



Planning Committee

Report of Head of Planning and Building Control on 10 March 2022

Plans List Item Number: 6

Reason for bringing to committee

Called in by Councillor Gultasib due to the length of time the application has taken to determine and needs careful consideration.

Application Details

Location: 22, BASSETT STREET, WALSALL, WS2 9PZ

Proposal: OUTLINE: DEVELOPMENT OF 2 DETACHED HOUSES WITH 1 NO. DETACHED GARAGE AT THE REAR OF 22 BASSETT STREET WITH ACCESS, LAYOUT AND SCALE FOR DETERMINATION - ALL OTHER MATTERS RESERVED (RESUBMISSION OF PLANNING APPLICATION 20/0540)

Application Number: 21/0510

Case Officer: Ann Scott

Applicant: Mr H Rashid

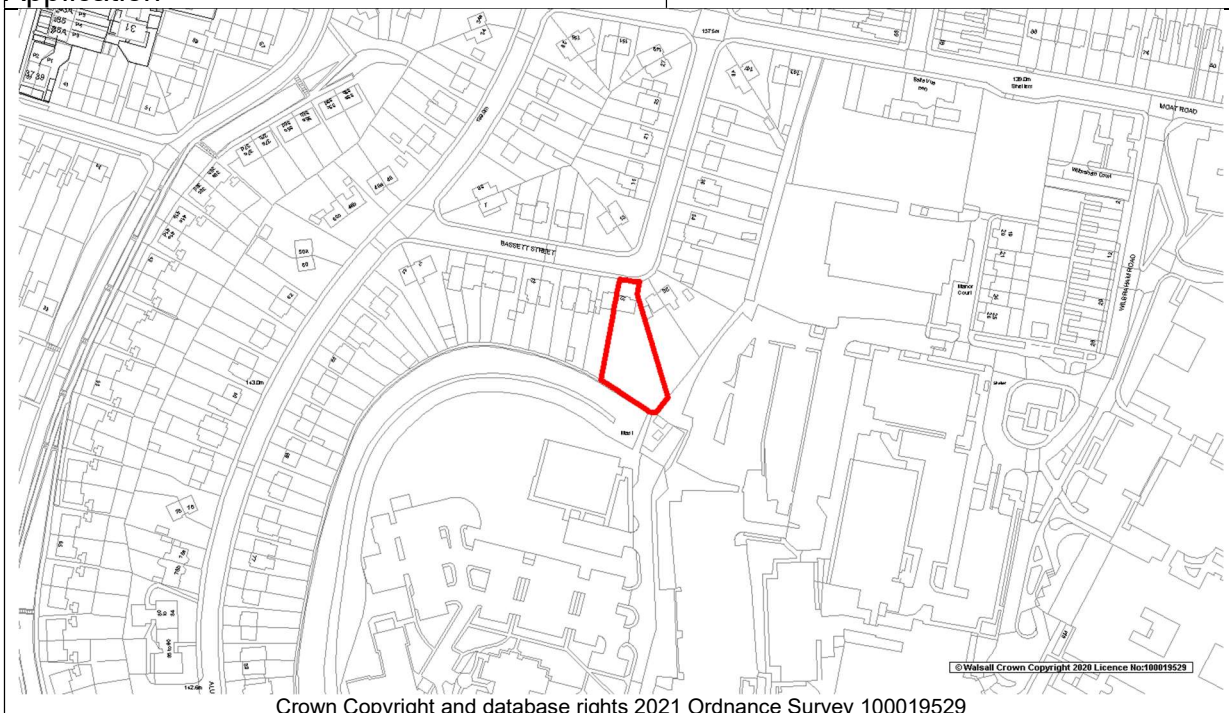
Ward: Pleck

Agent: PAUL CLIFTON

Expired Date: 02-Jun-2021

Application Type: Outline Permission: Minor Application

Time Extension Expiry:



Recommendation

Refuse

Proposal

This outline application proposes erection of 2no. 3 bed 4 person detached houses at the rear of No 22 Bassett Street with access, layout and scale to be considered at this time and appearance and landscaping reserved for later consideration. The application proposes the demolition of the existing side extension at number 22, and this will allow the construction of the private driveway. Parking for No.22 would be at front and rear along with a garage serving each new dwelling. Rear gardens would be provided for the amenity space and bin and cycle storage within the wider plot. This is a re-submission of a previously refused scheme under reference 20/0540.

