



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28th June 2012

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			WALSALL		viable.
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				repairs and MOT station with renovation of front elevation; Reconstruction of unit 3 to provide ancillary facilities to Unit 2 and a laser centre.	
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10	107	12/0359/FL	CO-OP FOOD STORE, 35 LISKEARD ROAD, WALSALL, WS5 3EY	Installation of 4 air conditioning units to rear back yard.	Grant Permission Subject to Conditions
11	115	12/0005/FL	12 MULBERRY PLACE, WALSALL, WS3 2NF	Demolition of side extension to existing dwelling and erection of a new detached 3 bed dwelling.	Grant Permission Subject to Conditions

12	127	12/0418/FL	2 MARLBOROUGH STREET, WALSALL, WS3 2HZ	Part Retrospective: Kitchen extension	Grant Permission Subject to Conditions
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Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28/06/2012

Reason for bringing to committee: Major Application

Application Number: 12/0537/FL

Application Type: Full application

Applicant: Property Services

Proposal: Variation of condition 22 of planning permission 09/1130/OL (Hours of working) to allow Saturday morning working between 08.00 and 14.00 in addition to current working hours.

Location: GRACE ACADEMY, HERBERTS PARK ROAD, DARLASTON, WEDNESBURY, WS10 8QJ

Ward: Darlaston South

Case Officer: Andrew Thompson

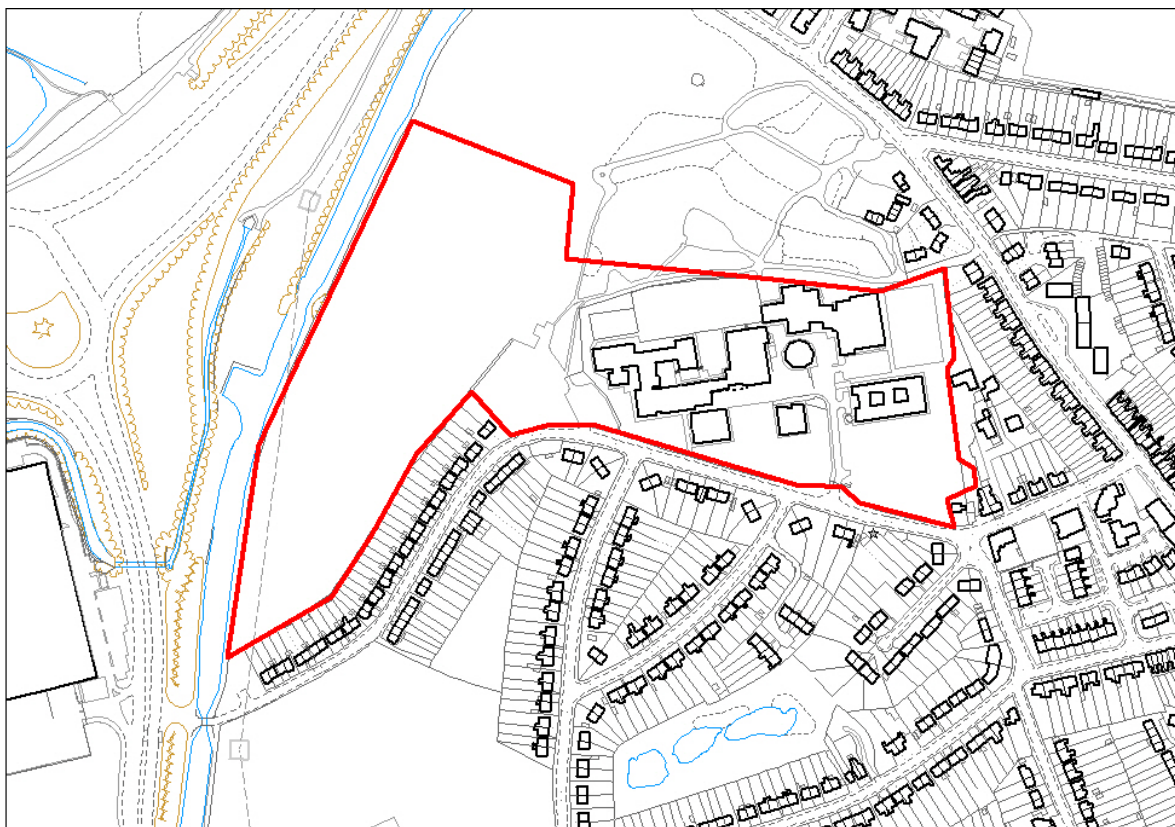
Telephone Number: 01922 652403

Email: planningservices@walsall.gov.uk

Agent: Sheppard Robson Architects

Expired Date: 03/08/2012

Recommendation Summary: Grant Permission Subject to Conditions



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Application and Site Details

The application seeks to vary an existing condition to the Grace Academy proposals controls work on the development which is currently under construction.

The original condition stated that to protect the amenity of residents:

"No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Saturday, Sunday, Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday, or August Bank Holiday Monday, and such works shall only take place between the hours of 07.00 to 18.00 weekdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

The applicant, due to demanding timescales to complete the Academy, requests that additional hours of 08.00 to 14.00 hours on Saturday be allowed. Other factors such as recent inclement weather have delayed construction proceeding as well as the concrete batching plant breaking down and being unable to supply the Academy.

The applicant confirms that the concrete works are due to be complete around the end of June, and the steelwork order has been placed. The blockwork is now being installed and following this then the cladding/ roofing works will take place to make the building watertight. Thereafter the majority of the works will be internal with the landscaping also due to be completed.

The applicant confirms that they will continue to ensure that good site environmental practices and controls currently being carried out will continue to take place and the contractor will liaise with Planning and Pollution Control colleagues as issues arise.

Relevant Planning History

Application 09/0961/FL was for the change of use of part of the park (the same area proposed in the current application) to allow its inclusion in the school area. Members resolved to refuse the application at your meeting of November 2009 because of the loss of needed facilities in this disadvantaged area and reducing the amount of open space in the area. Before a decision could be issued, the application was withdrawn.

Subsequently, outline planning permission 09/1130/OL was approved on 10th February 2010 for a new school, including land in the park with the reserved matters submission (reference 10/1624/RM) was approved on 7th July 2011. Construction work on the Academy has commenced. The original outline planning permission can be found at the following link ([Original Outline Planning Permission](#)) and the Reserved Matters approval can be found at the following link ([Reserved Matters Approval](#))

Relevant Planning Policy Summary (Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

National Planning Policy

National Planning Policy Framework (NPPF)

The NPPF was published on Tuesday 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several

Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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*".

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas
- Reuse land that has been previously developed

Key provisions of the NPPF relevant in this case:

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

123. States planning decisions should aim to mitigate and reduce to minimise adverse impacts on quality of life arising from noise from new development but recognise that development will often create some noise and unreasonable restrictions should not be added in the continuance of their business.

On planning conditions the NPPF says:

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

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered there are no relevant RS policies in this case.

The Black Country Core Strategy (BCCS)

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*”.

The relevant key policies are:

CSP4 – seeks to ensure that high quality places will result in environmental, economic and social benefits, including community safety, health and well-being, and inclusive communities.

HOU5 – states that school and further and higher education facilities should be well designed and well related to neighbourhood services and amenities

It is considered in this case that the relevant provisions of the BCCS can be given full weight.

Walsall’s Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says “*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.

The relevant policies are:

GP2 indicates that the creation of, or susceptibility to, pollution of any kind will be taken into account in the assessment of development proposals

ENV10 – indicates that development will not be permitted where pollution will cause and adverse effect on nearby land uses.

It is considered in this case that the relevant provisions of Walsall’s saved UDP policies are consistent with the NPPF.

Circular 11/95 which deals with conditions and the application of conditions is also relevant to this application.

Consultations

Transportation – No objection

Pollution Control

Scientific Team – No objection

Contaminated Land Team – No objection

Representations

Two letters of objection have been received from local residents adjacent to and in the vicinity of the site, raising the following grounds:

- The existing construction operations are already causing harmful noise and disturbance to neighbour residents, even at night-time through the running of the site security operations. A complaint about such nuisance has been made and is currently under investigation - the council has so far unsatisfactorily dealt with this noise complaint.
- To allow any extended hours of operation would cause further noise and disturbance to adjoining residents, such as the objector, and should not be permitted, particularly at weekends, given the noise and disturbance being experienced on week days.
- The reason cited on the outline approval notice in relation to the imposition of condition 22 was "to protect the amenities of residents". To go beyond the hours originally approved suggests a breach of the protection of such occupiers amenities.
- It is noted that condition 22 includes the words "unless otherwise agreed in writing with the Local Planning Authority" which is referred to in the supporting application letter (02/05/12) as the basis upon which the variation application is submitted. You will be aware that the use of such wording has been determined as unlawful following such cases as R (Midcounties Co-operative Ltd) v Wyre Forest DC [2009] and more recently the Warley -v- Wealden District Council case.
- the current S.73 application, if approved, creates a new planning permission. Assuming this new consent is implemented, then presumably conditions already complied with pursuant to the original outline consent can't be 'transferred' over to the new consent, such that the delivery of the development is via two permissions. However, the implementation of the new S.73 consent relies on matters approved (and undertaken on-site) under the original outline consent assuming the same information isn't required to be resubmitted to the LPA to clear identical pre-commencement conditions.
- The supporting application letter also seems to suggest that construction operations could be undertaken beyond 1800 hours on weekdays but the application forms/proposal description does not include this.
[this is not part of this application and is not proposed]
- Will result in more noise and even more mess, the area around the site entrance and the whole of the street leading away from the site is already constantly covered in dust or mud, longer working hours means even more of the same.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

The key determining issues are:

- consideration of application through S73 of the Town and Country Planning Act (as amended)
- the existing noise climate and complaint
- the impact of additional site movements with regard to noise and disturbance
- state of the site.

Observations

Consideration of application through s73 of the Town and Country Planning Act (as amended)

Section 73 is often used where circumstances affecting the development have changed, meaning that the conditions which were originally imposed need to be amended. When considering an application under section 73 Committee can decide that planning permission for the development should be granted without particular conditions or subject to different conditions to those which were attached to the original permission. It can also refuse the application where it does not consider the conditions should be changed. The Committee's discretion is wide and not limited solely to consideration of the condition (in this case condition 22) which is referred to in the application; in short, it can apply such conditions as it considers appropriate, taking into account the tests in Circular 11/95.

Where a section 73 application is granted, a new permission is created. The original permission remains in its original form, meaning the developer is able to choose which permission to implement. Both permissions will be valid and will remain so provided development under one permission does not make development under the other physically impossible. In this case the permission will be fundamentally similar as it relates to the same development.

The objector has highlighted that condition 22 includes the words "...unless otherwise agreed with the local planning authority". Such clauses are known as tailpiece conditions and can give the developer some flexibility on the limits of the conditions, subject to local planning authority approval. Recent case law has shown that the courts consider tailpiece conditions to be unlawful where they create too much uncertainty about how the condition will be applied. In this case, however, condition 22 has not been subject to any legal challenge and as such forms a valid part of the original permission. Nevertheless, to comply with case law it is recommended that the tailpiece in condition 22 is removed from any new permission issued under section 73; similarly, no tailpieces which would be unlawful should be included in other conditions contained in the new permission.

The existing noise climate and complaint

Residents concerns regarding noise activity on the site has been investigated. The Council's Pollution Control officers have visited the site and neighbouring residents specifically on 26th April and 2nd May and carried out a detailed noise investigation and measurement. To date no measurement has substantiated any complaints of statutory nuisance.

Statutory noise nuisance action (controlled by the Environmental Protection Act 1990) and control of construction site noise (Control of Pollution Act 1974) on the part of the council to remedy complaints is in any case not constrained by the granting of planning permission. The prevailing circumstances at the Herberts Park Road are such that it is inevitable residents will to some degree be aware of construction activities taking place, though it remains that any disturbance investigated has not been sufficient to warrant formal proceedings.

Noting objections of neighbours, it is not considered that the existing noise climate has resulted in an undue loss of amenity. One resident is not satisfied with the Council's investigation however there is no measured evidence to suggest that the contractors have been significantly affecting the amenity of residents with regard the statutory noise nuisance regulations.

The impact of Saturday working with regard to noise and disturbance

It is considered reasonable to allow construction activities to take place on Saturday mornings, bearing in mind that they do not constitute a permanent state of affairs and it can be advantageous to ensure construction activities are completed as soon as practicable, minimising the duration of the construction process and disturbance caused.

In this case it is noted that a number of factors, including poor weather conditions have been delaying some work on site and Saturday working would assist in meeting the timetables for completion. Officer's site visits have highlighted that significant elements of the building have already been completed and the remaining works would not be excessively noise generating.

Taking into account the progress of the development and the investigations of officers in terms of the existing noise climate, it is considered that Saturday morning working would not result in the loss of amenity that would justify a refusal in this instance.

State of the site

The contractor confirms that they will continue to ensure that good site environmental practices and controls currently being carried out will continue to take place and the contractor will liaise with Planning and Pollution Control colleagues as issues arise. No evidence of overt amounts of dust have been recorded on site visits and there was no evidence of mud on the highway.

Summary of Reasons for Granting Planning Permission

The concerns of neighbouring residents with regard to the existing operations on site, the use of s73 of the Town and Country Planning Act, the need for amenities to be protected from mess and noise have been addressed. The use of s73 is considered appropriate.

A number of factors, including poor weather conditions have been delaying some work on site and Saturday working would assist in meeting the timetables for completion. Significant elements of the building has already been completed and the remaining works would not be extensively noise generating. No evidence of mud or overt amounts of dust have been found on site visits and there was no evidence of mud on the highway.

Taking into account the progress of the development and the investigations of officers in terms of the existing noise climate, it is not considered that working on Saturday morning would result in the loss of amenity that would justify a refusal.

In light of the above the proposals are considered to accord with the aims of policies CSP4 and HOU5 of The Black Country Core Strategy and saved policies GP2 and ENV10 of Walsall Unitary Development Plan and the aims and objectives of national planning policy and Circular 11/95 (Planning Conditions).

Recommendation: Grant Permission Subject to Conditions

That Committee grant a new planning permission to include amended Condition 22 of 09/1130/OL to state:

22. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter

Monday; May Day; Spring Bank Holiday Monday, or August Bank Holiday Monday, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00hours on 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.

Subject to Officers

- a) Removing any 'tailpiece' elements from other conditions of 09/1130/OL and re-impose the amended conditions on the new permission now sought
- b) Update conditions to reflect the subsequently approved Reserved Matters submission (10/1624/RM which followed 09/1130/OL).



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28/06/2012

Reason for bringing to committee: Major application

Application Number: 12/0503/FL

Application Type: Full application

Applicant: Hortons Estate Limited

Proposal: Erection of new building for the purpose of warehousing to receive store and distribute aids and adaptations and make minor repairs. Associated office space and assessment areas.

Location: ELECTRIUM POINT, ASHMORE LAKE WAY, WILLENHALL, WV12 4HD

Ward: Short Heath

Case Officer: Alison Ives

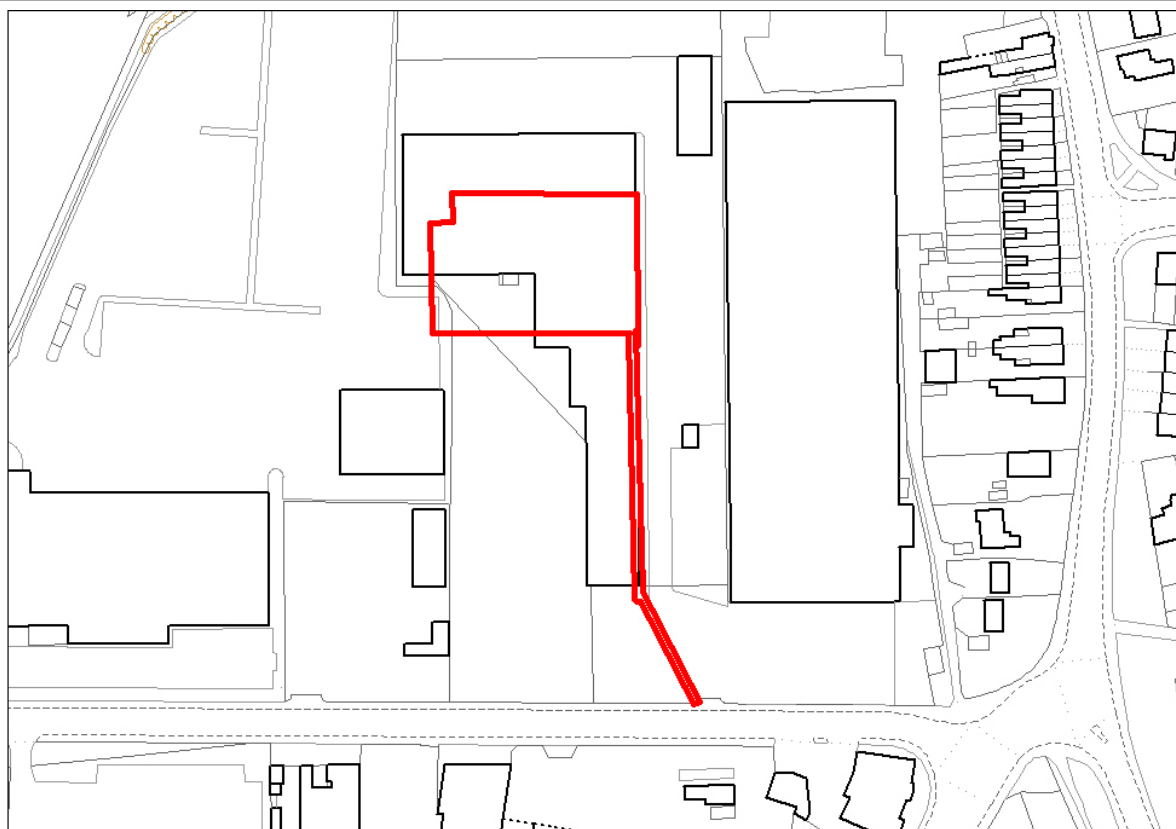
Telephone Number: 01922 652492

Email: planningservices@walsall.gov.uk

Agent: Bryant Priest Newman Ltd

Expired Date: 24/07/2012

Recommendation Summary: Grant Permission Subject to Conditions



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Application and Site Details

The proposal is to erect an industrial unit at the rear of the new Ambulance Hub building currently under construction at Ashmore Lake Way. Access is via a shared driveway to the east of the building. The building includes bulk storage, cleaning/repair, ancillary offices and an assessment area for the Integrated Community Equipment Service (ICES) Links to Work facility. The ICES Links to Work facility is to be relocated from Bentley Lane Industrial Estate. The ICES Links to Work facility aims to provide and fit items of equipment for people to find safer ways of doing everyday tasks.

The premises have three key components which are; warehousing to receive, store and distribute aids and adaptations and make minor repairs to equipment; a cleansing area to prevent cross contamination from patient to patient including steam cleaning, sanitisation and dry store area; administration offices and toilets plus a small assessment area for customers to be fitted for equipment aids.

The site is within the Core Employment Area. There are industrial and commercial premises surrounding the site in Ashmore Lake Way including a warehouse depot, scrap yard, Robert Wiseman Dairies, Nightfreight Haulage and Willenhall Trucks. There is housing nearby in Charles Street, Sandbeds Road and Clarkes Lane to the east of the site. The applicant owns the depot and surrounding sites to the east and north of the site.

The proposed building is 35.6m wide x 29.8m long and has a shallow hipped roof, 8.4m ridge height. The new floor space is 1015 sqm. There are two loading bay doors and office/reception area windows in the front elevation facing the access. The office windows continue on the northern elevation of the building facing the car park areas. The external materials include silver colour profiled steel cladding, dark grey powder coated aluminium windows and a dark grey panel system to define the entrance area.

There are 19 proposed parking spaces, including 4 disabled parking bays located to the front and side of the building. The access is shared with other units to the east but it is proposed to create a 1.5m wide segregated pedestrian walkway.

The developer has requested a relaxation on the use of renewable resources on the basis that the building will be constructed to achieve Part L of the Building Regulations which requires conservation of fuel and power. They highlight that there are extensive mine workings on site and remediation measures required are challenging to the viability of the development.

The premises are proposed to be open between 08.00 hours and 17.00 hours Mondays to Fridays with 15 full-time staff employed.

The Design & Access Statement – gives a site context analysis, explanation of the design and appearance of the proposed building environmental issues, and access considerations.

The Supporting Statement – Highlights that the existing ICES store, which is in Bentley Lane, is unsuitable in terms of size, location and state of repair to serve the current needs. The project is part of a wider programme of change within social care that supports a drive to promote independence and help citizens remain in their own homes. The proposal links closely with the Independent Living Centre in Walsall town centre which is the show room

for display of equipment and assessment of citizen's needs. The proposed ICES store is where bulk supplies are stored ready for dispatch delivery or installation in citizen's homes. Some assessment will take place at the premises, for example customisation of wheel chairs, and is done on an appointment basis. Most visitors are transported to the premises rather than using public transport. There are no proposed resident office staff but desks are available for completion of assessments, receipt of orders and stock management etc. The premises will be leased for 10 years. Links to Work already rent premises opposite the application site.

The Site Investigation - Describes the ground conditions and geological information, geotechnical considerations including past underground mining and assessments and recommendations for remediation to deal with contamination and ground gases. The appendices provide details of all aspects of the investigation.

The Transport Statement – Demonstrates the site is well served by public transport and pedestrian/cycle networks and accessibility levels are high. Traffic flows generated by the development are predicted to be low and the impact on the local highway network is likely to be minimal.

The Site Waste Management Plan – considers the management of waste on site including that from general office and waste from the workshop area. Clinical waste is to be collected and processed by an external contractor. Scrap metal clearance from wheelchairs, walking aids etc will be cleared where items are not re-serviceable but cardboard and packing materials recycled.

Relevant Planning History

08/1044/PD – Prior notification for demolition of pitched roof industrial units – Withdrawn July 2008 as consent for demolition of industrial buildings was not required at this time. The former buildings on the site were demolished in 2008.

BC58300P – Residential development of 153 dwellings and associated works – Refused November 2002

Ambulance Hub

11/1559/FL – Erection of a two storey building for ambulance maintenance and associated office space (sui generis use – granted subject to conditions March 2012).

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

The NPPF was published on 27th March 2012. It cancels and replaces all PPG's and PPS's (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

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

- Building a strong, competitive economy
- Promoting sustainable transport
- Requiring good design
- Promoting healthy communities

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 21 of the NPPF states that in drawing up Local Plans, local planning authorities should:

- *set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth;*
- *set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;*
- *support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances;*
- *identify priority areas for economic regeneration, infrastructure provision and environmental enhancement.*

Paragraph 58 supports high quality design and highlights several criteria including the need for development that will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to accommodate development, and are visually attractive as a result of good architecture and appropriate landscaping.

Paragraph 70 states to deliver services the community needs planning policies and decisions should ensure that facilities and services are able to modernise in a way that is sustainable, and are retained for the benefit of the community.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until/unless it is abolished by order of the Secretary of State.

Relevant RS policies are:

UR4: Facilitate the modernisation of local health services and promote provision of facilities for local communities to maximise potential.

QE3: Promotes high quality design.

PA1: Economic growth should be focussed in the major urban areas.

The Black Country Core Strategy (BCCS)

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*".

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.

2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.

5. A network of vibrant and attractive town, district and local centres

6. A high quality environment

7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP2: Outside strategic centres and regeneration corridors the broad approach will be to focus on previously developed land, locations with best access to services (where appropriate) and areas of lowest flood risk.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

EMP3: Seeks to provide a portfolio of local quality employment land for those types of industrial, logistics and commercial activity that do not require strategic high quality employment areas and are not appropriate for town centres or residential locations.

TRAN2: Requires development proposals to manage transport impacts of new development

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV7: All non-residential developments of more than 1,000 square metres floor space must incorporate generation of energy from renewable sources.

WM5: Where a proposal includes uses likely to generate significant amounts of waste, these should be managed either on-site or as close as possible to the source of the waste. Resource and waste management requirements should also be reflected in the design and layout of new development schemes.

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says *"due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*.

The relevant policies are:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

ENV10: Development of a facility which may cause pollution will only be permitted if it would not have an unacceptable adverse effect on nearby land uses.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

3.116 & ENV32: seeks to create high quality environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV35: The design of commercial buildings should be appropriate to their setting.

JP5: Core Employment Areas are locations of strategic importance and will be safeguarded for core employment uses. Proposals for other uses will only be permitted where; a need would be met which could not be satisfied elsewhere in the Borough or, the range and quality of employment opportunities would be significantly increased.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment. The proposal is storage use with ancillary industrial and office spaces:

Use Class B8: 1 space per 50m² of gross floor space up to 250m²: then 1 space per 100m² up to 2500m²: then 1 space for every 500m² of gross floor space: 1 bike locker for every 10 car parking spaces: Taxi facilitates.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy.

