

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 09 September 2021

Plans List Item Number: 2

Reason for bringing to committee

Major application and Section 106 Agreement

Application Details

Location: LAND ADJACENT 346 SOUTH OF, HARDEN ROAD, BLOXWICH, WALSALL

Proposal: RESIDENTIAL DEVELOPMENT (UP TO 150NO. DWELLINGS) AND ASSOCIATED ACCESS AND WORKS.

Application Number: 21/0236

Case Officer: Fiona Fuller

Applicant: J Hill

Ward: Blakenall

Agent: Simon Lawson

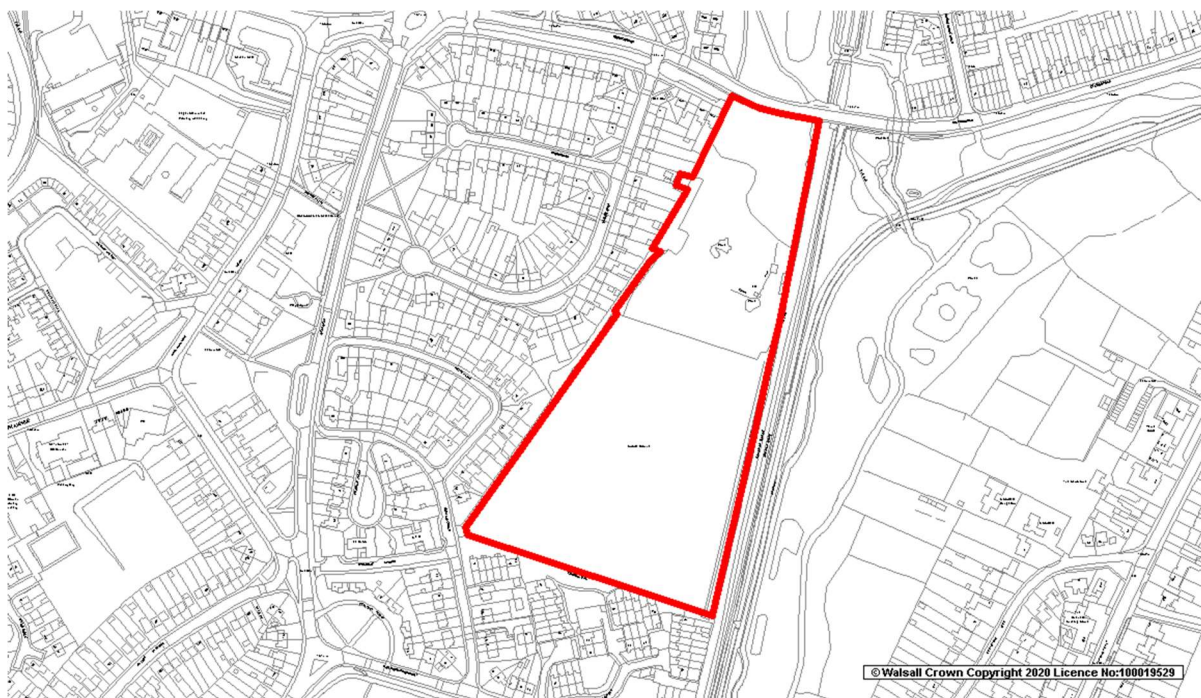
Expired Date: 27-Jun-2021

Application Type: Outline Permission: Major Application

Time Extension Expiry: 30-Jul-2021

Recommendation

Refuse



Proposal

This outline application is for residential development of up to 150 no. dwellings along with a main vehicle access off Harden Road including associated extended footway and a raised table to the east of the proposed access on Harden Road and an emergency vehicle access off Whateley Road South. All other matters (appearance, landscaping, layout and scale) are reserved for future determination.

Site and Surroundings

The application site consists of two parcels of land to the north and the south respectively. To the north is the existing allocated open space known as Harden Road West under SAD Policy OS1 and site reference OS2077, and to the south is the existing allocated Whateley Road Playing Fields (site reference OS2065).

The whole site lies within the Green Belt and includes a large number of mature trees and hedgerows.

To the east are hedgerows and trees with the dismantled railway (McClean Way) abutting the eastern boundary which forms part of the Ford Brook Site of Local Importance for Nature Conservation (SLINC). Harden Road forms the northern edge of the site whilst to the south and the west the site is surrounded by residential dwellings.