The indicative plans demonstrate a proposed height of the dwellings 5.0 m at eaves level and ridge height at 7.5 m. The properties will be constructed with brick work, tiled roof, UPVC windows and doors. The plot 1 internal layout at ground floor includes integral garage, kitchen, hallway, dining area, lounge and WC facilities. The first floor will contain 3 bedrooms and bathroom. Whereas the plot 2 would have detached garage and 4 bedrooms.

Site and Surroundings

The application site is garden land to the rear of 22 Bassett Street Walsall. The host dwelling forms one half of a pair of semi-detached post war dwellings. The application site is situated on a bend in the access road known as Bassett Street. The site is bounded by other residential properties and to the rear of the application site is the car park and grounds of the Manor Hospital Walsall.

The application is located at the Bassett Street a residential street characterised by a traditional street frontage urban layout of semi-detached and terraced houses. The immediate vicinity does not have rear back land development.

Relevant Planning History

20/0540 Outline development of 2 detached houses at the rear of 22 Bassett Street Walsall. Refused 21 October 2020 for the following reasons (summarised):

- size, height, scale and siting, tandem back land site development,
- over intensify the use of the site, failed to include evidence to determine the possible presence of bats.
- No tree assessment and technical evidence to demonstrate how of the tree would be safeguarded.
- failed to provide a coal mining risk assessment.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

- 3.11 Forestry and Trees
- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV27: Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- 6.1 to 6.2 Strategic Policy Statement

- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings-
- 7.4 Strategic Policy Statement
- T1 - Helping People to Get Around
- T2 - Bus
- T3 - The Rail and Metro Network
- T4 - The Highway Network
- 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
- 8.3 Urban Open Space
- 8.7 to 8.9 Strategic Policy Statement
- LC1: Urban Open Spaces

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- EN3: Flood Risk
- T2: Bus Services
- T4: The Highway Network

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation 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

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

Highways – No objections subject to conditions in relation to parking, turning and manoeuvring areas to be provided, hard surfaced and drained and thereafter retained prior to occupation.

Conservation Officer – No objections and no comments to make.

Archaeology – Site lies in the proximity of the known location of Walsall Manor House, a mediaeval moated site. In addition collieries are also shown on historic maps. Recommends a condition on a programme of archaeological work on any approval.

Strategic Planning Policy – support the application insofar as it would add to the supply of housing but notes previous concerns around impacts on character to area.

Coal Authority – no objections subject to conditions in relation to a scheme of investigations to be carried out on site to establish risks posed by previous coal mining activity.

Pollution Control – recommend conditions in relation to air quality, smoke control and construction management plan.

Severn Trent Water – No objection and recommends a note to application regarding public sewers.

Fire Officer - The access requirements would need to meet those specified in the Fire Regulations (Volume 1 Dwellings 2019 incorporation 2020 amendments). These do not appear to be met and are likely to be over 45m required.

Tree Officer – No arboricultural objections. Conditions suggested in relation to tree protection measures.

Police Designing Out Crime) – No comments received.

Waste Management – No comments received.

Wildlife Trust - No comments received.

Representations

2 x objections from nearby neighbours with regards to the following;

- Inadequate vehicle access
- Parking areas cramped
- Congestion and parking already significant
- Sharp bend in the road impedes access and visibility
- Adverse effect on wildlife
- Loss of privacy
- Loss of amenity from car headlights shining into our property
- Additional congestion from additional visitors to the dwellings
- Adverse Impact on residential amenities of existing properties

Determining Issues

- Has this application addressed the previous refusal reasons?
- Any other Material Considerations
- Local Finance Considerations

Assessment of the Proposal

Has this application addressed the previous refusal reasons?