The relevant SPD's are:

Designing Walsall SPD

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DW 10 – new development should make a positive contribution to creating a sustainable environment.

Consultations

Transportation – No objections subject to provision of the parking and manoeuvring areas as indicated. The proposal is for a B8 unit with a gross floor area of 1015 sqm. Policy T13 requires 13 parking spaces plus 2 disabled bays. The proposal is for 19 spaces including 4 disabled bays, plus motor cycle parking and covered cycle storage which accords with policy. Access will be along the unadopted access with a dedicated pedestrian zone along the western side to allow staff and visitors to access the site from Ashmore Lake Way.

Pollution Control (Scientific Team) – No objections subject to provision of measures to ensure nearby residents are not unduly affected by noise. Appropriate conditions are recommended.

Pollution Control (Contaminated Land) – No objections subject to the implementation of construction measures as proposed. An appropriate condition is recommended to address this matter.

Environmental Health – No adverse comments.

Ecology – No objections.

Fire Officer – No objections.

Police Architectural Liaison Officer – The area suffers with higher levels of crime, particularly business premises. A 2.4m high security fence is recommended around the perimeter and CCTV.

Coal Authority – No objections subject to carrying out further investigation and remedial measures to address coal mining legacy issues present on the site. A condition is recommended to address this matter.

Severn Trent Water – No objections subject to provision of drainage details.

Public Participation Response

None received.

Determining Issues

- Principle of proposed use
- Layout and design
- Relationship to adjacent properties
- Access and parking

Observations

Principle of proposed use

The proposal is for a predominantly B8 storage use for local quality employment in a Core Employment Area and complies with the aims of UDP policy JP5 and BCCS policy EMP3 which envisage local quality employment uses in the area. The applicant has demonstrated that other uses proposed including offices, assessment area, repair and cleaning of equipment are ancillary to the main use of the premises for B8 purposes. Therefore the primary use with the level of ancillary facilities proposed is appropriate in a core employment area.

The applicant has identified that this use will support the Independent Living Centre in Walsall town centre and that users of the service will visit the site by appointment only to enable assessment and customisation of equipment to meet individual needs. They also state the premises will allow bulk storage, repair and cleaning of equipment all to take place on site to support this use.

Layout and design

The proposed building is located at the rear of the new Ambulance Hub off Ashmore Lake Way. It faces the access road and has windows also overlooking the parking areas. The design is similar to the new Ambulance Hub building and is considered in keeping with the character of the surrounding industrial premises.

The developer has explained that although the design does not allow for 10% of the energy required for the building to be from renewable sources as recommended by policy ENV7 of the BCCS, the construction of the building will meet Part L of the Building Regulations which requires conservation of fuel and power. Opportunities for reducing energy consumption are also considered and will be included if the viability of the scheme allows for this. This is considered acceptable in this instance.

The Police have requested perimeter fencing and CCTV to improve security of the site as it is within a high crime area. These details can be secured by a recommended condition.

Relationship to adjacent properties

The site is located within a core employment area and the nearest surrounding occupiers are industrial and commercial premises. It is considered that the proposed use would not have any greater impact upon the use or operation of these surrounding premises. The new building and reinstatement of the site is also considered an improvement upon the present vacant site.

The premises are proposed to be open Monday to Friday only so will have no significant impact on the amenities of nearby occupiers and will not be open the same hours as adjoining premises such as the Ambulance Hub, Nightfreight or Dairy. Pollution Control officers recommend conditions to protect amenities by controlling hours of operation and controlling activities external to the building.

Access and parking

The proposal utilises the existing access off Ashmore Lake Way that serves the adjacent units to the east, also under the control of the applicant. The Transportation officer is satisfied that this is adequate to serve both properties and welcome the introduction of the proposed segregated pedestrian walkway.

There are adequate parking spaces proposed to serve the development in accordance with UDP policy T13. The location of the parking is convenient and has a satisfactory layout. There is also adequate provision for cycle stands and bin storage.

Recommendation

Grant permission subject to conditions.

Summary of Reasons for Granting Planning Permission

The proposed Class B8 is acceptable within a Core Employment Area and complies with the aims of UDP policy JP5 and BCCS policy EMP3. The applicant has demonstrated that other uses proposed including offices, assessment area, repair and cleaning of equipment are ancillary to the main use of the premises for B8 purposes. The premises will support the Independent Living Centre helping people to remain in their own homes.

The design of the building is similar to the new Ambulance Hub building and is considered in keeping with the character of the surrounding industrial premises. The developer has satisfactorily explained the reason there is limited opportunity for use of renewable energy given the viability of the development. Details of perimeter fencing and security measures can be secured by condition.

The nearest surrounding occupiers are industrial and commercial premises. The proposed use would not have any significant impact on the use or operation of these surrounding premises and the new building is welcomed on this vacant site. Given the proposed opening hours there is no significant impact on the amenities of nearby occupiers and conditions are recommended to protect residential amenities from operations occurring outside the building.

The proposal utilises an existing private access off Ashmore Lake Way and is satisfactory. The provision of a segregated pedestrian walkway is also welcomed. Parking and cycle provision is also adequate.

In light of the above the proposals are considered to accord with the aims and objectives of the National Planning Policy Framework and sustainable development, the aims and objectives of the Black Country Core Strategy policies in particular CSP2, CSP4, EMP3, TRAN2, ENV2, ENV3, ENV7 and WM5, the aims and objectives of the Walsall Unitary Development Plan saved policies GP2, ENV10, ENV14, ENV32, ENV33, ENV35, 3.116, 3.117, JP5, T7, T8, T10 and T13 and Supplementary Planning Document: Designing Walsall.

Recommendation: Grant Permission Subject to Conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act, 1990.

2a. Prior to the commencement of the development, drainage plans for the disposal of surface water and foul sewage shall be submitted to the Local Planning Authority for written approval.

2b. The scheme shall be implemented in accordance with the approved details before the development is first brought in to use.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

3. Prior to the commencement of the development further investigation and remedial works to address coal mining issues shall be undertaken, as set out within the Design & Access Statement and associated appendices prepared by Bryant Priest Newman Architects received 23/4/12.

Reason: To ensure the satisfactory development of the site.

4. No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development.

5a. The development shall be built in accordance with the construction details shown on drawing 1955/2/202.

5b. Following construction of the development the applicant shall provide to the Local Planning Authority a validation report confirming that the works have been implemented to an acceptable standard to protect the development from ground gas ingress.

Reason: To ensure the satisfactory development of the site.

6a. Prior to the commencement of the development details of all boundary treatment and security provision throughout the site shall be submitted for approval in writing by the local planning authority

6b. The agreed measures shall be implemented in accordance with the approved details and maintained thereafter.

Reason: To ensure the satisfactory development of the site.

7a. Prior to the development first coming into use, all parking and vehicle manoeuvring spaces shall be fully consolidated, hard surfaced and drained. Also, all parking spaces together with the 1.5 metre hatched pedestrian access way along the western side of the access road between the site and Ashmore Lake Way, shall be clearly demarcated on the ground.

7b. The parking and manoeuvring areas shall thereafter be retained and used for no other purposes.

Reason: To ensure the satisfactory completion and operation of the development

8. 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 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.

9. No public address system shall be installed internally or externally without the prior written approval of the local planning authority. Any public address system so installed shall be maintained in accordance with the approval.

Reason: In order to protect the residential amenities of nearby occupiers.

10. No plant or machinery shall be located externally to the unit without the prior approval of the Local Planning Authority.

Reason: In order to protect the residential amenities of nearby occupiers.

11. No vehicle servicing, maintenance or associated operation(s) shall take place external to the building structure; only essential building and garden maintenance shall be allowed externally.

Reason: In order to protect the residential amenities of nearby occupiers.

12. No external operations shall take place between the hours 23.00 and 07.00.

Reason: In order to protect the residential amenities of nearby occupiers.

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

- Location Plan (1955/2/001 Rev P1) received 26/4/12
- Proposed Site Plan & Proposed Block Plan (1955/2/100 Rev P1) received 26/4/12
- Proposed Ground Floor Plan and Roof Plan (1955/2/120 Rev P) received 23/4/12

- Proposed Elevations (1955/2/110 Rev P) received 23/4/12
- Proposed Detailed Section AA/Typical details (1955/2/202 Rev P) received 21/5/12
- Proposed Site Section (1955/2/201 Rev P) received 23/4/12
- Proposed Roof Plan and Wider Site Plan (1955/2/101 Rev P) received 23/4/12
- Existing Site Plan (1955/2/010 Rev P) received 23/4/12
- Design & Access Statement prepared by Bryant Priest Newman Architects received 23/4/12
- Transport Statement prepared by Phil Jones Associates (April 2012 – Project Code 962) received 23/4/12
- Site Investigation prepared by Ground Investigation & Piling Limited/Couch Consulting Engineers (31 January 2012 - DNB/20052) received 23/4/12
- Site Waste Management Plan received 23/4/12
- Coal Mine Remediation

14. The assessment area shall not exceed 43 sqm in area as defined on approved plan 1955/2/120 Rev P.

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 and effective control is maintained over ancillary elements of the development, as such (except in so far as other conditions may so require).

Note to applicant regarding coal

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. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<http://coal.decc.gov.uk/en/coal/cms/services/permits/permits.aspx>

Note to applicant regarding acceptable validation documents

Photographic and documentary evidence confirming that the specified gas impermeable membrane has been installed to an acceptable standard using materials and methods recommended by the manufacturer and demonstrating that any existing ground gas protection measures installed in the host building have not been compromised.



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28/06/2012

Reason for bringing to committee: Major application

Application Number: 07/1535/FL/E11

Application Type: Full application

Applicant: Ian Cox

Proposal: Demolition of former Public House and construction of 58 Flats.

Location: FORMER WARRENERS ARMS PUBLIC HOUSE, HIGH STREET/OGLEY ROAD, BROWNHILLS, WALSALL

Ward: Brownhills

Case Officer: Alison Ives

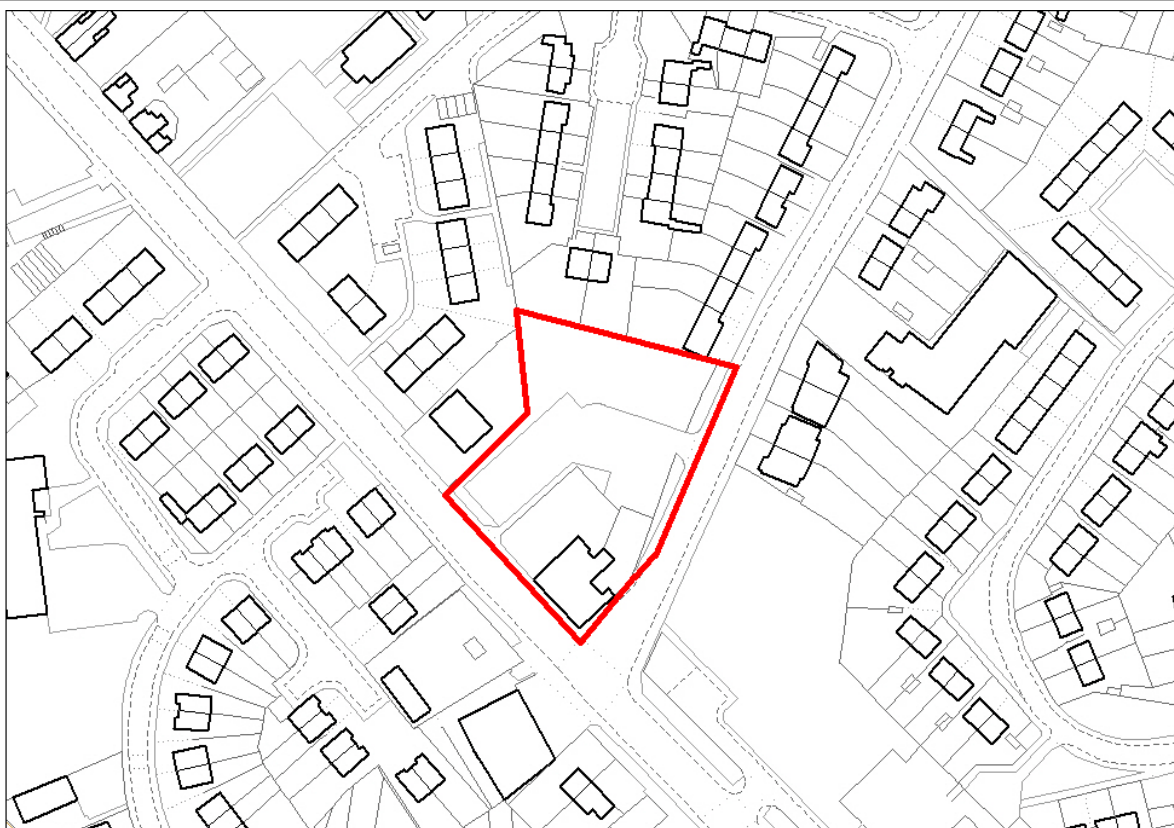
Telephone Number: 01922 652492

Email: planningservices@walsall.gov.uk

Agent: Louise Brooke Smith or Keir Price

Expired Date: 20/06/2012

Recommendation Summary: Grant Subject to conditions, subject to the District Valuer's advice on viability and subject to a S106 Agreement if viable.



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REPORT TO FOLLOW



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28/06/2012

Reason for bringing to committee: Major application

Application Number: 12/0506/FL

Application Type: Full application

Applicant: Cameron Homes Ltd

Proposal: Variation of condition 11 of permission 11/1576/FL to substitute House Types on plots 3, 4, 5 & 10

Location: THE LIMES, LINLEY ROAD, WALSALL, WS4 1HL

Ward: Rushall-Shelfield

Case Officer: Alison Ives

Telephone Number: 01922 652492

Email: planningservices@walsall.gov.uk

Agent:

Expired Date: 07/08/2012

Recommendation Summary: Grant Permission Subject to Conditions



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Application and Site Details

The proposal seeks to vary condition 11 of permission 11/1576/FL to allow substitution of house types on four plots granted permission as part of a development for the erection of 13 new houses on site of The Limes, Linley Road. The four plots, 3, 4, 5 and 10 were originally approved as Arisdale house type and the proposal is to substitute these for the Whittington house type. Plots 3 and 4 face Barns Lane and plots 5 and 10 face Linley Road.

The Whittington house type is a double fronted four bedroom detached house with pitched roof. The Arisdale which it replaces is also a double fronted four bedroom detached house with pitched roof but includes a gable to the front bedroom, projecting kitchen at the rear, porch and canopy at the front and bay windows either to the side or front elevation serving the dining room or lounge.

The developer considers the Whittington house type fits in well with the development, has more spacious accommodation and is more saleable which is of utmost importance in the current economic climate.

Relevant Planning History

11/1576/FL – Demolition of existing building and erection of 13 dwellings – Granted subject to conditions March 2012.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

The NPPF was published on 27th March 2012. It cancels and replaces all PPG's and PPS's (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

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

- Building a strong, competitive economy
- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 21 of the NPPF states that in drawing up Local Plans, local planning authorities should:

- *set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth;*
- *set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;*
- *identify priority areas for economic regeneration, infrastructure provision and environmental enhancement.*

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 58 supports high quality design and highlights several criteria including the need for development that will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to accommodate development, and are visually attractive as a result of good architecture and appropriate landscaping.

Paragraph 117 seeks to minimise the impacts on biodiversity and geodiversity including promoting the preservation, restoration and recreation of priority habitats, ecological networks and the protection and recovery of priority species populations.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until/unless it is abolished by order of the Secretary of State.

Relevant RS policies are:

CF1: Seeks to significantly improve the quality of existing housing stock, increase the scale and range of new housing development opportunities in appropriate locations and create attractive urban communities and living environments.

QE1: Supports regeneration and creation of new high quality built and natural environments. Also supports protection and enhancement of irreplaceable assets such as specific wildlife habitats.

QE3: Promotes high quality design.

The Black Country Core Strategy (BCCS)

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*”.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.

2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.

5. A network of vibrant and attractive town, district and local centres

6. A high quality environment

7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors linking the Strategic Centres will provide: high quality employment land, new homes in sustainable communities built on redundant employment land and other brownfield sites close to existing public transport routes and canal networks and locations with the best access to residential services, at moderate densities that allow for a range of house types.

CSP2: Outside strategic centres and regeneration corridors will provide a mix of good quality residential areas where people choose to live.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

All developments will aim to achieve a minimum density of 35 dph, except where higher densities would prejudice historic character and local distinctiveness

ENV2: Development should preserve and enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says *"due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*.

The relevant policies are:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV13: To protect the general amenity of occupiers' development in close proximity to substations will not normally be permitted.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

3.116 & ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

4 bedroom houses and above 3 spaces per unit

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy.

The relevant SPD's are:

Designing Walsall SPD

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Conserving Walsall's Natural Environment SPD

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

Consultations

Transportation – No objections.

Pollution Control (Scientific Team) – No objections.

Pollution Control (Contaminated Land) – No objections subject to a desk study and site reconnaissance being carried out to identify the potential for contaminants and/or ground gases likely to be present on site. If contamination or ground gases are present a ground contamination survey and site investigation should be carried out to identify risk to future occupants or structure on the site. Conditions to address this concern are recommended.

Ecology – No objections. Bats were found in the existing buildings and various mitigation proposals were put forward under the original permission 11/1576/FL. The amended design of the four houses allows for similar roosting sites to be built. The same type of bat boxes should therefore be erected.

Police Architectural Liaison Officer – No objections.

Fire Service – No objections.

Severn Trent Water – No objections subject to provision of drainage details.

Public Participation Response

None received.

Determining Issues

- Principle of substituting an alternative house type
- Layout and Design
- Ecology
- Relationship to adjoining properties
- Access and parking

Observations

Principle of substituting an alternative house type

The approved and proposed house types are both four bedroom detached house types so the substitution has no bearing on the overall mix of dwellings on the site and is considered acceptable.

Layout and Design

The proposed alternative Whittington House type on plots 3, 4, 5 and 10 are positioned the same as the approved Arisdale house types and so have no greater impact on the layout of the site. Although the design of the Whittington is simpler as it does not include the gable, bay windows, porches or canopies that the Arisdale does its design is considered acceptable and in keeping with the surrounding plots and existing housing. The layout and design is therefore acceptable.

Ecology

Protected species (bats) were found within the existing building considered by the original permission and adequate mitigation proposals have been put forward. The amended house types still allows for similar roosting sites to be built so a conditions requiring erection of bat boxes is recommended.

Relationship to adjoining properties

The proposed alternative house types have a broadly similar relationship to adjacent housing and existing housing than the approved house type. There is adequate space and separation to ensure no significant impact on neighbouring properties.

Access and parking

The house types on plots 3, 4, 5 and 10 each have a detached garage and off street parking. As the size of the houses has not increased the level of parking and means of access is acceptable. It is recommended that visibility splays at all access points are kept clear as on the earlier permission and a condition to this effect is included.

Recommendation

Grant permission subject to conditions.

Summary of Reasons for Granting Planning Permission

The approved and proposed house types are both four bedroom detached house types so the substitution has no bearing on the overall mix of dwellings on the site and is considered acceptable.

The Whittington House type on plots 3, 4, 5 and 10 are positioned the same as the approved Arisdale house types and so have no greater impact on the layout of the site. The alternative design is considered acceptable and in keeping with the surrounding plots and existing housing.

Protected species (bats) were found within the existing building considered by the original permission and adequate mitigation proposals have been put forward. The amended house types still allows for similar roosting sites to be built so a conditions requiring erection of bat boxes is recommended.

The proposed alternative house types have no significant impact on neighbouring properties.

As the size of the houses has not increased the level of parking and means of access is acceptable.

In light of the above the proposals are considered to accord with the aims and objectives of the National Planning Policy Framework and sustainable development, the aims and objectives of the Black Country Core Strategy policies in particular CSP1, CSP2, CSP4, TRAN1, TRAN2, HOU2, ENV2 and ENV3, the aims and objectives of the Walsall Unitary Development Plan saved policies GP2, H3, ENV13, ENV14, ENV18, ENV23, ENV32, ENV33, 3.116, 3.117, T7 and T13 and Supplementary Planning Documents: Designing Walsall and Conserving Walsall's Natural Environment.

Recommendation: Grant Permission Subject to Conditions

1. The development must be begun not later than 3 years after the date of this decision.

Reason; Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. In order to address potential impact from land contamination the following matters shall be addressed:

I. A desk study and site reconnaissance shall be conducted to identify the potential for contaminants and/or ground gases likely to present a risk to proposed structures or future occupants of the development to be present on site. Results of the desk study and site reconnaissance shall be submitted to and agreed in writing prior to built development commencing. (see Note for Applicant CL 4)

II. In the event that the desk study and site reconnaissance indicates the potential presence of contamination and/or ground gases on site. Prior to built development commencing 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)

III. Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

IV. Prior to built development commencing 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 to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

V. 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.

VI. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part ii) 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 agreed in writing by the Local Planning Authority.

VII. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site and to protect human health and the environment.

3. Notwithstanding the details provided and prior to the commencement of the development details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development. The development shall be completed with the approved details and retained as such.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

4. No development shall commence until samples of all facing and roofing materials and details of all boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development.

5. No site clearance or development shall take place other than in accordance with the methods of working, mitigation and compensatory provisions to avoid harm to a European Protected Species described in the letter from Apex Ecology dated 31 January 2012 (reference MR120120) supplied with application 11/1576/FL unless superseded by the

terms of a Natural England license.

Reason: To ensure the conservation of local bat populations.

6. Prior to the first occupation of any dwelling, all access ways and vehicle hard standing areas associated with that dwelling shall be fully consolidated, hard surfaced and drained. These areas shall thereafter be retained and used for no other purpose. Likewise, all proposed vehicle footway crossings to serve the new driveways shall be constructed to a specification to be approved and agreed in writing by the Local Planning Authority, including the reinstatement of the existing redundant crossing in Linley Road back to full kerb height together with the improvement of the existing retained access in Barns Lane.

Reason: To ensure the satisfactory completion and operation of the development.

7. The 2.4m x 3.4m pedestrian visibility splays at each access point shall, at all times, be kept clear of planting or structures exceeding 600mm in height above ground level.

Reason: In the interests of pedestrian/vehicle inter-visibility and highway safety.

8. Unless otherwise agreed in writing, the approved landscaping scheme and replacement tree planting shall be carried out in accordance with the details indicated on drawing LIN/002E and implemented within 12 months of the development being completed. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs or plants which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to safeguard the visual amenity of the area.

9. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (as amended) no first floor windows shall be installed in the side elevation of plot 6 other than those shown on the approved house type plans reference DEN/1102/06 Rev A supplied with application 11/1576/FL and those shown shall be obscure glazed.

Reason: To maintain the privacy of surrounding occupiers.

10. 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 otherwise only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 on Saturdays, unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

* Note - Bank Holidays and Public holidays for this purpose shall be taken to include: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter

Monday; May Day; Spring Bank Holiday Monday, and August Bank Holiday Monday.

Reason: In order to protect the residential amenities of nearby occupiers.

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

- Site Plan (LIN/002E) received 24/3/12
- Whittington House Type Floor Plans (2046/Whittington/02) received 24/3/12
- Whittington House Type Elevations (2046/Whittington/01) received 24/4/12

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

Notes for Applicant – Contaminated Land

CL1: Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 “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); 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 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.

CL4: The desk study and site reconnaissance shall have regard to the previous unknown filled ground and materials used and processes carried on. Further details on the matters to be addressed is available in “PPS 23 : Planning and Pollution Control”, Annex 2, Development on Land Affected by Contamination”,

paragraphs 2.42 to 2.44. and “Model Procedures for the Management of Contamination” (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

Note for applicant regarding public sewers

Severn Trent Water advises that there is a public sewer located within the application 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 your proposals. Severn Trent Water will seek to assist you 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 Water and advise them of any proposals located over or within 3 metres of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent Water can direct the building control officer to refuse building regulations approval. If you require any further information please contact Rhiannon Thomas on 01902 793883.



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28/06/2012

Reason for bringing to committee: Major Application (Variation of condition)

Application Number: 12/0495/FL

Application Type: Full application

Applicant: Triple R Solutions Ltd

Proposal: Variation of condition 10 of planning permission 10/242/FL and planning permission 10/0764/FL to allow the preparation for recycling of lead-acid batteries as an addition to the products previously approved for recycling and reclamation.

