, prepared by Eastwood & Partners). Whilst the report recommended the investigation of both shallow coal mine workings and the mine entries, the CA confirmed that they do not support built development above mine entries, even where they have been treated. The CA confirmed that built development appeared to be being proposed directly over two recorded mine entries.

On account of the above, the CA objected to the planning application and confirmed that the applicant should be required to demonstrate the operational reasons as to why the proposed building is required to be where it is located, or whether the layout could be amended to avoid these coal mining hazards. They noted that there appeared scope to amend the layout to avoid the mine entries.

The CA considered that the building over or within the influencing distance of a mine entry raises significant safety and engineering risks and exposes all parties to potential financial liabilities and as a general precautionary principle, should wherever possible be avoided. Building over or within the influencing distance of a mine entry will only be permissible when expert advice allows a suitable engineering design to be developed and agreed to take account of all the relevant safety and environmental risk factors including gas and mine-water. This information should be submitted alongside the Coal Mining Risk Assessment and should be considered prior to the determination of the planning application.

The applicant has subsequently submitted a Phase 2 Geotechnical and Geo-Environmental Site Investigation Report (22 October 2021, prepared by Eastwood & Partners), the content of which confirms that identified shallow workings will require consolidation. Whilst no specific targeted investigation of the mine entries occurred, a Design & Operational Statement from Jefferson Sheard Architects (Undated) also now accompanies the application, the content of which confirms; that due to logistical requirements, the position of the proposed building cannot be moved to avoid the mine entries.

The CA has commented that they appreciate that it is not always possible to revise a development layout, and in this case the CA have accepted that the site constraints mean that building over the mine entries is unavoidable, but state that those concerned will require to be investigated/remediated.

The CA advise that they would generally expect a foundation solution to be agreed prior to determination. However, The CA would raise no objections subject to an appropriately worded planning condition being imposed on any consent granted.

The CA advise that intrusive site investigations should be designed and undertaken by competent persons and should be appropriate to assess the ground conditions on the site in order to establish the coal-mining legacy present and the risks it may pose to the development and inform any remedial works and/or mitigation measures that may be necessary. The applicant should note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property. This can be included as an informative note for the applicant along with notes regarding mine gas and SUDs which may affect stability and safety risks posed by coal mining legacy, if the application is approved.

Contaminated Land

Environmental Protection Officers have advised that the Applicant will need to undertake an asbestos investigation prior to demolition and remove any identified, in accordance with national regulations and guidance thereafter. The applicant shall implement a previously agreed Demolition and Construction Management Plan to control local impacts from dust generation, debris, site drag-out etc.

The Geotechnical and Geo-Environmental Desk Study, Eastwood & Partners, Ref. 46141-002, 30 July 2021 report acknowledges that site is likely to be contaminated, but given the proposed use then it should not be a major concern, unless gross pollution is encountered during demolition/construction works. The report recommends a ground gas investigation, which has also been raised by The Coal Authority in relation to potential mine gas being present.

Environmental Protection Officers have confirmed that they agree with the determination and have no significant concerns about contaminated land, but the applicant should undertake a ground gas investigation and agree and implement mitigation/remediation measures, if necessary. This matter can be addressed by planning condition if approved.

Ecology

The Preliminary Ecological Appraisal states that the site and its immediate surroundings are considered to have the potential to support protected species. The Appraisal recommends that a number of mitigation and environmental best practice measures are required to avoid any adverse impacts on the surrounding environment, and any protected species or habitats. These include avoiding vegetation clearance during bird nesting season (March to August inclusive) or by conducting a bird nesting check no more than 48 hours prior to commencement by a suitably experienced ecologist if the works are required during this period.

This report states that measures must be taken to prevent dust and other emissions from construction affecting land and watercourses beyond the site. This may be through the use of dust suppressions, water sprays or other methods identified, and these

requirements would form part of a Construction Environment Management Plan condition if approved.

These protective measures also include sensitive lighting and best practice working with regards to pollution control to avoid impacts on local designated sites such as the Anson Branch Canal SLINC. This matter is under review by the Council's Public Lighting Officer as detailed in the report below.

A pre-commencement walk-over of the woodland area has been recommended immediately prior to construction to assess any changes to the baseline presented in the report. This requirement can be addressed by planning condition.

The Bat Roost Survey provided in support of the planning application states that dusk emergence/dawn re-entry surveys carried out on all 3 buildings and identified low roosting suitability within the site. No bat roosts were identified, and overall levels of bat activity were relatively low. As no bat roosts were recorded no avoidance, mitigation or compensation measures have been recommended.

However, enhancement opportunities are recommended in the report which include the installation of bat bricks, bat tubes and/or bat tiles into the fabric of any new building or any bat boxes to suitable retained trees to provide roosting opportunities. The creation of dark areas around the site, the use of louvres or hoods and minimal light levels necessary are recommended. The provision of an enhancement scheme can be required by a planning condition that meet the 6 tests and in accordance with the requirements of Conserving Walsall's Natural Environment SPD.

Trees

The Arboricultural Assessment Report August 2021 prepared by WSP advises that the removal of 4 Category C – Low Risk trees would be necessary to facilitate the development. There are no trees on the site subject to tree protection orders however the trees provide important amenity value for neighbouring residents and the surrounding area.

The report states that the loss of trees referenced as LG8 would have an amenity impact on residents from the loss of screening and that these trees will need to be replaced to mitigate the screening value.

The Tree referenced as T13 (Category U) in the report is recommended for removal in the interests of public safety rather than as necessary to facilitate the proposed development.

The report states that some works would be required within the RPAs of retained trees (referenced as LG1, T2, T4, T5, LG6 and LG9) and the impacts are considered minimal and acceptable provided a sympathetic methodology is adhered to as outlined in Appendix H of the report which can be conditioned.

The report says that Crowns on trees identified as G11 and G12 in the report will need to be managed to avoid conflict with the workshop. Tree pruning and management will be required to minimise the potential for branch damage to occur during construction.

These works will need to be specified once contractors' spatial requirements are known and can form part of a planning condition if approved.

All vegetation clearance should be completed outside of bird nesting season (March to September inclusive) and there is the potential for net gain in amenity value and tree canopy if the existing trees are supplemented with additional new planting and an appropriate working methodology.

The Council's Tree officer requested a full copy of the Arboricultural Impact Assessment in order that they may make a full assessment of the proposed tree removals and retentions. This has been provided by the planning agents and final comments are awaited from the Council's Tree Officer which will be updated at planning committee. In general, the scheme is considered to be satisfactory and the report sensitive to the importance of trees on the site. The tree group, referenced as LG8 in the Arboricultural Assessment Report, whilst consisting of low quality specimens provides a good level of screening value between the application site and the neighbouring allotments and on looking residential properties.

The Council's Tree Officer considers that the loss of these trees, particularly in amenity value will have a residual effect that will persist for some years unless these trees are replaced as part of the proposed landscape mitigation strategy. The submission of a landscape mitigation strategy will be required, and this can be addressed by a planning condition that meets the 6 tests.

Flood Risk and Drainage

The application is located within Flood Zone 1 and is considered not at significant risk of fluvial flooding. A Flood Risk Assessment (FRA) by Eastwood & Partners Consulting Engineers has been provided in support of the planning application as the site is greater than 1 ha.

Recommendations have been included in the report to address any potential flooding concerns which include the alteration of ground levels to remove localised depressions and new surface water drainage, the installation of below ground storage units, oversized pipes and surface water run off to pass through an oil interceptor before discharging off site. Foul effluent should discharge via gravity to the on-site public foul sewer running parallel to Bentley Mill. The FRA considers that the level of risk and safeguards available are considered appropriate for this class of development and safeguarding conditions can be included if approved.

Severn Trent Water have no objections to the proposal however they require the inclusion of a drainage condition for surface and foul water drainage. Additional information has been provided by the planning agents however Severn Trent Water have advised that they cannot accept the proposed surface water discharge rates provided. All other avenues of surface water sewers and highway drainage will need to be examined and proven not possible. If this is demonstrated, then Severn Trent Water have stated that they may then consider 5litres/second to the public foul sewer. They

have also advised that there are no legal rights for Severn Trent to accept any surface water run-off into their foul sewer network.

Additional information has been provided by the Planning Agent and Severn Trent Water have been re-consulted and their comments are awaited and will be updated at planning committee.

Noise

The Noise Assessment report by WSP, has measured existing background noise levels and measured existing noise levels from activities that are undertaken at the Company's Birmingham site, which are now to be undertaken at the proposed site. Due to existing background noise levels, the measured noise from proposed activities, and distance from the proposed activity to sensitive receptors, no significant noise impacts have been predicted. Environmental Protection Officers agree with these findings and no further conditions or information in this respect is required.

The Noise Assessment report advises in Section 7.1.5 advises that the 2 metres high solid concrete panel fence along the southern boundary and near to residents on Wrexham Avenue has been included within the calculations on a precautionary basis with a 5dB reduction. It is considered that a concrete panel fence if maintained in good repair will provide a very good acoustic screen which will be important in relation to HGVs manoeuvring near to residential properties particularly with reversing alarms in the layover parking area to the south.

The recommendation is for the solid concrete boundary fencing to be installed along the entire southern boundary of the application site and the inclusion of a planning condition requiring the installation and ongoing maintenance of the fence in a good/solid state can be included. Environmental Protection Officers are satisfied with the findings and proposed conditions if approved in regard to noise attenuation on the southern boundary.

Air Quality

This application is supported by an Air Quality Assessment prepared by WSP which states that good site practice and the implementation of suitable mitigation measures during the construction phase. The report states that operational phase impacts are deemed to be not significant and there is no specific requirement for mitigation, however the installation of electric vehicle charging points and the implementation of a travel plan would further reduce emissions to air associated with the proposed development are recommended.

Environmental Protection Officers have commented that although the Air Quality Assessment mentions electric vehicle charging points and a Travel Plan, a planning condition is recommended for the applicant to agree these measures as part of meeting the requirements of the Black Country Air Quality Supplementary Planning Document. Effectively, this will be required under the guise of an Air Quality Low Emission Scheme in the interests of creating a sustainable form of development and to encourage the use

of ultra-low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.

Asbestos

The Applicant has provided an asbestos investigation report which is required prior to demolition and thereafter, shall implement a Demolition and Construction Management Plan to control local impacts. Additional information is required by Environmental Protection Officers before providing their final comments. This matter will be updated at the Planning Committee meeting.

External Lighting

The Council's Public Lighting Officer has reviewed the external lighting proposals and ecological report.

The lighting design levels are considered to be acceptable per the CIBSE/SLL standards. However, an obtrusive light report to demonstrate the effect of light intrusion on the adjacent houses has been requested to establish how external lighting would affect neighbours' properties. The report should demonstrate compliance with recommendations contained in ILP GN01 2021.

If compliance cannot be achieved, then the Public Lighting Officer has advised that they will need to know by how much it cannot be achieved and what mitigations have been considered. There is a highway nearby and so they should make an impact statement on the likely effect on road users. Revised information has been provided and this aspect can be reported at planning committee once the information has been reviewed by the Council's Public Lighting Officer.

Parking and Access

The Local Highway Authority have commented that in addition to the workshop, the main building will also include administrative office areas, a 20- person board room and three executive offices.

The new workshop facility will incorporate a seven bay workshop area that will be used for the servicing and repair of HGV's, buses, refuse trucks and emergency vehicles etc.

Applying the parking standards from the Walsall UDP, 28 car parking spaces would be required for the 2,629m² floor space to be provided on the site. The proposed increase to 46 car parking spaces is however deemed necessary given the fact that staff start, and finish shift times finish outside of the hours that public transport services connect to and from the site on Sundays.

Security staff also need to access the site 24/7, also outside hours when public transport services connect to and from the site. The proposed three accessible parking bays (6.5% of total) to be provided are also considered more appropriate for the site than the recommended 10% from the UDP given the nature of the site.

A snapshot staff parking survey has been undertaken in support of the planning application and the existing facility and shows that 34 cars were parked across the 41 staff car parking spaces at 15:00 hours, a time of day when all of the afternoon engineer

staff and all 30 office staff would be on site. This suggests that the small increase in car parking proposed on the site should be able to comfortably accommodate current demand as well as small future increases in staff numbers.

A Workplace Travel Plan will be implemented which will look to encourage modal shift away from car travel and a S106 agreement is likely to be required to secure the implementation and monitoring of the Travel Plan. Confirmation from the Local Highway Authority is awaited. The Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2021 paragraph 111. Planning conditions will be required in respect of hard-surfacing, modification of the dropped kerb crossing and cycle shelter details, if the application is approved.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour concerns, it is considered the proposed re-development of this existing commercial vehicle servicing, repairs, MOT and sales is considered would be a positive contribution as the existing site would be updated to create additional employment opportunities for the borough and introduce improved and sustainable technologies.

The potential impacts of the re-development have been considered particularly in response to neighbours' concerns and it is concluded that any additional impacts experienced over and above those already experienced by residents would be limited. The use of safeguarding conditions will further ensure that the neighbours' amenity and impacts on the environment are protected and that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP4, EMP1, EMP2, EMP3, TRAN2, ENV1, ENV2, ENV3, ENV5, ENV6, ENV7 and ENV8 of the Black Country Core Strategy and saved policies GP2, GP5, GP6, ENV10, ENV11, ENV14, ENV17, ENV18, ENV23, ENV32, ENV33, ENV35, JP8, T7 and T13 of Walsall Unitary Development Plan, policies IND2, EN1, EN3, T4 and T5 of Walsall's Site Allocation Document and Supplementary Planning Documents Designing Walsall and Air Quality. Taking into account the above factors it is considered that the application should be recommended for approval.

The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment

Positive and Proactive Working with the Applicant

Officers have confirmed to the applicant's agent that the submitted details are acceptable, and no further changes have been requested.

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and a S106 to secure implementation and monitoring of the Travel Plan and subject to;
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;
 - Overcoming the outstanding objections raised by the Public Lighting Officer (External Lighting), Tree Officer and Environmental Protection (Asbestos)

Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents: -

- Existing Site Plan, drawing no. 1927-JSA-XX-XX-DR-A-01002 Rev. P2, deposited 19/08/21.
- Existing Sections –Sheet 1, drawing no. 1927-JSA-XX-XX-DR-A-03001 Rev. P2, deposited 19/08/21.
- Proposed Site Location Plan, drawing no. 1927-JSA-XX-XX-DR-A-01001 Rev. P2, deposited 19/08/21.
- Proposed Site Plan, drawing no. 1927-JSA- XX-XX-DR-A-01201 Rev. P5, deposited 11/11/21
- Proposed Site Sections, drawing no. 1927-JSA-XX-XX-DR-A-03200 Rev. P2, deposited 19/08/21.
- GA Plan First Floor, drawing no. 1927-JSA- XX-01-DR-A-02202 Rev. P4, deposited 09/11/21.
- GA Plan Ground Floor, drawing no. 1927-JSA- XX-00-DR-A-02201 Rev. P6, deposited 09/11/21.
- GA Roof Plan, drawing no. 1927-JSA- XX-RO-DR-A-02203 Rev. P3, deposited 09/11/21.
- Proposed Demolitions Plan, drawing no. 1927-JSA- XX-XX-DR-A-03101 Rev. P3, deposited 09/11/21.
- GA Elevations, drawing no. 1927-JSA- XX-XX-DR-A-04201 Rev. P3, deposited 09/11/21.
- Site Plan – Proposed External Lighting Plot, drawing no. E012, dated November 2021, deposited 30/11/21.
- Air Quality Assessment by WSP dated August 2021, deposited 19/08/21.
- Arboricultural Assessment Report by WSP, dated August 2021, deposited 19/08/21.
- Badger Technical Note by WSP dated 1/9/21

- Bat Roost Survey Report by WSP dated August 2021
- Design and Access Statement by Jefferson Sheard Architects, dated July 2021 deposited 19/08/21.
- Flood Risk Assessment by Eastwood and Partners, reference no. 46141-003 dated 03/08/21 and deposited 19/08/21.
- Geotechnical and Geo-Environmental Desk Study by Eastwood and Partners, reference no. 46141-002, dated 30/07/21, deposited 19/08/21.
- Phase 2 Geotechnical and Geo-Environmental Site Investigation, Issue 1, reference no. 46141-005 dated 22/10/21, deposited 25/10/21.
- Noise Assessment by WSP dated August 2021, deposited 19/08/21.
- Planning Statement by Lambert Smith Hampton deposited 19/08/21.
- Preliminary Ecological Appraisal by WSP dated August 2021.
- Street Lighting Data Sheet, deposited 19/08/21.
- Transport Statement by WSP, dated August 2021, deposited 19/08/21
- Exterior Lighting External, drawing no. ASD-DN-MR-0721-015-EXT-RESULTS, Rev. R00C, deposited 30/11/21
- Construction Environmental Management Plan by Blue Earth dated 17/11/21, deposited 19/11/21
- Design and Operational Statement by Jefferson Sheard Architects, deposited 15/10/21
- Exterior Lighting Details, Rev00c, deposited 16/12/21
- Proposed Drainage Strategy by Eastwood and Partners, reference 46141/AP/MW, dated October 2021, deposited 18/10/21.
- Travel Plan by WSP, dated November 2021, deposited 22/11/21.
- External Drainage Layout, drawing 46141/061 Rev. B, deposited 15/12/21.

