



PLANNING COMMITTEE

Thursday 5 August, 2021 at 5.30 p.m.

In the Council Chamber at The Council House

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

MEMBERSHIP:

Councillor Bird (Chairman)
Councillor Perry (Vice Chairman)
Councillor Ali
Councillor Allen
Councillor P. Bott
Councillor Cooper
Councillor Craddock
Councillor Creaney
Councillor Harris
Councillor Hicken
Councillor Murray
Councillor Nawaz
Councillor M. Nazir
Councillor Rasab
Councillor Robertson
Councillor Samra
Councillor M. Statham
Councillor Underhill
Councillor Waters
(vacancy)

QUORUM:

Seven Members

A G E N D A

PART I - PUBLIC SESSION

1. Apologies.
2. Declarations of Interest.
3. Deputations and Petitions.
4. **Local Government (Access to Information) Act, 1985 (as amended):**

To agree that, where applicable, the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
5. Application List for Permission to Develop:
 - a) Items subject to Public Speaking;
 - b) Items 'Called-in' by Members
 - c) Items not subject to 'Call-in'
- copy **enclosed**.

The Relevant Authorities (Discloseable Pecuniary Interests) Regulations 2012

Specified pecuniary interests

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

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

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

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

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



Development Management Planning Committee

Report of Head of Planning and Building Control on 05th August 2021

CONTENTS

Item	Planning Application Number	Planning Application Site Address	Planning Application Proposal	Officer Recommendation
1	20/1568	LAND FORMER DEELEYS TRADING ESTATE, LEAMORE LANE, WALSALL, WS2 7BP Ward: BIRCHILLS LEAMORE	PLANNING APPLICATION FOR THE USE OF THE SITE FOR VEHICLE STORAGE, DRAINAGE INFRASTRUCTURE, RESURFACING WORKS, SECURITY FENCING, SECURITY LIGHTING, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE.	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING, ENGINEERING & TRANSPORTATION TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND A SECTION 106 AGREEMENT TO SECURE A DEED OF VARIATION THAT THE SIGNAL JUNCTION IS NOT REQUIRED FOR THE CURRENT PROPOSAL AND TO DEFINE THE ONLINE BUSINESS OPERATION, AND SUBJECT TO: <ul style="list-style-type: none">• NO NEW MATERIAL CONSIDERATIONS BEING RECEIVED WITHIN THE CONSULTATION PERIOD;

				<ul style="list-style-type: none"> • THE AMENDMENT AND FINALISING OF CONDITIONS; AND • NO FURTHER COMMENTS FROM A STATUTORY CONSULTEE RAISING MATERIAL PLANNING CONSIDERATIONS NOT PREVIOUSLY ADDRESSED
2	21/0700	<p>LAND ADJACENT CEDAR HOUSE, ANGLIAN ROAD, WALSALL, WS9 8EP</p> <p>Ward: ALDRIDGE CENTRAL AND SOUTH & RUSHALL-SHELFIELD</p>	CHANGE OF USE OF LAND TO THE WEST OF ANGLIAN ROAD FROM AGRICULTURAL TO A TWO FIELD SECURE DOG WALKING / EXERCISING FACILITY, ERECTION OF 1.8M HIGH STOCK FENCING, 3.5M X 1.8M FIELD GATE AND TWO AREAS OF HARDSTANDING FOR PARKING.	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO THE AMENDMENT AND FINALISING OF CONDITIONS
3	21/0397	<p>THE FRYING PAN, BILSTON STREET, DARLASTON, WEDNESBURY, WS10 8EY</p> <p>Ward: DARLASTON SOUTH</p>	CHANGE OF USE FROM PUBLIC HOUSE TO BUSINESS CENTRE	<p>PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO:</p> <ul style="list-style-type: none"> • THE AMENDMENT AND FINALISING OF CONDITIONS;

				<ul style="list-style-type: none"> • ADDRESSING THE FINAL OUTSTANDING POINTS IN RELATION TO THE SUBMITTED SEQUENTIAL TEST; AND • NO OBJECTION FROM THE COUNCIL'S POLLUTION CONTROL TEAM
4	20/1426	CASTLE BUSINESS AND ENTERPRISE COLLEGE, ODELL ROAD, WALSALL, WS3 2ED Ward: BIRCHILLS LEAMORE	PROPOSED EXTERIOR SHELTER, LOCATED TOWARDS THE SOUTH SIDE OF THE SITE.	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO THE AMENDMENT AND FINALISING OF CONDITIONS
5	19/0245	FORMER METAFIN SITE, GREEN LANE, WALSALL Ward: BIRCHILLS LEAMORE	ERECTION OF 72, 1 AND 2 BED FLATS IN 4 X 3 STOREY BLOCKS, CAR AND CYCLE PARKING, LANDSCAPING, ACCESS AND ASSOCIATED WORKS.	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND A S111 AGREEMENT TO REQUIRE A S106 AGREEMENT TO SECURE