Case Officer: Stuart Crossen

Telephone Number: 01922 652420

Email: planningservices@walsall.gov.uk

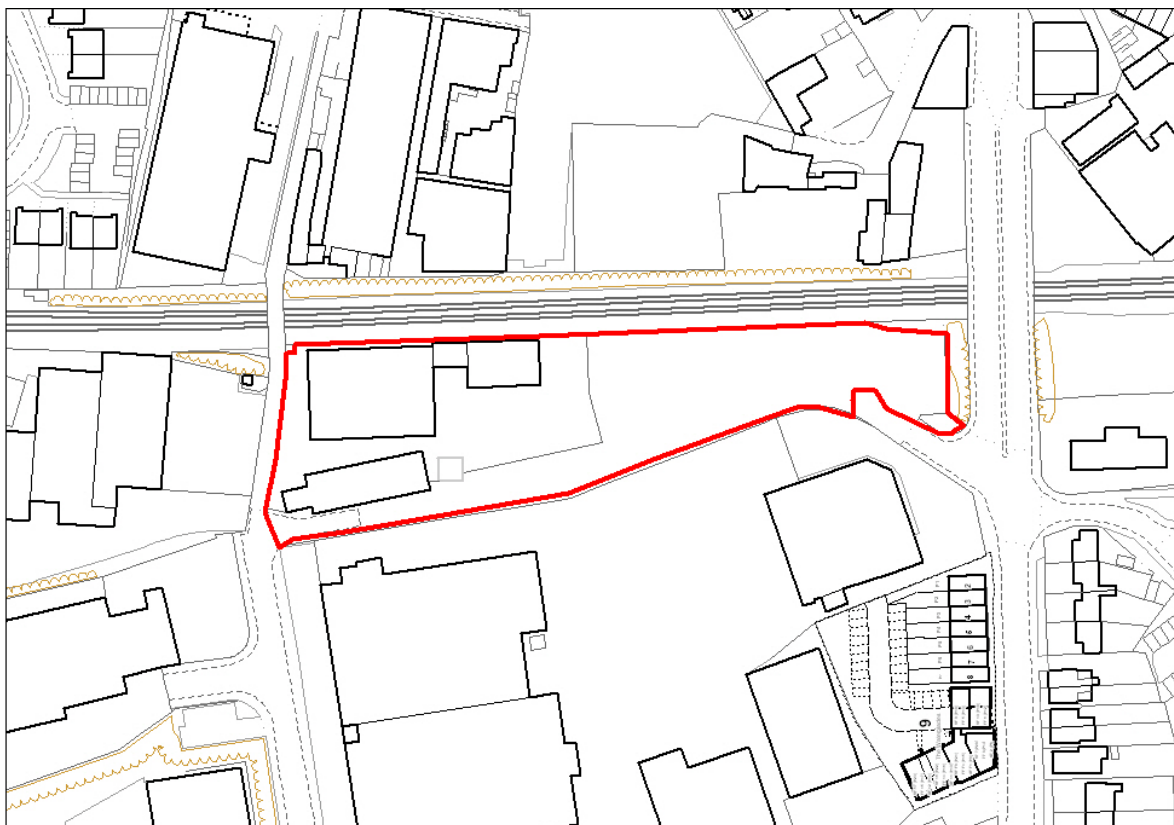
Agent: 360 Environmental Ltd

Location: FORMER MASON'S WOODYARD, LAND BETWEEN RAILWAY & ROSEHILL, WILLENHALL, WV13 2AP

Ward: Willenhall South

Expired Date: 20/07/2012

Recommendation Summary: Grant Permission Subject to Conditions



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Application and Site Details

Planning permission was granted for the site of this former timber yard, to become a facility for the reclamation of redundant electricity meters, electricity cables and waste carpet.

Planning consent was subject to a number of conditions, one restricted the materials which could be recycled from this facility :

“Condition 10 - Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, and the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, the premises shall only be used for the reclamation and recycling of electricity meters, industrial carpet and electrical cable and not for any other material other than that which is the subject of this permission.”

A variation of this condition was submitted and approved to include those goods which are defined in the Waste Electrical and Electronic Equipment (WEEE) Regulations 2006 but which excluded refrigeration equipment and any other WEEE goods which are likely to give rise to emissions of Ozone-depleting substances.

This variation of condition application has been submitted to allow the preparation for recycling of lead-acid batteries as an addition to the products previously approved for recycling and reclamation. This would include the removal of contras (other battery chemistries and any contamination) and the sorting of batteries into Industrial, Automotive and Portable to be repacked for export.

The agent has confirmed that receipt of contras does not happen very often and that it can be anything from general waste i.e empty crisp packet or a piece of paper or another chemistry of battery which someone has misunderstood. Mixed batteries are already received at the site as they come inside waste electrical equipment and therefore the site is aware of the necessary procedures to put the batteries in a secure container and to remove it to an authorised battery facility.

The agent has confirmed that this application is to diversify the material types and is not to increase the capacity of the site and that this type of waste is delivered in 20 tonne plus single transactions rather than multiple deliveries of 1-2 tonne and therefore would result in less vehicles making deliveries to Triple R.

The application does not propose the disposal of refrigeration equipment including cfc's as stated in the original description which was incorrectly worded.

No other details are proposed to be altered.

Relevant Planning History

10/0242/FL – Change of use to materials reclamation facility with refurbishment of existing fire damaged buildings including new cladding and one metre high block construction dwarf walls. Granted Subject to Conditions 28th May, 2010

10/0764/FL - Variation of Condition 10 of planning approval ref no. 10/0242/FL to include "Waste electrical and electronic equipment (WEEE) as defined in the WEEE 2006 regulations but excluding refrigeration equipment and any other equipment likely to give rise to emissions of ozone depleting substances." Granted Subject to Conditions 20^h
August 2010

Relevant Planning Policy Summary

National Planning Policy Framework 2012

The NPPF was published on Tuesday 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

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

- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas.
- support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
- contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;

Key issues from the NPPF Delivering Sustainable Development relevant in this case:

10. Meeting the challenge of climate change.

97. To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should:

- have a positive strategy to promote energy from renewable and low carbon sources;

- design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts;
- consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources;
- support community-led initiatives for renewable and low carbon energy, including developments outside such areas being taken forward through neighbourhood planning; and identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

11. Conserving and enhancing the natural environment

120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

122. In doing so, local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

123. Planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered there are no relevant RS policies in this case.

The Black Country Core Strategy (BCCS)

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*".

CSP1 – sets out targets for housing and other developments including the key strategic centres and corridors.

CSP2 – Outside the strategic centres and corridors, focuses development on previously developed land.

CSP3 – Seeks to protect environmental assets including biodiversity.

CSP4 – sets out the key criteria for high quality design, including promoting more sustainable patterns of development.

DEL2 – Seeks to protect key areas of employment balanced against housing need.

ENV 1 – seeks to protect natural resources and biodiversity

ENV 5 – seeks to take account of Flood Risk from developments and promotes Sustainable Drainage Systems whilst recognising and reducing the effect of the Urban Heat Island

ENV 8 – seeks to improve air quality throughout the Black Country

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

JP5(a)...areas safeguarded for core employment uses...proposals for uses permitted where demonstrated that needs met which not satisfied elsewhere or range and quality of employment significantly increased.

JP5(b)... windfall sites or buildings in core employment areas will be safeguarded for core employment uses according to the above policy

JP8 - bad neighbour industrial uses

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy.

The relevant SPD is:

Designing Walsall

Designing Walsall Supplementary Planning Document - Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DW1- Sustainability, DW3 - Character, DW4 - Continuity, DW5 - Ease of movement, DBW 10 - New development to contribute to creating a sustainable environment.

It is considered in this case that the relevant provisions of Designing Walsall are consistent with the NPPF.'

Consultations

Transportation – No objections

Severn Trent – No objections

Pollution Control Contaminated Land – No objections

Pollution Control Scientific Team – No objections

West Midlands Fire Service – No objections

Network Rail – No objections subject to conditions

National Grid – To be updated at committee

Environment Agency – To be updated at committee

Public Participation Response

Four objections have been raised on the following grounds:

Contras removed from the batteries will result in smell, dust, fumes.

The proposal would adversely impact on residents rights to the peaceful enjoyment of their houses.

The proposal would result in a site of contaminated land which cannot be returned to Network Rail.

CFC's would be released from refrigeration equipment

The proposal would increase the intensity of traffic on Rose Hill where already residents cannot leave windows open due to noise, dust and exhaust fall out and will result in vibration.

Concern about pollution in the event of an accident.
Some refrigerants used such as Halon 1301 are highly dangerous.

Determining Issues

- Environmental and amenity impact resulting from variation of recycled goods

Observations

Environmental and amenity impact resulting from variation of recycled goods

This application now seeks to vary condition 10 to allow more materials to be handled from the premises and includes all that is allowed by the Environment Agency Standard Rules permit with the exception of refrigeration equipment and other such equipment that is likely to give rise to emissions of ozone depleting substances.

The increased range of goods to be recycled would be required to comply with the Environment Agency standard rules permit which ensures the proposal would not have a significant impact on the environment. The sorting of lead-acid batteries for distribution is considered would have no additional impact over and above that which had previously been considered acceptable for this site.

The site is set away from the main road (Rosehill), is below road level and other nearby residential properties are 200 metres away in Rosehill or 80 metres away in Newlands Close. There are no changes to the buildings as previously approved i.e. opening doors/roller shutters in the rear elevations facing Newlands Close therefore any potential noise emissions in that direction would be limited and other boundaries are to industrial premises. Any contras is expected to be small in number and is already dealt with currently on-site, the lead-acid batteries will not be processed on-site. No concerns have been raised by either Pollution Control or the Environment Agency with regards to potential pollution having a detrimental impact on nearby residents.

Although the proposal would diversify what can be recycled at this site the capacity would remain the same, as neither the footprint nor the existing buildings would be increased in size, the agent has also confirmed that they consider the handling of lead acid batteries is likely to result in less traffic to and from the site. The Transportation Officer has no objections to the proposal.

With the appropriate wording of the varied condition, the operations are considered can be satisfactorily carried out without detriment to the area or its occupiers.

Other issues raised through representation

Network rail have recommended conditions in relation to further building works and encroachment onto their land. As the application is to vary a condition, is not for building works outside of the application site area, and matters relating to land ownership are not a material consideration of this planning application, it is considered unreasonable to attach these conditions.

The objections received about the disposal of refrigeration equipment including cfc's, was as a result of the original description being incorrectly worded and does not form part of the proposal.

Summary of Reasons for Granting Planning Permission

The sorting of lead-acid batteries for distribution is considered would have no additional impact over and above that which had previously been considered acceptable for this site.

The site is set away from the main road (Rosehill), is below road level and other nearby residential properties are 200 metres away in Rosehill or 80 metres away in Newlands Close. There are no changes to the buildings as previously approved i.e. opening doors/roller shutters in the rear elevations facing Newlands Close therefore any potential noise emissions in that direction would be limited and other boundaries are to industrial premises. Any contras is expected to be small in number and is already dealt with currently on-site, the lead-acid batteries will not be processed on-site and is considered unlikely to have any detrimental impact on nearby residents.

Although the proposal would diversify what can be recycled at this site the capacity would remain the same, as neither the footprint nor the existing buildings would be increased in size, the handling of lead acid batteries is likely to result in less traffic to and from the site.

Network rail have recommended conditions in relation to further building works and encroachment onto their land. As the application is to vary a condition, is not for building works outside of the application site area, and matters relating to land ownership are not a material consideration of this planning application, it is considered unreasonable to attach these conditions.

The disposal of refrigeration equipment including cfc's does not form part of the proposal.

The increased type of goods to be processed is considered to be consistent with the National Planning Policy Framework and meets the aims and objectives of the Black Country Core Strategy policies in particular CSP 1, CSP 2, CSP 3, CSP 4, DEL2, ENV1, ENV5, ENV8, the Walsall Unitary Development Plan policies in particular 3.6, 3.7, GP2, ENV10, ENV14, ENV33, ENV40, JP5 and JP8, and the Supplementary Planning Document "Designing Walsall".

Recommendation: Grant Permission Subject to Conditions

1. This permission grants consent for the variation of condition 10 of planning application reference number 10/0242/FL dated 28th May, 2010 and planning application reference number 10/0764/FL dated 20th August 2010 to allow for a wider range of goods to be recycled from the premises. The condition shall now state the following:

"Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, and the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, the premises shall only be used for the reclamation and recycling of electricity meters, industrial carpet and electrical cable and any other equipment which are defined in the Waste Electrical and Electronic Equipment (WEEE) Regulations 2006 but which excludes refrigeration equipment and any other WEEE goods which are likely to give rise to emissions of Ozone-

depleting substances and to allow the preparation for recycling of lead-acid batteries as an addition to the products previously approved for recycling and reclamation.”.

Reason: To ensure the recycling processes are satisfactory and do not impact on the amenity of nearby occupiers or the operation and running of the site.

2. All other conditions imposed by planning approval reference number 10/0242/FL dated 28th May, 2010 continue to apply to this development, and are subject to the submission of a Discharge of Conditions application as necessary.

Reason: To ensure the site is developed in accordance with planning approval reference number 10/0242/FL dated 28th May, 2010.

3. No materials shall be stored on the site to a greater height than the height of the approved boundary treatment.

Reason: As a result of the increased range of goods to be recycled at the site, any open storage should be restricted to the approved height of the boundary treatment in order to secure the visual appearance of the site and protect the amenity of nearby residents.

Notes for applicant

1. Prior to any further built development the applicant should contact Network Rail: Diane Clarke | Town Planning Technician LNW | Network Rail Town Planning Team LNW
Desk 122 - Floor 1, Square One, 4 Travis Street, Manchester, M1 2NY
Please send all Notifications and Consultations to TownPlanning.LNW@networkrail.co.uk - www.networkrail.co.uk



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28/06/2012

Reason for bringing to committee: Departure from the Development Plan and Called in by Councillor Murray

Application Number: 12/0187/FL

Application Type: Full application

Applicant: Mr David Hawkins

Proposal: Demolition of existing greenhouses and dilapidated brick built stores and construction of 3 new detached dwellings on land adjacent to 830 Chester Road.

Location: LAND ADJ. AND REAR OF 830 CHESTER ROAD, ALDRIDGE, WS9 0LS

Ward: Aldridge Central & South

Case Officer: Karon Hulse

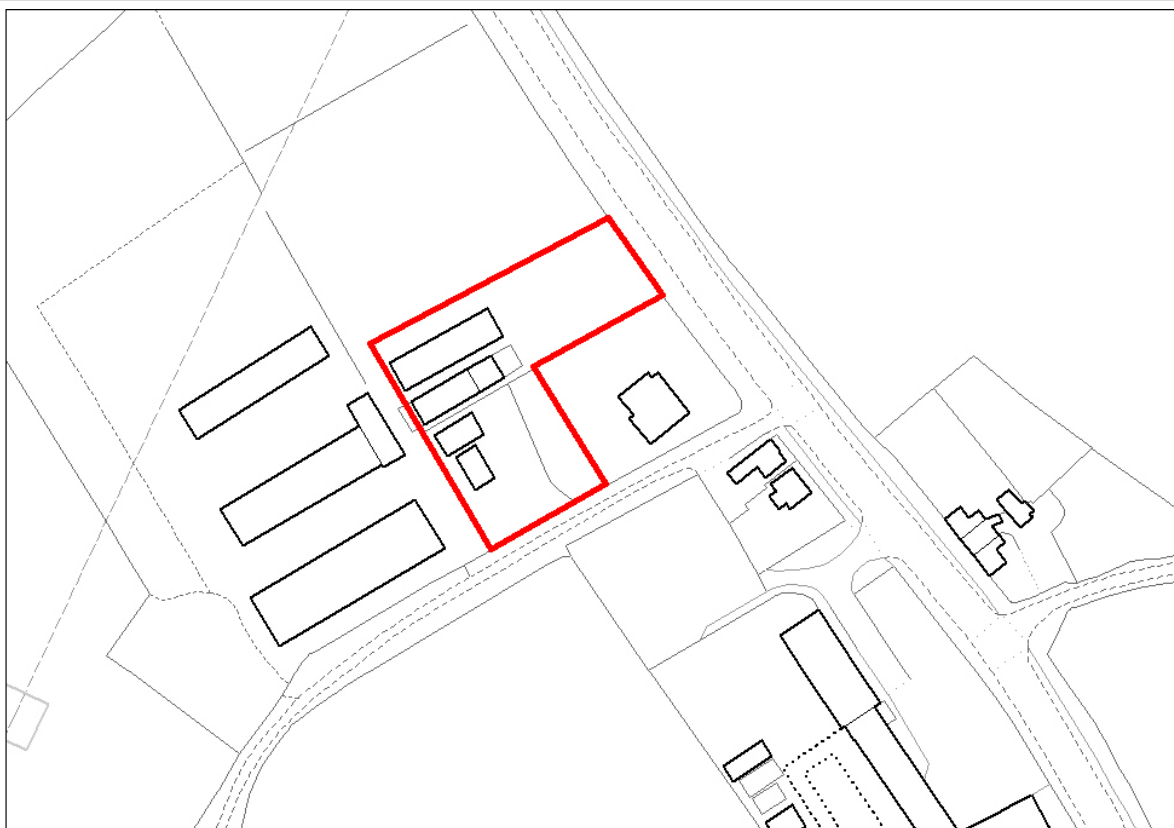
Telephone Number: 01922 652487

Email: planningservices@walsall.gov.uk

Agent: Spooner Architects

Expired Date: 16/04/2012

Recommendation Summary: Refuse



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Status

This application was called before the Planning Committee meeting agenda on 29th March, 2012, by Councillor Murray, who considers the application requires delicate judgement and for consideration to be given to the best use of the land. The Chair of Planning Committee withdrew the application from the agenda at the request of the applicant.

Application and Site Details

This application seeks permission for the erection of 3 two storey detached dwellings on land to the rear and adjacent to 830 Chester Road, Aldridge. The site falls within the green belt as identified by the Unitary Development Plan.

The wider curtilage of the house at 830 Chester Road includes a previous Garden Nursery use that contains a number of dilapidated and poor quality green houses and ancillary buildings which are redundant. The application site consists of a portable office building, two stores and a greenhouse. The majority of the site appears overgrown and untidy and occupied by dilapidated and currently redundant structures. The wider site area which is not included in the application but forms part of the former commercial use is bounded by a mature border along Back Lane and by a row of conifers along the western and northern boundaries and Chester Road to the eastern boundary.

Number 830 Chester Road is a large traditionally designed two storey detached house with two vehicular access points one off Chester Road which is a main trunk road and one off Back Lane which is an adopted highway but narrow and un-metalled. The opposite side of Chester Road from the application site is within Lichfield District Council. The existing dwelling at no 830 Chester Road is one of a small collection of dwellings consisting of three on either side of Chester Road at a density of 13 dwellings per hectare, with Wyevale Garden Centre to the south of these dwellings with open farm land to the north.

There are a number of trees to the south east corner of the application site, with the proposed dwellings having been sited to retain as many as possible, although the siting of the dwellings does result in the loss of two trees. Plot 1 will have a large rear amenity space (1200 sq mt), whilst plots 2 and 3 will have smaller amenity areas consisting of approximately 230 sqmts each. The proposed construction of 3 dwelling houses on a site area of 0.33 hectares equals a density of 9 dwellings per hectare, within an area characterised by 13 dwellings per hectare.

The proposed four bedroom detached dwellings are two storeys in height, each with a single storey, double garage. The dwellings would have a maximum height of 9.0m and the single storey garage, a maximum height of 4.8m and be of traditional brick and tile design. Plot 1 will be accessed from the Chester Road driveways shared with number 830. Plots 2 and 3 will be accessed by the existing driveway from Back Lane.

The application is accompanied by the following documents:

Arboricultural Report which recommends the felling of existing poor quality trees and conifer hedges to be replaced with suitable replacements and the short stretch of native hedgerow adjacent to the south west boundary should be coppiced and retained for future management.

Bat Survey Report which concludes that there was no evidence of bats roosting in any buildings or trees within the area of land adjacent to 830 Chester road and therefore the new development will not have any detrimental impact on the local bat populations.

A design and access statement states that the area will benefit from the removal of the poor quality buildings to be replaced with new dwellings.

Quality and safety report on the structures identifies that the current buildings do not reveal any significant distress or instability and whilst they are dilapidated and poor visually two units (a and b) are structurally stable whilst the other two units (c and d) are structurally stable they require considerable renovation and maintenance to ensure their long term stability.

Relevant Planning History

None relevant

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

The NPPF was published on 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

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

- planning should be genuinely plan-led... should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency
- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives
- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas;

- support the transition to a low carbon future in a changing climate... encourage the reuse of existing resources, including conversion of existing buildings
- contribute to conserving and enhancing the natural environment
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable

Key provisions of the NPPF relevant in this case:

3. Supporting a prosperous rural economy

28. Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

4. Promoting sustainable transport

29. The transport system needs to be balanced in favour of sustainable transport modes, although it is recognised that opportunities to maximise sustainable transport opportunities will vary from urban to rural areas.

6. Delivering a wide choice of high quality homes

47. To boost significantly the supply of housing, local planning authorities should:

- use their evidence base to assess needs for market and affordable housing in the housing market area,
- identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements (plus a 5% buffer, which might have to be increased to 20% “where there has been a record of persistent under-delivery”).

48. Local planning authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area

50. To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities,

52. The supply of new homes can sometimes be best achieved through planning for larger scale development, such as new settlements or extensions to existing villages and towns that follow the principles of Garden Cities. Working with the support of their communities, local planning authorities should consider whether such opportunities provide the best way of achieving sustainable development. In doing so, they should consider whether it is appropriate to establish Green Belt around or adjoining any such new development.

55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may

support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances

7. Requiring good design

58. High quality development will be expected to include/meet the following criteria:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

64. Permission should, be refused for development of poor design

9. Protecting Green Belt land

79. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

80. Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- buildings for agriculture and forestry;
- provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use

(excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Annex 2: Glossary - **Previously developed land:** Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.

11. Conserving and Enhancing the Natural Environment

109. The Planning System should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

The RSS envisages retention of the Green Belt in areas such as Walsall as part of an 'urban renaissance' strategy for the major urban areas, which include the built up areas of the borough, not the Green Belt (Policies UR1 and UR1A). Other key planning policies in this case are

CF1 – Authorities should create a variety and choice of housing within the Major Urban Areas

CF2 – Beyond the Major Urban Areas in locations such as this housing should be restricted to meeting local needs with priority to include the re-use of previously developed land.

QE3 - Creating a high quality built environment for all,

QE6 - The conservation, enhancement and restoration of the Region's landscape and

QE8 - Forestry and Woodlands

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF

The Black Country Core Strategy (BCCS)

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*”.

The key planning policies include 2a and 2b Vision: to include the creation of a network of sustainable communities’ right across the Black Country.

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

2b: Encourages sustainable management of material resources through minimising waste, ensuring all members of the community have the best access to housing, previously development land is prioritised over greenfield sites and encourages a comprehensive approach to development.

CSP2: Green Belt boundaries will be maintained and protected from inappropriate development.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

ENV1: Safeguards nature conservation by ensuring development is not permitted where it would harm designated sites including Site of Importance for Nature Conservation.

Adequate information must be provided with planning applications to ensure the likely impacts are fully assessed.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Encourage high quality design that stimulates economic, social and environmental benefits.

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

TRAN1: The development of transport networks in the Black Country is focused on a step change in public transport provision serving and linking centres, improving sustainable transport facilities and services across the area, improving connectivity to national networks and improving the efficiency of strategic highway routes.

TRAN2: Planning permission will not be granted for development proposals that are likely to have significant transport implications unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development including, in particular, access by walking, cycling, public transport and car sharing.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

Key references to saved UDP policies are:

3.3 The character and function of the Green Belt (which includes most of Walsall's countryside) will continue to be safeguarded as part of the wider West Midlands Green Belt. Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

3.6, 3.7, & GP2: Seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

3.3: Inappropriate development within the Green Belt will not be allowed unless justified by very special circumstances.

ENV1: Defines the extent of the Green Belt.

ENV2: Highlights considerations of proposals within or adjacent to the Green Belt, and it includes a presumption against new buildings in the Green Belt, subject to exceptions similar to the approach in the NPPF although the NPPF now takes a more permissive approach to the extension or replacement of existing buildings (not just dwellings) and in respect of limited infilling or partial or complete redevelopment of previously developed sites. In both case this is subject to the impact on the Green Belt. Development is inappropriate if it conflicts with the openness and purposes of the green belt. ENV2(b) states re-use of existing buildings in the Green Belt will be acceptable provided that it does not involve any building extension or associated uses of land around the building that would conflict with the openness and purposes of the Green Belt.

ENV3: Identifies more detailed considerations for proposals in the Green Belt.

ENV4: Permits the limited infilling of major developed sites in the Green Belt, subject to certain criteria. It is considered these criteria are consistent with the NPPF, but the NPPF applies this approach to all previously developed sites that are defined as brownfield land.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV14: Seeks to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: Seeks to ensure protection, positive management and enhancement of existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV32: Seeks the design of developments to create high quality environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

ENV33: Promotes good landscape design, including in prominent locations and / or where there are features the council requires to be retained or enhanced.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

T7 and T13: Car Parking should meet council standards and be well-designed.