Refusal Reason 1: Out of character and detrimental to amenities of the area:

The proposed indicative dwellings with a height 7.5m to the ridge and 5m to eaves level, in a back land tandem development, is considered out of character with the residential nature of the street scene and would become a dominant feature in the rear gardens, compromising the neighbouring amenity of residents to the detriment of their amenity.

The proposed dwellings would be sited in the rear garden, subdivided the existing planning unit into 3 plots, original dwelling and two additional. The formation of an independent access 5.5m's wide, adjacent to the side of the main original street frontage dwelling (No 22) and the neighbour number 24. The private amenity space for both No 22 and No 24 remains adjacent to the access and would be overlooked from the two proposed houses, forming a tandem development.

The access and vehicular manoeuvring space would extend 18m long from the front elevation of number 24 to plot 1 with the parking area 5.5m wide metres. This layout compromises the safety and security of the original dwelling and the immediate neighbours either side of the access drive. This would be to the detriment of the

neighbour's amenity and introduce noise and activity at a location where it would be reasonable for residents to have lesser noise and disturbance, plus benefit from safety and security due to the traditional street frontage urban form. The siting of the proposed dwellings in the corner of the garden, appear cramped and contrived, adjacent to the eastern and western boundary meaning that the dwellings would sit uncomfortably and uncharacteristically in this position; and therefore resulting in visually obtrusive form of development to the detriment of the neighbours amenity.

Therefore, the proposed back land tandem development does not relate to the character of the area and thus fails to reinforce local distinctiveness. The proposal would have a substantive visual intrusion in the rear gardens of the residential properties in a locality where there is no back land development.

The development is in proximity to the hospital buildings and grounds in the background of the houses. Weighing the material considerations, it is considered this back land tandem development is out of character with the surrounding pattern of residential development, due to its height, size, scale siting within this rear garden setting that would appear incongruous and as discordant feature, detrimental to neighbours visual amenity, whilst the access compromises their safety and security, introducing a greater level of activity, noise and disturbance at a location where it would not be expected contrary to planning policies with UDP policies GP2, ENV32, H10 and SPD 'Designing Walsall.' It is considered that whilst two additional dwellings would contribute to the overall housing numbers of the borough, in this instance the additional harm and impacts they would bring, would not outweigh the benefit of two additional dwellings.

The proposal fails to overcome the previous 1st reason for refusal on the character and amenity of the area.

Refusal Reason 2: Loss of outlook, overlooking and loss of privacy to Numbers 18, 20, 24 & 26:

In relationship to the adjoining properties No 26, No 24, No 20 and No 18 would be significantly impacted by the proposed development by way of overlooking and shadowing of rear amenity space.

Due to the orientation of plot 1, and plot 2 the front of the property would overlook the private rear amenity space of No 22 (main host dwelling sited within the application site) also the adjoining neighbouring dwellings 24, 18 and No 20, diminishing the quality of private amenity space, with fronts of the proposed houses overlooking backs of existing.

It is considered that overlooking from the rear windows of the proposal, is limited to the bottom of number 24' Bassett Street's rear garden and whilst it would form an impact, on its own this would be insufficient to warrant refusal. There are a variation in the distances due to the irregular shape of the plot. The indicative position of the windows and orientation would result in overlooking into adjoining properties from other upper floor windows, the distances between windows of opposing dwellings are not significant. As such, it is considered that the proposal would result in overlooking that would be significantly detrimental to living conditions and amenity of neighbouring occupiers. The proposed siting of the two houses in the rear garden does also impact on the living conditions of neighbours to their detriment, with regard to visual impact.

The residential character of the immediate area is defined street frontage housing with back to back properties retaining private amenity space between, providing secure and private not exposed to additional vehicular noise, disturbance and lighting.