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3. a. Prior to commencement of the development hereby permitted:

- I. The undertaking of an appropriate scheme of intrusive site investigations to locate and assess the mine entries and shallow coal workings including the results of any monitoring shall be submitted in writing to and approved in writing by the Local Planning Authority;
- II. The submission of a scheme of any remedial works considered necessary for approval; to include a remediation strategy for the mine entries, including any foundation designs which may be required for building over the mine entries shall be submitted in writing to and approved in writing by the Local Planning Authority;

3. b. Prior to the carrying out of building operations of the development hereby permitted the development shall not be carried out otherwise than in accordance with the approved details.

Reason: To ensure the safety and stability of the development, to safeguard the amenities of occupants and to comply with NPPF Paragraph 109 and saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

4. a. Prior to commencement of the development hereby permitted an assessment of ground gas, having regard to current best practice, shall be undertaken (see Note for Applicant CL1) and a copy of the findings of the ground gas assessment shall be submitted in writing to and approved in writing by the Local Planning Authority (see Note for Applicant CL2)

ii) Prior to commencement of the development hereby permitted a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of ground gas present on the site and a timetable for their implementation shall be submitted in writing to and agreed in writing by the Local Planning Authority (see Note for Applicant CL2)

iii) The remedial measures as set out in the 'Remediation Statement' required by part (ii) of this condition shall not be carried out otherwise than in accordance with the details in the Remediation Statement and within the agreed timetable.

iv) If during the undertaking of the approved remedial works or during the construction of the approved development unexpected ground contamination is encountered that has not previously been identified, then development shall cease until the 'Remediation Statement' required by part ii) of this condition has been amended to address any additional remedial or mitigation works required and has been submitted in writing to and agreed in writing by the Local Planning Authority.

v) Prior to the occupation of the development hereby permitted a validation report setting out and confirming the details of the remedial measures implemented, cross referencing those measures with the approved Remediation Statement, together with substantiating information shall be submitted in writing to and agreed in writing by the Local Planning Authority (see Note for Applicant CL3)

vi) The development hereby permitted shall not be carried out otherwise than in accordance with the approved Remediation Statement.

Reason: To ensure safe development of the site and to protect human health and the environment. In addition, to meet the requirements of the National Planning Policy Framework and in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

5. a. Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

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

6. a. Prior to the commencement of development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary porta-cabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
- xiii. No demolition shall commence until an asbestos survey has been undertaken and any asbestos identified removed and disposed in accordance with national regulations and guidance.

7. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental and highway impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan, Policy TRAN2 of the BCCS and Policy T4 of Walsall's SAD.

8. a. Prior to commencement of the development hereby permitted an air quality low emission scheme to install an electric vehicle charging point shall be submitted in writing to and approved in writing by the Local Planning Authority. The assessment shall include details of recommendations for mitigation measures.

8. b. The development hereby permitted shall not be carried out otherwise than in accordance with the agreed mitigation measures and approved mitigation shall thereafter be retained for the lifetime of the development.

8. c. Prior to occupation of the development hereby permitted, a written Validation Statement written by a competent person shall be submitted in writing and approved in writing by the Local Planning Authority that demonstrates approved mitigation scheme has been installed as agreed.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.

9. a. Prior to commencement of the development hereby permitted a landscape mitigation strategy and details of landscaping including both hard and soft landscape works, and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.

9. b. Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

9. c. If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: In the interests of the visual amenities of the area in accordance with saved policies ENV17, ENV18, ENV32 and ENV33 of Walsall's Unitary Development Plan.

10. a. Prior to commencement of the development hereby permitted a walk-over of the woodland area by a suitably trained ecologist and a statement of the results and mitigation measures, including times of the day and year, plus weather conditions shall be submitted in writing to and approved in writing by the local planning authority as woodland to the north of the application site retains suitability for badger.

10. b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: To conserve local badger populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & the Natural Environment SPD.

11. a. Prior to commencement of the development hereby permitted a scheme of ecological and biodiversity enhancements as recommended by the Bat Roost Survey Report and Preliminary Ecological Appraisal dated August 2021 by WSP Ltd shall be submitted in writing to and approved in writing by the Local Planning Authority.

11. b. The development shall not be carried out otherwise than in accordance with the approved details and the approved ecological and biodiversity enhancements shall thereafter be retained as installed for the lifetime of the development.

Reason: To conserve local badger populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & the Natural Environment SPD.

12. Prior to the commencement of building operations above damp proof course of the development hereby permitted shall not be carried out otherwise than in accordance with the recommendations included in the Flood Risk Assessment dated 03/08/21 prepared by Eastwood & Partners Consulting Engineers and retained for the lifetime of the development thereafter.

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

13. a. Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces shall be submitted in writing to and approved in writing by the Local Planning Authority.

13. b. The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 Walsall's Unitary Development Plan.

14. a. Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure along with details of the repairs to existing retained fencing shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the

perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

14. b. The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained and maintained in good order for the lifetime of the development.

14. c. The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved schedule.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

15. a. Prior to the commencement of building operations above damp proof course of the development hereby permitted scale drawings and materials details of the proposed replacement gatehouse shall be submitted in writing to and approved in writing by the Local Planning Authority.

15. b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details for the lifetime of the development.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

16. a. Prior to the occupation of the development hereby permitted all access ways, vehicle manoeuvring, turning and parking areas shall be implemented in accordance with the approved plans, the areas being consolidated, hard surfaced and drained so that surface water run-off from the area does not discharge onto the public highway or into any public highway drain, together with the clear demarcation of all parking bays.

16. b. These operational areas shall thereafter be kept free of obstructions, retained, and used for no other purpose for the lifetime of the development.

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

17. Prior to the occupation of the development hereby permitted the existing commercial dropped kerb footway crossing on Bentley Mill Close shall be modified and adjusted to align with the revised vehicle access, together with the breaking out, removal and reinstatement of the existing redundant dropped kerb crossing back to full kerb height (*see Highway Authority Notes to Applicant below*)

Reason: To ensure the safe and satisfactory operation of the development in accordance with UDP Policy GP2 and in the interests of highway safety.

18. a. Prior to the commencement of building operations above damp proof course of the development hereby permitted, details of the proposed cycle shelter including its

location on the site, which shall be covered and illuminated, shall be submitted in writing to and approved in writing by the Local Planning Authority.

18. b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development and used for no other purpose.

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

19. No loading and unloading of goods or storage of goods materials or equipment shall take place [within the parking/turning/vehicle manoeuvring/bin storage areas/open areas / outside the building].

Reason: To ensure the satisfactory functioning of the development and in the interests of highway safety and to prevent pollution in accordance with the saved Walsall's Unitary Development Plan policy GP2, T7, T13, ENV10 and ENV32.

20. Site clearance and dismantling works shall be undertaken outside the bird nesting season. The bird nesting season extends between March and August inclusive but is weather dependant and nesting may take place outside this period. If nesting birds are discovered, clearance works should be delayed until the young have fledged or alternatively by conducting a bird nesting check no more than 48 hours prior to commencement of development by a suitably experienced ecologist if the works are required during this period.

Reason: To conserve local bird populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

21. The solar photovoltaic panels will consist of anti-reflective glass and this shall be retained as such thereafter for the lifetime of the development.

Reason: To prevent glare and safeguard the amenity of neighbours and to comply with Saved UDP Policies GP2 and ENV32

22. The solar photovoltaic equipment or solar thermal equipment is removed as soon as reasonably practicable when no longer needed

Reason; To ensure the satisfactory appearance of the premises and to comply with Saved UDP Policies GP2 and ENV32

23. No MOT testing of vehicles shall take place outside the hours of 0800 to 1800 on Mondays and Fridays inclusive, 0800 to 1300 Saturdays, and not at all on Sundays or public holidays. The MOT testing station entrance/exit doors shall remain closed at all times except;

(i) when in use for ingress/egress; and

(ii) in emergency situations

Reason: To safeguard neighbours' amenity and to comply with Saved UDP Policies GP2 and ENV32

Notes for Applicant

Cadent Gas Informative

What you need to do

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting cadentgas.com/diversions

Prior to carrying out works, including the construction of access points, please register on www.linesearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to.

Your responsibilities and obligations

Cadent may have a Deed of Easement on the pipeline, which provides us with a right of access for a number of functions and prevents change to existing ground levels, storage of materials. It also prevents the erection of permanent/temporary buildings, or structures. If necessary Cadent will take action to legally enforce the terms of the easement.

This letter does not constitute any formal agreement or consent for any proposed development work either generally or related to Cadent's easements or other rights, or any planning or building regulations applications.

Cadent Gas Ltd or their agents, servants or contractors do not accept any liability for any losses arising under or in connection with this information. This limit on liability applies to all and any claims in contract, tort (including negligence), misrepresentation (excluding fraudulent misrepresentation), breach of statutory duty or otherwise. This limit on liability does not exclude or restrict liability where prohibited by the law nor does it supersede the express terms of any related agreements.

If you need any further information or have any questions about the outcome, please contact us at plantprotection@cadentgas.com or on 0800 688 588 quoting reference - LinesearchbeforeUdig ref: 24112071.

The Coal Authority Informative

The applicant should note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb [Coal property](#)

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

Building over or within the influencing distance of a mine entry (shaft or adit) can be dangerous and has the potential for significant risks to both the development and the occupiers if not undertaken appropriately. The Coal Authority would draw your attention to our adopted policy regarding new development and mine entries:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Disclaimer

The consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available coal mining data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information (such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.

Mine Gas

It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present.

SUDS

It should be noted that where SUDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

In formulating this response, The Coal Authority has taken full account of the professional conclusions reached by the competent person who has prepared the Coal Mining Risk Assessment or other similar report. In the event that any future claim for

liability arises in relation to this development The Coal Authority will take full account of the views, conclusions and mitigation previously expressed by the professional advisers for this development in relation to ground conditions and the acceptability of development.

Fire Officer

The requirements for this proposal are below. Failure to meet these requirements may result in an objection and an unsatisfactory proposal.

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

Requirement B5: Access and facilities for the fire service

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

Requirement

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

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

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

Intention

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

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

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

Section 15: Vehicle access

Buildings not fitted with fire mains

15.1 For small buildings (up to 2000m², with a top occupied storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

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

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

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

Buildings fitted with fire mains

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

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

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

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

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

Design of access routes and hard-standings

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

15.8 Where access to an elevation is provided in accordance with Table 15.1, the following requirements should be met, depending on the building height.

- a. Buildings up to 11m, excluding small buildings (paragraph 15.1): pump appliance access should be provided adjacent to the building for the specified percentage of the total perimeter.
- b. Buildings over 11m: access routes should comply with the guidance in Diagram 15.2.

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

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

Overall

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

Dead Ends including cul-de sacs

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

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

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

Industrial Estates

a) In order to accommodate very long articulated vehicles carriageways should be 9 metres wide but certainly not less than 7.3 metres.

b) The estate should be designed so that there is adequate off-street parking and there is no loading, unloading or long-term parking on the carriageway.

c) Dead end access routes must not exceed 180 metres in length from a junction which provides two alternative routes out of the industrial estate, unless an emergency vehicle access is provided from the dead end, as described in 3.8.2.

Section 16: Fire mains and hydrants

Provision of fire mains

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

a. The firefighting shafts.

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

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

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

Provision of private hydrants

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

- a. It has a compartment with an area more than 280m².
- b. It is being erected more than 100m from an existing fire hydrant.

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

- a. For buildings provided with fire mains – within 90m of dry fire main inlets.
- b. For buildings not provided with fire mains – hydrants should be both of the following.
 - i. Within 90m of an entrance to the building.
 - ii. A maximum of 90m apart.

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

Water Supplies

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

<https://www.water.org.uk/wp-content/uploads/2018/11/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net

Section 17: Access to buildings for firefighting personnel

Provision of firefighting shafts

17.2 A building with a storey more than 18m above the fire and rescue service vehicle access level should have one or more firefighting shafts containing a firefighting lift. The number and location of firefighting shafts should comply with paragraphs 17.4 to 17.7. Firefighting shafts are not required to serve a basement that is not large or deep enough to need one (see paragraph 17.3 and Diagram 17.2).

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

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

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

Police – Designing out Crime Informative

A change of environment requires review of safety and security and an opportunity for improvement. Any measures are more easily included during construction or alterations. A review of security including alarm, CCTV, lighting, and access control.

Suitable lighting provides some security.

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

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

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

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

See <https://www.nsi.org.uk/> and <https://ssaib.org/>

The Police recommend security using the principles of Secured By Design.

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

<https://www.securedbydesign.com/guidance/design-guides>

Below is a link to Secured By Design Commercial, police approved crime reduction information guidance.

https://www.securedbydesign.com/images/downloads/SBD_Commercial_2015_V2.pdf

Secured By Design security standards are explained.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

Environmental Protection Informative

Contaminated Land

CL1

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2018; British Standard BS10175: 2011 +A2:2017 'Investigation of potentially contaminated sites –

Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); Land contamination risk management (LCRM) or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3

Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive, and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

Air Quality SPD

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

The electric vehicle charging point parking provision for share parking is 10% of points to comply with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw.

Wherever possible the power supply and charging point should both be phase 3 compatible. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice – Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Severn Trent Water Informative

Severn Trent Water advise that there are public 300mm foul sewers located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or is not permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent. · 300mm to 999mm diameter – 5m either side of the pipe, measured from the centreline of the sewer.

Severn Trent Water advise that they we wish for their drainage related condition to remain. SAP Development Enquiry 1012922 has been responded to the applicant. They cannot accept the proposed surface water discharge rates. All other avenues of surface

water sewers and highway drainage will need to be examined and proven not possible. If this is demonstrated, we may then consider 5litres/second to the public foul sewer. Please note, there are no legal rights for Severn Trent to accept any surface water run-off into their foul sewer network.

Please note if you wish to respond to this email please send it to Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. If your query is regarding drainage proposals, please email to the aforementioned email address and mark for the attention of Rhiannon Thomas (Planning Liaison Technician).

Local Highways Authority

The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

The applicant will be expected to enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Highway Opening Permit for all adoptable highway works and works within the existing public highway. For further advice please contact Highway Development Control Team at Stephen.Pittaway@walsall.gov.uk

Advertisement Consent Informative

This permission does not grant consent for any signs or advertisements, illuminated or non-illuminated. A separate application may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992 or subsequent legislation.

END OF OFFICERS REPORT

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 06 January 2022

Plans List Item Number: 3

Reason for bringing to committee

Requires a Section106 agreement

Application Details

Location: Queen Marys High School, Upper Forster Street, WALSALL, WS4 2AE

Proposal: DETAILED PLANNING PERMISSION FOR THE DEMOLITION OF THE EXISTING RESIDENTIAL COTTAGES AT NO. 55 AND 56 LICHFIELD STREET (LOCALLY LISTED BUILDINGS) (INCORPORATED INTO D1 USE) TO FACILITATE THE CONSTRUCTION OF A NEW TEACHING ACCOMMODATION BLOCK AND THE INTERNAL REMODEL OF NO 57 LICHFIELD STREET (FODEN HOUSE) (LISTED BUILDING) AS WELL AS ASSOCIATED SITE AND LANDSCAPE IMPROVEMENTS.

Application Number: 20/0634

Case Officer: Sally Wagstaff

Applicant: Alison Bruton

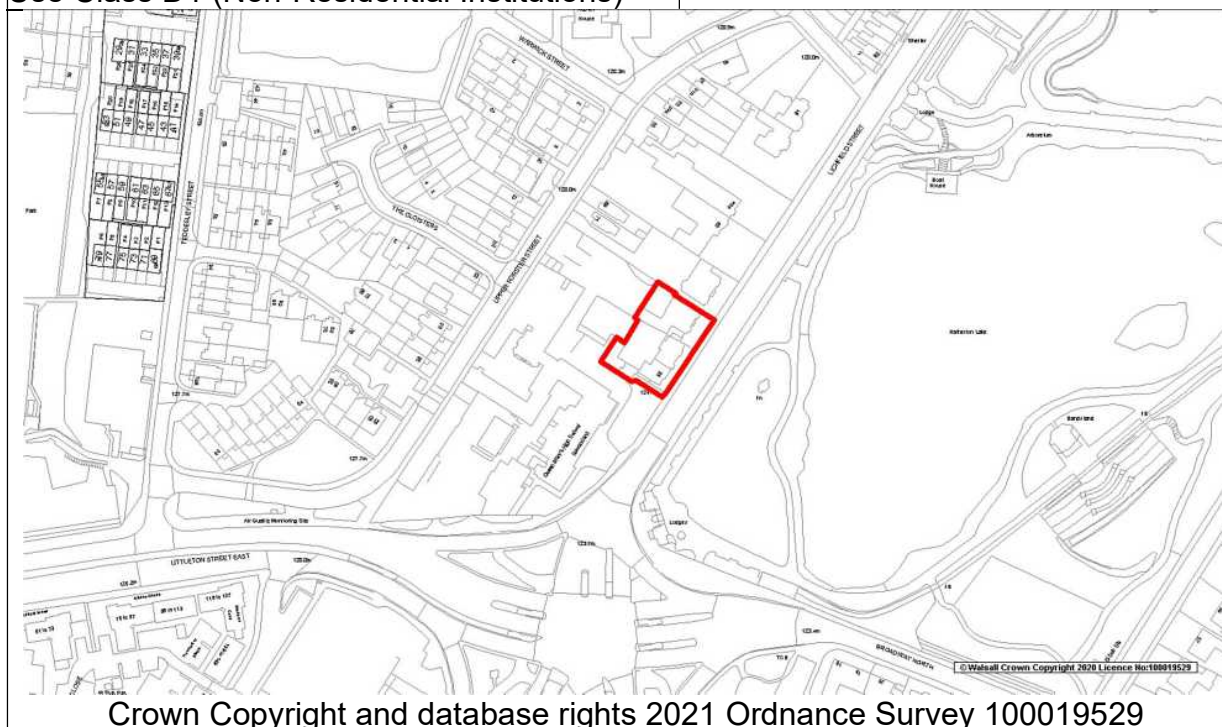
Ward: St Matthews

Agent:

Expired Date: 05-Aug-2020

Application Type: Full Application: Minor Use Class D1 (Non-Residential Institutions)

Time Extension Expiry: 30-Jun-2021



Recommendation:

1. Grant Planning Permission Subject to Conditions and a S106 to secure costs for four replacement trees in the immediate location
2. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and s106 to secure costs for x4 replacement trees
And subject to;
3. The amendment and finalising of conditions

Proposal

The proposal relates to the demolition of the existing residential cottages at No. 55 and 56 Lichfield Street locally listed buildings, demolition of the annexe to the rear of Foden House and external staircase from Foden House and erection of a new teaching block in the place of 55-56 Lichfield Street. The proposal includes associated site and landscape improvements.