A Public Right of Way (PRoW) reference Wal40 begins on Whateley Road to the south west of the site, then runs north along the sites western boundary before diverting through the site to Harden Road to the north east of the site.

The application site is over 1m north of Walsall Town Centre and over 400m to the nearest Local Centre at Coal Pool to the west.

Relevant Planning History

None

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- NPPF 2 – Achieving sustainable development
- NPPF 4 – Decision Making
- NPPF 5 – Delivering a sufficient supply of homes
- NPPF 6 – Building a strong, competitive economy
- NPPF 8 – Promoting healthy and safe communities
- NPPF 9 – Promoting sustainable transport
- NPPF 11 – Making effective use of land
- NPPF 12 – Achieving well-designed places
- NPPF 13 – Protecting Green Belt land
- NPPF 14 – Meeting the challenge of climate change, flooding and coastal change
- NPPF 15 – Conserving and enhancing the natural environment
- NPPF 16 – Conserving and enhancing the historic environment

On planning conditions the NPPF (para 56) says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.2 to 3.5 The Countryside and Green Belt
- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV7: Countryside Character
- ENV9: Environmental Improvement Initiatives
- ENV10: Pollution
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV25: Archaeology
- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H4: Affordable Housing
- 7.4 Strategic Policy Statement
- T1 - Helping People to Get Around
- T8 – Walking
- T9 - Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality
- MIN1: Managing and Safeguarding Mineral Resources

Walsall Site Allocation Document 2019

- RC1: The Regeneration Corridors
- HC2: Development of Other Land for Housing
- HC3: Affordable Housing and Housing for People with Special Needs
- OS1: Open Space, Sport and Recreation
- GB1: Green Belt Boundary and Control of Development in the Green Belt
- EN1: Natural Environment Protection, Management and Enhancement
- EN5: Development in Conservation Areas
- M1: Safeguarding of Mineral Resources
- T2: Bus Services
- T4: The Highway Network
- T5: Highway Improvements

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

Affordable Housing

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH3: Abnormal Development Costs
- AH4: Provision Location
- AH5: Off Site Provision

Air Quality SPD

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

Conserving Walsall's Natural Environment

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

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

Survey standards:

- NE4 – Survey Standards

The natural environment and new development:

- NE5 – Habitat Creation and Enhancement Measures

- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows:

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Consultation Replies (*Officer Comments in Italics*)

Archaeology

No objection subject to a programme of archaeological work and additional mitigation (excavation or watching brief) conditions being imposed.

Severn Trent Water

No objection subject to a drainage condition and informative being imposed.

Clean and Green

Section 106 Contribution required towards parks, amenities and green space. Road surface and layout should accommodate a refuse collection vehicle. Offered an informative.

Coal Authority

No objection. The site doesn't fall within defined Development High Risk Area and offered an informative.

Wildlife Trust

Concerns raised and request submission of a full assessment of the Ford Brook Valley Potential Site of Importance (PSI) and Great Crested Newt survey to confirm the presence or likely absence of this protected species prior to determination of this application. Further conditions would also apply to any approval to secure a construction and ecological management plan and a Landscape and Ecological management plan.

Local Highways Authority

No objection subject to conditions to secure the proposed access and highway infrastructure and travel plan commitments, and to define and secure the necessary highway details in relation to any future reserved matters application(s). These comments are made without prejudice to the highway objection in relation to the public right of way.

Public Rights of Way (PRoW)

Objects to the proposed development in relation to footpath 40 Walsall:

- Insufficient information to confirm that the path can safely re-open to public use as per the applicant's proposal.
- The red planning outline, Land Registry Plan and LSVT transfer records don't match. This needs to be checked and any additional notices served. Ownership could impact on provision of the emergency access and required improvements to the path so this needs to be checked too.
- Improvements are needed to the path where it falls outside the red planning outline in the interests of pedestrian safety and safety and security of the development. No details are currently available, the ownership and delivery mechanism is unclear.

Natural England

No objection and offered informative.

Pollution Control

No objection subject to conditions for the installation of electric vehicle charging points and low NOx boilers, a contaminated land assessment and construction management plan.

Staffordshire County Council

No objection.

Strategic Planning Policy

Objections on the grounds of inappropriate development in the Green Belt and no very special circumstances have been demonstrated, premature in advance of publication, consultation and examination of the draft Black Country Plan, loss of open space and failure to provide for infrastructure needs including affordable housing, open space and education.