It is considered that the creation of the two additional dwellings in the rear garden would intensify the use of the rear garden which would result in additional pedestrian, delivery and private vehicle comings and goings to the site and this would be detrimental to the amenities of the adjoining properties. This would lead to noise and disturbance to occupiers and therefore harm the living conditions of adjoining residents, contrary to the National Planning Policy Framework Chapter 5 Delivering a Sufficient Supply of Homes, Black County Core Strategy, HOU2 Housing Density Type and accessibility, ENV2 Historic Character and Local Distinctiveness, ENV3 Design Quality, and Unitary Development Plan policies GP2 Environmental Protection and ENV32 Design and Development Proposals and 'Designing Walsall' SPD.

The proposal therefore fails to overcome the previous 2nd reason for refusal on loss of outlook and privacy.

Refusal Reason 3: Unacceptable additional noise, disturbance, light pollution and security issues:

The access to the site would run adjacent to the gable wall and private rear garden of Numbers 22 and 24 Bassett Street. The proposed access drive would bring the public street realm into the proximity of private rear amenity space, giving rise to additional noise and disturbance as occupiers and their visitors' vehicles pass in close proximity to these boundaries, reducing security to neighbouring boundaries to the detriment of residential amenity. The indicative plans demonstrate a fence and a small amount of landscape along the boundary to the proposed drive, it is considered not sufficient to provide a defensive barrier to the neighbouring properties to not prevent future anti-social activity to the detriment of both the host property and neighbours' amenity.

It is considered that the creation of the two additional dwellings in the rear garden would intensify the use of the rear garden which would result in additional pedestrian, delivery and private vehicle comings and goings to the site and this would be detrimental to the amenities of the adjoining properties. This would lead to noise and disturbance to occupiers and therefore harm the living conditions of adjoining residents, contrary to the National Planning Policy Framework Chapter 5 Delivering a Sufficient Supply of Homes, Black County Core Strategy, HOU2 Housing Density Type and accessibility, ENV2 Historic Character and Local Distinctiveness, ENV3 Design Quality, and Unitary Development Plan policies GP2 Environmental Protection and ENV32 Design and Development Proposals and 'Designing Walsall' SPD.

Therefore it fails to overcome the previous 3rd refusal reason.

Refusal Reason 4: Impacts on Protected Species:

An ecology assessment by a qualified ecologist has now been provided for the assessment of bats and other protected species to consider whether the trees would support any protected species. Daytime visual assessments of the site were undertaken internally and externally. The findings of the report were that the section

of garden area for the proposed development was of low ecological value and the hedges of the site are of low to moderate value and should be protected and enhanced subject to a tree survey.

Whilst the Ecology Survey demonstrates that there will be a range of bird species within and around the site due to the trees. The ecology survey indicates that no nests were found.

This has overcome the previous 4th refusal reason in relation to bats.

Refusal Reason 5: Potential loss of trees:

The application site benefits from a mature garden with trees to the boundaries. The applicant has now provided a tree constraints plan and an Arboricultural impact assessment. The plan demonstrates 10 trees including fruit trees, cypress and hazel trees. The trees are largely situated along the boundaries of the site but some are near where vehicle access and the built development would be located. The Council's Tree Officer has commented and has no objections subject to the removal of 6 of the trees shown to be of poor condition or low arboricultural value. A condition is suggested to ensure retained trees are to be protected in accordance with the submitted arboricultural assessment and should be protected by fencing with the distances specified in the arboricultural report.

On balance the information provided about the trees in relation to the proposed development overcomes the previous concerns on the likely impact of their future retention.

This has overcome the previous 5th refusal reason.

Refusal Reason 6: Lack of Coal Mining Risk Assessment to demonstrate the safety and suitability of this site:

A coal mining risk assessment has now been submitted with the application and the Coal Authority have recommended conditions to require further investigation prior to the commencement of development on site to establish risks posed by previous coal mining activity.

This application has overcome the 6th refusal reason.

Any other material considerations.