The proposed scheme is to provide addition teaching space following an increase in pupil numbers. The block will provide four new general teaching classrooms, once ICT room and associated stores and facilities. A new plant room is proposed within the ground floor of Foden House. Each classroom will support 30 pupils, a teacher and an assistance.

The Design and Access Statement advised that options have been explored including to expand the school site and conversion of 55 -56 Lichfield Street from flats into classrooms. It was determined the preferred option is to demolish 55 -56 Lichfield Street due to the findings of the Feasibility Study determining the building was not suitable for conversion due to the size and shape of the rooms, poor natural lighting and degradation of internal fabric. It is advised the construction is being funded by the Education funding Agency through the selective School expansion fund with additional funding being provided by the Mercian Academy Trust. The applicant considers the new development will provide additional and improved education facility which will benefit the local community.

Foden House

The building is three storey brick built dating pre 1900. The building is classed as a non-designated heritage asset. Temporary works would be undertaken to this building during construction to allow for the school to continue functioning, this include removal of the existing external staircase on the front elevation and construction of a temporary external staircase on the rear elevation accessed from temporary scaffolding platforms. A two storey temporary class which has already gained planning consent (20/0573) will allow for teaching space during construction. Foden House will be internally remodelled to suit teaching and ancillary needs.

55-56 Lichfield Street

This building is locally listed and comprises of two semi-detached flats which have been modified with a flat roof extensions, removal of porches and internal alterations. The proposal will replace the building and will connect into Foden House via a linking corridor. The proposed new block will face Lichfield Road and is accessed via the schools main entrance on upper Forster Street. The proposed new teaching block is set back from the highway with an area of landscaping, the existing ironing fence and gates are to be repainted.

Amendments to the design of the scheme were submitted 02/07/21 following receipt of the Conservation Officer's comments and significant discussion with the officer. The changes are summarised as follows:

- The polycarbonate material has been omitted and replaced with predominantly glass cladding, brick work and render where appropriate to location and construction.
- The 'link' between Foden House and the new building proposed to be entirely finished in glass. This replaces the polycarbonate and brickwork previously proposed.
- The perforated metal panels above the windows have been omitted and replaced with perforated Ultra High Performance Concrete panels which will match the precast concrete detailing previously shown.
- The leaning wall to the staircase has also been straightened to vertical

The application is accompanied by a Heritage Impact Assessment and Statement of Significance.

Site and Surroundings

Queen Mary's High School is a grade II Listed Building and is also part of the Arboretum Conservation Area. The original school building (Grade II Listed) was designed by local architect Edward Adams and it was built in 1849. The site is compact, the group of buildings which currently makes up Queen Mary's High School have evolved over the time and contains a variety of structures of different ages and architectural merit. The buildings on site which are directly affected by this application are no. 55 and 56 Lichfield Street which are locally listed and no. 57 Lichfield Street (Foden House).

The site is located between Upper Forster Street and Lichfield Street to the North of Walsall Town Centre. The site is approximately 0.9 ha in size. It has two frontages one onto Lichfield Street and the other onto Forster Street which is the main access for staff, pupils and vehicles.

Around the school there is residential to the north and northwest, opposite is the Walsall arboretum and to the south west is the Walsall town centre.

The secondary school has 740 places of which 150 places are for the sixth form.

55-56 Lichfield Street

The local list describes them as being constructed of brick with rubbed brick flat arches, doorways with semi-circular arches and cast-iron fanlights. They are of 2 storeys, with heavy corniced parapet in stucco, and plate sash windows.

The cottages were originally owned by the school and were converted two flats in the 1980's. The cottages were leased to what is known as Accord Housing Association but in 2018 the Mercian Trust re-acquired these buildings as part of plans to expand the school. This building is locally listed and comprises of two semi-detached flats which have been modified with a flat roof extensions, removal of porches and internal alterations. Majority of the internal fabric has been lost.

57 Lichfield Street (Foden House)

The building is considered a non-designated heritage asset. It has architectural value in the surviving external fabric. The building currently has a rear extension which was added to the house approximately 50-60 years after the building was first erected.

The building is used as a teaching block for the sixth form offices and sanitary facilities. The rear extension accommodates music facilities.

Relevant Planning History

16/0979 - Repairs to displaced stone quoin to gate pier, modification works to existing gates and installation of pedestrian gates. Grant subject to conditions 19/1/17

14/0586/FL - Proposed take down and rebuild sections of perimeter brickwork boundary wall. Grant subject to conditions 30/5/14

14/0587/LB - Proposed take down and rebuild sections of perimeter brickwork boundary wall. Grant subject to conditions 30/5/14

11/0488/LB - Proposed conversion of garage to create new locker room plus re-decoration of external staircase. Granted

11/0039/LB - Internal alterations within existing sixth form areas and conversion of existing garage to create a new locker room. Refused Listed Building Consent, 23rd March 2011.

11/0038/FL - Alteration of existing garage to create a new locker room. Granted subject to conditions, 21st March 2011.

07/2158/FL/W6 & 07/2160/LB/W6 - New build of multi-purpose hall. Granted planning permission and Listed Building Consent subject to conditions, 5th November 2011.

07/1962/LB/W3 - Replace skylight above drama studio with slate to match existing slates. Granted Listed Building Consent subject to conditions, 17th April 2008

06/1526/LB/W6 - Refurbishment of Science Laboratory and prep-room

04/1526/FL/E4 - New Perimeter Fence to Existing Wall for Security Improvement. Grant subject to conditions 3/9/04

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 56) says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

- age

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

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

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

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV25: Archaeology
- ENV26: Industrial Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV28: The ‘Local List’ of Buildings of Historic or Architectural Interest
- ENV29: Conservation Areas
- ENV30: Registered Parks and Gardens
- ENV32: Design and Development Proposals

- T6 - Traffic Calming
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- HOU5: Education and Health Care Facilities
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

Walsall Site Allocation Document 2019

EN1: Natural Environment Protection, Management and Enhancement

EN5: Development in Conservation Areas

T4: The Highway Network

T5: Highway Improvements

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

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement

- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Conservation Officer

Objection- proposal represents poor design. The proposed development would harm the setting and significance of the listed building and also results in the total loss of two locally listed buildings.

Ecology Officer

No objection subject to a bat licence being give prior to commencement of works and recommended on site mitigation measures to conserve the bat population.

Fire Officer

No objection. The building should comply with Building regulations Approved Document B in relation to access and facilities for the fire service.

Historic England

No comment

Local Highways Authority

No objection subject to conditions

Police Architectural Liaison Officer

No objections – Secured by design principles recommended

Pollution Control

No objection subject to conditions relating to ground gas protection measures, construction Environmental Management Plan and Low emissions Air Quality scheme.

The Gardens Trust

No objection – suggestion of a replacement tree within the Arboretum once the existing lime tree reaches the end of its life.

Tree Preservation Officer

No objection to loss of two B1' trees on site subject to a Section 106 agreement for x4 replacement trees.

Representations

One representation has been received with concerns relating to:

- Loss of buildings of historical and visual interest
- Building is out of keeping with the surrounding buildings

Determining Issues

- Principle of Development
- Heritage Assessment
- Design, Layout and Character
- Highways
- Ecology
- Trees / Protected Trees
- Ground Conditions and Environment
- Planning Obligations

Assessment of the Proposal

Principle of development

The proposal includes the demolition of 55-56 Lichfield Street which use is currently in C3 residential use. The proposal would result in a new building being a F1 (a) use - provision of education, formally known as D1 non-residential institution. The new building would form part of the existing school site and teaching provision. On balance, it is considered that the loss of the locally listed residential building in the conservation area could be accepted in this location to take account of the educational benefit to future students of the school.

Heritage Assessment

The scheme has undergone extensive negotiation with the applicant. The proposal has been amended to take on board some of the heritage impact concerns.

The main heritage impacts of these proposals would arise from the demolition of Locally Listed 55-56 Lichfield Street and refurbishment and extension of Locally Listed Foden House (at 57 Lichfield Street). The proposals are also sited within the 'setting' of the nationally designated (Grade II Listed) Queen Mary's Grammar School and are within the Arboretum Conservation Area.

Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are key policy considerations for this application as well as Chapter 16 of the NPPF and Walsall Council local policies in relation to design and heritage Conservation.

The proposal would result in the total loss of a locally listed building no. 55-56 Lichfield Street. This building has had a number of modern alterations and internal changes which is considered has diminished its heritage value over time.

The demolition of the building is considered would have a minor impact upon the significance of Queen Mary's Grammar School Grade II listed building and its setting. No. 55-56 Lichfield Street make up the wider historical value of the site the building itself is considered the alterations externally and internally has resulted in loss to some the original historic fabric which means that the contribution to the Grade II listed building is considered minimal.. On balance, in this instance, it is considered the demolition of no.55-56 would result in less than substantial harm to the significant and setting of the Grade II Listed Building, when taking into account the educational benefit.

Given the loss of the locally listed building as per the recommendation within the submitted Heritage Assessment a condition is considered necessary prior to demolition the building is recorded. Historic building recording to Historic England Level 2 is considered proportionate to the significance of the asset.

The foot print of the new building including the new link to FODen House is similar to the existing building with modern design elements. The design of the scheme including the palette of materials have been amended due to concerns relating to the impact they would have upon the character and setting of the street scene. The main changes relate to the leaning feature of the building having been removed and the omission of pre cast concrete to parts of the building. Whilst it is acknowledged that the applicant has not satisfied all of the heritage concerns, amendments have been made in line with conservation comments. On balance and in this instance, it is considered the proposal would result in new educational facility which will allow the school to continue to expand and function as an exemplar school within the borough. A condition is considered necessary for details regarding materials to be submitted to ensure the satisfactory appearance of the development given the location adjacent to a grade II listed building within a conservation area.

Siting and layout

The site is heavily constrained due to its size and the relationship with existing buildings. The new teaching block would be in place of no. 55- 56 Lichfield Street. The proposal is two storeys with the entrance to the west, main elevation facing Lichfield Street. The new building would be accessed from the existing Queen Mary's main entrance on upper Forster Street. Included in the new build is a link to Foden House which replaces the existing external fire escape. Internal alterations to Foden House include removal of internal walls to provide a larger classroom and access to the link and stairs at second floor and re-alignment of the corridor wall at first floor. Rear alterations to Foden House include new windows due to the demolition of the rear extension.

The proposed new teaching block is set back from the highway with an area of landscaping, plus the existing ironing fence and gates are to be retrained. Ingress and egress into the site remains un-altered by the proposed new layout of the site. It is

considered the siting of the proposed building would limit the detrimental impact upon the layout of the existing site. It is considered the proposed link replacing the existing external staircase would allow for improved functionality of the two buildings which would be a betterment to the educational use of the site.

Ecology

The site is adjacent to Walsall Arboretum with a rich habitat for flora and fauna including bats.

The works proposed include demolition of 55-56 Lichfield Street and the annexe section of Foden house. The southern roof edge of the main section of Foden house will also be affected by removal of tiles to fit a waterproof membrane. The roof tiles will be re fixed on completion of the works. An external staircase on the southern elevation of Foden House will also be removed.

A Preliminary Roost Assessment was undertaken on the 16th September 2020 by Apex Ecology Ltd (Report Reference NW/200919). This concluded Foden House and the annexe was identified as having features which could be used by roosting bats. An internal inspection of the buildings was not undertaken at the time due to access restrictions. The report concluded that Foden House and annex had moderate potential to support roosting bats, and as such further survey effort was required. The report also concluded that 55-56 Lichfield Street and flat roof school building had negligible potential for use by roosting bats.

A single dusk emergence survey was carried out on Foden House in September 2020. One species of bat, common pipistrelle was recorded during the survey. Common pipistrelles were recorded foraging and commuting within the residential garden area at the rear of 55-56 Lichfield Street and commuting/foraging through the site around Foden House, commuting to the south-east towards Walsall Arboretum. No bats were observed emerging from the building during this single survey. As the building was deemed to have moderate potential for use by roosting bats a further dawn re-entry survey assessment was commissioned in April 2021 along with an internal Preliminary Roost Assessment of Foden House.

A dawn re-entry survey was undertaken in June 2021. One species of bat, common pipistrelle, was recorded during the survey. Common pipistrelles were recorded

foraging and commuting with the residential garden area at the rear of 55-56 Lichfield Street as noted during the September 2020 survey. A common pipistrelle was noted to emerge from Foden House annex. Therefore, a further nocturnal emergence survey was commissioned to inform a Natural England bat licence.

During the second nocturnal emergence survey one common pipistrelle was recorded emerging from the northern elevation of Foden House annex.

It is confirmed that Foden House annex contains a day roost used by a low number of common pipistrelles. The demolition works would result in the bat roost being

destroyed. A bat licence from Natural England would be required prior to any works commencing.

The site has been considered to be of low value for foraging bats nevertheless the survey found that the site is used by commuting bats. The assessment of potential impacts advised, it is not anticipated that the loss of the garden area would have a detrimental impact upon foraging bats due to the proximity of the Arboretum. As recommended within the survey a condition will be attached for details of external lighting whether permanent or temporary to be submitted to ensure that it would not impact upon foraging or commuting bats.

On balance, in this instance, it is considered the proposed works would not result in an undue harm to the bat population subject to obtaining a bat licence from Natural England and carrying out the measures recommended within the internal preliminary roost assessment, dusk emergence and dawn re-entry surveys Report No: RT-MME-154241 dated June 2021.

Trees/Protected Trees

The submitted *BS 5837: 2012 Trees in relation to design, demolition and construction – Recommendations* tree survey by 'Arbtech' surveyed 18 individual trees on site 5 of which have been proposed for removal to accommodate the development. Using the *BS 5837: 2012* tree categorisation chart two of the trees proposed for removal are category 'B1' trees which are trees of moderate quality with an estimated life expectancy of at least 20 years (Lime tree 12 and Prunus 13 as labelled in the tree report). The other three trees proposed for removal are category 'C1' trees (two Elders labelled 8 and 14 in the tree report and one Willow labelled 11). Category 'C1' trees are trees of low quality with an estimated life expectancy of at least 10 years or that have a stem diameter less than 150mm and category 'C' trees would not normally prove to be a constraint to development.

The tree survey is accompanied by a tree constraints plan, arboricultural impact assessment (AIA), arboricultural method statement (AMS) and tree protection plan (TPP). In addition to the loss of the two category 'B1' trees the AIA identifies 3 trees proposed for pruning to provide adequate clearance to the proposed building (Lime 7, Prunus 9 and Holly 10). There would also be some incursion onto the root protection areas (RPAs) of retained trees Lime 7 and Prunus 9 (both 'B1' category trees) by the proposed building and hardstanding. The supplied AMS is a comprehensive document and seeks to demonstrate how any aspect of the development that has potential to result in loss or damage to a tree may be implemented and provide an adequate level of protection for those trees that are to be retained during the proposed works. This includes site management, sequence of works, protective measures (fencing as detailed on TPP), ground boarding, site monitoring etc.

To summarise the application would result in the loss of two moderate quality trees and three low quality trees. Pruning works would need to be undertaken to three trees and there will be some incursion onto the RPAs of two of the retained trees on site for

which a detailed AMS has been submitted to demonstrate an adequate level of protection.

It is considered that the loss of the two 'B1' category trees would be undesirable, the trees are healthy and have visible public amenity value in the Arboretum Conservation Area (particularly Lime tree 12). In order to mitigate the loss of the two trees, the applicant has agreed to enter into a Section 106 agreement for x4 replacement trees of be planted at a cost of £500 per tree. Two Hawthorn, *Crataegus monogyna* "Stricta" are proposed to be planted in within the Arboretum and two Hornbeam, *Carpinus betulus Fastigiata* within open space within Lichfield Street.

The loss of the 3 category 'C1' trees would have less of an impact on the landscape character of the conservation area and be acceptable. The retained trees in close proximity to the south west elevation of the proposed building (three of which are proposed for pruning to provide adequate clearance) are likely to have to be pruned on a regular basis just to maintain this clearance. Consequently, it is foreseeable that there will be pressure on the council to give consent for the removal of these three trees (two of which are category 'B') in the future to avoid the ongoing financial commitment of having to have them pruned on a regular basis.

On balance and in this instance, it is considered the development would result in limiting the visual amenity harm of the site taking into account the educational benefit to future students of the school, subject to the proposed off site replacement trees secured via the Section 106.