Housing Standards

No comments to make.

West Midlands Fire Service

Concerns and requests confirmation that turning facilities are to be provided for dead end access over 20m on the proposed estate. Offered informative on other fire related matters.

West Midlands Police Service

No objection and offered informative.

Local Access Forum (Ramblers Association)

Concerns on the grounds of ownership of land, 300 additional car parking spaces would create traffic and access issues as a result of the proposed development.

Friends of The Earth

Concerns on the grounds of traffic, pollution and queries whether the raised table would be sufficiently lit.

Housing Strategy Officer

25% affordable housing contribution would be required on site. Based on 150 units, that would be 37 units, of which 75% should be social rent (28) and 25% should be shared ownership (9). We would also expect a mix of property sizes throughout the development.

Lead Local Flood Authority

No objection.

Elected Members

Councillor Robertson:

- The land was part of the Green Belt. Can it be changed to brownfield?
- Local residents have suffered from ASB, noise and nuisance.
- It is impossible to stop despite trying to block the access from Harden road via the pathway of the old railway line.
- There are questions over the ownership of land based on the 10-year rule to enclose some of the land. Does this mean that the land issue has been resolved either by purchase or otherwise? *(Land ownership falls outside the remit of the Local Planning Authority. Certificate B has been submitted by the applicant to Walsall Council's Asset management Team as part owner).*
- Blocking the stream could flood the site and reduce the suitability for illegal use as a motor bike course.
- Is the site allocated for schools?

Walsall Council Education Services – No comments received.

Tree Preservation Officer - No comments received.

Representations (*Officer Comments in Italics*)

181 occupiers of neighbouring properties were notified via letters, site notices and press advert.

Objections have been received from residents on the following grounds:

- Privacy issues
- Blocking light
- Issues with access – pedestrian vehicle linking to Harden Road/ dead end passage
- Can the plans be changed if planning permission is granted? (*This outline consent only seeks approval of the access and principle of development. All other matters are reserved for future consideration*).
- The plans doesn't indicate the whether there are 2, 3 or 4 bedrooms (*This outline consent only seeks approval of the access and principle of development. All other matters are reserved for future consideration*).
- The proposed development will exacerbate traffic issues – if granted should incorporate traffic calming measures.
- Too many houses in the area.
- The area lacks GPs and schools.
- The development will impact on wildlife.
- Unsure where construction will take place/ if at the back of Warner Street definitely object.
- Use the site for recreational activities.
- The site is known for crime and ASB.
- The site should be cleaned up and it will be nice park.
- The council should focus on brownfield sites for developments.
- Sewage pipe and access will be needed.
- The development is risk of flooding/less opportunity for water to soak into the ground.

One letter of support has been received on the following grounds:

- Welcomed the development but unsure where the development would take place (*This outline consent only seeks approval of the access and principle of development. All other matters are reserved for future consideration*).

Determining Issues

- Principle of Development
- Green Belt Assessment
- Site Access and Highways
- Vehicle Access, Highways and Public Rights of Way (PRoW)
- Flood Risk / Drainage
- Trees, Wildlife and Ecology Issues
- Ground Conditions and Environment
- Other Matters raised during the public consultation process
- Planning Obligations

Assessment of the Proposal

Principle of Development

The National Planning Policy Framework sets out a clear presumption in favour of sustainable development referring (at paragraph 14) to this being a 'golden thread running through both

plan-making and decision-taking'. It notes that, for decision takers, this means approving development proposals that accord with the development plan.

Section 6 of the National Planning Policy Framework for housing specifically states in para 49 that housing applications should be considered in the context of the presumption in favour of sustainable development. Walsall's Unitary Development Plan reconfirms the guidance as contained in the National Planning Policy Framework on sustainable development.

However, this site is existing allocated open space. SAD policy OS1 states that development proposals that would result in the loss of, or would otherwise adversely affect, the open space, sport and recreation network will be assessed in accordance with the relevant policies in the NPPF, BCCS and UDP. The criteria provided within BCCS Policy ENV6 and UDP Saved Policy LC1 will be applied to determine a proposal's potential impact on the network.

Black Country Core Strategy (BCCS) policy CSP2 states that the areas outside the Strategic Centres and Regeneration Corridors will provide:

- A strong Green Belt to promote urban renaissance within the urban area and provide easy access to the countryside for urban residents where the landscape, nature conservation and agricultural land will be protected and enhanced where practical and possible.