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the NPPF with two sets of exceptions. The first relates to the NPPF's acceptance of extension or alteration to or replacement of existing buildings. The second, which is more important in this case, is that the NPPF will allow the limited infilling or the

partial or complete redevelopment of previously developed sites (where they are defined as brownfield land) and provided there will not be a greater impact on the openness of the Green Belt and the purpose of including land within it.

Supplementary Planning Documents (SPD)

On the basis that relevant Unitary Development Plan policies are consistent with NPPF, the related Supplementary Planning Documents will also be consistent provided they are applied in a manner consistent with National Planning Policy Framework policy. The relevant Supplementary Planning Document's are:

Designing Walsall SPD

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

Annexe E: Numerical Guidelines for Residential Development ... identifies matters such as privacy and aspect distances between dwellings and garden dimensions. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours

DW1: New development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2: All development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3: Design should respect and enhance local identity;

DW6: New development should contribute to creating a place that has a clear identity;

DW9: New development must seek to ensure it creates places with attractive environmental quality;

DW10: New development should make a positive contribution to creating a sustainable environment.

It is considered in this case that the relevant provisions of Designing Walsall Supplementary Planning Document are consistent with the NPPF.

Natural Environment SPD

Identifies those features of the natural environment which the Council requires to be properly considered in proposed for development such as protected species and any natural land forms on the site i.e. existing trees and hedgerows.

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

It is considered in this case that the relevant provisions of Natural Environment Supplementary Planning Document are consistent with the NPPF.

Consultations

Transportation - no objections

Pollution Control Contaminated Land/Scientific Team - No objections subject to noise mitigation measures

Natural Environment (Trees) – No objections subject to conditions

Natural Environment (Ecology) - No objections subject to conditions

Natural Environment (Landscape) - objects on grounds of Plot one will eat into land which appears from the road to be farmland

Fire Service - objects because on the grounds that the distance from Chester Road to plots 2 & 3 is excessive, Back Lane is too narrow approximately 2.8m) for access by fire appliances, minimum width required is 3.7m. This can be overcome by the installation of domestic sprinkler systems

Lichfield District Council - object on basis that new development in the green belt is inappropriate, cause harm to the green belt and no special circumstances have been submitted to outweigh harm to the green belt.

Severn Trent Water - No objection subject to a drainage condition.

Public Participation Responses

One representation objecting on the grounds of the development being in the green belt which should be preserved to prevent Birmingham and Streetly spreading to link with Aldridge and Brownhills.

Determining Issues

- Whether the very special circumstances put forward justify inappropriate residential development in the green belt
- Housing Land Supply
- Supporting a prosperous rural economy
- Design and Layout and Impact on the Green Belt
- Access and Parking
- Landscape and Ecology
- Local Finance Considerations

Observations

Whether the very special circumstances put forward justify inappropriate residential development in the green belt

The site lies within the West Midlands Green Belt as identified in Walsall's adopted Unitary Development Plan (UDP).

The site consists mostly of land which is not considered to be previously developed land on the basis that it is either agricultural land or the remains of permanent structure or fixed surface structures that have blended into the landscape over time.

In this case the applicant has failed to demonstrate that the proposed development will not check any further unrestricted sprawl of built-up areas, prevent neighbouring towns merging into one another or safeguard the countryside from encroachment. The development is considered inappropriate development which is harmful to the Green Belt with no special circumstances having been put forward to support the development.

Saved policy ENV2 of the Unitary Development Plan, states there is a presumption against the construction of new buildings in the Green Belt, except for forestry, agriculture, cemeteries, limited extension, alteration or replacement of an existing dwelling. The NPPF extends this to existing buildings subject to the new building being in the same use as the building it replaces and limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings). It further goes on to define "previously developed land" and excludes from that definition land that is or has been occupied by agricultural or forestry buildings; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time. This site consists partly of 830 Chester Road's rear garden and the adjacent adjoining land which is currently occupied by redundant greenhouses and ancillary buildings. It is therefore considered in view of the above policy consideration that the proposal would not be consistent with the NPPF or UDP policy ENV2 (insofar as that policy is consistent with the NPPF) in this instance.

The applicant's structural report identifies the existing buildings on the site to be structurally stable, however the extent of renovation works required to bring them back into any specific use will be dependant upon the nature of that future use. In deed the report states the condition of the buildings is such that with some renovation works they could be easily made safe and habitable for their intended use as a garden/nursery.

The footprint of the proposed dwellings would be different to that of the outline of the existing abandoned buildings (excluding the greenhouse which is a temporary building). The applicant states the application provides an opportunity to clear away unsightly and dilapidated redundant buildings which in their opinion currently harm the green belt and that the proposed development will enhance this area of the countryside.

The proposed dwelling to the side of number 830 extends the linear development along Chester Road, encroaching on the openness of the Green Belt.

The development of new dwellings in this location is harmful to the openness of the Green Belt and considered inappropriate development. The onus is on the applicant to demonstrate why permission should be granted and in particular that very special circumstances to justify such inappropriate development will not exist unless the harm by reason of inappropriateness or any other harm is clearly outweighed by other considerations.

It is considered that the above circumstances does not represent very special circumstances to outweigh the harm the erection of three large detached houses would have on the openness and character of the Green Belt contrary to the NPPF and policies in the UDP regarding development in the Green Belt.

Housing Land Supply

There are sufficient sites that already have planning permission in Walsall to meet the housing land requirement in the BCCS until at least 2021 – (8 year supply from now). Small sites that do not yet have planning permission are likely to add to this supply. In relation to the NPPF 5% and 20% buffer, the completions, as compared with the BCCS targets, also show that the Core Strategy targets have been exceeded since 2006, and there is no persistent shortfall in delivery. This means that there is not at present any requirement to find further sites that will be deliverable within the next few years. Potential housing sites to meet the requirement between 2021 and 2026 will be identified through the Sites and Allocations process. The evolving situation will be monitored through annual Strategic Housing Land Availability Assessment (SHLAA) updates.

The NPPF seeks to protect against inappropriate development that is harmful to the Green Belt. The applicant has not provided any evidence to demonstrate the benefits that the Borough will gain from the provision of aspirational housing of a size and type that could not be provided elsewhere in the borough. This proposed housing is of a type that would and should be developed within the major urban area, rather than the investment going elsewhere, like this site which is contrary to the purpose of the Green Belt in supporting urban regeneration

Supporting a prosperous rural economy

The NPPF states that policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

The current proposal for housing is on a former garden nursery site in a rural location. The applicant has not demonstrated why the business could not be restarted or why alternative rural business opportunities that would promote economic growth, jobs or prosperity at this location cannot be pursued. It is considered that the proposed development would not support the principle of the creation of a prosperous rural economy and remove an existing business within the green belt contrary to the NPPF.

This site is a former garden nursery use, currently not operating. The buildings could be renovated and repaired and brought back into use as a garden nursery. The development of housing in this location would not support the rural economy. Instead it would create a demand for services, which could not be met locally requiring travel to facilities and to employment elsewhere.

Design and Layout and Impact on the Green Belt

The NPPF and Unitary Development Plan saved policy ENV2: Control of Development in the Green Belt, states that there will be a presumption against the construction of new buildings except in certain instances.

Whilst in principle the removal of the redundant greenhouse will improve views across the site and the Green Belt in general, the replacement with houses will introduce an incongruous feature which will have a detrimental impact on the green belt. The proposed 9 metre high dwellings will replace the existing greenhouse and other outbuildings which

are a maximum of 5 metres high. The introduction of these houses will change the views across the site and the appearance of the green belt from single storey, low lying glass houses and outbuildings to large two storey dwellings. It will also add additional residential activity to the area which would be of a different nature to that usually associated with the green belt activities.

The introduction of a dwelling at the front of the site will impact on the appearance of the green belt particularly from Chester Road. This part of the site currently contains a single width green house set 45 metres away from Chester Road, views of this are limited by the existing line of conifers along the edge of the carriageway and whilst it is unclear if these would be removed as part of the development, views of the proposed dwelling would dominate Chester Road.

The revised design and siting of plot 2 meets with the Designing Walsall standards regarding separation distances which seek to ensure a minimum of 24 metres between habitable room windows, to safeguard the visual amenities of existing and future residents.

The proposed development results in housing density of 9 dwellings per hectare reflecting the local distinctiveness, density, pattern and form of existing housing in the immediate area.

As such it is considered that the proposals do not fall within the above and is therefore inappropriate development which is harmful to the green belt.

Access and Parking

Access to plot one will utilise the vehicular access to the existing dwelling at no 830 Chester Road. Access to the plots at the rear of the site will utilise an existing access to the green houses from Back Lane which is an adopted highway but unsurfaced.

There are no objections to the proposals provide no additional access is made directly onto Chester Road.

The level of parking proposed would comply with saved policy T13 of the UDP.

The nearest local centre is 3,000 metres away in Lazy Hill. There are no regular public transport services along the Chester Road and access to and from the site is likely to rely on the car. Therefore the site is not considered to be in a sustainable location, and it does not meet the accessibility standards in the UDP. It would not meet the accessibility requirements under Policy HOU2 of the BCCS, but these apply only in respect of developments of 15 dwellings or more.

Landscaping and Ecology

There are a number of significant trees situated to the south east corner of the site and the proposals would result in the removal of some of these. The tree survey recommended the felling of existing poor quality trees and conifer hedges to be replaced with suitable replacements and the short stretch of native hedgerow adjacent to the south west boundary should be coppiced and retained for future management. This approach is acceptable and should be conditioned to require replacement scheme.

The Bat Survey Report concludes that there was no evidence of bats roosting in any buildings or trees within the area of land adjacent to 830 Chester Road and therefore the new development will not have any detrimental impact on the local bat populations. This is accepted but any approval should be subject to a number of conditions to be implemented in order to protect any bats which may be present.

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 3 new homes.

The new homes bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 792 new homes during 2010=2011 the award of £1,095,219 (which included a premium for affordable housing but also a deduction for an increase in vacancies) meant that – as a rough average – each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards might be offset against reductions in the 'formula grant' the Council will receive from Government.

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

Recommendation: Refuse

1. The proposal represents inappropriate development in the Green Belt. No very special circumstances have been put forward sufficient to outweigh the harm this inappropriate development would cause to the character and openness of the Green Belt. The proposals are considered to represent inappropriate development within the Green Belt which would be out of character with their surroundings and would have an adverse impact on the openness, character and visual amenity of the Green Belt. The development would further create urban sprawl in a location where it should be restricted in order to provide satisfactory separation between the conurbations and would undermine the regeneration of the urban area. As such the proposed dwellings are contrary to the aims and objectives of the Black Country Core Strategy, in particular sustainability principles 2 and 4, policy CSP2, Objective (d) in paragraph 3.14 of the West Midlands Regional Spatial Strategy; Policy ENV2, ENV3 and ENV4 of Walsall's Unitary Development Plan (2005) and the NPPF paragraphs 87-89.

2. There is a plentiful supply of available housing land in Walsall. Sites with planning permission provide sufficient capacity to meet the borough's housing land needs well beyond the next 5 years, including the additional NPPF 5% buffer. Other identified potential housing sites provide in excess of a 15 year housing land supply. Therefore there is no requirement to release other sites for housing development in order to meet the housing land requirement in the Black Country Core Strategy until at least 2021. The development of this isolated site in the Green Belt would undermine the regeneration of the urban area and would be contrary to the Core Strategy, in particular the Vision, Sustainability Principles and Policy CSP2.

3. The National Planning Policy Framework states that policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. The current proposal relates to an established commercial business and whilst this may not currently be operated as such it would appear to satisfy the broad principle of sustainable development. As such the proposed development would not support the principle of the creation of a prosperous rural economy by removing an existing business within the green belt contrary to National Planning Policy Framework paragraph 28.

4. The nearest local centre is 3,000 metres away in Lazy Hill. There are no regular public transport services along the Chester Road and access to and from the site is likely to rely on the car. As such the site is not considered to be in a sustainable location and does not meet the accessibility standards in the Unitary Development Plan in particular policies GP2, H3 and T1.



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28/06/2012

Reason for bringing to committee: Significant Community Interest

Application Number: 12/0322/FL

Application Type: Full application

Case Officer: Devinder Matharu

Telephone Number: 01922 652487

Email: planningservices@walsall.gov.uk

Applicant: Ms Kulwant Kaur

Agent: The Tyler-Parkes Partnership Ltd

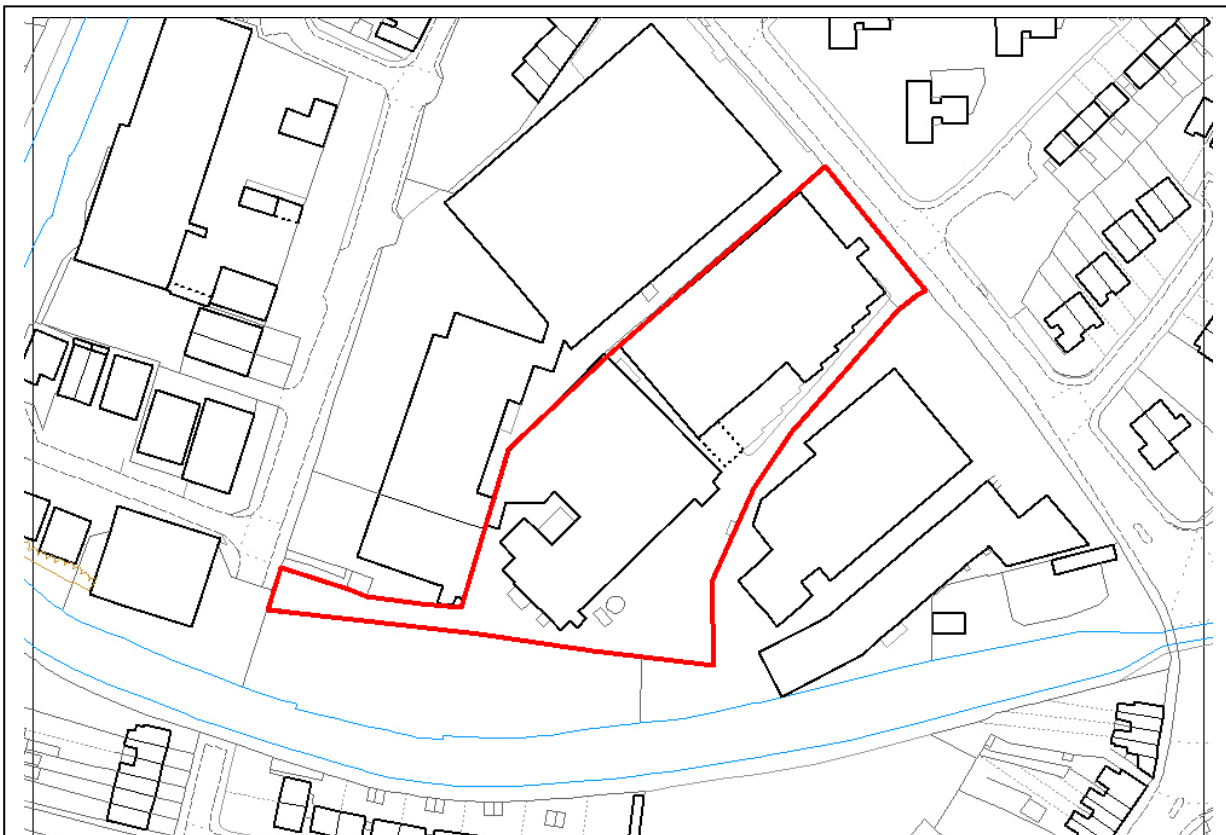
Proposal: Refurbishment of existing industrial units for B1, B2 and B8 uses; Change of use of Unit 2 to a go-karting centre; Conversion of Units 4 and 5 to vehicle repairs and MOT station with renovation of front elevation; Reconstruction of unit 3 to provide ancillary facilities to Unit 2 and a laser centre.

Location: ALVAR BUSINESS PARK, STRAIGHT ROAD, WILLENHALL, WV12 5QY

Ward: Short Heath

Expired Date: 14/05/2012

Recommendation Summary: Grant Permission Subject to Conditions



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Background

Councillor D Shires has called in the application on the grounds of lack of parking, , character of the area and impact on surrounding area.

Application and Site Details

Alvar Business Park is a group of 9 industrial units located off Straight Road in Willenhall with rear access from Ezekiel Lane. The business park fronts Straight Road and extends back into the site and forms the boundaries with the adjoining industrial uses.

To the north and south of the application site the area is industrial in nature with individual units to the north and Arrow Business Park to the south. On the opposite side of Straight Road are flats and houses. The nearest block of flats is angled to face away from the application site. To the south of Arrow Business Park is the Wyrley and Essington canal. Lane Head local centre is located 124m south east of the application site.

The application proposes:

- the refurbishment of existing industrial units 1, 6, 7, 8 and 9 for light industry, general industry and storage and distribution purposes.
- change of use of Unit 2 to a go-karting centre
- conversion of Units 4 and 5 to vehicle repairs and MOT station with renovation of the front elevation
- Reconstruction of unit 3 to provide a laser centre.

Unit 2, the go karting facility will operate as a leisure and corporate hospitality operation and will include changing rooms. The business would operate on a pre appointment booking system. 15 karts would be placed on site with up to 10 karts being used in a race. The premises could attract up to 15 people at a time, which would be the same as the laser centre. Up to 8 jobs will be created by this facility.

Units 4 and 5, vehicle repairs and MOT centre would provide a workspace for up to 7 cars with two bays for MOT testing. Up to 6 jobs would be created by this facility.

The ancillary offices have a floor area of 256 square metres.

The premises would be open seven days a week from 10am till 9pm for the leisure uses and 8am till 8pm for the industrial uses.

A car parking plan showing 79 parking spaces for the whole site has been submitted.

The following documents have been submitted with the application:

Planning Noise Assessment – which concludes the predicted noise levels from the indoor go karting track would be 40dB at Drancy Avenue and Stourmore Close and 38dB at Greadier Street and allowing for a +5dB acoustic feature correction the resulting noise levels at Drancy Avenue and Stourmore Close would be 45dB and at Greadier Street 43dB. Three ventilation extract fans will be installed on the north west façade to ensure they do not give rise to complaint at the nearest residential property at Drancy Avenue. From a noise perspective the development should be acceptable.

Design and Access Statement – states:

- The type of building required for go karting and other operations that would be carried out in addition to racing would be repairing and testing of the karts, akin to a B class use and as such the use is not suitable for a town or district location but would be an employment generating use.
- The site could accommodate up to 30 people at any one time.
- Straight Road is served by public transport, in particular bus numbers 26, 40, 41 and 69 and operate every 30 minutes to Walsall, Willenhall and Bloxwich. The applicants site requirements means that only industrial units are suitable.
- Applicants have considered centres in the UDP and it is apparent that there are no properties that provide the floorspace and span necessary to accommodate the proposed go karting use
- Proposal would provide beneficial employment in an area of high unemployment.
- Proposal would not undermine policy as the go karting facility with its space requirements is a specialist facility.

Transport statement – The site is well served by public transport and the proposal would not create any adverse parking shortage.

Relevant Planning History

11/0744/FL. Alvar business park. Refurbishment of existing industrial units for B1, B2 and B8 uses, external alteration plus the change of use of unit 2 to vehicle repairs and MOT station. Granted subject to conditions 17th October 2011.

BC13560 Straight Road, Willenhall. Erection of single storey office block and toilets. Granted 1979.

Other relevant planning history

05/1380/FL/W5 Arrow Industrial Estate, Unit 4, Straight Road. Change of use of existing industrial/warehouse building to children's indoor play and activity centre with ancillary café. Granted subject to conditions 7th September 2005.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

The NPPF was published on Tuesday 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

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

- proactively drive and support sustainable economic development to deliver business and infrastructure and thriving local places that the country needs.
- Encourage the effective use of land by reusing land that has been previously developed.

- Ensuring the vitality of town centres
- Promoting sustainable transport
- Requiring good design and a good standard of amenity for all existing and future occupants of land and buildings.

Key provisions of the NPPF relevant in this case:

1. Building a strong, competitive economy

19. Ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

2. Ensuring the vitality of town centres

23. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:

- o recognise town centres as the heart of their communities and pursue policies to support their viability and vitality
- o retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive;
- o set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres;

24. Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

26. When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- o the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the
- o proposal; and
- o the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

4. Promoting sustainable transport

32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- o safe and suitable access to the site can be achieved for all people;
- o accommodate the efficient delivery of goods and supplies;
- o give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;

- create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones
- incorporate facilities for charging plug-in and other ultra-low emission vehicles; and consider the needs of people with disabilities by all modes of transport.

39. If setting local parking standards for non-residential development, local planning authorities should take into account:

- the accessibility of the development;
- the type, mix and use of development;
- the availability of and opportunities for public transport;
- local car ownership levels; and
- an overall need to reduce the use of high-emission vehicles.

7. Requiring good design

56. Great importance attached to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

Key planning policies include UR1B, UR3, PA5, PA6, QE1, QE2, QE3, T2, T3, T4, T5 and T7.

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF

The Black Country Core Strategy (BCCS)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework *“decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework”*.

The key planning policies include 2a, 2b, CSP2, CSP3, CSP4, TRAN1, TRAN4, ENV3, ENV4, EMP3, CEN1, CEN2, CEN6 and CEN7.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

Walsall's Unitary Development Plan (UDP)

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says *“due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”*.

Key planning policy references include saved policies:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land.

3.113, 3.114, 3.115, ENV32 and 3.116: Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

JP7 use of land and buildings in other industrial areas. The following uses would be supported in such areas:

I. Core Employment Uses.

III. Other service uses which are complementary to the functioning of local industry or distribution and would meet a purely local need which would not be better served in or at the edge of a nearby centre.

(b) Whilst the above uses are appropriate in principle in these areas, not all uses will necessarily be suitable for all sites and buildings.

(c) Offices in class B1 will not be permitted, except where a purely local need is demonstrated (see Policy S6):

5.6 Apply the sequential approach in a flexible, realistic and sensitive manner, and consider the needs of developers and operators. It will also expect applicants to be flexible about their requirements - in terms of unit sizes, layouts, ancillary facilities, car parking, servicing and design - so as not to preclude the possibility of identifying locations in centres. Where an edge-of-centre or out-of centre proposal comprises different elements or units, or involves adding floorspace to or within an existing or permitted development, then each part of the proposal should be considered separately for an in centre location. In

all cases, the key issue will be whether the type of activity proposed - rather than the type of building preferred by the developer or operator - can be accommodated in a more central position.

5.7 The Council will resist proposals for the movement of existing retailing, leisure, other town centre uses and public transport facilities to edge-of-centre or out of- centre locations where this would:-

- Lead to the loss of trade, activity or investment from the centre (taking into account any proposals for the re-use of the existing site);and/or
- Be contrary to Government guidance to improve accessibility to a range of facilities by means other than the car; and /or
- Conflict with Government guidance to reduce dependency on access by car and/or reduce car travel.

5.8 Development proposals in edge-of-centre and out-of-centre locations will also be subject to the provisions of Policy S6 ('Meeting Local Needs') and/or Policy S7 ('Out-of-Centre and Edge-of-Centre Developments').

S1(a)III B1a offices are town centre uses

S6(c) Out-of-centre development may be appropriate to meet such specific local needs - otherwise proposals for additional out-of-centre development for town centre uses will be considered against policy S7. Therefore, new small-scale local facilities will be permitted if it can be shown that all of the following requirements will be met:-

I. The proposal is of a scale and kind to meet a local need for improved facilities.

II. The local need cannot be better met by investment in a nearby centre.

III. There will be no likelihood of an adverse impact on the vitality and viability of any established centre in the Borough or elsewhere within the affected catchment area.

IV. There will be no impact on existing local provision such as to leave some local needs unmet, contrary to efforts to promote social inclusion.

V. The proposal will improve accessibility to facilities by means other than the car and, in particular, will be within convenient, safe walking distance of the community it is intended to serve.

VI. The proposal will help to reduce the need to travel, especially by car.

VII. There must be no significant loss of amenity for neighbouring homes.

To ensure this, the establishment of shops or other uses that attract the public in terraced properties adjoining dwellings will not normally be permitted.

VIII. Servicing and parking associated with the proposed use must not create any significant road safety or traffic problems.

S7(a)III uses must not have an adverse economic impact upon the viability and vitality of any existing town, district or local centre.

T7: All development should satisfy the car parking standards set out in Policy T13.

T13: car parking standards

Garages and vehicle repair workshops 5 car park spaces per service bay

B1a,b,c 1 car park space per 30 square metres of gross floorspace.

B2 1 car park space per 50 square metres up to 250 square metres , then 1 space for every additional 100 square metres of gross floorspace. 1 bike locker for every 10 car park spaces.