Highways

The school is within a sustainable town centre location, whilst it has a large catchment area, there are opportunities for staff and pupils to utilise public transport, public parking and cycle routes

The site is accessed from three points along Upper Forster Street. Three car parks are provided within the site. The development is unable to provide any further parking provision on site to accommodate the expansion of the school nevertheless the applicant has confirmed that no additional pupils are proposed and the existing parking provision will be retained.

Due to the limited space on the site for contractor's vehicles, machinery etc, it is proposed they will park on the 18 car parking spaces located in proximity to Foden House and Richardson Hall which sits behind. This means during construction 18 car parking spaces will be temporarily lost. The applicant has advised they have an agreement in place to purchase permits from Walsall Council Parking Department to allow for 10 off site car parking spaces for displaced staff. The 18 spaces will be re-instated once construction has finished. A condition is recommended to this effect to ensure sufficient car parking is available on site for staff members.

On balance The Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the

operation of the road network and is acceptable in accordance with the NPPF 2019 paragraph 111.

Ground Gas and Environment

The Ground Investigation did not identify any elevated levels of ground contamination, however Pollution Control advice ground gas protection measures are incorporated in built structures to ensure the safety of the users of the site. A condition is recommended to this effect.

Due to the proposal including demolition of the existing structures on site a condition is recommended for an asbestos Survey to be carried out prior to demolition. This is to ensure that potential hazardous substances are identified and removed where necessary safely.

A construction Environmental Management Plan is recommended due to the proximity to a busy road network and the size of the site. A condition is considered necessary to the effect.

In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles a condition is recommended for an Air Quality Low Emission scheme to be implemented.

Planning Obligations

As mentioned above, the proposal includes loss of 2 moderate quality trees that make a positive contribution to the setting of the conservation area and three low quality trees. In order to mitigate for this loss, it is considered necessary for 4 replacement trees to be planted within the vicinity of the site, to contribute to mitigating the harm to the vicinity and the conservation area. The Tree Officers confirm that two replacement Hawthorn, *Crataegus monogyna* "Stricta" trees are to be planted in within the Arboretum and two Hornbeam, *Carpinus betulus* Fastigiata within Lichfield Street open space at a cost of £500 per tree. The applicant has agreed to these terms.

Conclusions and Reasons for Decision

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, on balance and in this instance, it is considered the proposed demolition of the existing, construction of a new classroom block and internal alterations to the non –designated heritage asset within Arboretum Conservation Area would not result in harm to substantial of this heritage asset when balancing with the educational benefit to future students, subject to the applicant complying with the planning conditions and complying and completing the Section 106. The proposal complies with saved policies GP2, ENV27- ENV29, ENV32 and WA5 of Walsall's UDP, BCCS Policies CSP4, ENV2 & ENV3 and Designing Walsall SPD DW3, Character and NPPF 16.

Taking into account the above factors, on balance, it is considered the application can be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised regarding the design of the proposal and materials used, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

1. Grant Planning Permission Subject to Conditions and a S106 to secure costs for x4 replacement trees
2. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and s106 to secure costs for x4 replacement trees
And subject to;
3. The amendment and finalising of conditions

Conditions

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:
 - Arboricultural Method Statement, prepared by Arbtech dated 19/03/20 submitted 10/06/20
 - Contractor Compound Plan, drawing no. AP:24-01 submitted 10/06/20
 - DEMO Ground Floor Plan, drawing AP: 00-24 Rev:01 submitted 10/06/20
 - Energy Statement, submitted 10/06/20
 - Escape Staircase Plans and Sections, drawing no. AP:98-01 Rev.02 submitted 10/06/21
 - Heritage Impact Assessment prepared by Mott MacDonald dated 17/04/20 submitted 10/06/20
 - Internal preliminary roost assessment, dusk emergence and dawn re-entry surveys Report No: RT-MME-154241 dated June 2021, submitted 02/07/21
 - Ground Investigation Report prepared by GIP limited ref KCD/21917 submitted 02/07/21
 - Detailed Section 1-1 through Classroom, drawing no. AL:39-01 rev P2 submitted 20/10/20
 - Detailed Section 8-8 Staircase 2 Junction Foden House, drawing no. AL 39-08 rev P2 submitted 20/10/21

- Detailed Section 9-9 Staircase 2 Junction Foden House, drawing no. AL:39-09 rev P2 submitted 20/10/20
- CGI images submitted 02/07/21
- Design and Access Statement Rev 1 dated 11/06/21 submitted 02/07/21
- GA First Floor Plan, drawing no. AP:30-01 rev 03 submitted 02/07/21
- GA Ground Floor Plan, drawing no. AP:30-00 rev 03 submitted 02/07/21
- GA Proposed Elevations, drawing no. AP: 216-01 rev 03 submitted 02/07/21
- GA Proposed Sections, drawing no. AP:38-01 rev 03 submitted 02/07/21
- Proposed Block Plan, drawing no. 30-01 rev 02 submitted 02/07/21
- GA Roof Plan, drawing no. AP: 30-02 rev 03 submitted 02/07/21
- Proposed Landscape and external works plan, drawing no. AP: 28-01 rev 03 submitted 02/07/21
- Site Drainage Strategy, drawing no. AP:28-02 rev 03 submitted 02/07/21

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3a. Prior to the commencement of development hereby permitted including any site clearance or site preparation an Historic building recording of 55-56 Lichfield Street carried out by a competent person to at least Historic England Level 2 shall be submitted to and approved in writing by the Local Planning Authority

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

Reason: To preserve by record the locally listed building in accordance with saved policies ENV27 and ENV28 of Walsall's Unitary Development Plan

4. Prior to the commencement of development hereby permitted including any site clearance or site preparation a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

1. Construction working hours
2. Parking and turning facilities for vehicles of site operatives and visitors
3. Loading and unloading of materials
4. Storage of plant and materials used in constructing the development
5. A scheme for recycling/disposing of waste resulting from construction works
6. Temporary portacabins and welfare facilities for site operatives
7. Site security arrangements including hoardings
8. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway

9. Measures to prevent flying debris
10. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
11. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
12. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

4b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

5. Prior to commencement of the development hereby permitted an intrusive pre-demolition asbestos survey in accordance with HSG264 supported by an appropriate mitigation scheme to control risks to future occupiers shall be submitted in writing to and approved in writing by the Local Planning Authority. The scheme shall:

- i. be written by a suitably qualified person
- ii. demonstrably identify potential sources of asbestos contamination and
- iii. detail removal.

3b. Prior to occupation of the development hereby permitted a written Validation Report shall be submitted in writing to and agreed in writing by the Local Planning Authority.

3c. All contaminated material to be removed from the site shall not be otherwise than be removed by a licensed waste carrier to a facility that is licensed to accept it.

Reason: To ensure any potentially hazardous asbestos associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

6 a. Prior to commencement of development hereby permitted details of ground gas ingress protection measures to be installed in the development shall be submitted in writing to and agreed in writing by the local planning authority.

6b. Prior to the occupation of the development hereby permitted a validation report demonstrating the agreed ground gas ingress protection measures have been implemented together with substantiating information including photographs during construction, whilst also demonstrating that any ground gas ingress protection measures incorporated into the existing adjacent buildings have not been

compromised shall be submitted in writing to and agreed in writing by the Local Planning Authority.

Reason: In the interest of the safety of current and future users in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan and policy ENV2 of Black Country Core Strategy.

7a. Prior to the commencement of development:

1. details of protective fencing and ground protection to be installed around all retained trees shall be submitted in writing to and approved in writing by the Local Planning Authority
2. The approved protective fencing and ground protection shall be installed
3. One month's written notice of the intention to commence development shall be given to the Local Planning Authority to allow the Council's Arboricultural Officer to fully inspect the installation of the protective fencing and ground protection

7b. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved details before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

7c. Nothing shall be stored or placed nor any fires started, any tipping, refuelling, disposal of solvents or cement mixing carried out inside the protective fencing or on the ground protection referred to in part a to this condition .Ground levels within protective fencing and on ground protection areas shall not be altered nor shall any excavation or vehicular access or drainage routes be made.

7d. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of the UDP and Conserving Walsall's Natural Environment SPD.

8a. Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, render, glass cladding, Concrete panels, precast concrete detailing roof tiles, windows, doors, rainwater products and soffits) shall be submitted in writing to and approved in writing by the Local Planning Authority.

8b. The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 Walsall's Unitary Development Plan.

9a. Prior to the commencement of building operations above damp proof course of the development hereby permitted details of an Air Quality Low Emission Scheme to install electric-vehicle charging points and Ultra-Low NOx boilers shall be submitted in writing to and agreed in writing by the Local Planning Authority.

9b. Prior to first occupation of the development the approved electric vehicle charging points shall not be installed otherwise than in accordance with the approved details and shall thereafter be retained and maintained for the lifetime of the development.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 and DEL1 of the Black Country Core Strategy.

10. Prior to the occupation of the development hereby permitted a minimum of 4 brick bat box shall be incorporated into the development. The bat box shall be located away from windows or lights. The entrance to the brick bat boxes shall be kept clear from obstructions at all times. The four bat boxes shall thereafter be retained for the life time of the development

Reason: To conserve local bat populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

11. Prior to the occupation of the development hereby permitted 18 car parking spaces to be used as contractor compound space during construction shall be re-instated and shall thereafter be retained for the lifetime of the development.

Reason: To ensure provision of adequate car parking and to comply with Walsall's Unitary Development Plan saved policies T13 and T7.

12a. Prior to the installation of any external lighting whether permanent or temporary until details have been submitted in writing to and approved in writing by the Local Planning Authority. Details of the lighting shall include the intensity of illumination, predicted lighting contours and demonstrate how the lighting will protect any on site foraging or commuting bats.

12b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development..

To conserve local bat populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

14. None of the trees on the site shown on the approved plans as retained trees shall be lopped, topped, felled, root pruned, cut down or uprooted.

Reason: To safeguard the existing trees on the site in accordance with saved policy ENV18 of Walsall's Unitary Development Plan.

Notes for Applicant

Protected species

A bat roost/resting place has been identified in Foden House annex, therefore prior to any works being undertaken which are likely to result in a breach of the legislation, a development licence must be obtained from Natural England. The licence application process will include the submission of a method statement detailing the current status of bats on site and how the favourable conservation status of the bat population will be maintained. Prior to a licence being issued, planning permission must be granted and relevant conditions relating to protected species and habitat issues must be discharged. No unlicensed work can be undertaken which will contravene the legislation outlined in

Appendix 1 of Internal PRA, Dusk Emergence and Dawn Re- entry Surveys. Report no. RT-MME-154241 dated June 2021.

Lighting

In accordance with best practice guidance relating to lighting and biodiversity (Miles et al, 2018; Gunnell et al, 2012), any new lighting should be carefully designed to minimise potential disturbance and fragmentation impacts on sensitive receptors, such as bat species. Examples of good practice include:

- Avoiding the installation of new lighting in proximity at the site perimeter.
- Using modern LED fittings rather than metal halide or sodium fittings, as modern LEDs emit negligible UV radiation.
- The use of directional lighting to reduce light spill, e.g. by installing bespoke fittings or using hoods or shields. For example, downlighting can be used to illuminate features such as footpaths whilst reducing the horizontal and vertical spill of light.
- Where the use of bollard lighting is proposed, columns should be designed to reduce horizontal light spill.
- Implementing controls to ensure lighting is only active when needed, e.g. the use of timers or motion sensors.
- Use of floor surface materials with low reflective quality. This will ensure that bats using the site and surrounding area are not affected by reflected illumination.

Ground gas protection measures

Advice on basic ground gas ingress protection requirements can be found by reference to the following publication; "Protective measures for housing on gas-contaminated land", BRE Report 414, ISBN 1 86081460 3 (contact CRC Ltd 020 7505 6622 for order information).

To ensure the satisfactory functioning of the development and in the interests of highway safety

Pollution Control advise that the acoustic requirement of Building Bulletin 93 – Acoustic

Design of Schools is relevant in fulfilment of the requirements of Approved Document E

Resistance to the Passage of Sound under the Building Regulations. This information should be brought to the attention of the builder or contractor undertaking the development.

Secured by Design

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

See <https://www.nsi.org.uk/> and <https://ssaib.org/>

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

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

<https://www.securedbydesign.com/guidance/design-guides>

At very least fitted with a door to PAS 24: 2016 standard, TS 007 3 star rated cylinder locks.

The applicant may find aspects of the Secured by Design New Schools 2014 guide of use.

Please see

https://www.securedbydesign.com/images/downloads/New_Schools_2014.pdf

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

https://www.securedbydesign.com/images/downloads/SBD_Commercial_2015_V2.pdf

Secured By Design security standards are explained.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

Fire Service

Requirement B5: Access and facilities for the fire service

Access and facilities for the fire service B5.

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

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

Section 15: Vehicle access Buildings not fitted with fire mains

15.1 For small buildings (up to 2000m², with a top occupied storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

a. 15% of the perimeter.

b. Within 45m of every point of the footprint of the building (see Diagram 15.1).

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

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

Overall

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

Design of access routes and hardstandings

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

15.8 Where access to an elevation is provided in accordance with Table 15.1, the following requirements should be met, depending on the building height.

a. Buildings up to 11m, excluding small buildings (paragraph 15.1): pump appliance access should be provided adjacent to the building for the specified percentage of the total perimeter.

b. Buildings over 11m: access routes should comply with the guidance in Diagram 15.2.

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

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

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

<https://www.water.org.uk/wp-content/uploads/2018/11/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net

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

and/or

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, B5.i)

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

There is indication of a barrier across the access road – what provision will be made for access by the fire service?

Sprinklers – Schools

There is no reference to sprinkler provision (Approved Document B Vol 2, Building other than dwellings, 2019).

END OF OFFICERS REPORT

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 06 January 2022

Plans List Item Number: 4

Reason for bringing to committee

Significant Community Interest

Application Details

Location: WEST MIDLANDS CONSTABULARY, BROWNHILLS POLICE STATION, CHESTER ROAD NORTH, BROWNHILLS, WALSALL, WS8 7JW

Proposal: ERECTION OF A FREESTANDING SINGLE STOREY RESTAURANT WITH DRIVE-THRU FACILITY, CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS, INCLUDING CUSTOMER ORDER DISPLAYS (COD).

Application Number: 21/0197

Case Officer: Sally Wagstaff

Applicant: McDonald's Restaurants Ltd

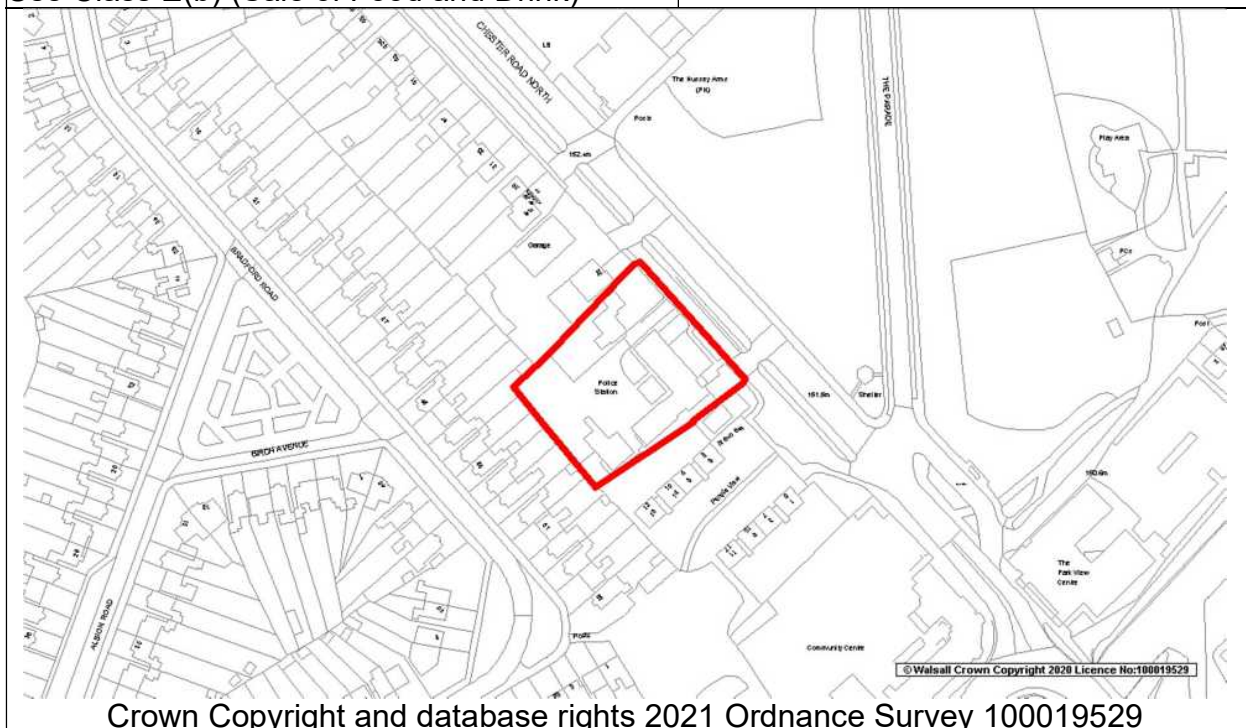
Ward: Brownhills

Agent: Matthew Carpenter

Expired Date: 21-Jun-2021

Application Type: Full Application: Minor Use Class E(b) (Sale of Food and Drink)

Time Extension Expiry:



Recommendation:

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to;
 - No new material considerations being received within the consultation period;
 - The amendment and finalising of conditions;

Proposal

The proposal relates to the erection of a free standing McDonald's restaurant with Drive - thru at the former Brownhills Police Station, Chester Road. The proposal is for both the sale of food and drink for the consumption on and off the premises.