BCCS policy CSP3 states that environmental infrastructure will be protected, enhanced and expanded at every opportunity. The environmental infrastructure network comprises open space, sport and recreation facilities, areas of biodiversity and geodiversity importance, wildlife corridors, the canal network, watercourses and drainage systems, air quality and renewable energy generation, pedestrian and cycle routes, areas and buildings of high design quality, and the special character and historic aspects of locally distinctive elements of the Black Country.

BCCS policy ENV6 states that development that would reduce the overall value of the open space, sport and recreation network in the Black Country will be resisted. Development that would increase the overall value of the open space, sport and recreation network will be encouraged, especially in areas of deficiency.

Saved UDP Policy LC1 also makes it clear that development resulting in the loss of urban open spaces which prejudices its associated functions will not be permitted.

SAD Policy M1 and BCCS Policy MIN1 also explain that proposals for non-mineral development will be expected to consider the feasibility of extracting any minerals present in advance of the development ('prior extraction') and will not be permitted unless it can be demonstrated that the development will not result in sterilisation of the resources within these areas. No information has been submitted to demonstrate this has been considered and addressed.

Whilst the southern half of the site, known as Whateley Road Playing Fields, has been submitted to the Council in response to the 'call for sites' for the Black Country Plan, it isn't currently proposed for allocation for housing in the draft version of the Black Country Plan 2039 which is currently out for consultation up to 11 October 2021. Even if the site was to be proposed to be removed from the Green Belt in future, this current application is premature and would prejudice the outcome of the consultation and any future decision on the plan.

Walsall Council, together with the rest of the Black Country, is facing a significant shortfall in the supply of land for housing and employment in the period beyond the current timeframe of the BCCS of 2026. However, it is uncertain at present how this shortfall might be met. National policy requires authorities to explore potential additional sources of supply in the existing urban area, and to discuss with neighbouring authorities the potential for them to accommodate all or some of the need, before considering the release of other land in the Green Belt. This work is ongoing. Whilst the Black Country Plan will propose the allocation for housing or employment development of some land that is currently in the Green Belt, this only forms part of the early stage of consultation and does not give any indication of the final decision to be made at later stages of this process.

Given that this proposal seeks to remove the existing open space and replace it with a large residential development this represents a clear departure from the Council's adopted Development Plan. Very little weight can be given to the emerging draft Black Country Plan which is at the early stages of consultation. The principle of development cannot therefore be supported and this application should be refused.

Should Members be minded to approve this proposal against the Local Planning Authority's recommendation, the application would need to be referred to the Secretary of State to seek their confirmation as to whether they intend on 'calling in' this application for their determination under the provisions of Section 77 of the Town and Country Planning Act 1990 (As Amended). In the event that Members are minded to approve this development, consideration should also be given to a deferral of this item to enable the LPA to negotiate any necessary changes to the proposal and to agree any necessary planning conditions and planning obligations that would need to be included and secured.

Green Belt Assessment

This site lies within the Green Belt as defined by Walsall Site Allocation Document (SAD) Policy GB1.

The NPPF and the Development Plan both contain a presumption against inappropriate development in the Green Belt as it is by definition harmful to the Green Belt and should not be approved except in very special circumstances. NPPF (2019) Paragraph 145 (g) allows for limited infilling or the partial or complete redevelopment of previously developed land (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 than the existing development.

The Government attaches great importance to Green Belts and 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.

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Para 144 of the NPPF states – '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 resulting from the proposal, is clearly outweighed by other considerations.'

Previously developed land is defined in the NPPF as 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 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. In light of this definition, this site cannot be considered to be previously developed land.

The proposed residential development of up to 150 dwellings would result in significant harm to the openness and character of the Green Belt through the loss of the current open character of the land and the introduction of a large mass of built form across the majority of the site.

Government ministers have stated that housing needs does not by itself provide very special circumstances to justify development in the Green Belt. Walsall Council currently has a shortfall of land for all forms of housing to meet the needs set out in the adopted BCCS to 2026. Any additional land requirements will be addressed through the current review of the BCCS. As explained above, very little weight can be given to the emerging draft Black

Country Plan which is at the early stages of consultation and this site has not been identified for housing at this stage in any case.

The proposed development is therefore considered to be inappropriate within the Green Belt and no very special circumstances have been demonstrated. As such the proposed development is considered unacceptable to both Development Plan policy and guidance within the NPPF for the reasons set out above.