B8 1 car park space per 50 square metres of gross floorspace up to 250 square metres, then 1 space per 100 square metres up to 2500 square metres, then 1 space for every 500 square metres of gross floorspace.

Other community facilities 1 space per 22 square metres of gross floorspace.

Supplementary Planning Document (SPD)

On the basis that relevant Unitary Development Plan policies are consistent with National Planning Policy Framework, the related Supplementary Planning Document(s) will also be consistent provided they are applied in a manner consistent with National Planning Policy Framework policy. The relevant Supplementary Planning Document's are:

Designing Walsall (Feb 2008) refers to the development respecting massing, scale and rhythm of adjacent buildings, plots sizes and built density will relate to their local context , privacy and aspect distances between buildings must ensure all occupants have a satisfactory level of amenity, whilst reflecting the emerging and existing character of the area, ground floor activity and natural surveillance will be maximised, a clear definition between private and public realm and building frontage to overlook the public realm, common building lines along road frontages must be maintained with buildings have a clear relationship with their neighbours and new development should make a positive contribution to creating a comfortable, adaptable and sustainable built environment.
DW3 – Character -design to respect and enhance local identity;

The Vision: Homes, provides guidance on designing homes in Walsall.

It is considered in this case that the relevant provisions of Designing Walsall Supplementary Planning Document are consistent with the NPPF.

Consultations

Transportation – No objection subject to conditions seeking details of cycle storage, vehicle manoeuvring areas to be demarcated before use and previous vehicle repairs and MOT centre approved under planning permission is revoked.

Pollution Control Contaminated Land Team – No objection subject to user note on contamination.

Pollution Control Scientific Team – No objection subject to conditions controlling the hours of use of the site, noise mitigation measure to be implemented, measures to control noise inside and outside the go karting facility, and plant equipment to be of an acoustic design and no sound reproduction, amplified or product equipment to be installed.

Fire Service – No objection

Landscape – No objection

Environmental Health – No objection

Police – No objection

Severn Trent Water – No objection subject to drainage condition.

British Waterway – No objections subject to a condition to seek details of any hazardous substances to be stored on site.

Public Participation Responses

Six letters have been received objecting to the proposal on the following grounds:

- Noise pollution
- Proposed opening hours unreasonable late evening and weekends
- Ventilation fumes
- Highway issues including increase in traffic generation, parking and resulting in on street and overspill parking in residential streets
- Existing noise and traffic problems with public house and logistic companies in the vicinity
- Litter
- Existing repair, MOT, go karting and laser facilities in area and no requirement for further facilities
- Works continuing on site

Eight letters have been received with no objections to the proposal on the following grounds:

- Local facility for children to use
- No other facility for children in the area

A petition against the proposal has been received with 49 signatures objecting to the proposal on the following grounds:

- Noise pollution
- Lack of parking
- Impact on character of the area.

A petition in support of the application has been received with 578 signatures on the grounds:

- that it is a much needed facility
- takes children off the road
- supervised venue takes quad bikes off the road.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Principle of industrial, office and leisure uses on site.
- Design and Visual impact
- Impact on the occupiers of the surrounding residential properties
- Parking and access

Observations

Principle of development

The site is an industrial area where Policy JP7 supports development proposals for core employment uses defined as Classes B1(b) research and development, B1(c) light industry, B2 general industry and B8 storage and distribution. The vehicle repairs and MOT centre are general industry uses that would be supported.

The proposed go karting and laser centre are leisure and sui generis uses that should be located in town centres (policy S1) and the applicant has not demonstrated a local need. For these uses, the NPPF and Policy S7 of the UDP require a sequential test to demonstrate that there are no better sites, in centre or edge of centre compared to this out of centre location. The applicant states town centre sites have been considered and there are no properties that provide the floorspace and open space necessary to accommodate the proposed go karting use. Officers are not aware of any alternative in centre or edge of centre sites that maybe suitable or appropriate for go karting that is located a sufficient distance from residential properties. Whilst the laser centre may be accommodated in a town centre location, in this case it is considered the laser centre would be ancillary to the go karting.

The applicant has submitted a petition with 578 signatures from local residents who support the facility. Go karting is unlikely to provide linked trips, if located in an established centre, as the go karting and laser centre offer pre-booked recreational leisure pursuits whilst the site is within walking distance of surrounding residential properties, there is adequate on-site parking so unlikely to create any highway problems. The proposed go karting and laser centre uses would be located away from surrounding residential properties and controlling the hours of use would contribute to protecting the amenity of these occupiers.

Non industrial uses in this industrial park are acceptable in these exceptional circumstances and the use of the site can be controlled through condition to ensure the units revert back to industrial. A condition ensuring the laser centre remains as an ancillary facility to the go karting would prevent independent occupation of this unit and to control the site.

Offices under class B1a are not normally supported in industrial areas. In this case the existing offices next to unit 1 would be used ancillary to the other core industrial uses on the site. The office uses in these circumstances would be considered acceptable and a condition is recommended to restrict them being used as independent businesses.

Whilst there may be other similar facilities for go karting, laser centre, vehicle repairs and MOT centre in the Borough and surrounding areas, competition is not a material planning consideration.

The re-use of the derelict industrial estate would assist in the economic viability of the area. With four of the units having end users, it is considered that sustainable economic development to deliver business should be supported in line with the National Planning Policy Framework.

Any works commencing on site are undertaken at the applicant's own risk and the agent has been advised that there is no guarantee of a favourable outcome. The applicant has confirmed that no works on site have commenced.

Design and Visual Impact

The proposal would involve the reconstruction of unit 3 to house the laser centre. It is considered that the renovation and redevelopment of the industrial estate would visually enhance the character of the industrial estate as well as promoting and attracting potential companies into the area. The external finishes to the building can be agreed by condition.

Landscaping to the front of the site can be secured through condition to visually improve the appearance of the development.

Impact on the occupiers of surrounding residential occupiers

The proposed use of the business park for industrial purposes would not unduly impact on the amenities of the occupiers of the flats and residential properties opposite over and above what the industrial reuse of the business park could generate plus it is set within an industrial area and the flats face away from the site.

The proposed leisure and sui generis uses would be located to the rear of unit 1 and further back into the industrial estate away from nearby residential properties, screening the proposed uses from surrounding residential properties on the opposite side of Straight Road. The proposed opening hours will be till 9pm seven days a week for the leisure uses; it is considered that these are brought in line with the industrial uses on site to protect the amenity of surrounding residential occupiers.

A noise assessment has been submitted with the application which states that noise from these uses and the ventilation units would not give rise to complaint at the nearest residential property at Drancy Avenue. Environmental Health and Pollution Control have no objection to the proposal and have recommended conditions to assist in noise control of the site.

Any existing noise issues related to the public house would be a matter for Environmental Health to pursue. With regards to noise from heavy good vehicles, the area is a mixed use area and predominantly industrial on the western side of Straight Road, there is no control over the comings and goings of heavy good vehicles from these industrial parks or along the highway, however, the proposed development would potentially reduce the demand for heavy goods vehicles on this site.

To prevent litter being thrown outside of the site, litter bins can be sought by condition.

Impact on the amenities of the surrounding commercial occupiers

The use of the industrial estate for mixed industrial, leisure and sui generis uses would not unduly impact on the amenities of the surrounding industrial uses. The use of the site later in the evening would add security to the surrounding industrial uses.

Parking and access

Eighteen parking spaces would be required for the proposed MOT and vehicle repairs, the proposal provides 19 parking spaces including 2 disabled spaces, which is considered compliant with this policy. The location of these uses towards the rear of the site is considered to be appropriate as more dedicated parking can be provided nearer to the units for staff and customers.

Sui generis uses do not fall into specific categories for parking provision requirements. A transport statement has been submitted investigating the likely parking requirement based on the number of potential customers that will use the site based upon a survey of similar uses operating elsewhere in the Borough. This indicates that peak times for the proposed Go-Karting and Laser uses would be predominantly in the evenings and weekends, outside the main operating times of other commercial/industrial uses on the site. This will allow additional overspill parking spaces elsewhere within the business park to be

available if required for the proposed uses. Some parking for these uses would be allocated, 16 spaces in total which is considered adequate based upon the submitted information.

The site has a total of around 79 parking spaces and a combination of 35 parking spaces would be allocated for both the go karting and laser centre use, which means that a further 44 spaces would be available for the remaining uses on the site. Taking into account the likely differing operating times and uses of the various units it is considered that across the whole site there will be adequate on-site parking to cater for all the uses, both existing and proposed. It is unlikely that the development will result in any significant detrimental impact on the local highway network.

There is no evidence to suggest that the proposal would result in increased traffic movements for the site and any unauthorised parking is a matter for the highways enforcement or Police to pursue.

Summary of Reasons for Granting Planning Permission

Vehicle repairs and MOT centre are general industry uses that would be supported.

The proposed go karting and laser centre are leisure and sui generis uses that should be located in town centres. The sequential test requires applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. There is no known alternative centre or edge of centre sites that the Council considers suitable or appropriate for such a use that is located a sufficient distance away from residential properties. In these circumstances, the applicant would need to demonstrate that the facility is a local need. The laser centre would be an ancillary facility to the go karting.

The leisure use would not provide linked trips, if it was to be located in an established centre, as the go karting and laser centre would be used for specific pre-booked recreational purposes. The site is within walking distance from surrounding residential properties reducing the need to travel.

Non industrial uses in this industrial park are acceptable in these exceptional circumstances and the use of the site can be controlled through condition to ensure the units revert back to industrial. The re-use of the derelict industrial estate would assist in the economic viability of the area.

The existing B1a offices next to unit 1 would be used ancillary to the other core industrial uses and a condition would restrict them being used as independent businesses.

Competition is not a material planning consideration.

The applicant has confirmed that no works on site have commenced.

The renovation and redevelopment of the industrial estate would visually enhance the character of the industrial estate as well as promoting and attracting potential companies into the area.

The proposed use of the business park for industrial purposes would not unduly impact on the amenities of the occupiers of the flats and residential properties opposite over and above what the industrial reuse of the business park could generate plus it is set within an industrial area and the flats face away from the site.

The proposed leisure and sui generis uses would be located to the rear of unit 1 and further back into the industrial estate away from nearby residential properties, screening the proposed uses from surrounding residential properties on the opposite side of Straight Road. The proposed opening hours will be restricted to 8pm to protect the amenity of surrounding residential properties.

Conditions have been recommended to assist in noise control of the site. Any existing noise issues related to the public house would be a matter for Environmental Health to pursue. The area is a mixed use area and predominantly industrial on the western side of Straight Road, there is no control over the comings and goings of heavy good vehicles from these industrial parks or along the highway, however, the proposed development would potentially reduce the demand for heavy goods vehicles on this site.

Litter bins can be sought by condition.

The use of the industrial estate for mixed industrial, leisure and sui generis uses would not unduly impact on the amenities of the surrounding industrial uses. The use of the site later in the evening would add security to the surrounding industrial uses.

The site has a total of around 79 parking spaces and a combination of 35 parking spaces would be allocated for both the go karting and laser centre use, which means that a further 44 spaces would be available for the remaining uses on the site. Taking into account the likely differing operating times and uses of the various units it is considered that across the whole site there will be adequate on-site parking to cater for all the uses, both existing and proposed. It is unlikely that the development will result in any significant detrimental impact on the local highway network.

There is no evidence to suggest that the proposal would result in increased traffic movements for the site and any unauthorised parking is a matter for the highways enforcement or Police to pursue.

The proposal is consistent with the National Planning Policy Framework, policies UR1b, UR3, PA5, PA5, QE1, QE2, QE3, T2, T3, T4, T5 and T7 of the Regional Spatial Strategy, policies 2A, 2B, CSP2, CSP3, CSP4, TRAN1, TRAN3, TRAN4, ENV3, ENV4, CEN1, CEN2, CEN7 and EMP3 of the Black Country Core Strategy, saved policies 3.6, 3.7, GP2, ENV14, ENV33, 3.117, 3.116, 3.113, 3.114, 3.115, ENV32, ENV33, ENV40, S1, S7, S6, 5.6, 5.7, 5.8, JP7, T7 and T13 of the Unitary Development Plan, Policy DW3 of the Designing Walsall SPD

Recommendation: Grant Permission Subject to Conditions

1) This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2a) Prior to the commencement of schedule of facing materials to be used in external walls and roofs shall be submitted to and approved in writing by the Local Planning Authority.

2b) The development shall be completed with the approved details and retained and maintained at all times.

Reason: To ensure the satisfactory appearance of the development.

3a) Prior to any of the units on site being occupied a detailed landscaping scheme for the front of the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of the front boundary treatment, maintenance of the existing trees or suitable replacement, use of the brick planters and any other hard/soft landscaping within the site.

3b) The landscaping scheme shall be incorporated within 6 months of being agreed and retained and maintained thereafter.

Reason: In the visual amenities of the area.

4a) Prior to commencement of this development, details for the disposal of surface water and foul sewage shall be submitted to and approved by the Local Planning Authority.

4b) The works shall only be carried out in accordance with the approved details.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

5a) Prior to the commencement of development details of the proposed storage of hazardous substances shall be submitted to and agreed in writing by the Local Planning Authority.

5b) and thereafter implemented in accordance with the agreed details unless otherwise agreed in writing and thereafter retained.

Reason: To prevent pollution of the waterway and ground water from wind blow, seepage or spillage of waste products and materials in accordance with policy ENV4 Canals of the adopted Black Country Joint Core Strategy.

6a) Prior to the commencement of the development, full details of a cycle storage facility for the use of staff and customers shall be submitted to and approved in writing by the Local Planning Authority. The facility shall be secure, covered and illuminated.

6b) Prior to the development first coming into use, the approved cycle shelter details shall be fully implemented and thereafter retained.

Reason: To encourage sustainable modes of travel.

7a) Prior to the commencement of the development, details and locations of any plant, machinery or equipment used for the purpose of liquid pumping, providing compressed air, heating, ventilation and air conditioning shall be submitted to and approved In writing by

the Local Planning Authority. The plant machinery or equipment shall be situated within building structure(s), and acoustically designed enclosures.

7b) The development shall be completed in accordance with the approved details prior to the development coming into use and thereafter retained in accordance with any approval.

Reason: To safeguard the amenity of surrounding residential occupiers.

8a) Prior to the commencement of this development details of the location and size of litter bins within the site shall be submitted to and approved in writing by the local Planning Authority.

8b) The development shall be completed in accordance with the approved details and retained and maintained at all times.

Reason: To safeguard the amenity of surrounding residential occupiers.

9a) Prior to the development first coming into use, all car parking and vehicle manoeuvring areas shown on the plan number 9643/02/C submitted on 17 May 2012 shall be fully consolidated, hard surfaced and drained with the parking spaces being clearly demarcated on the ground. The parking spaces dedicated for the Go-Karting/Laser and MOT/Service bay uses shall be clearly demarcated accordingly.

9b) These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development and to ensure adequate on-site parking in the interests of highway safety.

10) The noise mitigation measures, as recommended in the acoustic report by APD Acoustic Planning & Design, Job Number 104, shall be implemented and maintained thereafter. This shall include:

- Ventilation fans at the go-karting facility shall not exceed an A-weighted sound power level of 73 dB LWA;
- Building fabric to be in a good condition (gaps and cracks filled and sealed);
- Doorways into the racing arena to be well-fitted and sealed on all surrounding areas;
- No external windows into the racing arena.

Reason: To safeguard the amenity of surrounding residential occupiers.

11) The proposed go karting and laser centre shall only be open for business between the hours of 10am till 8pm Mondays to Fridays, 9am to 8pm Saturdays, Sundays and bank/public holidays.

Reason: To safeguard the amenity of surrounding residential occupiers.

12) The B1b, B1c, B2 and B8 uses shall only be open for business between the hours of 8am till 8pm Mondays to Fridays and 8am till 2pm Saturdays with no opening on Sundays and bank/public holidays. This shall include collections, deliveries and despatches.

Reason: To safeguard the amenity of surrounding residential occupiers.

13) Units 1, 6, 7 and 8 shall only be utilised for B1b, B1c, B2 and B8 uses.

Reason: To retain effective control over the industrial park and to retain the units for industrial purposes only.

14) Unit 2 and Unit 3 shall revert back to B1b, B1c, B2 and B8 uses once the go karting and laser centre uses have ceased.

Reason: To retain effective control over the industrial park and to ensure the units are retained for industrial purposes.

15) The laser centre shall be an ancilliary facility to the go karting and shall not be occupied as an independent unit.

Reason: To retain effective control over the industrial park.

16) The offices hereby approved in unit 11 and at first floor of units 1 and 2 shall be used as ancilliary offices to the main industrial uses on the site and shall not be occupied as independent businesses.

Reason: To comply with Policy JP7, S1 and S7 of the Unitary Development Plan.

17) No electrical or electronic sound reproduction, amplification or production equipment used in respect of speech, music and other sounds shall be installed.

Reason: To safeguard the amenity of surrounding residential occupiers.

18) Windows and doors in external wall and roof elements that serve the racing arena shall remain closed when the arena is in use.

Reason: To safeguard the amenity of surrounding residential occupiers.

19) The development hereby approved shall be carried out in accordance with plan numbers 9643/01/B submitted 15th March 2012 and 9643/02/C submitted on 17th May 2012.

Reason: To define the permission.

Note for Applicant

The area of this proposed development has been used for industrial purposes that may have resulted in localised ground contamination that may present Health and Safety implications for persons undertaking ground works. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.

12/0322/FL

Cllr D. Shires

Go-Karting, Laser Centre and MOT/Vehicle Repairs

We the undersigned call on Walsall Council to reject the application 12/0322/FL for change of use at Alvar Business Park on Straight Road to Go-Karting, a Laser Centre and MOT/Vehicle Repairs. We call on Walsall Council to reject this due to the impact on the surrounding area by pollution and noise pollution, lack of parking and impact on the character of the area.

Name	Address	Signature	Email
	20 STOURMORE CLOSE STOURMORE		
	11		
	11		
	18 STOURMORE CLOSE, STREET LEATH WV12 5RF		
	11		
	22 STOURMORE CL, WILLENHALL WEST MIDS. W. WV12 5RF		
	24 Stourmore Cl Willenhall WV12 5RF		
	17, STOURMORE CLOSE Willenhall WV12 5RF		
	11		
	14 STOURMORE WV12 5RF		

Please return to Councillor Shires, Liberal Democrat Group,
Walsall Metropolitan Borough Council, Darwall Street, Walsall, WS1 1TP

We the undersigned fully support the proposed development for a indoor Go-karting and laser room facility at Alvar Business Park, Straight Road, Willenhall WV12 5QY. The proposal is welcomed as it will provide a much needed community facility for adults, children and young people. Furthermore this area has experienced considerable nuisance from the irresponsible use of Quadbikes, Pocket bikes and mini scooters. This facility will create a formalised and supervised use of Go-Karting taking the dangerous and nuisance machines off our roads.

NAME	ADDRESS	SIGNATURE	DATE
	133, COLTHAM RD, WHALL		31-1-12
	142 SNEYD LANE		31-1-12
	21 Trentham Ave		"
	152 SHEPHERD DRIVE		"
	12 TILDERSLEY DRIVE		"
	89 SANDBEDS RD		"
	6 EZEKIEL LANE		"
	8. EZEKIEL LANE		31/1/2012
	12 EZEKIEL LANE		"
	4. CLIFT CLOSE		
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	30 CLIFT CLOSE		"
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	34. Clift Close		"
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	11 CLIFT CLOSE		31/1/12
	40 CLIFT CLOSE		31-1-12
	17. Short St		"
	15, Short St		"
	4 Short Street		"
	8 Short St		"
	10 Short St		31-1-12
	14 Short St		"
	6 Short Street		" "



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28/06/2012

Reason for bringing to committee: Significant community interest

Application Number: 11/0570/FL
Application Type: Full application

Case Officer: Devinder Matharu
Telephone Number: 01922 652487
Email: planningservices@walsall.gov.uk
Agent: Field Building Design Partnership

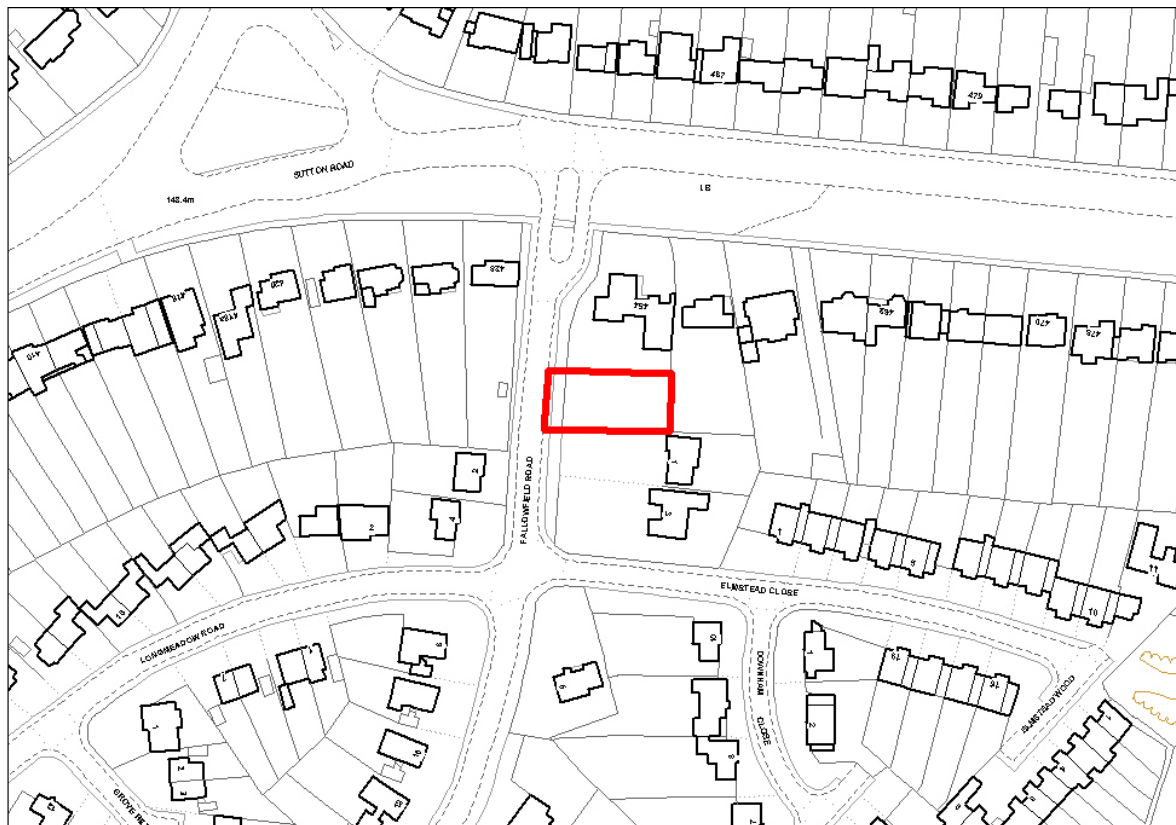
Applicant: Mr Indie Singh
Proposal: New dormer bungalow.

Location: REAR OF 454 SUTTON ROAD, WALSALL, WS5 3AZ

Ward: Pheasey Park Farm

Expired Date: 19/10/2011

Recommendation Summary: Grant Permission Subject to Conditions



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Application and Site Details

The application site is part of the rear garden of 454 Sutton Road, on the corner of Sutton Road with Fallowfield Road, fronting Fallowfield Road in a dip with the road sloping down from the junction with Sutton Road before starting to rise again past its junction with Elmstead Close. 1 and 3 Fallowfield Road are set back from the roadside behind large open front gardens, such that the southern boundary of the site is prominent, in views from the south. There is an established screen of trees within the site along this boundary, and 3 trees within the highway verge in the vicinity of the site.

There are a variety of different housing styles and designs in the area in open plan layout without strongly defined building lines. Properties along Sutton Road are of individual design, with three main styles within the immediate vicinity of Fallowfield Road including large bungalows with front to back ridgeline roofs, detached dwellings with gable ends and detached dwellings with front to back ridgelines. The density of the vicinity is 14.6dph. There is a bus stop on the pavement directly in front of the application site.

The application proposes the erection of a three bedroom dormer bungalow, which would be set 18.2m back into the site and would measure 13m wide, 7.6m deep and 6.4m high. A projecting gable feature would accommodate a porch and garage. The rear garden would measure 7m in length and have a total amenity area of 102 square metres. The dormer bungalow would sit further forward of 1 Fallowfield Road by 7m, sitting in line with the driveway to this property. The application site would have a density of 20dph.