The building will be single storey of contemporary design using neutral and natural brands colours. The palette of materials includes timber effect, contemporary grey block and stone effect panels, and areas of glazing. The design of the building reflects the company's current corporate image.

The proposal includes operating 24/7, customer seating area comprises approximately 90 covers. Deliveries are to take place approximately 3 times per week lasting approx. 15-45 minutes.

The layout of the site includes:

- Vehicular access into the site utilising the existing access from Chester Road
- Front elevation of building orientated to address the main road frontage
- Drive thru lane located to the south west including a 'fast forward' lane and customer order displays
- Storage areas to the rear
- Acoustic fence of 3.2 metres and on the north west boundary along the garden with Chester Road South, 2 metre timber fence to the front of no.25 and timber fencing at 2.4 metres on the east and south boundaries.
- Disabled parking located close to the pedestrian entrance of the building
- Outdoor seating patio area close to restaurant front entrance
- External lighting and safety barriers separating vehicle movement and pedestrians
- Bin store located to the rear of the building
- Hard and soft landscaped areas

The following supporting documents accompany the Planning application:

- Transport Assessment ADL Ltd
- Travel Plan ADL Ltd
- Delivery Management Plan ADL Ltd.
- Arboriculture and drawing report Haydens.
- Environmental Noise Assessment AASW Ltd

Site and Surroundings

The site is located on the A452 Chester Road set back from the highway on Chester Road North service Road. The site is the former Brownhills Police Station which closed in 2014. The building is a two storey flat with a flat roof brick and cladding.

The site lies within 300 metres of the boundary of Brownhills District Centre. Opposite the site is Holland Park which links to Brownhills Common. To the north, south and west of the site are residential properties. Bradford Road directly adjoins the rear of the site. No. 25 Chester Road North borders the south west of the site. It is a residential property with a tattoo parlour incorporated within. To the south east of the site are x 2 blocks of 4 residential properties known as Parade View, the rear amenity adjoins the boundary of the site.

Within the vicinity of the application site is a mix of uses including a Public House, Commu Centre an auto centre. The site is within easy walking distance to Brownhills District Ce which is well served by public transport.

Relevant Planning History

BC20486P- Car Park Extension. Grant Permission Subject to Conditions 18/08/21

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 56) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted,

enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- GP2: Environmental Protection
- GP6: Disabled People
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- S6: Meeting Local Needs
- S7: Out-of-Centre and Edge-of-Centre Developments
- S10: Hot Food Take-Aways, Restaurants and Other A3 (Food and Drink) Outlets
- S11: Drive-Through Facilities
- T4 - The Highway Network
- T5 - Highway Improvements
- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- CEN6: Meeting Local Needs for Shopping and Services
- CEN7: Controlling Out-of-Centre Development
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN3: The Efficient Movement of Freight
- TRAN4: Creating Coherent Networks for Cycling and for Walking

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- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

Walsall Site Allocation Document 2019

IND5: New Employment Opportunities

T4: The Highway Network

T5: Highway Improvements

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

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures

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- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL

Consultation Replies

Archaeological Officer

No archaeological implications

Coal Authority

No objection – development would lie outside the defined High Risk Area. Note to applicant recommended.

Environmental Health

No objection – no adverse comments from Environmental Health

Fire Officer

No objection – proposal will need to comply with Building Regulations Approved Document B, Volume 2, Buildings other than Dwellings, 2019

Local Highways Authority

No objections subject to conditions including traffic management/ delivery management plans.

Natural England

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Police Architectural Liaison Officer

No objection – Secured by Design Principles recommend in relation to alarm systems and cctv for the premises. Note advising the service Road is recommended to keep free of parking as this may cause drivers to congregate.

Pollution Control

No objections subject to recommended conditions relating to odour and noise mitigation measures. Electric vehicle charging points and a Construction Environmental Management Plan.

Severn Trent Water

No objection subject to a recommended condition relating to drainage plans for the disposal of foul and surface water.

Strategic Planning Policy

No objection – sequential test satisfactory. Concerns raised regarding the amenity of adjacent dwellings due to vehicular movements in proximity to gardens.

Tree Preservation Officer

No comments received at time of writing (comments to follow within supplementary paper)

Representations

293 letters from residents of Brownhills and the wider Walsall borough (11 with no addresses given) have been submitted in support the scheme. The letters of support is summarised below (*Local Planning Authority comments in brackets and italics*):

- Need for a Mc Donald's in the area – nearest restaurant over 5 miles away. This would reduce trip generation and emissions to nearest current facility.
- Proposal would create local jobs for a variety of ages and backgrounds
- Proposal would bring back into use a redundant site
- Restaurant would generate increased business rates for Walsall Council to spend on key local services.
- Mc Donald's franchises support local communities
- Would encourage people to visit Brownhills in turn supporting the High Street

40 objections have been received by 13 local residents including those who boarder the site and within the immediate vicinity of the site. Concerns are summaries as follows:

- Site is inappropriate for the use due to be being surrounded by residential properties
- Creation of litter within the immediate site and beyond due to Drive- thru facility.
- Litter in general is an issue within Brownhills area (*Litter in general comment, is outside the scope for the assessment of the current planning application*)
- Significant increased traffic levels and congestion especially entering and leaving the site
- Creation of air pollution and vibration from vehicles
- Impact upon residents behind the site being able to enjoy the rear amenity areas
- Site is opposite Brownhills SSSI, litter is prohibited under the protection of SSSIs.
- There is a need for housing within area not a fast food facility – proliferation of fast food outlets on High Street
- Creation of noise from vehicles using drive thru facility including engines running in parking areas
- Noise and disturbance from users of the facility within cars and external areas of site
- Odour within a residential area
- Potential for anti-social behaviour
- Pests – rats and mice would be attracted to the restaurant.
- Value of properties within the area would decrease (*this is not a material consideration in the determination of the application*)

Determining Issues

- Principle of Development
 - Protected Sites – SSSI
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- Design, Layout and Character
- Amenity of Neighbours
- Highways
- Trees
- Ground Conditions and Environment

Assessment of the Proposal

Principle of Development

The proposal is for a main town centre use as defined by the NPPF. NPPF paragraph 86 states that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

The site lies within 300 metres of the boundary of Brownhills District Centre as defined by the UDP inset map. It is therefore defined by the NPPF as an edge of centre site. NPPF paragraph 87 states that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

Both the NPPF and UDP policy S7 require a sequential test to be met. A sequential test has been submitted which appears to satisfy NPPF and UDP Policy S7 requirements. The test includes an assessment of alternative sites explored which were found to be inappropriate for development. This includes Ravens Court which is within Brownhills centre and was suggested by local residents and the Council as a potential site for the development. The test considers this location could not support a drive-thru and units would not be large enough to accommodate the development.

This is a previously developed site within a sustainable location, it is well served by public transport and within walking distance of Brownhills Centre. It is acknowledged that there are other fast food outlets on Brownhills District Centre nevertheless it is considered the proposal would not result in a proliferation of fast food outlets within the area.

The applicant explains the development would create 65 full and part time jobs allowing for local people of all ages and skills to be employed.

On balance, it is considered the use principle of development is considered acceptable within this location.

Sites of Special Scientific Interest

Comments have been received regarding concerns the proposal will have an impact upon Brownhills SSSI. The proposal is located adjacent to Holland Park which links to

Chasewater and the southern Staffordshire Coalfields Heath SSSI. The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on “*Development in or likely to affect a Site of Special Scientific Interest*”. Based on the plans submitted, Natural England considers the proposed development will not have a likely significant effect on statutorily protected sites and has no objection to the proposed development. On balance it is considered the proposal would have a limited impact upon the biodiversity of the SSSI as well as the park immediately adjacent to the site.

Design, Layout and Character

The layout of the site includes a restaurant to the west of the site car parking to the north east and east of the site and drive – thru lanes wrapping around the rear of the site. It is acknowledged that the layout of the site requires vehicles to be within proximity to rear gardens of Bradford Road due to the siting of the drive- thru lane.

The proposed building is of contemporary design reflecting the brands concept. The building is sited away from neighbouring properties. The overall height of the building at 11.7 metres is considered would not be unduly dominant within the streetscene. The mix of materials softens the massing of the building to ensure it does not cause harm within the streetscene.

It is proposed there will be a cranked acoustic fence sited adjacent to the boundary with no.25 Chester Road South between 2.5 metres and 3.2 metres in height along the length of the house and garden. To the front of the property a timber fence is proposed to be 2 metres in height. The height of the fence has been amended to this height due to concerns the height at 3.2 metres within the street scene would be unduly dominant and oppressive. To the rear and north east side of the site a 2.4 metre vertical timber fence is proposed. It is considered that whilst the height of the fences at 3.2 metres especially would be more than what is expected within a residential curtilage on balance its purpose in relation to noise mitigation outweighs the impact upon the streetscene.

The application is supported by a landscape plan that includes hard and soft landscaping area, maintained and managed by local contractors employed of McDonald's.

On balance it is considered that the layout of the proposal will allow for a functional development that integrates with the surroundings.

Amenity of Neighbours

The opening hours for the restaurant as statement within the Planning Statement are ideally 24 hours per day, 7 days per week although different hours of operation can be considered where specific amenity concerns are outlined. The applicant has advised they would be happy to discuss a condition limiting hours of operation if necessary. In

order to protect the amenity of local residents. It is considered hours of use should be restricted to 06.00 a.m. – 23.00 a.m 7 days a week.

It is acknowledged that the restaurant would be sited in close proximity to local residents with approximately 10 metres to the nearest rear gardens on Bradford Road and 11 metres to no. 25 Chester Road South which is a cause of concern to local residents in relation to odour and noise.

The Planning Statement advises that the extraction equipment has been designed to remove 98% of airborne grease at source. Pollution Control have assessed the Odour Control Assessment submitted as part of the application and concur with the assessment and the odour mitigation measures recommended. Pollution Control advise that based on having received minimal odour complaints from existing Macdonald restaurants in the Walsall area, they are satisfied that if the odour mitigation measures are implemented, as recommended in the report, then this should be satisfactory. It is noted Environmental Health have not raised concerns regarding the development. A planning condition is required to ensure the mitigation measures within the Odour Control Assessment are implemented.

On balance, it is considered that potential odour caused by the restaurant would be limited based on the evidence before the LPA and commentary from our consultees. It is considered odour would not result in an undue impact upon the quality of life enjoyed by neighbouring properties, to warrant refusal of the application for this reason. If odour complaints arise in the future, Environmental Health have responsibility to pursue these.

An amended noise assessment has been submitted as part of the application with additional noise measures following concerns from Pollution Control that the assessment required the consideration of existing background noise levels to the rear of the site and consideration of noise levels when road traffic is not significant. The report determines the noise levels generated by the proposed Macdonald's Restaurant/Drive-Thru will not be excessive, subject to putting mitigation measures in place, when compared against existing background noise levels.

Following additional communications with the acoustic consultant an additional update to the report has been issued. The consultant is advising that if they were to increase the fence height to 3.2 metres on the Bradford Road boundary, then this will provide additional mitigation in terms of numbers i.e. 1 – 2 dB. It should be noted that from an audibility perspective then the amount that humans can tend to hear the difference between noise levels is 3dB. Therefore, from a human audibility perspective there is minor change, however, in terms of sound energy then there will be a reduction. Given the minor reduction in acoustic levels from increased fencing, Pollution Control do not object to the proposed fencing arrangement put forward by the acoustic consultant.

It is considered that increasing the fence height to 3.2 metres on the boundary with Bradford Road would result in the height being more than a single storey, for limited reduction in noise. It is considered this height is excessive in relation to the character of the area. The applicant has advised that they are open to altering the height of the

fences on boundaries if considered necessary by planning committee for noise mitigation.

It is acknowledged that noise from cars and people using the facility is a large concern with residents. Taking into account the comments made by the pollution control officers, it is considered that on balance the proposal would not result in noise levels which would be unduly harmful to the amenity of neighbouring properties.

Comments received by a local resident regarding the survey specifying a noise level reading was taken from within the resident's garden, which they consider did not take place. The applicant has advised the, *"acoustic report uses acoustic modelling to accurately map and calculate sound levels. No readings were taken in the garden of no. 51 Bradford Road they are predictions from the model as set out in the report"*.

The submitted Planning Statement advises shift managers receive training to measure and deal with noise or anti-social behaviour should it arise. The management team are trained to monitor the car park consistently to ensure customers causing disruption or noise are asked to leave the premises.

A number of concerns have been raised regarding the proposal leading to increased litter within the site and surrounding area. The applicant has reviewed these concerns and advises that the application documents set out Mc Donald's provide bins and employee's litter pick at least three times daily. It is acknowledged that there is the potential for increased littering within the vicinity given the proposal includes a drive-thru facility, nevertheless it is considered the responsibility is on the users of the facility to properly dispose of their waste, whether on site or further afield. Third party legislation stipulates littering is an offence under the Environmental Protection Act and is outside the scope of the planning legislation. Waste from on site will be secured within a bin store to the rear of the building. The bin store is located in an enclosed area to minimise any perceived and adverse impact on the amenity of neighbouring properties.

Highways

The application looks to demolish the existing former Police Station and construct a Drive Thru restaurant with associated accesses and parking.

Whilst the Highway Authority accepts that the site is an accessible and sustainable location there are concerns around the potential impact on the free flow of traffic along Chester Road North and potential conflicts around parallel service, particularly at peak traffic periods peak periods for customers of the development.

VEHICLE ACCESS:

The development proposes two access points onto the service road. The northern access being the main two-way access for customers and the southern access a delivery vehicle access only with access control measures.

Visibility at both accesses is acceptable.

INTERNAL LAYOUT:

The internal layout provides parking for 32 cars, drive-thru lane, access and vehicle manoeuvring areas and pedestrian crossings.

At delivery times access will be allowed for delivery vehicles

VEHICLE PARKING:

The development proposed 32 parking spaces, inclusive of 2 EVCP's, 2 disabled bays and 1 grill bay.

Based upon a GFA of about 370sqm the UDP T13 Policy required is 19 spaces. The development proposed nearly double the policy requirement but clearly the applicant provided a higher level of parking to meet its operational needs based upon similar outlets.

According to the Traffic Assessment (TA), the maximum parking demand would be 32 vehicles on a Friday and 31 vehicles on a Saturday. This is the peak parking demand during the busiest 15-minute period of the week. The average parking demand during the 4-hour Saturday lunchtime period was only 23 spaces. The proposal provides 32 parking spaces and therefore would have adequate capacity to accommodate the maximum anticipated demand.

The drive thru lane has capacity for 16 vehicles (based on a 4.5m saloon; a greater number of smaller cars could be accommodated). It is concluded that the drive thru lane has sufficient capacity to accommodate the expected demand.

TRAFFIC IMPACT:

In order to understand the traffic impact of the development, the TA has used counts, customer interview surveys at the McDonald's restaurant in Swaythling. This restaurant is considered to be a good comparable restaurant for the following reasons:

- The Swaythling restaurant is similarly located in a suburban location adjacent to a principal road.
- Similar traffic flows (AADT) and market share.

The peak trading periods for McDonalds restaurants are during Friday evenings and Saturday lunchtime periods and therefore the local highway network and McDonalds peak traffic periods do not coincide. However, the McDonalds peak traffic has been used in order to provide a robust assessment.

The proposal is expected to generate the following inbound vehicle trips:

- Friday PM Peak 113 vehicles
- Saturday Peak 127 vehicles

The majority of vehicle trips (58%) on a Friday and (62%) on a Saturday to the restaurant are expected to be existing on the network. The number of additional trips (solely McDonald's) are expected to be only:

- Friday PM Peak 47 vehicles
- Saturday Peak 48 vehicles

The proposal would have no material impact on the operation of the Chester Road N Service Road /A452 Chester Road North junction.

CONSTRUCTION TRAFFIC MANAGEMENT:

An acceptable Construction Environmental Management Plan has been submitted.

PEDESTRIANS AND CYCLISTS:

The site is within easy walking distance to Brownhills District Centre with controlled uncontrolled pedestrian crossing points across Chester Road North and the other arm the Tin Man gyratory.

The site is close the Walsall to Birmingham National Cycle Route 5 and the MacLean V along the former railway line.

Cycle stands are provided on site.

PUBLIC TRANSPORT:

The site is within easy walking distance to Brownhills District Centre which is well served public transport.

SECTION 278 AGREEMENT/OFF SITE IMPROVEMENTS:

The applicant has submitted a Store Travel Plan Statement which will be managed by Company and Conditioned.

Off –site Highway improvement will require the confirmation and implementation of Traffic Regulation Orders and a S278 agreement.

The Police Architectural Officer have requested parking restrictions on the service Road. This will form part of the S278 agreement if deemed necessary.

RECOMMENDATION

The Highway Authority concludes, the potential impacts on the local highway network requires delicate judgement due to the nature of the development and its location on network.

The main issues for the Highway Authority are;-

- i) The potential conflicts between traffic using the parallel service road and multiple access points,
- ii) The proposed on-site delivery arrangements and access management for delivery vehicles.
- iii) Safe pedestrian access.