Vehicle Access, Highways and Public Rights of Way (PRoW)

This outline application seeks the approval of access, with all other matters reserved for future consideration.

The main site access is proposed off Harden Road to the north with an Emergency Access (including cycle and pedestrian access) off Whateley Road to the south. Following negotiations with the applicant amendments have been made and the access arrangements are now considered to be acceptable and will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2021 paragraph 111. Conditions as recommended by the Local Highway Authority could be attached to any approval of this outline application.

Whilst a number of issues have been raised in relation to the submitted indicative site layout, these are matters which would need to be addressed at the later reserved matters stage and conditions could be included in line with recommendations of the Local Highway Authority.

However, a highway objection remains in relation to public footpath 40 on the grounds that insufficient information has been submitted. The applicant has confirmed their intention to retain and re-open this footpath but improvements are also considered necessary to the section of path to the south west which falls outside of the application site boundary in the interests of pedestrian safety and safety and security of the development. Furthermore, it is currently unclear as to whether part of the access track to the west, including an area of land where the emergency access is proposed to the south-west, falls under separate ownership of Walsall Housing Group.

Whilst land ownership matters usually fall outside the scope of the planning process, it is necessary to gain clarification on this point given the uncertainty around ownership hinders the ability of the LPA to effectively negotiate any necessary terms of a Section 106 Agreement, or planning conditions to secure the necessary improvements to the footpath and to secure the proposed emergency access. Any potential necessary changes to the application site boundary must also be made at this outline stage as the boundary cannot be revised as part of any future reserved matters application.

NPPF Paragraph 100 expects development proposals to enhance and protect public rights of way.

A refusal is therefore recommended in the absence of further details on this matter. Any update on this position will be set out in the supplementary paper.

The Local Access Forum, and Friends of The Earth, raise concerns over land ownership, including historic disputes. Generally, such issues are a private matter falling outside the scope of the planning process, unless where they are intrinsically linked to relevant material planning matters as has been set out above.

Further concerns raised relate to an increase in vehicle traffic associated with the development of 150 dwellings and the resulting impact on pedestrian and cyclist movement where vehicles queue to exit the site and join the existing traffic flows. These matters have been considered, and revisions have been made following negotiations with the applicant to the proposed access arrangements and no objections have been raised on this matter by the Local Highway Authority.

Comments made by Friends of The Earth on additional pollution from 300 cars is noted. A condition would be included on any approval to secure Travel Plan commitments to help minimise vehicle borne trips and to promote alternative sustainable modes of transport.

Flood Risk / Drainage

Paragraph 100 of the National Planning Policy Framework makes it clear that inappropriate development in areas of flood risk should be avoided by directing development away from areas of highest risk. This site is within Flood Zone One, being an area of lowest probability for flooding. However, as this is a major development the use of a Sustainable Urban Drainage scheme is required.

Whilst only indicative at this stage, the submitted plans show two areas which would provide attenuation ponds to the north and south of the site. On receipt of revised drainage drawings and information from the applicant, the Lead Local Flood Authority has raised no objection. Conditions would need to be included on any approval to secure the implementation of the submitted drainage strategy and to secure further appropriate details at any future reserved matters stage.

Trees, Wildlife and Ecology Issues

The application site area covers part of the Ford Brook Valley Potential Site of Importance (PSI) which is an area that has been identified as potentially having ecological value. The development of the site would result in direct loss of the PSI and has the potential to cause degradation through indirect effect to the adjacent non statutory site and PSI, such as disturbance, to the surrounding habitats, during and post construction.

The Wildlife Trust has raised concerns that insufficient information has been provided within the submitted Preliminary Ecological Appraisal to assess potential ecological impacts of the proposal and has therefore requested the submission of a full assessment of the Ford Brook Valley PSI and a Great Crested Newt survey to confirm the presence or likely absence of this protected species prior to determination of this application.

Whilst conditions could be included for any approval to secure a construction and ecological management plan and a Landscape and Ecological management plan, in the absence of the above necessary information prior to determination of this current application, it is considered that this outline application should be refused as it would be contrary to Saved UDP Policies GP2 and ENV23, ENV1 of the Black Country Core Strategy, EN1 of the SAD, the Conserving Walsall's Natural Environment SPD and NPPF.