The following documents have been submitted with the application:

- Design and Access Statement stating the bungalow would be set back to comply with space around dwelling requirements and would not be dominant to 1 Fallowfield Road. The access drive has been repositioned to the centre of the site to prevent damage to the Cherry and Lime trees. The property will be made available for low cost and first time buyers.
- Hand digging method statement stating excavation around protected trees would be undertaken by hand digging and protective fencing to be placed on site during construction.
- Bat survey concluding the existing dwelling will not be altered and the poor roosting opportunities under the ridge tiles will be maintained. The trees on the site show some signs of early wet rot but these are not advanced enough to provide roosting opportunities for bats. The felling of the trees will not result in the loss of roosting opportunities. The retention of the hedgerows towards the rear of the site will retain commuting routes for bats.

Relevant Planning History

09/0672/OL - Outline application for erection of a detached bungalow to include scale and layout. refused 25/8/2009 on the grounds (1) of poor relationship to surrounding properties in Fallowfield Road thus appearing dominant and incongruous, and unrelated to surrounding development, failure to take into account the context that defines the character of the area disrupting the street scene and (2) failure to demonstrate no damage or loss to Lime and Cherry trees within grass verge by creation of the vehicular access whose potential loss would have an adverse impact on the character and amenity of the area.

The proposal was allowed at appeal on 22 June 2010 the grounds of:

- The loss of the trees would have no unacceptable impact on the local environment
- Proposal would not appear unduly assertive or incongruous in the street scene.
- Impact of the development can be softened and screened by replacement planting
- In relation to the issue of character and appearance the proposal does not conflict with policies GP2, ENV18, ENV32 or H10 or the Designing Walsall SPG.
- Agrees the loss of the trees within the highway verge would be a loss but the applicant provides no details of the method to construct the driveway.

08/0019/OL – Outline application for a single detached bungalow to include access, scale and layout – Refused 23/05/008. Two reasons for refusal broadly relating to (1) poor relationship to surrounding properties in Fallowfield Road thus appearing dominant and incongruous, failing to take account of the context and disrupting street scene to detriment of visual amenities and (2) failure to demonstrate no damage or loss to Lime and Cherry trees within grass verge by creation of the vehicular access whose potential loss would have an adverse impact on the character and amenity of the area.

08/1593/FL – First floor extension over existing lounge to form larger bedroom, together with new conservatory to rear (no.454) – Granted subject to conditions 28/11/08.

Various planning refusals and a dismissed appeal for wall and railings to the front boundary of 454 Sutton Road.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

The NPPF was published on Tuesday 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

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

- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas
-

Key provisions of the NPPF relevant in this case:

4: Promoting Sustainable Transport

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

39. If setting parking standards for residential LPA's should also take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

6: Delivering a Wide Choice of High Quality Homes

49. Housing applications should be considered in the context of the presumption in favour of sustainable development

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people

58. Policies should set out the quality of development that will be expected of an area, including:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

59. Consider using design codes where they could help deliver high quality outcomes. Design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.

60. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.

60. It is, proper to seek to promote or reinforce local distinctiveness

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

On **planning obligations and conditions** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

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

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

Annex 2- Glossary - Previously developed land

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

Key planning policies include QE1, QE2, QE3, T3, T5 and T7.

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF

The Black Country Core Strategy (BCCS)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*".

The key planning policies include CSP4, HOU2, ENV2 and ENV 3

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

Walsall's Unitary Development Plan (UDP)

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

Key planning policy references include saved policies:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV33 and 3.117 landscape design is an integral part of urban design

H3: Windfall Sites and Conversion of Existing Buildings

(a) The Council will encourage the provision of additional housing through the re-use of brownfield windfall sites and through the conversion of existing buildings.

ENV14 and 3.9 The Council will encourage the reclamation and development of derelict and previously developed land.

3.64: Trees are an important visual, ecological and historical resource, which should be retained and protected wherever possible.

ENV18: The Council will ensure the protection, positive management and enhancement of existing trees and hedgerows.

T7: All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

1, 2 & 3 bedroom houses 2 spaces per unit

Supplementary Planning Document (SPD)

On the basis that relevant Unitary Development Plan policies are consistent with National Planning Policy Framework, the related Supplementary Planning Document(s) will also be consistent provided they are applied in a manner consistent with National Planning Policy Framework policy. The relevant Supplementary Planning Document's are:

Designing Walsall (Feb 2008) refers to the development respecting massing, scale and rhythm of adjacent buildings, plots sizes and built density will relate to their local context , privacy and aspect distances between buildings must ensure all occupants have a satisfactory level of amenity, whilst reflecting the emerging and existing character of the area, ground floor activity and natural surveillance will be maximised, a clear definition between private and public realm and building frontage to overlook the public realm, common building lines along road frontages must be maintained with buildings have a clear relationship with their neighbours and new development should make a positive contribution to creating a comfortable, adaptable and sustainable built environment. DW3 – all new development must be designed to respect and enhance local identity DW9 new development must seek to ensure it creates places with attractive environmental quality

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

The Vision: Homes, provides guidance on designing homes in Walsall.

It is considered in this case that the relevant provisions of Designing Walsall Supplementary Planning Document are consistent with the NPPF.

Conserving Walsall's Natural Environment SPD

Policies N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

It is considered in this case that the relevant provisions of Designing Walsall Supplementary Planning Document are consistent with the NPPF.

Consultations

Transportation – No objection subject to conditions relating to layout and access.

Pollution Control Contaminated Land Team – No objection

Pollution Control Scientific Team – No objections in principle. There is a potential for adjoining residential properties to be affected by construction noise therefore measures to safeguard these properties from noise are recommended.

Police Architectural Liaison Officer – No objection but makes the following comments the development should be built to secure by design standards, the perimeter fencing should be 1.8m high, any gates should be of a robust construction and the same height as the fencing and consideration given to the installation of an intruder alarm.

Fire Officer – No objection

Severn Trent Water – No objection subject to drainage details being submitted and approved.

Landscape – No objection

Ecology – No objection subject to conditions to compliance with the submitted bat survey and no external lighting.

Environmental Health – No objection.

Arboricultural Officer – No objection subject to conditions to ensure the development is completed in accordance with the tree protection measures and method statement.

Centro – No objection . The bus stop will require relocation in agreement with Centro, bus operators and the Highway Authority at the applicant's cost.

Public Participation Responses

Six letters have been received objecting to the proposal on the following grounds:

- Contrary to policy on garden grabbing
- Loss of outlook
- Out of character including design and appearance
- Overlooking
- Loss of privacy

- Loss of amenity
- Loss of green space
- Impact on bats
- Planning Inspectors decision flawed as PPS3 overlooked
- Loss of bus stop
- Loss of trees
- Increase in traffic

Four letters have been received objecting to the amended plans on the grounds of:

- impact on character of area
- Increase in traffic
- Inconvenience of loss of bus stop and utilities
- Highway issues including safety, access and on street parking
- Increase in noise and disturbance
- Loss of trees
- Loss of wildlife

Valerie Vaz MP has written in on behalf of her constituents advising that the Planning Inspector has failed to taken into account PPS3 and the property would be further forward of 1 and 3 Fallowfield Road altering the character of the area and blocking out light.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Principle of Development
- Impact on the character of the area
- Provision of a satisfactory residential environment
- Impact on the amenities of the surrounding residential properties
- Loss of trees
- Impact on protected species
- Access and parking

Observations

Principle of Development

Objectors are concerned that the Planning Inspector's decision did not address PPS3 relating to garden land development. This was before the Planning Inspectorate at the time of the appeal decision. PPS3 has now been superseded by the NPPF that excludes garden land from previously developed land. This does not preclude new housing development on garden land, if imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment.

The application site location is within 700m of convenience shop, church and public house, and near a bus route with a bus stop outside the site. The National Planning Policy Framework states housing applications should be considered in context of the presumption in favour of sustainable development. Policy H3 of the UDP encourages the provision of additional housing through previously developed windfall sites.

In the applicants Design and Access Statement it says that the property would be made available for low/cost first time buyers housing. It has not been demonstrated how this would be secured, whether the property would be owned by a registered social landlord or made available as shared ownership.

Objections have been received to the loss of green space; however this garden is not designated as urban open space and therefore not specifically restricted from development.

The proposal has outline planning permission, is in a sustainable location and makes efficient use of the land without compromising the design quality of the locality.

Impact on the character of the area

The proposed bungalow would be positioned towards the rear of the site but would be prominent in views from the south. This was considered by the Planning Inspector in 2009 when granting consent. Within the site there is an established screen of trees and three trees within the highway verge which have a high quality amenity value.

The Planning Inspector stated *"the proposed bungalow would be set well forward of 1 and 3 Fallowfield Road and would step the building line forward and visually link it to the side elevation of 454 Sutton Road, providing an element of visual continuity missing from the present street scene. The position of the bungalow at the lowest point of the road and the retention of frontage trees and boundary fencing would result in only the roof of the bungalow gaining any visual prominence. The proposal would not appear unduly assertive or incongruous in the street scene"*.

The bungalow width, depth and height are as per planning application 09/0672/OL, with the addition of dormers to the front and rear and a porch entrance feature. It is considered that the points raised by the Planning Inspector regarding the visual link to 454 Sutton Road and only the roof of the bungalow being visible, remains valid, as the building height is no higher than the 2009 application.

The Planning Inspector concluded that the impact of the development could be further softened and screened by replacement tree and garden planting lost along the boundary, secured through the implementation of a landscaping scheme. Additional planting would provide a harmonious relationship between the proposal and existing development in the vicinity, which the existing trees fail to do, and on this basis the proposal did not conflict with policy in terms of character and appearance.

With regards to design, there are a number of house styles and types in an open plan layout without strongly defined building lines. It is considered that the design of the proposed dormer bungalow would not unduly detract from the setting or character of the area and would add to the variety of housing styles in this area.

Provision of a satisfactory residential environment

The proposal includes a rear garden length of 7m; this is below the Council's guidance of 12m. However, the garden would be 102 square metres in an area considerably minimal guidance and reflecting the neighbouring properties in Fallowfield Road and Elmstead Close.

Impact on the amenities of the surrounding residential properties

It is considered that the proposal would not unduly result in any direct overlooking of the rear garden of 456 Sutton Road from the dormer windows as the trees along the shared boundary with the neighbouring property, interrupting any direct views, as well as providing some privacy between the application site and the adjoining site. No side windows are proposed which would protect the amenity of both the existing dwelling at 454 Sutton Road and 1 Fallowfield Road, therefore the proposal would not unduly result in any loss of privacy or amenity to these occupiers.

Whilst the proposed bungalow, would be positioned forward of 1 Fallowfield Road and visible from 1 Fallowfield Road, the proposed bungalow would not be within a direct sight line from 1 Fallowfield and would not unduly result in loss of outlook for 1 Fallowfield Road.

Although objections have been received relating to potential for noise and disturbance during construction it is considered that subject to a condition imposed restricting construction operating hours to protect residential amenity a refusal based on this would not be justified. There is no evidence to suggest that the construction of a single dwelling at this site would unduly result in noise and disturbance to surrounding residential occupiers.

Loss of trees

The Planning Inspector's decision concluded that the group of trees along towards the rear of the site, comprising a semi mature ash tree and three conifers would be closer to the position of the bungalow. The proximity of the bungalow to them would make their protection during construction works impractical and although imposing in size, these trees do not form an attractive group, and their sizes and species are inappropriate so close to residential properties. Individually, they do not merit protection, and their loss would have no unacceptable impact on the local environment.

The proposed access has been repositioned away from the two protected Lime trees on Sutton Road to the north of the access, taking the driveway outside of the root protection area of these trees. It does, however, mean the proposed access is closer to the cherry tree to the south of the access. Hand digging around the tree and root pruning would be acceptable, as the encroachment is not excessive into the root protection area and any loss would be relatively minor and not detrimental to the tree.

Impact on protected species

The Ecology Officer has no objection to the development provided the bat roosting scheme set out in the submitted bat survey are installed before the development is brought into use and no external lighting installed.

Access and parking

The proposal provides 3 off road parking spaces within the curtilage of the site, which complies with the requirements of Policy T13.

The Transportation Officer raises no objection to the application. Although neighbours are concerned about increase in traffic congestion and parking problems at this narrow part of Fallowfield Road, close to the Sutton Road junction, the Transportation officer is satisfied that the proposals will not cause a danger to highway safety. This is subject to details of the vehicular crossing, surfacing the driveway and parking areas, relocation of the bus stop.

The relocation of the existing bus stop can be conditioned to ensure that it is appropriately relocated in conjunction with Centro, to ensure local bus serves continue.

It is considered that vehicle movements associated with the provision of one additional dwelling would not significantly increase traffic congestion in the area to the detriment of highway safety. There is ample space within the site to park and manoeuvre vehicles so that they emerge in a forward gear.

Summary of Reasons for Granting Planning Permission

The matter regarding PPS3 was before the Planning Inspectorate at the time of the appeal decision in 2009. The garden is not designated as urban open space and therefore not specifically restricted from development. The proposed bungalow would be positioned in the same location as allowed by the Planning Inspector in 2009.

The application site location is within local facilities and near a bus route with a bus stop outside the site. The proposal has outline planning permission, is in a sustainable location and makes efficient use of the land without compromising the design quality of the locality.

The dimensions of the bungalow are as considered by the Planning Inspector in 2009 and whilst only the roof of the dormer bungalow would be visually prominent. The proposal would not appear unduly assertive or incongruous in the street scene. The impact of the development could be further softened and screened by replacement tree and garden planting lost along the boundary.

The design of the proposed dormer bungalow would not unduly detract from the setting or character of the area and would add to the variety of housing styles in this area.

The garden would be 102 square metres in an area considerably minimal guidance and reflecting the neighbouring properties in Fallowfield Road and Elmstead Close.

The proposal would not unduly result in any direct overlooking of the rear garden of 456 Sutton Road from the dormer windows as the trees along the shared boundary with the neighbouring property, interrupting any direct views, as well as providing some privacy. No side windows are proposed which would protect the amenity of both the existing dwelling at 454 Sutton Road and 1 Fallowfield Road; therefore the proposal would not unduly result in any loss of privacy or amenity to these occupiers.

The proposed bungalow would not be within a direct sight line from 1 Fallowfield and considered would not unduly result in loss of outlook for 1 Fallowfield Road.

Noise and disturbance during construction can be secured by condition to protect residential amenity. There is no evidence to suggest that the construction of a single dwelling at this site would unduly result in noise and disturbance to surrounding residential occupiers.

The semi mature ash tree and three conifers in close proximity to the proposed dormer bungalow do not merit protection.

The proposed access has been repositioned away from the two protected Lime trees on Sutton Road to the north of the access, taking the driveway outside of the root protection area of these trees. Whilst the proposed access is closer to the cherry tree to the south of the access, it is considered hand digging around the tree and root pruning would be acceptable; as the encroachment is not excessive into the root protection area and any loss would be relatively minor and not detrimental to the tree.

Bat roosting boxes would provide habitats for bats.

The proposal would not cause a danger to highway safety and details of the vehicular crossing, surfacing the driveway and parking areas and relocation of the bus stop can be secured by condition.

The provision of one additional dwelling would not significantly increase traffic congestion in the area to the detriment of highway safety. There is ample space within the site to park and manoeuvre vehicles so that they emerge in a forward gear.

The proposal complies with the National Planning Policy Framework, policies QE2, QE3, T3, T5 and T7 of the Regional Spatial Strategy, policies CSP4, HOU2, ENV2 and ENV3 of the Black Country Core Strategy, saved policies 3.6, 3.7, GP2, ENV33, ENV14, 3.117, 3.116, 3.113, 3.114, 3.115, 3.64, ENV18, ENV32, H3, T7 and T13 of the Unitary Development Plan, Policies DW3 and DW9 of the Designing Walsall SPD and Policies NE8, NE9 and NE10 of Conserving Walsall's SPD.

Recommendation: Grant Permission Subject to Conditions

1) This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990, (as amended).

2a) Prior to the commencement of this development a schedule of facing materials to be used in external walls and roofs and detailing the surface treatment of the car parking area in front of the proposed development have been submitted to and approved in writing by the Local Planning Authority.

2b) The development shall be completed with the approved details and retained and maintained at all times.

Reason: To ensure the satisfactory appearance of the development.

3a) Prior to commencement of this development, a landscaping scheme detailing planting densities, planting numbers, size of plants to be planted, soil depth, specification and boundary treatments around the site shall be submitted to and approved in writing by the Local Planning Authority.

3b) The approved scheme shall be implemented within 12 months of any part of the development being brought into use.

Reason: In order to safeguard the amenities of the occupiers of the proposed flats and secure the satisfactory development of the application site.

4a) Prior to the commencement of this development details of the relocation of the bus stop in Fallowfield Road shall be submitted to and approved in writing, in conjunction with Centro.

4b) The development shall be completed in accordance with the approved details.

Reason: In the interests of highway safety.

5a) Prior to the commencement of any works on site details of the proposed vehicular footway crossing to serve the development shown on plan numbers 11/585/06/B and 11/585/09/C submitted on 28TH February 2012 shall be submitted to and approved in writing by the Local Planning Authority.

5b) The development shall be completed in accordance with the approved details and retained and maintained at all times.

Reason: To ensure the satisfactory completion and operation of the development and compliance with the requirements of the Highways Act 1980.

6) Prior to the commencement of any works on site the tree protection measures outlined in the method statement submitted 23 February 2012 shall be fully implemented retained on site until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2005

Reason: To safeguard the three trees outside of the site.

7) Prior to the commencement of any works on site the scheme for the provision of bat roosting sites as set out on pages 16-19 of S Christopher Smith dated 16/6/11 shall be installed and retained thereafter with access openings maintained free of obstructions at all times.

Reason: To conserve local bat populations.

8) Prior to the development first coming into use, the proposed driveway and parking areas as shown on numbers 11/585/06/B and 11/585/09/C submitted on 28TH February 2012 shall be fully consolidated, hard surfaced and drained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development

9) No external lighting scheme shall be installed on site.

Reason: To conserve local bat populations.

10) Any gates installed across the proposed driveway shall not at any time open outwards over the public highway.

Reason: In the interests of highway safety.

11) 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 08.00 to 16.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. * Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.

Reason: To protect the amenity of adjoining residential occupiers.

12) The drainage on site shall be carried out in accordance with plan number 11/585/04/B submitted on 28th February 2012.

Reason: To ensure the development is provided with satisfactory means of drainage as well as reducing the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

13) The development shall be carried out in accordance with the following plans:

- 11/585/02/B, 11/585/03/B, 11/585/04/B, 11/585/08/B, 11/585/06/B and 11/585/09/C submitted on 28th February 2012
- 11/585/01/A and 11/585/05/A submitted on 3 May 2012

Reason: To define the permission.

Notes to applicant

3) The Police have advised:

- the development should meet Secure by Design standards
- the perimeter fence shall be a 1.8m high close board fence topped with a 0.3m high Trellis – this would require planning permission and you are advised to submit details as per condition 3a.
- there shall be no unrestricted access from the front of the site to the rear.
- any gates should be to the same height as the fencing
- consideration given to the installation of an intruder alarm.



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28/06/2012

Reason for bringing to committee: Site owned by a Councillor

Application Number: 12/0533/FL

Application Type: Full application

Applicant: Mr Nick Massey

Proposal: Proposed Residential Development comprising three 3 bedroom terraced properties with external amenity including two parking spaces, patio/lawn areas and terraces to each dwelling

Location: LAND ADJACENT NO. 178, HALL LANE, WALSALL WOOD, WS9 9AR

Ward: Aldridge North and Walsall Wood

Case Officer: Karon Hulse

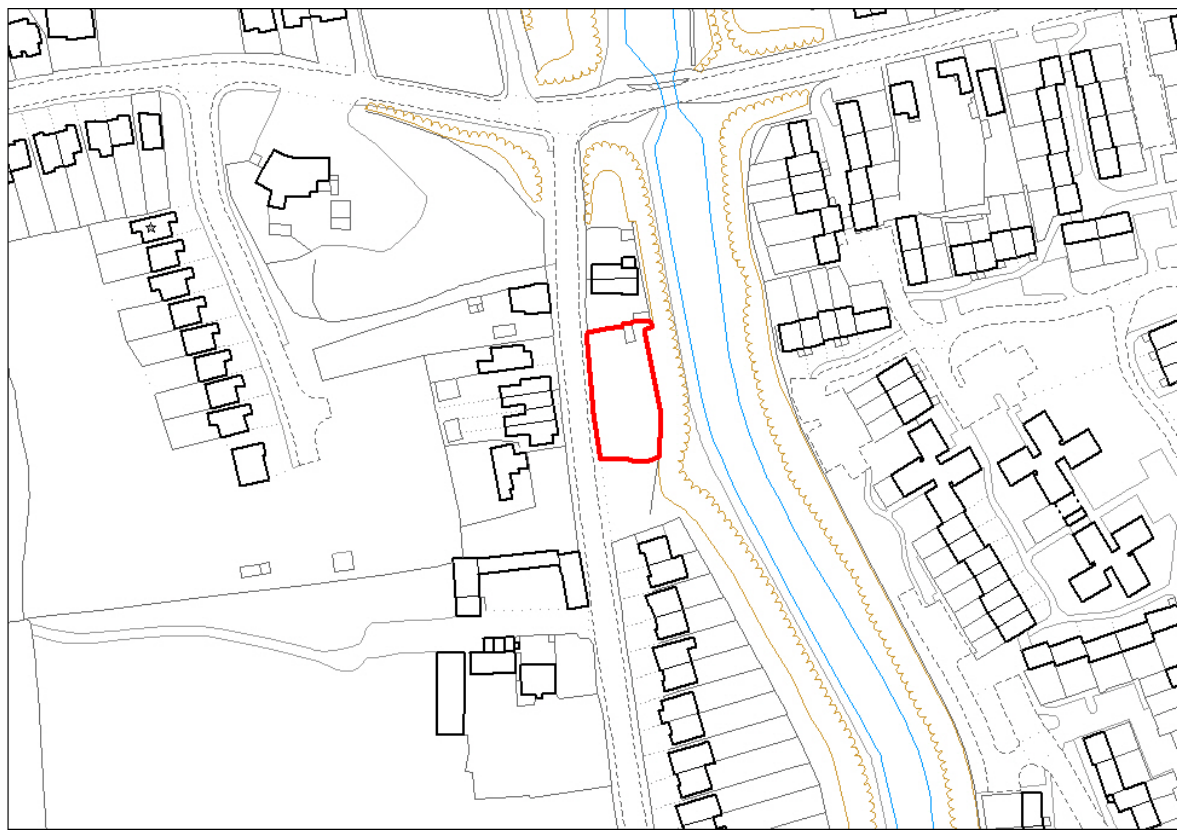
Telephone Number: 01922 652487

Email: planningservices@walsall.gov.uk

Agent: Alpha Plans

Expired Date: 03/07/2012

Recommendation Summary: Grant Permission Subject to Conditions



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Application and Site Details

This application seeks permission for the erection of 3 x two storey, three bedroom, terraced dwellings on land adjacent to 178, Hall Lane, Walsall Wood

The proposed development will include 3 two storey, wharf type terraced houses, with car parking at the front and small garden terraces (13.5 sq mts each) at the rear. Plots one and three will have additional garden amenity area at the side and front (approx 48 mt.sq. each plot), the appearance of the buildings has been purposefully designed to replicate former wharf type cottages selecting local architectural details from surrounding buildings such as the farm buildings on the opposite side of Hall Lane.

The site is situated towards the northern end of Hall Lane, which is a subsidiary road of the main Lichfield Road (A461). The Site is approximately 750 meters from the main centre of the village of Walsall Wood.

The site is that of the former British Waterways maintenance yard which has an area of approximately 0.053ha, it is currently vacant and overgrown following the demolition of shed buildings associated with its former use as the maintenance yard. The southern boundary of the site is adjacent to an open area of unused land with housing beyond and on the eastern side is a high embankment alongside the canal. There are Victorian age dwellings to the northern boundary and the west boundary (the site frontage) abuts Hall lane where further Victorian properties face the site. The topography of the site is predominantly level matching the ground level of the surrounding properties.

The shape of the plot is narrow, the design therefore proposes a linear frontage along Hall Lane, with each plot accommodating off street car parking and small incidental areas of landscaping. Each will have a rear private terrace which looks out towards the canal embankment with plots either end having additional enclosed and secure private amenity space to the side of the properties.

The proposed density on the site will be 45 dwellings per hectare, the surrounding area is between 32 and 40 dwellings per hectare.

The wider area is predominantly residential consisting of two architectural styles in the immediate vicinity of the site, Victorian terraced properties and much later 1930's –1970's housing. Further south towards Walsall Wood is a small industrial estate and the main Lichfield Road.

The application is accompanied by the following documents:

Ecological Survey Report which concludes that the site is of low ecological value consisting of hardstanding and being featureless.