To address these concerns the applicant has put forward a number of mitigation measures

One is a Delivery Management Plan to satisfy the Highway Authority that at delivery time the on-site arrangements, included coning off a substantial part of the customer car park operating the lockable bollards to facilitate access for the delivery vehicle, restricting the use of the delivery vehicle and delivery timings to avoid peak periods both for the highway

customers. A condition is recommended to ensure the deliveries are carried out in accordance with the submitted Delivery Management Plan.

The other is a package of highway improvement measures in the locality of the site to improve access and reduce potential vehicle and pedestrian conflicts and minimise disruption on the main Chester Road North.

Overall, on balance, the Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2021 paragraph 111.

Trees

There are no Tree Preservation Orders within the application site therefore written permission is not required as part of the proposal nevertheless their amenity value is a material consideration.

The proposal includes removal of 7 trees and 2 hedges to permit development.

(Tree comments will be updated at planning committee)

Ground Conditions and Environment

The Coal Authority have confirmed part of the site falls within the defined Development High Risk Area. Records indicate that the application site lies in an area of likely historic unrecorded coal workings at shallow depth. However, the part of the site where the development is proposed lies outside of the defined High Risk Area. Therefore it is considered that a Coal Mining Risk Assessment is not necessary to support this proposal and do not object to this planning application. The Coal Authority does recommend that, should planning permission be granted for this proposal an informative is noted for the application.

Due to the proposal including demolition of the existing structures on site a condition is recommended for an asbestos Survey to be carried out prior to demolition. This is to ensure that potential hazardous substances are identified and removed where necessary safely.

Conclusions and Reasons for Decision

It has been demonstrated that the proposed development is of an acceptable overall appearance, would not result in harm to the natural or built environment.

On balance, it is considered the proposal would not result in an undue impact upon the amenity of occupiers.

The proposal would not result in harm to the safety or operation of the highway network subject to the conditions as set out. The recommended planning conditions, , are considered necessary to make the application acceptable, and to meet the government's tests contained within the National Planning Policy Framework.

On the above basis, on balance, the proposal is considered to meet the requirements of the Development Plan, and the National Planning Policy Framework and it is therefore considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised by the Highway Authority and the height of fence within the streetscene, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

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

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;

Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

Block Plan drawing no. 11705_AEW_8303_0002 Rev E, submitted 01/12/21

Proposed Site Plan drawing no.11705_AEW_8302_0004, Rev D submitted 01/12/21.

Proposed Elevations, drawing no. 11705 AEW_8302_0005 Rev A, submitted 15/02/21

Proposed Floor and Roof Plan, drawing no. 11705 AEW_8302_0006 Rev A, submitted 15/02/21

Proposed Acoustic fencing, drawing no.11705_AEW_8302_0018, Rev B submitted 01/12/21.

Landscape Plan, drawing no. 11705_AEW_8303_0015 Rev D, submitted 01/21/21

Supporting Statement prepared by Planware Limited Version 3, submitted 15/02/21

Goal Post Height Restrictor and COD canopy, submitted 15/02/21
Standard patio area supporting specifications, submitted 15/02/21

Odour Control Assessment Rev B, prepared by CDM Partnership, submitted 19/03/21

Odour Control Specification, prepared by CDM Partnership, submitted 16/12/21

Transport Assessment, ADL/CC/4699/14A dated January 2021, submitted 15/02/21

Travel Plan, ADL/CC/4699/14B dated January 2021 submitted 15/02/21

Environmental Noise Assessment, prepared by Acoustic Associates sw ltd, project ref 7405 Rev 23 dated 21/06/21 submitted 22/06/21

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3. The development hereby permitted shall not be open to customers otherwise than between the hours of 08.00 hours to 23.00 hours Mondays to Sundays, Bank and Public Holidays .

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

4. Prior to commencement of the development hereby permitted an intrusive pre-demolition asbestos survey in accordance with HSG264 supported by an appropriate mitigation scheme to control risks to future occupiers shall be submitted in writing to and approved in writing by the Local Planning Authority. The scheme shall:

- i. be written by a suitably qualified person
- ii. demonstrably identify potential sources of asbestos contamination and
- iii. detail removal.

4b. Prior to occupation of the development hereby permitted a written Validation Report shall be submitted in writing to and agreed in writing by the Local Planning Authority.

4c. All contaminated material to be removed from the site shall not be otherwise than be removed by a licensed waste carrier to a facility that is licensed to accept it.

Reason: To ensure any potentially hazardous asbestos associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

- 5a. Notwithstanding the details shown on submitted Proposed Site Layout Revision D ADL drawings, 4699-SK-11A, 4699-SK-12, 4699-TR-18, 4699-TR-19 prior to commencement of the development hereby permitted, a Traffic Management Plan, includ

full technical details of all off-site highway infrastructure works shall be submitted in writing to and approved in writing by the Local Planning Authority.

5b. Prior to occupation of the development hereby permitted, the approved Traffic Management Plan highway infrastructure works shall not be carried out otherwise than in accordance with the approved Traffic Management Plan and shall thereafter be retained for the lifetime of the development.

Reason: To ensure the safe and satisfactory operation of the development, in accordance with UDP Policy GP2, T4 and in the interests of highway safety.

6a. Prior to the commencement of development hereby permitted including any site clearance or site preparation:

- i. details of protective fencing and ground protection to be installed around all retained trees shall be submitted in writing to and approved in writing by the Local Planning Authority
- ii. Prior to the commencement of the development hereby permitted the approved protective fencing and ground protection shall be installed
- iii. One month's written notice of the intention to commence development shall be given to the Local Planning Authority to allow the Council's Arboricultural Officer to fully inspect the installation of the protective fencing and ground protection

6b. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved details before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

6c. Nothing shall be stored or placed nor any fires started, any tipping, refuelling, disposal of solvents or cement mixing carried out inside the protective fencing or on the ground protection referred to in part a to this condition. Ground levels within protective fencing and on ground protection areas shall not be altered nor shall any excavation or vehicular access or drainage routes be made.

6d. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of the UDP and Conserving Walsall's Natural Environment SPD.

7a. Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

7b. The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.

7c. The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

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

8a Prior to the commencement of building operations above damp proof course of the development hereby permitted details of electric vehicle charging points to be provided for the development shall be submitted in writing to and agreed in writing by the Local Planning Authority.

8b. Prior to occupation of the development hereby permitted shall not be carried out otherwise than in accordance with the approved electric vehicle charging points and the approved electric vehicle charging points shall thereafter be retained for the lifetime of the development.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 and DEL1 of the Black Country Core Strategy.

9. Prior to the occupation of the development hereby permitted, all access ways, veh manoeuvring and parking areas shall be consolidated, hard surfaced and drained so that areas do not drain onto the public highway or into any highway drain, together with the demarcation of all parking bays, associated directional signing and lining and pedest crossing points.

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

10. Upon the development hereby permitted first coming into use, the measures incentives to promote the development's sustainability credentials and encourage non borne travel modes shall be implemented in accordance with the submitted ADL Store Tr Plan Statement dated June 2021.

Reason: To encourage sustainable travel modes, in accordance with BCCS policy TR/ and UDP Policy T10.

11. Deliveries to the development shall be in accordance with the submitted ADL Delivery Management Plan dated June 2021 to restrict the size and type of delivery vehicles to site constraints and the timing of deliveries wherever possible to avoid peak traffic customer periods.

Reason: To ensure the satisfactory operation of the development, and to minimise disruption to the operation of the local highway network, in accordance with UDP Policy GP2, T4 and in the interests of highway safety.

12. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Glanville Construction Environmental Management Plan dated 19th I 2021 and shall thereafter be retained throughout the construction period.

Reason: In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety.

13 a. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Proposed Acoustic fencing, drawing no.11705-AEW-83032_0018, Rev B submitted 01/12/21.

13b. The development hereby permitted shall not be carried out otherwise than in accordance with the agreed measures and such measures shall thereafter be retained for the lifetime of the development.

Reason: To reduce potential negative health impact upon future occupants in compliance with the saved policy ENV10 of Walsall's Unitary Development Plan.

14a. The Odour Control Scheme detailed within 'Odour Control Assessment' and 'Odour Control Specifications' submitted with the Application shall be implemented prior to any hot food cooking taking place.

14b. The Odour Control equipment and machinery shall be maintained and serviced throughout the lifetime of the restaurant in accordance with the 'Odour Control Assessment' and 'Odour Control Specifications' submitted with the Application Form.

Reason: To reduce potential negative health impact upon future occupants in compliance with the saved policy ENV10 of Walsall's Unitary Development Plan.

Notes for Applicant

Trees

No works shall be carried out to the protected trees otherwise than in accordance with British Standard 3998: 2010 'Tree Work'

Secured by Design Principles

Monitored alarm systems. CCTV particularly identifying at all doors.

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

See <https://www.nsi.org.uk/> and <https://ssaib.org/>

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

<https://www.securedbydesign.com/guidance/design-guides>

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

[https://www.securedbydesign.com/images/downloads/SBD Commercial 2015 V2.pdf](https://www.securedbydesign.com/images/downloads/SBD_Commercial_2015_V2.pdf)

Secured By Design security standards are explained.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

Coal Authority

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

Highway Authority

The Traffic Management Plan will require the confirmation and full implementation of appropriate Traffic Regulation Orders in accordance with the requirements of the approved Plan.

The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

For new road construction or alterations to existing highway the developer must enter into an Agreement with the Highway Authority under S38/278 of the Highways Act 1980. For further advice please contact Highway Development Control Team at Stephen.Pittaway@walsall.gov.uk

The Highway Authority's permission is required under the Highways Act 1980 and the Roads and Street Works Act 1991 for all works on or in the highway.

As the existing building to be demolished abuts the highway boundary, any barriers, scaffolding, hoarding, footway closure etc. required for the demolition works to be undertaken will require a licence. This should be applied for by email to Trafficmanagement@walsall.gov.uk

The costs for the alterations of the TROs should be funded by the Applicant. The Applicant is advised to contact Trafficmanagement@walsall.gov.uk to discuss the requirements to enable the TRO's to be processed.

If the development proposal includes land which is currently highway, the Applicants need to make an application to the Secretary of State for the stopping up of the highway affected under section 247 of the Town and Country Planning Act 1990. The Highway Authority do not need to issue express permission beforehand as they are a consultee. Guidance and applications forms are available via the following link: <https://www.gov.uk/government/publications/stopping-up-and-diversion-of-highways>

END OF OFFICERS REPORT

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 06 January 2022

Plans List Item Number: 5

Reason for bringing to committee

Application has been called in by Councillor Hussain on the grounds that delicate judgement is required.

Application Details

Location: ROTHER, HIGHGATE DRIVE, WALSALL, WS1 3JJ

Proposal: CONSTRUCTION OF A NEW 3 BEDROOM HOUSE AND ASSOCIATED ENGINEERING WORKS TO THE REAR OF ROTHER, HIGHGATE DRIVE

Application Number: 20/0309

Case Officer: Leah Wright

Applicant: Kasore Khan

Ward: St Matthews

Agent: Paul Spooner

Expired Date: 11-May-2020

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

Time Extension Expiry:



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Recommendation

Refuse

Proposal

This application proposes a new three bedroom dwelling to the rear of the existing dwelling known as 'Rother'. The new dwelling will have a total floor area approximately 123 sqm. The dwelling is an 'L' shape with accommodation provided over two floors and has a pitched roof with gable features and roof lights. The dwelling would measure 5.9m in maximum height with eaves of 2.3m. It would measure 11.3m in maximum width and 10.2m in maximum depth. Several window openings are proposed to all elevations of the ground floor including wide bi-folding doors serving the lounge area and rooflights inserted at first floor level to provide natural light to the bedrooms. The accommodation includes the following:

Ground floor: Living/dining room, kitchen, bathroom, bedroom, and store.

First Floor: Two bedrooms (one en-suite) and store.

The development also proposes shared amenity space between Rother and the new dwelling, low level planting, parking and a retaining wall in accordance with structural engineer's details.

In relation to the main dwelling 'Rother', the proposed building be would situated at the rear of the garden and the separation distance between the two dwellings would be approximately 5.18m. The proposed building would also have proximity to the neighbouring property No 58 on the western boundary and distance between the proposed and neighbouring dwelling is 5.2m.

There is a live application with the Local Planning Authority (21/0834) that proposes a new two storey dwelling house adjacent to and within the rear garden of 58 Highgate Road (on this agenda). This site has a higher ground level than the application site and the distance between this proposal and the proposed dwelling at 58 Highgate Road is approximately 13.6m.

It should be noted that the proposal was amended from a "proposed family annex to the rear of 'Rother' Highgate Drive, Walsall" to "Proposed new dwelling and associated engineering works at the rear of 'Rother' Highgate Drive Walsall".

Site and Surroundings

The application site is located on the Highgate Drive which is predominately residential area. The application property known as Rother is a detached house that is generously set back from the road and benefits from wider frontage. The site boundary is concealed by number of large trees and shrubs.

Other properties within the vicinity of the application site are typically of varying styles and set back. To the east of the site are open fields, to the western boundary is

number 58 Highgate Road and to the north is car park and residential apartments situated on the Canute Close which is cul-de-sac. The application site benefits from provision of off-street parking and open wide frontage and main dwelling is set back from the highway.

The site is not within a conservation area nor is it a listed building.

Relevant Planning History

08/0338/FL: Two-storey Rear Extension: GSC 18.04.2008

08/0895/FL: Two-Storey Rear Extension (Increase Approved length): GSC 18.07.2008

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 4 – Decision Making**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural 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.

Development Plan

www.go.walsall.gov.uk/planning_policy

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- ENV2 (Historic Character and Local Distinctiveness)
- ENV3: Design Quality
- HOU2 (Housing Density, Type and Accessibility)

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- H10: Layout, Design and Dwelling Mix
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Site Allocation Document

- HC2: Development of Other Land for Housing

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

Appendix D

Consultation Replies

Highways:

06/04/2020- No objection; note to applicant regarding keeping the highway free from mud or material.

07/04/2021- No objection to the revised application subject to all parking areas to be fully implemented and thereafter retained and the Annex remaining ancillary to family members of the main dwelling in order to clearly define the use of the development that it shall not be occupied independently from the main dwelling house on the grounds of access and parking.

Planning Policy:

15/04/2020- 'The Hawthorns' opposite the site is a locally listed building but the position of the proposal to the rear of the existing house means that it is unlikely to affect the setting of this building. The application site appears to contain a number of mature trees so advice should be sought from the council's ecology advisor about the possible impact on bats, as well as from the tree officer.

21/04/2021- Amended plans raise no new strategic planning policy issues beyond original comments.

Severn Trent:

01/04/2020- No objection; note to applicant regarding public sewer.

14/04/2021- Comments as per 01/04/2020.

West Midlands Fire:

30/03/2020- No objection; note to applicant regarding Approved Document B, Volume 1, Dwelling-houses.

10/04/2021- Requirement B5: Access and facilities for the fire service.

Trees:

19/05/2021- Amended block plan removes the proposed vehicular access which has removed the impact on the trees to the southeast of the site in third party property. Concern regarding boundary treatment; this will be detrimentally affected by excavations required to allow the construction of the boundary wall. No treatment details for southeast boundary (but this could be dealt with via condition). If the issues are addressed, conditions regarding tree and ground protection could be provided to ensure the long-term health and condition of the off-site trees.

01/12/2021- Principle of a new wall inside the boundary is acceptable. Concern regarding damage to roots of adjacent trees and site access. Clarification on both points is required.

Representations

No letters of representation have been received.

It should be noted that the application was called in to committee by Councillor Hussain on the grounds that delicate judgement is required, however it was not specified what the delicate judgement is.

Determining Issues

Principle of Development

- Design and Character of Area
- Impact on amenity of neighbouring properties
- Amenity of future occupiers
- Highways
- Trees
- Flood Risk and Drainage
- Local Finance considerations

Assessment of the Proposal

Principle of Development

The proposal would add to the supply of housing so could potentially be supported by paragraph 60 of the National Planning Policy Framework, subject to detailed consideration of the potential impact of the proposal on local character, trees and the amenity of neighbouring properties. BCCS Policy CSP2 and SAD Policy HC2.

The principle of development is therefore considered acceptable subject to all other material considerations set out in this report.

Design and Character of Area

The application proposes a detached three bedroom dwelling positioned in the rear garden of the existing dwelling and would provide accommodation over two levels.

The original description of development was for a family-annex which was considered to introduce a significant building which would be situated at the rear of the original dwelling in tandem with it. The applicants revised description is for a three bedroom detached dwelling. Whilst it is noted the applicant suggests their parents and relatives would reside in it in the first instance, that situation may change in the future. The government tells us planning should consider land use and private interests. If the application was deemed acceptable a condition to retain the dwelling as an annex to Rother would be imposed.

Given applicant's personal circumstances, the LPA have tried to work proactively with them. The opportunity was given to reduce the size and scale of the originally proposed annexe to provide accommodation for the parents which included one bedroom, kitchen, living area and WC facilities. The second option suggested to the applicant was to extend the main dwelling to facilitate the family members and their elderly parents.

The applicant has explained that the reason for the additional bedrooms is that the intended occupiers are elderly relatives and need the support of others at times when the applicant is not available to provide that support. It has been made clear that applicant is not available during the week to care for their elderly parents so effectively their requirements are for creation of separate planning unit which was confirmed with the revised application form and description and would have no connection to the main dwelling. Whilst noting the applicant's comments, the position of the dwelling and the use for family members essentially does give a connection. Given this position, it is considered, extending the current property would be the better solution in this instance.