There are a large number of trees on the site which collectively are considered to provide a high level of amenity value in the locality, including a number along the northern section of the site where the proposed main vehicle access is proposed off Harden Road thus will result in the loss of some trees. This application fails to provide any assessment of impacts to existing trees, or to provide any necessary compensatory replacement planting and is therefore considered would result in significant detrimental harm to the visual amenity of the area forming a further refusal reason.

Ground Conditions and Environment

Conditions could be attached to any approval in line with the recommendations of Pollution Control requiring a Construction Environmental Management Plan to deal with issues during the construction of the development, electric vehicle charging points, low NOx boilers to minimise additional air pollution and land contamination.

Other Matters raised during the public consultation process

Comments regarding the lack of doctor surgeries and school places in the area are noted. Whilst the ability to secure any necessary supporting infrastructure for new development is made possible in relevant legislation, no evidence has been provided to the Local Planning Authority to demonstrate a need for additional school places or GP services in this area as a direct result of this proposal.

The Council's Education Services Team were consulted on this application, and no comments were received to advise that additional school places would be required as a result of this proposal. Walsall Clinical Commissioning Group have been consulted, and no comments have yet been received. Any updates on this position will be updated in the supplementary paper.

Comments made regarding traffic, access, principle of development, ecology, flooding and drainage have already been considered and addresses in this report.

Other comments made regarding specific impacts to neighbours amenity are noted. However, this is an outline planning with access only to be considered at this stage with all other matters reserved for future consideration.

In terms of existing anti-social behaviour issues, this is noted and security measures would need to be considered at any later reserved matters stage to aim to minimise any additional issues in this regard and would take account of the recommendations made by the police on this matter.

Planning Obligations

Due to the scale of this proposal for up to 150 dwellings the applicant is required to enter into a Section 106 Agreement at this outline stage to secure the 25% on-site policy required level of provision towards affordable housing and a contribution towards open space. The precise level of open space contribution would be calculated at a later reserved matters stage once the final quantum of development and bedroom numbers is known and this criteria would need to be set out within a Section 106 Agreement.

In terms of the affordable housing provision, based on 150 units 37 units would be required on-site of which 75% should be social rent (28) and 25% should be shared ownership (9). This would need to be set out within a Section 106 Agreement. A Section 111 Agreement may also be necessary in relation to Local Highway Authority owned land.

The applicant has failed to provide any indication of agreement to these heads of terms in the application submission, nor has a viability assessment been submitted to seek to assess the viability of the proposal and its ability to meet these necessary obligations. This application must therefore be refused on these grounds.

Conclusions and Reasons for Decision

The principle of residential development is unacceptable resulting in the loss of existing allocated public open space and represents inappropriate development in the Green Belt with no very special circumstances being demonstrated and is therefore contrary to the Development Plan. There are no other material planning considerations that outweigh the harm arising from this proposal.

Given that there are no material planning considerations in support of the proposal it is concluded that this application should be recommended for refusal.

Should Members be minded to overturn the Local Planning Authority's recommendation, this application would need to be sent to the Secretary of State for consideration as a call in due to this proposal being a major departure from the Council's Development Plan.

Furthermore, in the event that Members are minded to approve this development, consideration should also be given to a deferral of this item to enable the Local Planning Authority to negotiate any necessary changes to the proposal and to agree any necessary planning conditions and planning obligations that would need to be included and secured to make the development acceptable in planning terms to meet the statutory tests.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal for the reasons set out in this report.

Recommendation

Refuse

Reasons for Refusal

1. This proposed residential development of up to 150 dwellings would result in significant detrimental harm to the openness and character of the Green Belt through the loss of the current open character of the land and the introduction of a large mass of built form across the majority of the site. This proposal represents inappropriate development in the Green Belt with no very special circumstances being demonstrated and is therefore contrary to Saved Policy GP2 (Environmental Protection) and 3.2 to 3.5 (The Countryside and Green Belt) of the Unitary Development Plan, Policy GB1 (Green Belt Boundary and Control of Development in the Green Belt) of the Walsall's Site Allocation Document, Policy CSP2 (Development Outside the Growth Network) of the Black Country Core Strategy and Paragraphs 147, 148 and 149 of the National Planning Policy Framework (Proposals affecting the Green Belt).