A design and access statement states that the area will benefit from the removal of this vacant site and that the design takes into account the local character of the area

Relevant Planning History

None relevant

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

The NPPF was published on 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

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

- planning should be genuinely plan-led... should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency
- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives
- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas;
- support the transition to a low carbon future in a changing climate... encourage the reuse of existing resources, including conversion of existing buildings
- contribute to conserving and enhancing the natural environment
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable

Key provisions of the NPPF relevant in this case:

4. Promoting sustainable transport

29. The transport system needs to be balanced in favour of sustainable transport modes, although it is recognised that opportunities to maximise sustainable transport opportunities will vary from urban to rural areas.

6. Delivering a wide choice of high quality homes

47. To boost significantly the supply of housing, local planning authorities should:

- use their evidence base to assess needs for market and affordable housing in the housing market area,
- identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements (plus a 5% buffer, which might have to be increased to 20% “where there has been a record of persistent under-delivery”).

48. Local planning authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area

50. To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities,

7. Requiring good design

58. High quality development will be expected to include/meet the following criteria:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

64. Permission should, be refused for development of poor design

11. Conserving and Enhancing the Natural Environment

109. The Planning System should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms ‘Local Plan’ policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

Key planning policies in this case are:

CF1 – Authorities should create a variety and choice of housing within the Major Urban Areas

CF2 – Beyond the Major Urban Areas in locations such as this housing should be restricted to meeting local needs with priority to include the re-use of previously developed land.

QE3 - Creating a high quality built environment for all,

QE6 - The conservation, enhancement and restoration of the Region's landscape

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF

The Black Country Core Strategy (BCCS)

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework *“decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework”*.

The key planning policies include 2a and 2b Vision: to include the creation of a network of sustainable communities' right across the Black Country. This will be achieved, in part, by creating environments which offer opportunities for active lifestyles and healthy choices, including provision for outdoor recreation within the urban fabric of the Black Country.

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

2b: Encourages sustainable management of material resources through minimising waste, ensuring all members of the community have the best access to housing, previously developed land is prioritised over greenfield sites and encourages a comprehensive approach to development.

CSP2: A mix of good quality residential areas where people choose to live

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

ENV1: Safeguards nature conservation by ensuring development is not permitted where it would harm designated sites including Site of Importance for Nature Conservation. Adequate information must be provided with planning applications to ensure the likely impacts are fully assessed.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Encourage high quality design that stimulates economic, social and environmental benefits.

ENV4: Requires that all development proposals likely to affect the canal network must safeguard the operation of a navigable and functional waterway.

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

TRAN2: Planning permission will not be granted for development proposals that are likely to have significant transport implications unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety by all modes of

transport to and from all parts of a development including, in particular, access by walking, cycling, public transport and car sharing.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says *"due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*.

Key references to saved UDP policies are:

3.6, 3.7, & GP2: Seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV14: Seeks to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: Seeks to ensure protection, positive management and enhancement of existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV32: Seeks the design of developments to create high quality environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

ENV33: Promotes good landscape design, including in prominent locations and / or where there are features the council requires to be retained or enhanced.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

T7 and T13: Car Parking should meet council standards and be well-designed.

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the NPPF with two sets of exceptions. The first relates to the NPPF's acceptance of extension or alteration to or replacement of existing buildings. The second, which is more important in this case, is that the NPPF will allow the limited infilling or the partial or complete redevelopment of previously developed sites (where they are defined as brownfield land) and provided there will not be a greater impact on the openness of the Green Belt and the purpose of including land within it.

Supplementary Planning Documents (SPD)

On the basis that relevant Unitary Development Plan policies are consistent with NPPF, the related Supplementary Planning Documents will also be consistent provided they are applied in a manner consistent with National Planning Policy Framework policy. The relevant Supplementary Planning Documents are:

Designing Walsall SPD

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

Annexe E: Numerical Guidelines for Residential Development ... identifies matters such as privacy and aspect distances between dwellings and garden dimensions. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

DW1: New development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2: All development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3: Design should respect and enhance local identity;

DW6: New development should contribute to creating a place that has a clear identity;

DW9: New development must seek to ensure it creates places with attractive environmental quality;

DW10: New development should make a positive contribution to creating a sustainable environment.

It is considered in this case that the relevant provisions of Designing Walsall Supplementary Planning Document are consistent with the NPPF.

Natural Environment SPD

Identifies those features of the natural environment which the Council requires to be properly considered in proposed for development such as protected species and any natural land forms on the site i.e. existing trees and hedgerows.

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

It is considered in this case that the relevant provisions of Natural Environment Supplementary Planning Document are consistent with the NPPF.

Consultations

Transportation – no objections

Pollution Control Contaminated Land/Scientific Team – no objections

Natural Environment (Landscape) – no objections

Natural Environment (Ecology) – no objections

Fire Service – no objections

Severn Trent Water – no objections

British Waterways – *objects* on the grounds of potential impact on the structural integrity of the adjacent canal.

Inland Waterways – no objections

Public Participation Responses

None

Determining Issues

- Principle of Residential Development / Housing Land Supply
- Design and Layout / Space Standards
- Access and Parking
- Landscape and Ecology
- Local Finance Considerations

Observations

Principle of Residential Development / Housing Land Supply

There are sufficient sites that already have planning permission in Walsall to meet the housing land requirement in the BCCS until at least 2021 – (8 year supply from now). Small sites that do not yet have planning permission are likely to add to this supply. In relation to the NPPF 5% and 20% buffer, the completions, as compared with the BCCS targets, also show that the Core Strategy targets have been exceeded since 2006, and there is no persistent shortfall in delivery. This means that there is not at present any requirement to find further sites that will be deliverable within the next few years. Potential housing sites to meet the requirement between 2021 and 2026 will be identified through the Sites and Allocations process. The evolving situation will be monitored through annual SHLAA updates.

This application proposes an unusual type of dwelling which has been purposely designed to meet the restrictions of the site, and would in principle provide a type of aspirational housing of a size and scale in a location where its investment will benefit the regeneration of this particular area.

Design and Layout / Space Standards

This application provides an opportunity to clear away an unsightly site and develop it for housing in an area which is predominantly residential. The site lies beneath the Daw End branch of the canal and its embankment. The proposed development re-uses a presently vacant site which currently detracts from the surrounding area and whilst the site compound is secured it gives a poor outlook to that part of Hall Lane.

The layout and design approach for the houses selects and respects elements of the local character and vernacular of the area whilst proposing a modern development which takes into account a site which is constrained by its shape, size and close proximity to the canal embankment.

The proposed three houses have been designed to give the appearance of a converted Victorian industrial or warehouse building forming part of the industrial heritage of the area relating to the original intended use of the canals. Elements of the local Victorian architecture especially relating to the waterways network has been included in the overall design of the development and such features as arched brick details, type of fenestration and roof finials, vents and glazed roof lights all feature in giving this development a bespoke finish and appearance.

The constraints of the site do not allow for the proposed amenity areas for each plot to accord with the Designing Walsall standards. The design of the units and siting provides satisfactory amenity provision and the best opportunity for the reuse this site and in doing so will provide wider housing opportunity and choice in terms of house types, size and location. The closeness to the canal corridor and access to the towpath provides additional amenity value to the proposed development.

The high embankment to the canal also forms a substantial natural backdrop to the properties proposed.

The development of the site results in a density of 45 dwellings per hectare which is considered acceptable in an area which is currently between 32 and 40 dwellings per hectare. The slight increase is justified on the basis that it reuses a currently vacant land, providing development which fits in with the existing character of the area and a type of housing which is of an appropriate scale and size.

The canal towpath will be 13 metres from the rear elevations of the new dwellings this is considered an acceptable distance in order to maintain a satisfactory level of amenity for future occupiers from persons using the tow path.

Access and Parking

Walsall Wood local centre is 1000 metres walk along the canal tow path or 750 metres by road and has a health centre, leisure facilities, shops, schools and a hotel. Hall Lane is a relatively quiet road and is traffic calmed, each plot provides two off street parking spaces. There are regular public transport services along the High Street and the nearest bus stop is 300 metres away on Coppice Road where there is a frequent bus route between Brownhills and Walsall.

It is therefore considered to be in a sustainable location, and meets the accessibility standards in the UDP.

Landscaping and Ecology

The landscaping proposals include removal of the hedge row to the Hall Lane frontage to allow for access to the site and create soft landscaping elements such as railings along its frontage and dedicated areas of landscaping which will integrate into the amenity areas for the new homes. The existing bushes and shrubs to the base and embankment of the canal bank are to be enhanced and protected.

The ecology report states that the site is of very little ecological value and that there will be no loss of biodiversity. However to ensure that the development of the site does not have any detrimental impact on either bats or birds a number of conditions are recommended in order to provide alternative nesting and roosting sites within the development.

British Waterways Objection

British Waterways have objected on the grounds that the application has not demonstrated that there will not be any detrimental impact on the adjacent canal bank and that further investigation is required prior to determination of the application to demonstrate that the location of the dwellings and soakaway(s) will not affect the structural integrity of the embankment. The base of the embankment starts approximately 3 metres from the rear elevation of the proposed dwellings steadily rising to a height of 4 metres above the

ground level of the application site, the canal tow path and canal sits on top of this embankment approximately 13 metres from the rear elevations of the proposed dwellings.

Conditions requiring further information prior to any commencement will ensure the satisfactory development of the site.

British Waterways, on selling the land, imposed a right of access to the site for maintenance of the embankment, therefore, any future access will be a civil matter between the two parties.

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 3 new homes.

The new homes bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 792 new homes during 2010=2011 the award of £1,095,219 (which included a premium for affordable housing but also a deduction for an increase in vacancies) meant that – as a rough average – each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards might be offset against reductions in the 'formula grant' the Council will receive from Government.

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

Summary of Reasons for Granting Planning Permission

The use of this site for the development of three dwellings is acceptable. Whilst the amount of private amenity space will be limited, and in particular to plot 2, and falls below the Designing Walsall space standards the development provides a type and scale of residential units in close proximity to a local centre with all its facilities such as choice of transport, shopping, entertainment and medical facilities and provide housing which will meet the requirements of the whole community with wider housing opportunity and choice in terms of house types, size and location.

The design of the development relates to the industrial heritage of the canals in the area as well as local buildings and therefore adds to general appearance of the locality.

It is considered it can be demonstrated satisfactorily that the development can be constructed without having any detrimental impact on the structural integrity of the adjacent canal and embankment. Planning conditions requiring structural investigations to be carried prior to any development commencing will ensure the safe development of the site.

As such and on balance the proposed change of use is considered to be consistent with the National Planning Policy Framework and sustainable development and meets the aims and objectives of the Regional Strategy policies UR1b, CF1, CF2, QE3 and QE6, Black Country Core Strategy policies CSP2, CSP4, ENV1, ENV2, ENV3, ENV4, HOU2, TRAN1 and TRAN2, Unitary Development Plan policies, 3.6, 3.7, GP2, H3, ENV14, ENV18, ENV23, ENV32, ENV33, ENV40, T7 and T13, Designing Walsall Supplementary Planning Document and Natural Environment Supplementary Planning Document

Recommendation: Grant Permission Subject to Conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2a. Prior to the commencement of any development full details of existing and proposed levels of the site, accessway and floor levels have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site or adjoining land including the canal, and any drainage or other works necessary to facilitate this development.

2b. The approved details shall be fully implemented prior to first occupation and retained thereafter.

Reason: To ensure the satisfactory development of the site and to protect the nearby canal infrastructure in terms of stability, drainage, pollution, erosion and increase in water levels.

3a. No part of the development shall be brought into use until bat roosting and bird nesting boxes have been incorporated into the proposed building. The scheme shall comprise 2 bat boxes and 2 sparrow terrace boxes as described in the Phase 1 Ecological Survey report dated March 2012 submitted in support of the planning application.

3b. The boxes shall be erected at eaves height on the canal side of the proposed buildings and on the south-facing gable apex. The bat and bird boxes shall be retained thereafter with their entrances unobstructed.

Reason: To conserve local bat and bird populations.

4a. No development shall commence until a detailed landscape scheme comprising wildlife-friendly native shrub and herbaceous species is submitted to and approved in writing by the Local Planning Authority. The details shall provide:

- correct botanical names
- numbers/planting densities of plants per square metre for each species. These are usually set out in plant schedules
- size supplied of all proposed tree and shrubs at time of planting
- details of proposed turf/seeded areas
- topsoil and mulching depths and specifications
- staking and planting details for proposed trees

- details of landscape establishment / maintenance proposals to be undertaken during the standard conditioned maintenance period

4b. The approved scheme shall be implemented before the development is brought into use and retained for 5 years and managed in accordance with the approved management details.

Reason: To ensure the satisfactory appearance of the development and protect wildlife and to maintain and enhance local biodiversity.

5a. Prior to the commencement of the development a schedule of facing materials to be used in external walls and roofs has been approved in writing by the Local Planning Authority.

5b. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure the satisfactory appearance of the development.

6a. Prior to the commencement of the development drainage plans for the disposal of surface water and foul sewerage shall be submitted to and approved in writing by the Local Planning Authority.

6b. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

7a. Prior to the commencement of the development full details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority, the boundary treatment shall include mitigation measures in the form of acoustic barriers to protect external amenity areas from noise from the adjacent industrial sites to the west and south of the site.

7b. The agreed details shall be fully implemented prior to first occupation of any dwelling and shall thereafter be retained.

Reason: To protect the amenities of future occupiers.

8. No external lighting scheme shall be installed other than in accordance with the requirements set out below:

- There shall be no direct illumination of the new bat roosts installed or the canal corridor.
- Any lighting installed shall be low wattage down lights to provide security and safety lighting which will be set no higher than head height.
- Any security lighting shall use PIRs to ensure they turn off automatically once movement has ceased.

Reason: To avoid disturbance to local bat populations.

9. Prior to the first occupation of the development, the accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be surfaced in a porous material, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. The areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory provision of off-street parking, appearance and functioning of the development and

10. Prior to any removal of the hedgerow fronting the application site a check for nesting birds shall be made. In the event that any are found no removal of the hedge shall take place until the bird nesting season (March to August) has taken place and all evidence of nesting has ceased.

Reason: To conserve local bird populations.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, there shall be no vehicular access to the site, other than through the accesses as shown on the deposited plans, without the prior approval of a planning application.

Reason: To ensure the satisfactory functioning of the development and in the interests of highway safety.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

Reason: To safeguard the amenities of the occupiers of adjoining premises.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or succeeding Orders, the proposed dwellings shall not be extended without the prior approval of a planning application.

Reason: In order to maintain an adequate amenity area for the dwellings and to ensure the satisfactory appearance of the development.

14. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation) and deliveries to the site, shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 on Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

(Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)*



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28/06/2012

Reason for bringing to committee: Significant Community Interest

Application Number: 12/0359/FL

Application Type: Full application

Applicant: Mr Dan Pardesi

Proposal: Installation of 4 air conditioning units to rear back yard.

Location: CO-OP FOOD STORE, 35 LISKEARD ROAD, WALSALL, WS5 3EY

Ward: Paddock

Case Officer: Helen Smith

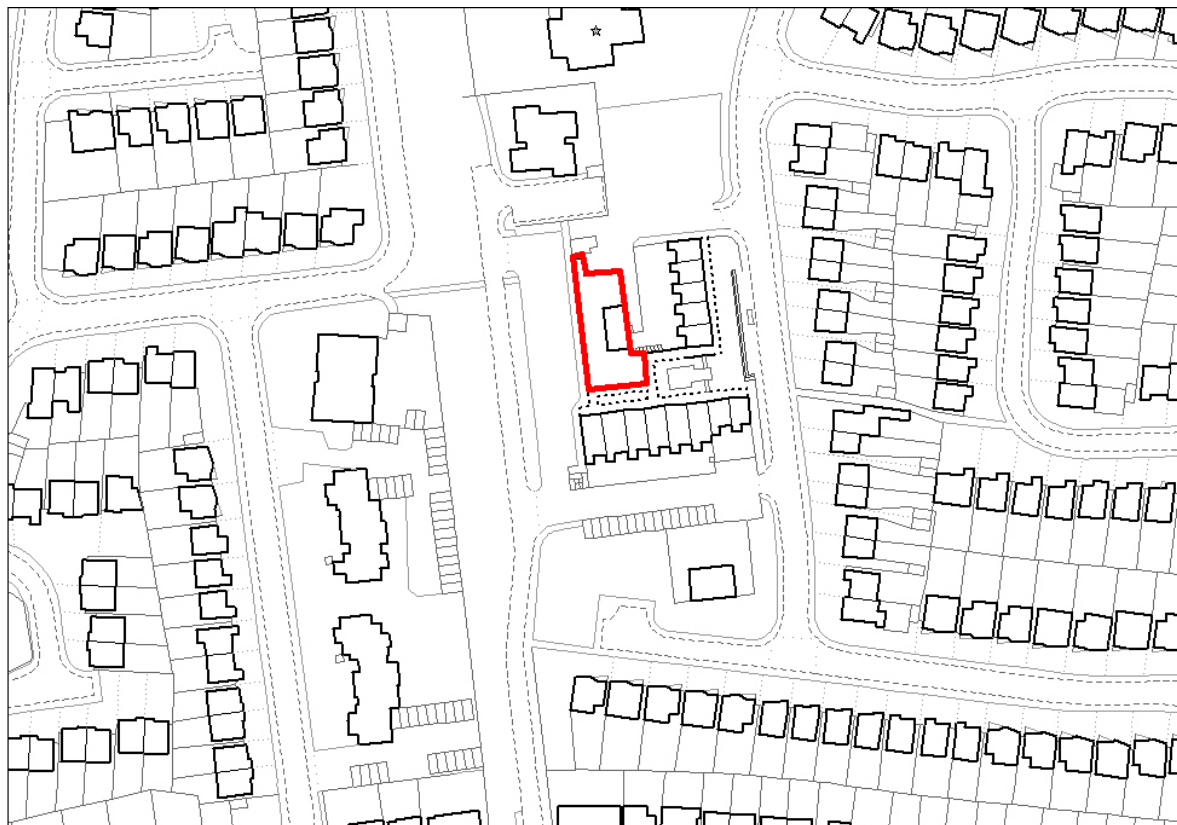
Telephone Number: 01922 652436

Email: planningservices@walsall.gov.uk

Agent: Anthony Spruce

Expired Date: 25/05/2012

Recommendation Summary: Grant Permission Subject to Conditions



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Application and Site Details

This application proposes the installation of 4 air conditioning units on the external north facing rear wall of the Co-op within an open service area. The Co-op is located within Park Hall Local Centre which has shops with residential flats above 16 metres from the Co-op. The units would be housed in anti-vandal cages, 2.4 metres high above ground level and powder coated grey. The units would be 1345mm x 900mm x 320mm and would be 150mm from the face of the building. There are two existing external fans on the rear elevation of the Co-op one of which would be replaced by the air conditioning units.

Elizabeth House flats are positioned 28 metres to the north of the Co-op with habitable room windows facing the rear elevation of the Co-op. There is a pedestrian walkway and car parking adjacent to the application site.

The application is accompanied by noise data in relation to the air conditioning units. The nominal sound level cooling sound pressure (standard), based on 1 metre away from the units and 1.5 metres high, specification is 51dbA.

Relevant Planning History

None relevant

PLANNING POLICY

National Planning Policy Framework (NPPF)

The NPPF was published on Tuesday 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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*".

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants

Key provisions of the NPPF relevant in this case:

7: Requiring Good Design

- 56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.
- 64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

11: Conserving and Enhancing the Natural Environment

- 109. The planning system should contribute to and enhance the natural and local environment by;

- Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of...noise pollution...
123. Planning policies and decisions should aim to:
- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
 - mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
 - recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and

On **planning obligations and conditions** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

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

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State. Relevant RS policies are:

POLICY QE3: Creating a High Quality Built Environment for all states;

A. Development Plans and other strategies should promote the creation of high quality built environments as part of urban and rural renaissance and the regeneration strategies for the Region's cities, towns and villages.

B. Particular attention should be given to:

iv) assessing and minimising the impacts of noise...as a result of development;

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF.

The Black Country Core Strategy (BCCS)

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*”. The relevant policies are:

CSP4: A high quality of design of the built and natural environment is required.

ENV 3 sets out the criteria for design quality.

It is considered in this case that the relevant provisions of the BCCS can be given full weight.

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says “*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.

The relevant policies are:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

3.113, 3.114, 3.115, & ENV32: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

S5: The Local Centres – Within these areas the retention, enhancement and further development of shops, services and other town centre uses will be encouraged.

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy.

The relevant SPDs are:

Designing Walsall SPD

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

DW1- Sustainability- New development should seek to simultaneously meet environmental, economic and community needs without compromising the needs of future generations

It is considered in this case that the relevant provisions of Designing Walsall SPDs are consistent with the NPPF.

Consultations

Pollution Control, Scientific Team – No objections subject to the inclusion of planning conditions to ensure that the noise from the units will not adversely affect nearby residential properties. An informative would be included recommending the applicants undertake a noise assessment of the current levels and determine the likely levels when all of the units are in operation.

Pollution Control, Contaminated Land – No specific contaminated land requirements

Environmental Health – No adverse comments

Public Participation Responses

Nine letters of concern received from residents of Elizabeth House requesting reassurance that noise would be kept to a minimum during installation and during operation, particularly during the summer months when bedroom windows are open at night.

Councillor R Martin has also raised concerns about the impact on neighbours' amenity from noise. Councillor Martin forwarded an email which recommended a before and after noise assessment when all 4 units are operating at maximum capacity.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Noise Impacts
- Design of Proposal and Impact on Character of Area

Observations

Noise Impact

The air conditioning units typically have sound output levels of 51dbA 1 metre from the unit. Elizabeth House flats are 28 metres away from the air conditioning units. Sound from these units is likely to disperse over this distance and taking into consideration the existing service yard, access, car park and boundary treatment the air conditioning units are unlikely to raise the night time noise climate sufficiently to give grounds of complaint. Conditions would be in place to safeguard residents' amenity by ensuring noise emissions do not give rise to a Noise Rating exceeding NR 25, 1 metre from the façade of occupied residential rooms and it is considered nearby residents would not be unduly affected by noise from the units when in operation.

There is likely to be some disturbance during installation but as the proposal is a minor development it is considered this would be for a limited time period.

An informative is included for the applicants recommending a noise assessment is undertaken of current levels and to determine the likely levels when all of the air conditioning units are in operation.

Design of Proposal and Impact on Character of Area

The proposed units would be visible from a pedestrian walkway and car park. The service area has an existing utilitarian appearance with existing fans and plant room doors in the rear elevation of the Co-op. The proposed units would be grey in colour and would be seen against the back drop of the existing building. It is considered the proposal would have a limited impact on the existing visual amenity of the surrounding area.

Summary of Reasons for Granting Planning Permission

The proposed units would have limited impact on the existing visual amenity of the surrounding area. The units would be seen against the backdrop of the existing rear wall of the Co-op which has a utilitarian appearance.

Issues raised by residents regarding noise from the proposed units are acknowledged. The separation distance of 28 metres from the air conditioning units to Elizabeth House would allow sound to dissipate over this distance and are unlikely to raise the night time noise climate sufficiently to give grounds of complaint. Planning conditions relating to noise are included to safeguard the amenity of local residents. There is likely to be some disturbance during the installation of these units but as this development is minor it is considered this potential disruption would be for a limited time period.

The proposed development is considered to be consistent with the National Planning Policy Framework and meets the aims and objectives of the Black Country Core Strategy policies in particular CSP4 and ENV3, the Walsall Unitary Development Plan saved policies in particular 3.6, 3.7, GP2, ENV10, 3.113, 3.114, 3.115, ENV32 and S5, and the Supplementary Planning Documents "Designing Walsall".

Recommendation: Grant Permission Subject to Conditions

1: This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2: Noise associated with external plant and machinery shall not give rise to a Rating Level exceeding 5 dB as determined in accordance with the methodologies contained British Standard BS 4142: 1997 'Method for Rating industrial noise affecting mixed residential and industrial areas' at any time.

Reason: To safeguard the amenities of the occupants of neighbouring residential properties.

3: The air conditioning units shall be designed and operated to ensure that noise emissions do not give rise to a Noise Rating exceeding NR 25, 1m from the façade of occupied residential rooms at any time.

Reason: To safeguard the amenities of the occupants of neighbouring residential properties.

4: This development shall not be carried out other than in conformity with the following approved plans: -

- Amended drawing no. 1535 – Proposed Installation of No. 4 Air Conditioning Units – deposited 30/3/12

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).

Note for Applicant

It is recommended a noise assessment of the current levels and likely levels of noise when all of the units are in operation is undertaken.



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28/06/2012

Reason for bringing to committee: Significant community interest

Application Number: 12/0005/FL

Application Type: Full application

Applicant: Mr John Warke

Proposal: Demolition of side extension to existing dwelling and erection of a new detached 3 bed dwelling.