In this case the development would comprise a new dwelling. Consequently, the proposal has to be assessed against the development plan policies, in accordance with section 70(2) of the TandCPA 1990 and section 38(6) of the PandCPA 2004 unless there are material considerations, which in this instance to provide accommodation for elderly relatives. Unfortunately, as there is a suitable alternative, the material considerations for the new dwelling are significantly diminished. The distance between the dwelling and the existing dwelling, "Rother", is approximately 7.2m and structure will have close proximity to the western boundary with number 58 Highgate Road and to the north car park and residential apartments situated on Canute Close. The building will be apparent from the streetscape when viewed from the north boundary particularly due to the height; the structure would also afford view from the Highgate Drive due to the close proximity to the western boundary and overall height and scale. Due to the location the new dwelling it would appear cramped and contrived in nature with the structure abutting its northern and western boundary meaning that the structure would sit uncomfortably and uncharacteristically in this position; and therefore, resulting in visually obtrusive form of development.

Furthermore, it is noted that generally the existing dwelling forms part of the more spacious setting where dwellings sit within generous plots. The proposed dwelling would effectively be inserted covering a significant area of the rear garden, resulting in a cramped form of back land development. Overall, the proposed building due to its height, size and scale within this prominent position would appear incongruous and as discordant feature contrary to planning policies with UDP policies GP2, ENV32, H10 and SPD 'Designing Walsall.'

An email was received from Councillor Hussain on the 14th July enquiring about property which was on sale on Little Gorway. The sales description for the property included two storey guest house which was not part of the main house. The applicant had forwarded this information to the Councillor in support of their current application that a precedent has already been set in the local vicinity. Reviewing the planning records of Little Gorway, revealing that 7a and number 7 are two separate properties. This is different to the current proposal. Both of the Little Gorway properties have street frontage and they are two separate planning units. This different to the current proposal. Planning permission reference 06/1185/FLH1 approved a side and rear extension to 7A Little Gorway. In these circumstances

this type of example cannot be used to justify the applicants' current case as each case is assessed on its own merits and there are significant material differences between the two cases.

Impact on amenity of neighbouring properties

The proposed dwelling would have a close proximity to the No 58 and residential apartments situated to the north of the site. Currently the site boundary is enclosed by number of trees and shrubs. However, in order to facilitate the proposed building, there is no indication that these trees would or could be retained, and it is likely the trees would be lost. The dwelling would be more prominent from the neighbouring properties. It is noted that there is slight drop in the ground level towards the rear of the property, but due to the height and size of the building it would still be visible from the adjoining dwelling. There is a window serving a bathroom to the west elevation which would look onto 58 Highgate, it is considered that this could be obscure glazed with a high level top opening light. Subject to this forming a condition, this could go some way to mitigating detrimental harm to this neighbouring property in terms of overlooking.

Designing Walsall SPD Appendix D specifies separation distances. In this case there are no windows at first floor so the 24m separation distance between habitable windows in two storeys (and above) developments would not apply. Further the SPD specifies there should be 13m separation between habitable windows and blank walls; again this does not apply in terms of the development proposed. Should the application be considered acceptable, a safeguarding condition to prevent further windows and doors would be imposed.

The dwelling proposes windows to the south which would look onto the existing dwelling "Rother". It is considered that the ground floor bedroom and living room/dining room would impact on the outlook of the existing dwelling Rother which currently benefits from unobstructed views to the north; as such the proposed dwelling would be considered to be overbearing.

The new dwelling would be sited at the rear of the main dwelling and sharing the same amenity space. This would result in poor quality 'Tandem' development, consisting of one house immediately behind another and sharing the same access is unsatisfactory because of the difficulties of access to the house at the back and the disturbance and lack of privacy suffered by the front dwelling. Whilst in this instance, the local highway authority have not objected to the development, assessing it as an annex, subject to conditions to ensure the proposed parking is installed and that the new dwelling be conditioned to only be an annex to Rother, this does not overcome the harm to neighbours and the detrimental impact to the character of the area.

The proposal is considered to be an independent dwelling which would increase excessive comings and goings to the site which would intensify the use of site and would result in more noise disturbance to the adjoining neighbours once the building is occupied. The proposal would also reduce the safety and security of neighbouring dwellings and rear gardens raising concerns about the fear of crime which would be detrimental to residential amenities. The proposal would be contrary to UDP policies GP2, EN32, H3, H10 and SPD 'Designing Walsall'.

Amenity of future occupiers

Designing Walsall SPD Appendix D states that garden dimensions should be 12m in length or a minimum area of 68sqm for dwellings.

The development proposes shared amenity space for the existing dwelling "Rother" and the proposed dwelling. The shared space between the dwellings measures 195sqm and as such would meet the minimum standards however this space is not considered to be private given the tandem style development and there has been no indication of how this space is to be shared, nor has the plot been shown as subdivided for either house. As such it is considered that the shared amenity space for two separate dwellings is not acceptable bringing detrimental harm to both occupiers given the access to the new dwelling is essentially via the shared amenity space.

The proposed bedrooms are all of an adequate size and meet the requirements of minimum GIAs as stated in the National Space Standards. Bedroom 1 is single aspect and whilst it would be preferred for it to be dual aspect it is considered that the window would still allow for an adequate amount of daylight into the bedroom. All habitable rooms at ground floor would be served by windows. In terms of bedroom 2 and 3, they are not served by a window and instead there are rooflights proposed. It is considered that as this application proposes a stand-alone dwelling, the rooflights would not be sufficient to allow for natural daylight into the rooms. The addition of further windows would further impact on neighbour's amenity.

In terms of outlook, bedroom 1 would have views onto the shared amenity space and in close proximity to the existing dwelling (at a separation distance of approximately 9.5m. The habitable room windows of the living/dining rooms would also be looking onto the rear of Rother at a distance of 7.5m. It is considered that this would create an unacceptable outlook and sense of enclosure for future occupiers due to how close the proposed dwelling would be sited to the existing dwelling. Bedrooms 2 and 3 would have no outlook due to being served by a singular rooflight at a height of approximately 2m. It is considered that the dwelling would have an inadequate internal daylight to the detriment of their future amenity.

Highways

Notwithstanding the lack of detail around internal access and parking arrangements, on the basis that the proposal does not include the creation of a secondary access onto Highgate Drive (according to the application form and amended block plan), the Highway Authority has no objections, subject to all parking areas being implemented and thereafter retained, the new dwelling being conditioned as an annex and no additional vehicular accesses being created. Should the application be deemed acceptable, these matters can be secured by condition.

Trees

The applicant has provided a tree survey, tree constraints plan, tree protection plan and Arboricultural method statement.

Whilst the Council's tree officer, considers the principle of a new wall inside the boundary is acceptable there is still concerns regarding adjacent trees and banking.

Section 1-1: tree assessment states the existing unauthorised blockwork wall to be demolished and rebuilt. This may have implications for damage to the roots of the adjacent trees and was a concern raised in earlier correspondence. This will depend on the existing foundations of the wall and if the applicant intends to rebuild the foundations or use the existing to build a new all on top of. This requires clarification.

The Tree Protection Plan (TPP) indicates that site access will be via the northwest side of the site, adjacent to the boundary with 58 Highgate Drive. This requires clarification as the easiest access to the rear is via the southeast side but the TPP shows this area fenced off. This may be due to the fact there is a banking immediately adjacent to the southeast boundary and the weight of even small site vehicles for material movement may destabilise this but clarification is required.

Further to the above, bullet point d) of paragraph 180 of the NPPF 2021 states that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. It is considered that any loss of trees as a consequence of this proposal would be contrary to National Policy.

It is considered that the application at present has not provided sufficient information to address the concerns of the Council's tree officer and as such the development has the potential to be detrimental to adjacent trees and banking contrary to Policy ENV18 of the Unitary Development Plan, NE8 of the Conserving Walsall's Natural Environment SPD and NPPF 15- Conserving and enhancing the Natural Environment. Should the proposal be considered acceptable, the tree impacts would need to be resolved prior to issuing a decision, as currently the information would not be able to be secured via a condition.

Flood Risk and Drainage

The site, which is in Flood Zone 1, is not in an area known for flooding and there are no watercourses nearby. It is therefore considered that the development would be acceptable in terms of flood risk if accompanied by an appropriate foul drainage and surface water drainage scheme, preventing surface water run off onto the public highway or public highway drains which would be secured by condition on any permission.

Any other Matters

If the application was to be considered acceptable conditions would be recommended to meet the requirements of the Black Country Air Quality for electric charging points and Low NOx boilers.

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 1 new home.

The Government has indicated that, for 2019-20, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

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

Conclusions and Reasons for Decision

The applicant was given the opportunity to reduce the scale of development or create a Granny Annexe which would integral part of the main dwelling. The reduction in height and size of the building was suggested and it is considered the reduced scale of the building to the rear would still meet the requirement for providing the accommodation for the elderly parents. The personal circumstances of the applicant does not form part of material consideration in assessing this application; however a

balanced approach was taken in considering all the circumstances. Given the significant differences between the Little Gorway properties promoted by the applicant and the current situation, it is considered this is not a material consideration in the determination of the current planning application. The amended description and development as a three bedroom detached dwelling fails to comply with the adopted planning policies and the development would be detrimental to the living conditions of the nearby occupiers and has the potential to be a detriment to adjacent trees and banking.

Positive and Proactive Working with the Applicant

The planning agent was contacted to reduce the scale of the development. Unfortunately, the applicant was not able to comply with the request reducing size and scale of the development or reconsider other options for extending the main dwelling.

Recommendation: Refuse

1. The proposed dwelling by reasons of its size, height and scale would result in a cramped form of development which would cause detrimental harm to the character and amenity of the local area, would erode the spatial characteristics of the existing site and would be poorly related to its surroundings in terms of design, density and layout, contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) and HOU2 (Housing Density, Type and Accessibility) of the Black Country Core Strategy, SAD Policy HC2 (Development of Other Land for Housing), DW3 (Character), DW4 (continuity) and DW6 (Legibility) of the Designing Walsall Supplementary Planning Document and section 12 of the National Planning Policy Framework (Achieving well-designed places).
2. The proposal represents inappropriate tandem development and over intensification of the use of the site, increasing comings and goings which would result in an unacceptable level of additional noise and disturbance to neighbouring residential properties once the annex is occupied. In addition, this form of inappropriate tandem development reduces the levels of safety and security for the occupiers of Rother and the future occupiers of the new dwelling plus adjacent neighbours of the application site, raising concerns for the fear of crime. The proposal would be detrimental to residential amenities and is therefore contrary to UDP policies GP2 (Environmental Protection), ENV32 (Design and Development of Proposals),) of the Walsall Unitary Development Plan, policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) and HOU2 (Housing Density, Type and Accessibility) of the Black Country Core Strategy, SAD Policy HC2 (Development of Other Land for Housing), DW3 (Character), DW4 (continuity) and DW6 (Legibility) of the Designing Walsall Supplementary Planning Document and section 12 of the National Planning Policy Framework (Achieving well-designed places).
3. The proposed development would provide an unacceptable standard of amenity for future occupants due to an insufficient level of private rear garden amenity space. The proposal is therefore contrary to saved policy GP2

(Environmental Protection), of the Walsall Unitary Development Plan, policy ENV3 (Design Quality) of the Black Country Core Strategy, SAD Policy HC2 (Development of Other Land for Housing), and DW5 (Ease of Movement) and Appendix D of the Designing Walsall Supplementary Planning Document (Numerical Guidelines for Residential Development).

4. The existing dwelling, "Rother" would have an insufficient level of private rear garden amenity space which would fail to reflect the size of gardens in the locality. The proposal is contrary to Saved UDP Policy GP2 (Environmental Protection), Appendix D of the Designing Walsall SPD (Numerical Guidelines for Residential Development) and the NPPF.
5. Bedrooms 2 and 3 which are sited at first floor would fail to provide future occupiers with a satisfactory level of amenity due to the lack of windows/light sources, thus resulting in a lack of sunlight/daylight and an inadequate outlook. The bedrooms are contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, policies CSP4 (Place Making), ENV3 (Design Quality) SAD Policy HC2 (Development of Other Land for Housing) and section 12 of the National Planning Policy Framework (Achieving well-designed places).
6. The proposal has not provided sufficient information to address the concerns from the Council's tree officer and as such the development has the potential to be detrimental to adjacent trees and banking contrary to Policy ENV18 of the Unitary Development Plan, NE8 of the Conserving Walsall's Natural Environment SPD and NPPF 15- Conserving and enhancing the Natural Environment.

END OF OFFICERS REPORT

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 06 January 2022

Plans List Item Number: 6

Reason for bringing to committee

Councillor Application

Application Details

Location: 58, HIGHGATE ROAD, WALSALL, WS1 3JE

Proposal: ERECTION OF NEW DWELLING HOUSE ADJACENT TO 58 HIGHGATE ROAD WITH THE CREATION OF A NEW VEHICLE ACCESS FROM HIGHGATE DRIVE

Application Number: 21/0834

Case Officer: Helen Smith

Applicant: Mr M Nazir

Ward: St Matthews

Agent: Mr Maurice Cotton

Expired Date: 20-Aug-2021

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

Time Extension Expiry:



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Recommendation:

1. Refuse

Proposal

This application seeks permission for the erection of a new two storey dwelling house adjacent to and within the rear garden of 58 Highgate Road creating a new separate planning unit. The existing plot would be sub-divided to provide an area measuring 390 sq. metres for the proposed new dwelling and associated private amenity areas. The proposal aims to provide semi-independent, supported living accommodation for a family member of the host dwelling for whole life occupancy.

The proposed new dwelling would be set back into the plot between 2.1 and 7.6 metres from Highgate Drive as the road has an angled relationship to the plot.

The key features of the proposed new dwelling are;

- 121 m² footprint
- 8.2 metres high to the ridge
- 4.9 metres high to the eaves
- 10.1 metres deep
- 12 metres wide
- Gable roof design with 4 roof lights (2 per slope)
- No side facing doors or windows
- Front entrance canopy and false timbered gable feature to the front
- Ground floor includes a living area/bedroom, bathroom, kitchen, WC, dining room and lift space
- First floor would provide a combined bedroom and living room, bathroom and lift space
- The loft space would be used for storage
- A lift would be provided within the dwelling to serve the first floor
- Private amenity area to the rear of the new dwelling of 43 m²
- Off-street parking is available for two cars
- Brick construction with a pitched plain tile roof
- Separate pedestrian gated entrance to be added to the existing high boundary wall fronting Highgate Drive
- 7.5 metres separation distance to the existing dormer bungalow known as Rother
- Retaining wall proposed between the new dwelling and Rother

A new vehicle access and driveway from Highgate Drive would be created. The new dwelling would sit forward of Rother, a neighbouring bungalow by 3.1 metres and would be entirely forward of the side elevation of 58 Highgate Road when viewed in the street scene.

This application is supported by a Planning Statement dated May 2021. A tree impact assessment has not been provided in support of the proposal and a street scene drawing has been provided in support. This drawing demonstrates that the ridgelines

of 58 Highgate Road, the proposed new dwelling house and Rother step down in height in a south easterly direction as the ground levels fall.

Site and Surroundings

The application site is a spacious corner plot at the junction of Highgate Road and Highgate Drive. The plot accommodates a large detached dwelling house which has previously been extended towards the centre of the plot. This plot has a 2.2 metres high retaining brick boundary wall fronting Highgate Drive.

The existing application plot widens towards the rear of the site and measures 15.2 metres fronting Highgate Road and 39 metres wide next to the neighbouring bungalow Rother. The existing plot is between 52 and 61 metres in length.

The surrounding area is residential in character with mature trees and gardens giving the area a verdant character. Housing is a mix of large detached properties, 3 storey flats and semi-detached houses.

The existing house is a 1930's style property with large garden areas to the front side and rear. There are protected trees on the plot fronting Highgate Road and unprotected conifer trees and hedges in the rear garden adjacent to the proposed new dwelling.

The application site is located 180 metres to the South of Highgate Conservation Area and The Hawthorns, opposite this site are Locally Listed and is defined as a non-designated heritage asset.

The site does not fall within a Bat Buffer Zone.

The application site has a brick retaining wall along the Highgate Drive frontage and a concrete retaining wall topped with fencing adjacent to the boundary with Rother.

Rother sits to the south of the application site and has a lower ground level than the application site.

This side of Highgate Drive has double yellow lines and this street has traffic calming measures.

No 58 Highgate Road has side and rear facing habitable room windows and a single storey rear extension with habitable room windows that would face the rear elevation of the proposed new dwelling across a separation distance of 16.8 metres.

Rother is a detached bungalow with front and side facing habitable room windows separated from the application site boundary by a vehicle access. There is a current planning application for a 3 bedroom new dwelling house at the rear of Rother (on this agenda).

No. 6 Highgate Drive sits on the opposite side of the road to the proposed new dwelling and has front facing habitable room windows across a separation distance of 17 metres.