2. This proposed residential development of up to 150 dwellings would result in the loss of existing allocated public open space to the significant detrimental harm of the local community. This application fails to demonstrate that this open space is surplus to requirements and fails to demonstrate any necessary replacement open space with equivalent or better provision in terms of quantity and quality. Furthermore, this proposal fails to demonstrate that provisions toward the necessary improvements of nearby open spaces as a direct result of this development can be met. This proposal is therefore contrary to Saved Policies GP2 (Environmental Protection), GP3 (Planning Obligations) and LC1 (Urban Open Spaces) of the Unitary Development Plan, Site Allocation Document Policy OS1 (Open Space, Sport and Recreation), Policies CSP3 (Environmental Infrastructure), DEL1 (Infrastructure Provision) and ENV6 (Open Space, Sport and Recreation) of the Black Country Core Strategy, OS1 to OS8 of the Open Space, Sport and Recreation Supplementary Planning Document and Paragraphs 98 and 99 of the National Planning Policy Framework (Open space and recreation).

3. This application fails to provide sufficient information in relation to the necessary improvements to the public right of way known as 'footpath 40 Walsall'. In particular, improvements necessary to the section of path to the south west which falls outside of the application site boundary in the interests of pedestrian safety and safety and security of the development. Furthermore, it is currently unclear as to whether part of the access track to the west, including an area of land where the emergency access is proposed to the south-west, falls under separate ownership. Whilst land ownership matters usually fall outside the scope of the planning process, the uncertainty on this matter hinders the ability of the Local Planning Authority to effectively negotiate any necessary terms of a Planning Obligation, or planning conditions to secure the necessary improvements to the footpath and to secure the proposed emergency access. This proposal is therefore contrary to Saved Policies GP2 (Environmental Protection), T1 (Helping People to Get Around), T8 (Walking) and T9 (Cycling) of the Unitary Development Plan, TRAN4 (Creating Coherent Networks for Cycling and for Walking) of the Black Country Core Strategy and Paragraph 100 of the National Planning Policy Framework (Open space and recreation).

4. Insufficient information has been provided within the submitted Preliminary Ecological Appraisal to assess potential ecological impacts of the proposal on the Ford Brook Valley Potential Site of Importance and the applicant has failed to submit the necessary Great Crested Newt survey to confirm the presence or likely absence of this protected species. This proposal is therefore contrary to Saved Policies GP2 (Environmental Protection) and ENV23 (Nature Conservation and New Development) of the Unitary Development Plan, ENV1 (Nature Conservation) of the Black Country Core Strategy, EN1 (Natural Environment Protection, Management and Enhancement) of the Site Allocation Document, NE1 to NE6 of the Conserving Walsall's Natural Environment Supplementary Planning Document and Paragraphs 174 (Conserving and enhancing the natural environment), 180 and 182 (Habitats and biodiversity) of the National Planning Policy Framework.

5. This application fails to demonstrate that the necessary provision of affordable housing can be met contrary to Saved Policies GP3 (Planning Obligations) and H4 (Affordable Housing) of the Unitary Development Plan, Black Country Core Strategy Policy HOU3 (Delivering Affordable Housing), Site Allocation Document Policy HC3 (Affordable Housing and Housing for People with Special Needs), AH1 to AH5 of the Affordable Housing Supplementary Planning Document and Paragraph 65 (Delivering a sufficient supply of homes) of the National Planning Policy Framework.

6. This application fails to provide the necessary assessment of impacts to existing trees on the site which collectively are considered to provide a high level of amenity value in the locality, including a number of trees along the northern section of the site where the proposed main vehicle access is proposed off Harden Road thus will result in the loss of some trees. This application also fails to provide any necessary compensatory replacement planting and would therefore result in significant detrimental harm to the visual amenity of the area contrary to Saved UDP Policies GP2 (Environmental Protection), ENV17 (New Planting), ENV18 (Existing Woodlands, Trees and Hedgerows), NE7 to NE9 of the Conserving Walsall's Natural Environment Supplementary Planning Document and Paragraphs 130 and 131 (Achieving well-designed places) and 174 (Conserving and enhancing the natural environment) of the National Planning Policy Framework.

7. This application fails to demonstrate that proposed development of up to 150 dwellings has considered the feasibility of extracting any minerals present in advance of the development, and fails to demonstrate that the development will not result in sterilisation of the resources within these areas contrary to Policy MIN1 (Managing and Safeguarding Mineral Resources) of the Black Country Core Strategy, M1 (Safeguarding of Mineral Resources) of the Site Allocation Document and Paragraphs 209 and 212 (Facilitating the sustainable use of minerals) of the National Planning Policy Framework.