Highways

The Local Highway Authority supports the application subject to conditions in relation to parking and vehicle manoeuvring areas to be provided prior to occupation. There are no objections to the proposal on highway grounds. The site is accessible by public road, modes of transport other than the car and is in a sustainable location.

Flood Risk / Drainage

The application site is situated in flood zone 1 as defined on the Environment Agency Flood Map for Planning which is an area at the lowest risk of flooding. The site is also not demonstrated on the Environment Agency Flood Map to be in an area at risk from surface water flooding.

Any drainage matters could be controlled by suitable drainage conditions to ensure that foul and surface water drainage can adequately be provided within the site in accordance with Black Country Core Strategy Policy ENV5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island, and Chapter 14 of the National Planning Policy Framework Meeting the challenge of climate change, flooding and coastal change.

Ground Conditions and Environment

The Pollution control officer advises and recommends conditions in relation to air quality, smoke control and construction management plan.

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 two new homes.

The Government has indicated that, for 2019-21, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Conclusions and Reasons for Decision

The proposed development for two additional houses towards the wider housing numbers for the borough, does not justify or overcome the level of harm they would introduce in a back land location with a poor form of tandem development, exposing neighbours to a greater level of noise, disturbance, light pollution, visual impacts, or safety and security concerns in order to support an approval. The development fails to comply with the adopted planning policies and the development would be detrimental to the living conditions of the nearby occupiers. The development would therefore be contrary to the Council's adopted Development Plan and Supplementary Planning Documents, and National Planning Guidance as set out in this report.

The proposed development for two additional houses towards the wider housing numbers for the borough, does not justify or overcome the level of harm they would introduce in a back land location with a poor form of tandem development, exposing neighbours to a greater level of noise, disturbance, light pollution, visual impacts, or safety and security concerns in order to support an approval. The development fails to comply with the adopted planning policies and the development would be detrimental to the living conditions of the nearby occupiers.

Positive and Proactive Working with the Applicant

There were no negotiations that have taken place in this instance as there was no further information in the resubmission that would provide a satisfactory solution to overcome the fundamental policy concerns of the proposal to address the previous refusal reasons that have been clearly set out.

Recommendation

Refuse

Reasons

1. The proposed building by reasons of its size, height, scale and siting would result in cramped form of development which would be out of keeping with general pattern of development in the area coupled with the loss of trees and foliage all combined to be an inappropriate use of garden land and detrimental to the amenities of the area and neighbouring residents. The proposal would be contrary to NPPF 5, BCCS HOU2, ENV2 and ENV3, UDP polices GP2 and ENV32 and 'Designing Walsall' SPD.
2. The proposed tandem back land site development by reason of its height, size, massing and siting would result in a loss of outlook, by way of the proposed dwellings windows overlooking the private amenity space of the adjoining dwellings No 18, 20,24 & 26 and resulting in loss of privacy to the detriment of neighbouring amenity. Therefore, the development would be contrary to Saved policies of Walsall's Unitary Development Plan GP2 and ENV32, Black Country Core strategy HOU2, ENV2 and ENV3 and 'Designing Walsall' supplementary planning document.
3. The proposed development would be an unsatisfactory tandem back land development and over intensify the use of the site increasing the comings and goings resulting in more noise disturbance and light pollution to the adjoining neighbours in the rear amenity space where residents could reasonably expect a level of peace and quiet forming an inappropriate use of garden land. The access to the site would run adjacent to the private rear garden of No 24, exposing the private rear amenity to public access, this is likely to give rise to additional noise, disturbance and light pollution as occupiers and their visitors and vehicles would pass in close proximity to these boundaries, plus reduce the level of security to neighbouring boundaries to the detriment of residential amenity. The proposal would be detrimental to residential amenities and contrary to policies to NPPF 5 and15, BCCS HOU2, ENV2 and ENV3, UDP polices GP2 and ENV32 plus 'Designing Walsall' SPD

END OF OFFICERS REPORT