Relevant Planning History

58 Highgate Road

11/1341/FL - Replace boundary fence with wall to match existing – GSC 9/12/11

BC21963P - Extension to Garage with Bedroom & Toilet Over – GSC 14/04/88

BC16857P - Change of Use to Rest Home for the Elderly to accommodate Eight Residents – GSC 5/8/86

BC08925P – Covered Yard Extension – GSC 27/09/83

BC02548P – Erection of rear single storey rear extension - GSC 28/1/82

Rother

20/0309 – Construction of a new 3 bedroom house and associated engineering works to the rear of Rother, Highgate Drive – under assessment and on this agenda

Relevant Policies and Legislation

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 56) says:

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

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

Reducing Inequalities

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

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

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

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

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV27: Buildings of Historic or Architectural Interest
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- 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
- ENV8: Air Quality

Walsall Site Allocation Document 2019

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

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character

- DW8 Adaptability
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 – Viability

Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 72 (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Consultation Replies

Conservation Officer – Objection

Fire Officer – No objections subject to compliance with Approved Document B, Volume 1, Dwelling-houses, 2019. This can be included as an informative if approved.

Local Highway Authority – No objections subject to the inclusion of planning conditions in respect of pedestrian visibility splay, parking, manoeuvring, gates and vehicle footway crossing, if approved.

Natural England – No objections

Pollution Control – No objections subject to the inclusion of planning conditions in respect of the provision of an Air Quality Low Emission Scheme and Construction Management Plan, the installation of no solid fuel stove or fire and informative notes if approved.

Severn Trent Water – No objections and do not require a drainage condition to be included but require an informative note to be included in respect of a public sewer that may be located within the application site, if approved.

Tree Officer – Objects

Wildlife Trust – No adverse comments received

Representations

None

Determining Issues

- Principle of Development
- Heritage Assessment
- Design and Character of the Area
- Neighbours Amenity and Future Occupiers Amenity
- Trees
- Air Quality
- Parking and Access
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

The application plot is situated in a well-established residential area. Regular bus services are situated within walking distance of the site and the site is considered to be a sustainable location.

The principle of the provision for a new dwelling house is considered acceptable in principle and accords with the aims of both national and local policies, subject to all other aspects being acceptable. However, the applicant has not demonstrated why the annex could not be attached to the original house and has not explained why it is needed to be a separate dwelling in their planning statement.

The proposed new dwelling includes all of the primary rooms required for a new residential dwelling with an enclosed and private rear garden area which would create a new planning unit. Whilst the applicant's personal circumstances are noted the planning advice is that personal circumstances will seldom outweigh more general planning considerations including any harm and the house would remain long after the current personal circumstances cease to be material. Therefore, the planning application is assessed as a new planning unit and dwelling house.

Heritage Assessment

The Council's Conservation Officer has objected to the proposal and considers that the proposal represents over development of the plot, fails to reflect the existing pattern of development along Highgate Drive, and fails to reflect the architectural design features of the existing dwelling and the existing dwellings along Highgate Drive. The Hawthorns, opposite the application site is a non-designated heritage asset and is on the Local List. The Conservation Officer has is concerned that the Planning Statement makes no reference to this locally listed building.

Planning permission was granted under planning reference 21/0919 for five dwellings to be constructed within the grounds of The Hawthorns. Numbers 4a and 4b to sit to the south of The Hawthorns, altering the setting of this locally listed building. The proposed application site is opposite these modern dwellings.

However, the proposal should still address The Hawthorns, locally listed building and reference the significance of this locally listed building. A Statement of Heritage Significance would need to be submitted in accordance with para. 194 of the NPPF.

58 Highgate Road is a two storey dwelling. It is classed as a non-designated heritage asset. The existing building is part multi toned bricks of deep red and purple/blue. Part of the dwelling is rendered in a blue/green colour finish at the front and rear. The roof includes both pitched and a cat-slide pitched roof with a flat roof dormer window. The first floor windows on the rear elevation have window shutters. The ground floor consists of segmental bay windows with flat roofs. The dwellings has chimneys. The front elevation has gable features and together with the mixture of roof heights and other design features, the building provides an interesting architecturally design dwelling. In all, the building has architectural merit.

The existing dwelling, a non-designated heritage asset, will also need to be addressed in the Statement of Heritage Significance. The Statement of Heritage Significance will need to be produced in line with the above Historic England Advice Note.

Furthermore, the setting of the dwelling in close proximity to the street frontage, would result in the dwelling being visually prominent and visually detrimental in the street scene. The proposal would have a harmful visual impact upon the amenities of neighbouring occupiers and result in overlooking and loss of privacy for existing occupiers. The proposed side facing garden would fail to provide an adequate level of amenity for proposed occupiers and would fail to reflect the existing pattern of development.

The proposed development would be contrary to para's 130 and 194 of the NPPF, policy GP2, ENV32 of the UDP, ENV2, ENV3 of the BCCS, DW1 to DW10 of Designing Walsall SPD, in that it fails to provide visually attractive good architecture that is reflective and sympathetic to local character and history and fails to create an attractive building type to create an attractive and welcoming development in the street scene. Furthermore, the proposal fails to provide effective landscaping that would enhance the proposed development.

The proposal would be contrary to para. 203 of the NPPF, in that it would have a level of harm to the significance of this non-designated heritage asset.

Design and Character of the Area

The proposed scale of the new dwelling, its position forward of 58 Highgate Road and its location on higher ground next to Rother is considered would result in this proposal having an overly prominent and discordant appearance in the street scene and an overbearing impact on the bungalow. The proposal is considered would appear as an incongruous addition to the street and would be out of keeping with the established pattern of development.

The proposed new vehicle entrance would require a pedestrian visibility splay for highway and pedestrian safety. The width of the proposed vehicle access has not demonstrated or the pedestrian visibility splay and to address this would result in the

removal of more boundary wall, trees and planting which is considered would have a detrimental impact on the verdant character of the area.

The provision of useable private amenity space of 43m² to the rear of the new dwelling is considered to be inadequate and fails to meet the recommended minimum provision of 68m² or being 12 metres in length referred to by Appendix D of Designing Walsall SPD. Whilst there would be an area of walled garden to the side of the dwelling this would not be considered to be private amenity space given its closeness to the street.

The remaining private amenity space for 58 Highgate Road would be 296m² which would exceed policy requirements.

No details of the proposed retaining wall between the proposed new dwelling and the lower ground level with the neighbouring property Rother have been provided nor any details of impact on trees.

If Planning Committee were minded to approve the planning conditions would be required in respect of materials, floor levels, boundary treatments including retaining walls, pedestrian visibility splays and impacts on trees.

Neighbours Amenity and Future Occupiers Amenity

Given this is being promoted as a separate planning unit, the LPA has to assess it as such. The limited separation distance of 16.5 metres between first floor rear facing habitable room windows in the proposed new dwelling and habitable room windows in the single storey rear extension to 58 Highgate Road is considered would have an unacceptable and detrimental impact on residents privacy at no. 58. The separation distance of 16.5 metres would be 7.5 metres less than the recommended minimum separation distance of 24 metres as referred to in Appendix D of Designing Walsall SPD.

The shallow rear garden and close proximity of first floor rear habitable room windows in the proposed new dwelling to the proposed private rear garden of 58 Highgate Road is considered would result in unacceptable overlooking and loss of privacy for neighbouring residents. Whilst both houses may be intended to be in the same family ownership, the ownership may change in the future and it is considered that the overlooking and loss of privacy impacts would be unacceptable and represent poor design.

Rother sits to the south east of the proposed new dwelling and this neighbouring bungalow has a lower ground level of approximately 1 metre. The combined higher ground level, excessive height and positioning 3.1 metres forward of the front elevation of Rother is considered would have an overbearing impact on neighbours existing amenity.

The proposed new dwelling house would face 6 Highgate Drive across a separation distance of 17 metres which is 7 metres less than the recommended minimum distance of 24 metres referred to by Appendix D, Designing Walsall. However, as this standard

is applied less robustly to public areas rather than across private gardens this separation distance is considered acceptable in this instance.

If Planning Committee were minded to approve the planning application planning conditions would be required in respect of permitted development removal for additional side facing doors and windows, extensions including additional storeys and garden buildings because of the limited available private amenity space and to retain the loft area for storage only.

The planning application for the proposed new chalet bungalow at Rother is currently under assessment. This would be located in the rear garden of the existing dwelling and would have front facing habitable room windows close to the shared boundary with 58 Highgate Road. It is considered that if trees and planting are lost along the shared boundary between Rother and no. 58 then there would be unacceptable overlooking and a loss of privacy between the proposed new house at no. 58 and the proposed new chalet bungalow at Rother.

Trees

The Council's Tree Officer has commented that the proposed dwelling is located just over 2m from the boundary with the adjacent property Rother. The existing boundary is well furnished with substantially sized evergreen trees that provide substantial screening between the properties and contribute significantly to the verdant character of the area. These trees are shown as being retained on the submitted Site Plan. The construction of the dwelling and proposed retaining wall is likely to sever a significant amount of root material likely to be detrimental to the health, condition and stability of the trees with the potential for failure and future damage to persons or property.

The proposed access will require significant ground level excavations in order to construct the drive and tie it in to the level of the public footpath and highway. The excavations are in very close proximity to a large evergreen tree located towards the frontage of Highgate Drive, which is shown on the submitted Site Plan for retention.

The construction of the access drive is likely to sever a significant amount of root material likely to be detrimental to the long-term health, condition and stability of the tree with the potential for failure and damage to persons or property. In view of these concerns the Council's Tree Officer objects to the proposal on the grounds that the proposal will have a detrimental impact on the health, condition and stability of the trees with the potential for failure and damage to persons or property.

It is noted there are significant ground level alterations between the site and Highgate Drive. Details of the land level differences have not been provided and this would be required to be able to understand the scale of the works. Once this information has been provided and assessed this will then form conditions should the application be considered acceptable.

Air Quality

Walsall Council has adopted the Black Country Air Quality Supplementary Planning Document (SPD).

Pollution Control Officers have advised that the Applicant needs to consider the requirements of the Air Quality SPD and develop a strategy to comply, with the strategy being implemented prior to occupation, if the proposal is approved by Planning Committee.

Having regard to the design of the development there are concerns that there is the possibility that some form of solid fuel appliance may be installed. Installations of this nature are problematic when located at the rear of dwellings due to the proximity of flue outlets to neighbouring properties. To avoid such issues Environmental Protection Officers have recommended a planning condition prohibiting such installation in the proposed dwelling house however such a condition is not enforceable.

If Planning Committee were minded to approve this application planning conditions in respect of the submission of a Low Emission Scheme to include electric vehicle charging points, low NOx boilers and a construction management plan would need to be included.

Parking and Access

The application looks to construct a new 3 bedroom dwelling in the grounds of the existing dwelling with a new access off Highgate Drive. Parking is provided for at least 2 cars which accords with T13 parking policy. Pedestrian inter-visibility needs to be improved at the new access and if Planning Committee were minded to approved this application planning conditions in respect of a pedestrian visibility splay, parking provision and surfacing of the drive, drainage, manoeuvring, gate design and vehicle footway crossing would need to be included. The inclusion of the pedestrian visibility splay may have impacts on trees too, so this information will need to be provided prior to issuing the decision.

The existing parking area to serve the host dwelling 58 Highgate Road would be unchanged as a result of this proposal and the front drive has sufficient space for at least 3 vehicles.

The Highway Authority considers the development will have an unacceptable impact on road safety because of the current lack of pedestrian visibility. However subject to the submission of satisfactory amended access details including a pedestrian visibility splay it is considered the proposal would not have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2021 paragraph 111.

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 1 new home.

The Government has indicated that, for 2019-20, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

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

Conclusions and Reasons for Decision

The scale, height, positioning and discordant design of the proposed new dwelling house is considered would be an incongruous and detrimental addition to the existing street scene and have a harmful impact on neighbouring residents' privacy and amenity. The proposal fails to include details of the likely impact on trees, land levels and a statement of Heritage Significance. Whilst personal circumstances are noted the Local Planning Authority are unable to take them into consideration when determining planning applications. There is insufficient information to fully assess the impacts of the proposal on the adjacent trees and surrounding area. Consequently, the proposal is recommended for refusal.

This proposal is therefore considered to be unacceptable and contrary to the local and national planning policies and guidance set out in this report.

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 spoken with the applicant's agent and whilst helpful amendments have been made to the drawings in this instance the Local Planning Authority are unable to support the proposal.

Recommendation

Refuse

Reasons for Refusal

1. The proposed scale of the new dwelling, its position forward of 58 Highgate Road and its location on higher ground next to Rother is considered would result in this proposal having an overly prominent and discordant appearance in the street scene and an overbearing impact on the bungalow. The proposal is considered would appear as an incongruous addition to the street and would be out of keeping with the established pattern of development. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies HOU2, ENV2, ENV3 of the Black Country Core Strategy, saved policies GP2, and ENV32 of the Walsall Unitary Development Plan, Policy

2. The proposal is considered would have a detrimental impact on the character and appearance of the Hawthorns which is a locally listed building and a non-designated heritage asset. The proposal fails to include a Statement of Heritage Significance. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, paragraph 194, policies HOU2, ENV2, ENV3 of the Black Country Core Strategy, saved policies GP2, ENV27, ENV28 and ENV32 of the Walsall Unitary Development Plan, Policy HC2 of the SAD and Supplementary Planning Document: Designing Walsall, Policy DW3.
3. The higher ground level, excessive height and close proximity forward of the front elevation of Rother is considered would have an overbearing and detrimental impact on neighbours existing amenity. This would be contrary to the aims and objectives of the National Planning Policy Framework, policies ENV3 of the Black Country Core Strategy, saved policies GP2 and ENV32 of the Walsall Unitary Development Plan, and Supplementary Planning Document Designing Walsall, Policy DW3.
4. The limited provision of useable private amenity space to the rear of the new dwelling is considered to be inadequate to serve the proposed new dwelling and is contrary to the aims and objectives of the National Planning Policy Framework, policies ENV3 of the Black Country Core Strategy, saved policies GP2 and ENV32 of the Walsall Unitary Development Plan, and Supplementary Planning Document Designing Walsall, Policy DW3 and Appendix D
5. The proposed new vehicle entrance and its width have not demonstrated a satisfactory pedestrian visibility splay for highway and pedestrian safety. In demonstrating an appropriate pedestrian visibility splay would result in the removal of more boundary wall, trees and planting which is considered would have a detrimental impact on the verdant character of the area and the amenity of the locality. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2 and ENV32 of the Walsall Unitary Development Plan, Policy EN1 of the SAD and Supplementary Planning Documents: Designing Walsall, Policy DW3 and Conserving Walsall's Natural Environment.
6. The limited separation distance between first floor rear facing habitable room windows in the proposed new dwelling and habitable room windows in the existing single storey rear extension to 58 Highgate Road is considered would result in an unacceptable loss of privacy for the occupiers of no. 58, detrimental to their amenity. This would be contrary to the aims and objectives of the National Planning Policy Framework, policies ENV3 of the Black Country Core Strategy, saved policies GP2 and ENV32 of the Walsall Unitary Development Plan, and Supplementary Planning Document, Designing Walsall, Policy DW3 and Appendix D
7. The shallow rear garden and close proximity of first floor rear habitable room windows in the proposed new dwelling to the proposed private rear garden of 58 Highgate Road is considered would result in unacceptable overlooking and loss of privacy for neighbouring residents, detrimental to their amenity. This would be

contrary to the aims and objectives of the National Planning Policy Framework, policies ENV3 of the Black Country Core Strategy, saved policies GP2 and ENV32 of the Walsall Unitary Development Plan, and Supplementary Planning Document, Designing Walsall, Policy DW3 and Appendix D

8. No details of the proposed retaining walls between the proposed new dwelling and the lower ground level with Rother along with details of significant ground level alterations between the site and Highgate Drive have been provided and the planning application is lacking detail sufficient to determine the potential impacts of the development to neighbours and trees on and off the site. This would be contrary to the aims and objectives of the National Planning Policy Framework, policies ENV3 of the Black Country Core Strategy, saved policies GP2 and ENV32 of the Walsall Unitary Development Plan, and Supplementary Planning Document, Designing Walsall, Policy DW3.
9. The siting of the proposed new dwelling would result in the removal and harm to existing evergreen trees which provide substantial screening between the application site and Rother, contributing to the verdant character of the area. Furthermore, the difference in levels with require significant ground level excavations to create a drive and tie this in with the level of the public footpath and driveway close to existing trees. The proposed development is likely to sever a significant amount of root material likely to be detrimental to the health, condition and stability of the trees with the potential for failure and damage to persons or property. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies ENV1 and ENV2 of the Black Country Core Strategy, saved policies GP2, ENV18 and ENV32 of the Walsall Unitary Development Plan, Policy EN1 of the SAD and Supplementary Planning Documents: Designing Walsall, Policy DW3 and Appendix D and Conserving Walsall's Natural Environment.
10. The limited separation distance between rear facing habitable room windows in the proposed new dwelling at no. 58 and habitable room windows in the proposed new dwelling at Rother is considered would result in unacceptable overlooking and a loss of privacy for future occupiers of the new chalet bungalow to the rear of Rother if approved, detrimental to their amenity. This would be contrary to the aims and objectives of the National Planning Policy Framework, policies ENV3 of the Black Country Core Strategy, saved policies GP2 and ENV32 of the Walsall Unitary Development Plan, and Supplementary Planning Document, Designing Walsall, Policy DW3 and Appendix D
11. The planning application fails to demonstrate why an annexe could not be attached to the original house and has not explained why it is needed to be a separate dwelling and it is considered that insufficient supporting information has been provided. This would be contrary to the aims and objectives of the National Planning Policy Framework, policies ENV3 of the Black Country Core Strategy, saved policies GP2 and ENV32 of the Walsall Unitary Development Plan, and Supplementary Planning Document, Designing Walsall.

END OF OFFICERS REPORT

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