Location: 12 MULBERRY PLACE, WALSALL, WS3 2NF

Ward: Bloxwich West

Case Officer: Stuart Crossen

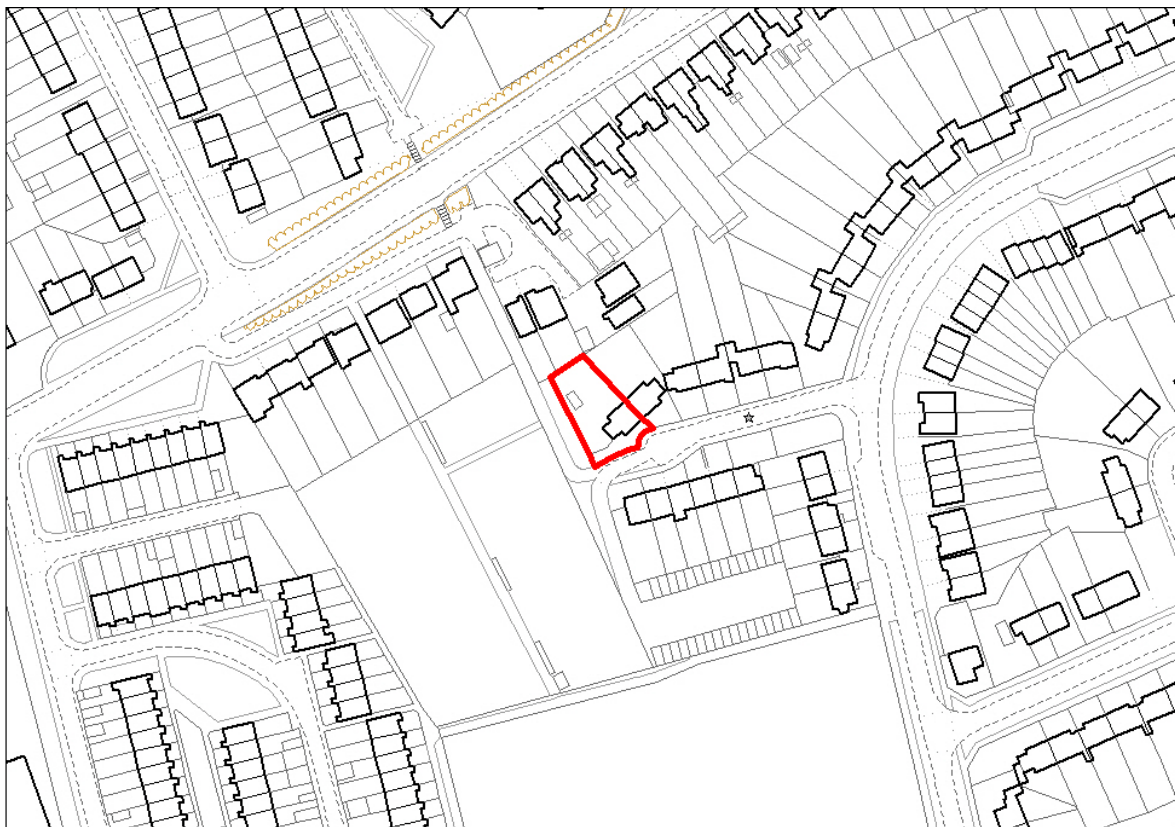
Telephone Number: 01922 652420

Email: planningservices@walsall.gov.uk

Agent: Lime Architecture Ltd

Expired Date: 02/03/2012

Recommendation Summary: Grant Permission Subject to Conditions



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Application and Site Details

The application proposes a new detached house on land to the side of number 12 Mulberry Place. Mulberry Place is a cul-de-sac which has a mix of semi-detached and terraced post-war houses with side gable roofs. The application site is at the end of this cul-de-sac.

The proposed house would have a side gable roof and a canopy over the front door. On the ground floor would be a toilet, living room and kitchen/dining room. On the first floor would be a bathroom and three bedrooms. There would be side access to the rear garden which would be 15 metres deep and 95.4m². The frontage would be hardsurfaced to provide 2 car parking spaces.

The proposal would measure:

The same eaves and roof ridge height as number 12;

17 degrees facing away from number 12

6 metres wide

6.5 metre deep with a 15 metre deep rear garden.

Number 12 would be to the east, the front elevation would be 3 metres further forward of the front elevation of the proposal with the rear elevation also 3 metres further forward. The application proposes that the remaining garden area for number 12 would be 18 metres deep and 103.4m² and an existing side extension would be removed to provide two car parking spaces to the front and side of the house and increase by 1 parking space than the existing situation. A first floor side elevation window at number 12 serves the landing area.

On the opposite side of the proposal is a grass bank which is 4.5 metres wide and leads down to a public footpath with allotments beyond.

The rear elevations of houses 255b and 255c Sneyd Lane are to the rear over 27 metres away with their gardens between. Near to the rear boundary of 255b is a protected Oak tree.

The Design & Access Statement – Gives an appraisal of the site, explains the landscape strategy, and design concept. Addition tree protection measures are also included.

A Coal Report – Following a request from the Coal Authority a Coal Report has been submitted with the application.

Relevant Planning History

None

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

The NPPF was published on Tuesday 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

All the **core planning principles** have been reviewed and those relevant in this case are: Proactively drive and support sustainable economic development to deliver the homes, business and infrastructure and thriving local places that the country needs.

- Delivering a wide choice of high quality homes
- Requiring good design

Key provisions of the NPPF relevant in this case:

6. Delivering a wide choice of high quality homes

49. Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

7. Requiring good design

56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

- Planning policies and decisions should aim to ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion;
- and are visually attractive as a result of good architecture and appropriate landscaping.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

Key planning policies include,

QE1, B iv) protect and enhance the distinctive character of different parts of the Region as recognised by the natural and character areas (Figure 4) and associated local landscape character assessments, and through historic landscape characterisation.

QE2, Restoring degraded areas and managing and creating high quality new environments

QE3, B, i) securing a high quality of townscape, urban form, building design and urban spaces, through the use of architecture, urban design and landscape design, which respects Regional and local character, culture and history;

T2, Local authorities, developers and other agencies should work together to reduce the need to travel, especially by car, and to reduce the length of journeys.

T3, i) developing safe, secure, direct, convenient and attractive networks which connect town centres, local facilities, educational premises, public transport interchanges, residential and employment areas;

It is considered in this case that the relevant provisions of the RS are consistent with the NPPF

The Black Country Core Strategy (BCCS)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*".

The key planning policies include

CSP4, All development will be required to demonstrate a clear understanding of the historic character and local distinctiveness of the area and show how proposals make a positive contribution to place-making and environmental improvement.

HOU1, Additional housing capacity will also be sought elsewhere in the Black Country through allocations and planning permissions on suitable sites.

HOU2, The density and type of new housing provided on each site will be informed by:

- The need for a range of types and sizes of accommodation to meet identified sub-regional and local needs;
- The level of accessibility by sustainable transport to residential services, including any improvements to be secured through development;
- The need to achieve high quality design and minimise amenity impacts, taking into account the characteristics and mix of uses in the area where the proposal is located.

ENV2 states that all development should aim to protect and promote the special qualities, historic character and local distinctiveness of the Black Country.

ENV 3, Each place in the Black Country is distinct and successful place-making will depend on understanding and responding to the identity of each place with high quality design proposals.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

Walsall's Unitary Development Plan (UDP)

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says *"due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*.

Key planning policy references include saved policies:

GP2, 3.6 and 3.7 expects all developments to make a positive contribution to the quality of the environment by enhancing a high quality environment.

ENV10 development of a facility would only be supported if it would not cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

ENV14(b) and (c) encourages the development of previously developed land and where underlain activities which may affect the stability of the land application must be accompanied by a site investigation report.

ENV17 the planting of new trees would be encouraged as part of landscape design

ENV33 and 3.117 landscape design is an integral part of urban design

ENV35 the frontages to shops should be appropriate to their setting.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with

surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged. H3 encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved. ENV40 development would only be permitted where adequate foul and surface water drainage is available to serve the development T7 (b) states that all development should satisfy the car parking standards set out in Policy T13.

T13 car parking standards

Supplementary Planning Document (SPD)

On the basis that relevant Unitary Development Plan policies are consistent with National Planning Policy Framework, the related Supplementary Planning Document(s) will also be consistent provided they are applied in a manner consistent with National Planning Policy Framework policy. The relevant Supplementary Planning Document's are:

Designing Walsall (Feb 2008) refers to the development respecting massing, scale and rhythm of adjacent buildings, plots sizes and built density will relate to their local context , privacy and aspect distances between buildings must ensure all occupants have a satisfactory level of amenity, whilst reflecting the emerging and existing character of the area, ground floor activity and natural surveillance will be maximised, a clear definition between private and public realm and building frontage to overlook the public realm, common building lines along road frontages must be maintained with buildings have a clear relationship with their neighbours and new development should make a positive contribution to creating a comfortable, adaptable and sustainable built environment.

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2 requires development to create places that are secure and welcoming for all.

DW3 – Character -design to respect and enhance local identity;

DW4 –Attractive spaces within development should be defined or enclosed.

DW6 – Legibility - new development should contribute to creating a place that has a clear identity;

DW7 – All new developments should contribute to creating lively places that offer a mix of activities.

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DW 10 – new development should make a positive contribution to creating a sustainable environment.

The Vision: Homes, provides guidance on designing homes in Walsall.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

It is considered in this case that the relevant provisions of Designing Walsall Supplementary Planning Document are consistent with the NPPF.

Consultations

Transportation – No objection subject to conditions

Building Control – No objections.

Fire Safety Officer – No objections.

Pollution Control Scientific Team – No objections subject to conditions.

Pollution Control Contaminated Land – No objections, recommend a note to applicant with details of past mining history.

Public Rights of Way Officer – No objections.

Walsall Group of Ramblers – No objections subject to the footpath been accessible during construction.

Structures and Geotechnics – No objections, but recommended a Coal Report is requested and submitted to the Coal Authority for further comment.

Severn Trent – No objections subject to conditions

Coal Authority - No objections subject to conditions

Tree Officer - No objections, the tree is far enough away from the building not to be affected.

Public Participation Response

The occupier of number 23 Mulberry Place has objected on the grounds that the proposal would take away parking from number 12 and would require further parking in an area with parking problems.

The occupier of number 10 Mulberry Place has objected on the grounds that there is a mineshaft which has been capped under number 12, subsidence at number 10 and number 12 and that the proposal which includes the loss of the single storey side extension which is built over the cap may cause further subsidence.

The occupier of number 255c Sneyd Lane has objected on the grounds that they purchased the house on the basis of having privacy with no onlookers onto the house and garden. The importance of this privacy is explained to be as a result of having a disabled son. Other objections include a loss of view and that the plan would devalue their house.

Determining Issues

Principal of Development and impact on the character of the surrounding area

Ground Stability and Contamination

Layout and Design

Impact on Neighbouring Amenity

Access and Parking

Observations

Principle of Development and impact on the character of the surrounding area

The site is considered to be in a sustainable location situated at the end of a cul-de-sac on an estate which is served by a bus service with a public footpath at the side which leads to

Sneyd Lane which has more regular bus. The proposed house would face the street front at a 17 degree angle to 12 Mulberry Place, the plot size is similar to those of the neighbouring houses and the proposal is considered to be compatible with the existing character and pattern of development of the street also respecting the amenity of adjacent residents. Residential gardens are not regarded as brownfield land. Government advice indicates that good design can allow for sensitive development of garden land. In this context the proposal is considered acceptable as a well designed back garden development which is considered suitable for housing development. In this instance the proposal is considered acceptable.

Ground Stability and Contamination

The proposal is within 8 metres of a known mine shaft, the submitted Coal Report has been commented on by the Coal Authority who, subject to a condition to ensure that intrusive site investigation is carried out prior to development with any recommendation implemented thereafter, consider that the report is sufficient for the purposes of planning and meet the requirements of the NPPF in demonstrating that the application site is, or can be made safe and stable for the proposed development.

Pollution Control have no objection to the proposal but have recommended a note for the applicant warning that there could be ground contamination hot spots.

Layout and Design

The proposed layout would provide sufficient garden amenity space and parking provision for both the proposed dwelling and number 12 and would accord with the Council's guidance. The design is considered to reflect the design of the neighbouring houses with matching roof style and simple front elevation.

Impact on neighbouring amenity

The width of the existing rear garden at number 12 would be reduced, but will still provide sufficient private garden space subject to implementing the proposed boundary treatment which can be conditioned. The proposal due to its proposed layout and location would not have an overbearing impact; result in significant loss of light or overlooking to any of the habitable windows or garden area of number 12.

The proposed house would be over 27 metres from numbers 255b and 255c Sneyd Lane at the rear, and over 14 metres from their rear garden boundaries. It is considered that this distance ensures there would not be a significant overbearing impact, loss of light or overlooking to either the garden areas or rear habitable room windows of these houses. Taking account of the distances between these houses and the proposal, the personal circumstances experienced by occupiers of number 255c are not considered sufficient reason to refuse the application.

Access and Parking

The development would provide 2 parking spaces for the existing house and 2 spaces for the proposed house which accords with UDP T13 parking policy requirements represent an increase in the available off road parking space for number 12 which is considered acceptable. The Transportation Officer has recommended conditions to ensure that the driveways to serve the existing house and the proposed house are constructed at appropriate stages during the development and a restrictive condition to prevent the installation of solid boundary treatment to the frontage which could otherwise impact on highway safety.

The Public Rights of Way Officer has no objection to the proposal. The Walsall Ramblers Group has no objection provided that the right of way is not obstructed during the development. This is protected by separate legislation and not a determining issue of this planning application.

Summary of Reasons for Granting Planning Permission

The site is considered to be in a sustainable location situated at the end of a cul-de-sac on an estate which is served by a bus service with a public footpath at the side which leads to Sneyd Lane which has more regular bus. The proposed house would face the street front at a 17 degree angle to 12 Mulberry Place, the plot size is similar to those of the neighbouring houses and the proposal is considered to be compatible with the existing character and pattern of development of the street also respecting the amenity of adjacent residents. In this context the proposal is not considered back garden development and is considered suitable for housing development. Residential gardens are not regarded as brownfield land.

The proposed layout would provide sufficient garden amenity space and parking provision for both the proposed dwelling and number 12 and would accord with the Councils guidance. The design is considered to reflect the design of the neighbouring houses with matching roof style and simple front elevation.

The width of the existing rear garden at number 12 would be reduced, but is considered would still provide sufficient private garden space. The proposal due to its proposed layout and location is considered would not have an overbearing impact; result in significant loss of light or overlooking to any of the habitable windows or garden area of number 12.

The proposal is within 8 metres of a known mine shaft which has been reported by residents. The submitted Coal Report demonstrates that the application site is, or can be made safe and stable for the proposed development.

The proposed house would be over 27 metres from numbers 255b and 255c Sneyd Lane at the rear, and over 14 metres from their rear garden boundaries. It is considered that this distance ensures there would not be a significant overbearing impact, loss of light or overlooking to either the garden areas or rear habitable room windows of these houses. Taking account of the distances between these houses and the proposal, the personal circumstances experienced by occupiers of number 255c are not considered sufficient reason to refuse the application.

The proposed 2 car parking spaces for both number 12 and the proposal are considered acceptable and would minimise on-road parking.

Whether the right of way is obstructed during the development is protected by separate legislation and not a determining issue of this planning application.

The proposal is consistent with the National Planning Policy Framework, policies QE1, QE2, QE3, T2 and T3 of the Regional Spatial Strategy, policies CSP4, HOU1, HOU2, ENV2 and ENV3 of the Black Country Core Strategy, saved policies 3.6, 3.7, GP2, ENV33, 3.117, 3.116, 3.113, 3.114, 3.115, ENV35, ENV32, H3, ENV40, T7 and T13 of the

Unitary Development Plan, Policies DW1, DW2, DW3, DW3, DW4, DW6, DW7, DW9 and DW10 of the Designing Walsall SPD.

Recommendation: Grant Permission Subject to Conditions

1. The development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. (a) Prior to commencement of any part of the development, intrusive site investigation works shall be carried out in accordance with the recommendations of the submitted Coal Report,

(b) In the event that these site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, remedial works identified by the site investigation shall be undertaken prior to commencement of the development.

Reason: To ensure the satisfactory development of the site and in accordance with policy ENV14.

3. Prior to commencement details of the disposal of both surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed in accordance with the approved details and retained as such.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

4. Prior to commencement of the development samples of all facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development.

5. Prior to the commencement of the construction of the new dwelling, the proposed new driveway and parking area to serve the existing dwelling no. 12 Mulberry Place, shall be fully consolidated, hard surfaced and drained.

Reason: To in order to maintain adequate off-street parking prior to construction and in accordance with the Highways Act 1980.

6. A new footway crossing shall be installed which shall be constructed to a specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements.

Reason: To in order to maintain adequate off-street parking prior to construction and in accordance with the Highways Act 1980.

7. Prior to the first occupation of the new dwelling, the new driveway and parking areas shown on the approved plan shall be fully consolidated, hard surfaced and drained.

Reason: To ensure the satisfactory completion of the development and to meet the requirements of the Highways Act 1980.

8. A new footway crossing shall be installed which shall be constructed to a specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements. A minimum of one full kerb height separation shall be provided between the dropped kerbs to the new dwelling and the existing dwelling.

Reason: To ensure the satisfactory completion of the development and to meet the requirements of the Highways Act 1980.

9. The retained existing 1 metre high steel railing fence forming the front western boundary of the dwelling, shall at no time be replaced with a solid fence or wall. In addition, the planting marked 'A' on the inside (eastern) side of this fence, shown on drawing 2011-28-03, shall be maintained so that at no time shall it exceed 600mm in height above ground level.

Reason: In order to provide and maintain adequate inter-visibility between motorists, pedestrians and cyclists at the new driveway access point, in the interests of highway safety.

10. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation, collections, deliveries and despatches), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall otherwise only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (** Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday*)

Reason: In order to protect the residential amenities of nearby occupiers.

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

Site location plan (2011-28-01) deposited 3 January 2012;
Block plan (2011-28-02) deposited 3 January 2012;
Landscape plan (2011-28-03) deposited 15 February 2012;
Proposed elevations (2011-28-05) deposited 3 January 2012;
Proposed floor plans (2011-28-04) deposited 3 January 2012;
Design and access statement deposited 3 January 2012.
Block paving type, Bradstone Driveway Concrete Block Paving (Brindle) deposited via email 14 June 2012.

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

Notes for Applicant – Contaminated Land

The area of this proposed development has previously been mined for coal and lignite and subsequently infilled with unknown material. There may be hotspots of contaminated soil which may present Health and Safety implications. This information should be brought to the attention of any builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 28/06/2012

Reason for bringing to committee: Called in by Councillor Westley in relation to Impact on Amenity of Neighbours.

Application Number: 12/0418/FL

Application Type: Full application

Applicant: Mr Stephen Doran

Proposal: Part Retrospective: Kitchen extension

Location: 2 MARLBOROUGH STREET, WALSALL, WS3 2HZ

Ward: Bloxwich West

Case Officer: Stuart Crossen

Telephone Number: 01922 652420

Email: planningservices@walsall.gov.uk

Agent: Mr Stephen Doran

Expired Date: 14/06/2012

Recommendation Summary: Grant Permission Subject to Conditions



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Application and Site Details

The application is part retrospective for a single storey rear kitchen extension at a traditional end of terraced house in an area of similar houses characterised by single storey and double storey rear wing projections. The existing single storey rear wing has side elevation windows serving the kitchen and bathroom.

The extension would include a mono-pitched roof with a rear facing gable wall to replace a similar existing single storey rear wing, there would be a have side elevation kitchen and utility room windows, with rear facing door and bathroom window and the proposal would measure:

3.88 metres wide, leaving a 125mm gap to the original side elevation of the main house;

2.7 metres high to the eaves;

3.8 metres high to the highest point of the roof the same height as the existing single storey rear wing;

7.65 metres deep the same depth as the existing single storey rear wing.

The extension would be attached to the side of the rear wing at the attached house number 4 and would project to the same depth.

The proposed rear wing extension would be closer to the rear boundaries of numbers 97 – 109 New Street which are separated by a shared access drive the rear of these houses and whose rear single storey wings adjoin the driveway boundary, and have no rear facing habitable room windows. The application house and the shared accessway were previously defined by a brick wall, which had already been removed at the time of the Case Officer's site visit. The main rear windows of the houses on New Street are 15 metres from the proposal.

Relevant Planning History

None

Relevant Planning Policy Summary

National Planning Policy Framework 2012

The NPPF was published on Tuesday 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

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

Seek to secure high quality design and? good standards of amenity for all existing and future occupants

Key issues from the NPPF Delivering Sustainable Development relevant in this case:

Regeneration, Planning and Building Control, Civic Centre, Darwall Street, Walsall, WS1 1DG
Website: www.walsall.gov.uk/planning, Email planningservices@walsall.gov.uk, Telephone (01922) 652452,
Textphone 0845 111 2910, Fax (01922) 623234

7. Requiring Good Design

56. States the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

67. States that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

68. States permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Regional Strategy (RS)

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered there are no relevant RS policies in this case.

The Black Country Core Strategy (BCCS)

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*".

Policy ENV2 states that all development should aim to protect and promote the special qualities, historic character and local distinctiveness of the Black Country.

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. This policy will be applied to all development.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
- The appearance of the proposed development.
 - The height, proportion, scale, and mass of proposed buildings / structures.
 - The materials proposed for buildings, external spaces and means of enclosure.
 - The integration and co-ordination of buildings and external space.
 - Community safety and security.
 - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
 - The effect on the local character of the area.
 - The proposed vehicular and pedestrian circulation patterns.
 - The integration of existing natural and built features of value.
 - The maintenance requirements of the development.

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD is:

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It

may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from www.walsall.gov.uk).

It is considered in this case that the relevant provisions of Designing Walsall are consistent with the NPPF.'

Consultations

None.

Public Participation Response

Two objections have been received.

101 New Street, Bloxwich – The occupiers have objected to the two side elevation windows which would overlook their garden boundary.

109 New Street, Bloxwich – The occupiers have stated that they do not object to the extension itself but do not want their right of access blocked during construction works, this access is required at all times of the day.

Determining Issues

- Impact on Neighbouring Amenity

Observations

Impact on Neighbouring Amenity

The neighbour at number 101 has stated that the extension would overlook their garden boundary. Immediately behind the single storey rear wings of the neighbouring houses of New Street is an access way which is used for the parking of cars, this leaves little amenity space for the residents of these houses, who may as a result choose to use this space as garden amenity. The proposed windows would be 1.7 metres closer to the accessway than the existing windows and one of which would serve a habitable room which could present issues of overlooking. To prevent overlooking of the accessway a condition can be attached which requires obscurely glazed windows on all side elevation windows.

The proposal would be no higher than existing and would be just 1.7 metres wider with a sloping roof away from the boundary to the access way, in relation to the amenity space and rear facing windows of houses along New Street the proposal would not result in significant loss of light or an overbearing impact.

In relation to the attached house the extension would project no further than the existing single storey rear wing, is no higher, and is considered would not have an overbearing impact, result in loss of light or any overlooking here.

Other Issues Raised by Representations

Objections have been received about whether the development would block a shared access. The extension could be constructed within the site area without the need to use the shared access. Any obstructions to the shared access would be a private matter for interested parties and is not a material consideration of this application.

Summary of Reasons for Granting Planning Permission

The proposed windows would be 1.7 metres closer to the accessway than the existing windows and one of which would serve a habitable room, issues relating to overlooking of the garden areas or rear windows of houses along New Street can be mitigated for.

The proposal would be no higher than existing and would be just 1.7 metres wider with a sloping roof away from the boundary to the access way, in relation to the amenity space and rear facing windows of houses along New Street the proposal is considered would not result in significant loss of light or an overbearing impact.

In relation to the attached house the extension would project no further than the existing single storey rear wing, is no higher, and is considered would not have an overbearing impact, result in loss of light or any overlooking here.

Objections have been received about whether the development would block a shared access. The extension could be constructed within the site area without the need to use the shared access. Any obstructions to the shared access would be a private matter for interested parties and is not a material consideration of this application.

The proposed development is considered to be consistent with the National Planning Policy Framework and meets the aims and objectives of the Black Country Core Strategy policies in particular ENV2, the Walsall Unitary Development Plan policies in particular GP2, ENV32, and the Supplementary Planning Documents "Designing Walsall".

Recommendation: Grant Permission Subject to Conditions

1: This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2: The walls and roof of the extension and garage shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

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

3. The side elevation windows hereby approved shall comprise of obscure glazing which meet Pilkington level 4 or equivalent and be retained thereafter.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

4: This development shall not be carried out other than in conformity with the following approved plans: -

Site location plan deposited 2 April 2012;
Block plan deposited 19 April 2012
Existing and proposed floor plans deposited 2 April 2012;
Amended existing elevations deposited 19 April 2012;
Amended proposed elevations deposited 19 April 2012.

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).