				CONTRIBUTIONS TOWARDS THE PROVISION OF AFFORDABLE HOUSING AND URBAN OPEN SPACE AND TO EITHER MAINTAIN THE REQUIREMENT FOR A VIABILITY REVIEW, WAIVE THE NEED FOR A VIABILITY REVIEW OR AMEND THE TRIGGER FOR THE VIABILITY REVIEW
6	20/1222	<p>LAND TO THE REAR OF 105, 107 AND 109 LICHFIELD ROAD, WALSALL, WS3 3LU</p> <p>WARD: BLOXWICH EAST</p>	DEVELOPMENT OF 5 NO 3 BEDROOM HOUSES AND ASSOCIATED PARKING AND LANDSCAPING.	REFUSE
7	20/1320	<p>2, COALPOOL LANE, WALSALL, WS3 1QJ</p> <p>Ward: BLAKENALL</p>	PROPOSED NEW SEMI-DETACHED HOUSE ADJOINING NO.2 COALPOOL LANE INCLUDING ASSOCIATED VEHICLE PARKING AND INFORMAL LANDSCAPING. SINGLE STOREY REAR EXTENSION TO NO.2 COALPOOL LANE INCLUDING NEW REAR VEHICULAR ACCESS FROM ROSS ROAD (RE-SUBMISSION OF 19/1086).	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND A SECTION 106 AGREEMENT TO SECURE COMMUTED SUMS REGARDING THE PROVISION OF 6 X REPLACEMENT TREES ON THE ADJACENT OPEN

				<p>SPACE AND SUBJECT TO:</p> <ul style="list-style-type: none"> • THE AMENDMENT AND FINALISING OF CONDITIONS; AND • SUBMISSION OF BAT EMERGENCE SURVEYS AND INCLUSION OF RECOMMENDED MITIGATION MEASURES AND METHODS IN CONDITION/S AND NOTE/S TO APPLICANT
8	20/1274	<p>262, WALSALL WOOD ROAD, ALDRIDGE, WALSALL, WS9 8HB</p> <p>Ward: ALDRIDGE CENTRAL AND SOUTH</p>	REPLACEMENT DWELLING	<p>PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS, AND SUBJECT TO THE AMENDMENT AND FINALISING OF CONDITIONS</p>
9	20/1367	<p>260, WALSALL WOOD ROAD, ALDRIDGE, WALSALL, WS9 8HB</p> <p>Ward: ALDRIDGE CENTRAL AND SOUTH</p>	REPLACEMENT DWELLING	<p>PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS, AND SUBJECT TO THE</p>

				AMENDMENT AND FINALISING OF CONDITIONS
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Planning Committee

Report of Head of Planning and Building Control on 05 August 2021

Plans List Item Number: 1

Reason for bringing to committee

Major Application and Section 106 Agreement

Application Details

Location: LAND FORMER DEELEYS TRADING ESTATE, LEAMORE LANE, WALSALL, WS2 7BP

Proposal: PLANNING APPLICATION FOR THE USE OF THE SITE FOR VEHICLE STORAGE, DRAINAGE INFRASTRUCTURE, RESURFACING WORKS, SECURITY FENCING, SECURITY LIGHTING, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE.

Application Number: 20/1568

Case Officer: Fiona Fuller

Applicant: British Car Auctions Limited

Ward: Birchills Leamore

Agent: Terence O'Rourke

Expired Date: 10-Mar-2021

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

Time Extension Expiry:

Recommendation

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and a Section 106 Agreement to secure a Deed of Variation that the signal junction is not required for the current proposal and to define the online business operation, and subject to:

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



Proposal

The applicant, BCA auctions (directly adjacent), seek planning permission to use the site for vehicle storage, drainage infrastructure, resurfacing works, security fencing, security lighting, landscaping and associated infrastructure on the Deeley's Trading Estate. This is part of expanding the online auction operation as part of the changes they have made due to covid. The hours of operation are 7 days a week 00:00 to 23:59.

The following documents support the proposal:

- British Car Auctions, Walsall - TECHNICAL NOTE - November 2020
- ARBORICULTURAL IMPACT ASSESSMENT – Dated November 2020
- (REVISED) COAL MINING RISK ASSESSMENT - Date: 3rd September 2018
- FLOOD RISK ASSESSMENT AND DRAINAGE STRATEGY ON BEHALF OF BRITISH CAR AUCTIONS – dated November 2020
- Lighting Impact Assessment - November 2020
- TECHNICAL NOTE – ACOUSTICS - 20/11/2020
- PLANNING DESIGN & ACCESS STATEMENT - BRITISH CAR AUCTIONS - DECEMBER 2020

- PRELIMINARY ARBORICULTURAL ASSESSMENT dated November 2020
- PRELIMINARY ECOLOGICAL APPRAISAL - Date: October 2020
- TRANSPORT ASSESSMENT ON BEHALF OF BRITISH CAR AUCTIONS – dated November 2020

Site and Surroundings

The application site, known as Former Deeleys Castings site, is located approximately 1km east of the M6 in Leamore. It covers an area of approximately 3.7 hectares and palisade fencing currently demarcates the site boundary. Leamore Lane forms the site's northern boundary, the Wyrley and Essington Canal forms the site's western and southern boundary and industrial units and car parking associated with British Car Auctions Ltd forms the site's eastern boundary. The site is accessed from Green Lane, via BCA's operational site. There is an adjacent site as a vehicle auction centre.

The north eastern portion of the site is comprised of hard standing. The southern part of the site contains scrub vegetation and trees.

The site is relatively flat with a gradual slope from east to west. The entirety of the site is located in Flood Zone 1, a low probability of flooding.

The canal is designated as a Site of Local Importance for Nature Conservation. To the south of Leamore Lane and lies between the railway and Wyrley & Essington Canal.

There are housing surrounding the north, south and western boundaries of the site separated from the site by the highway and canal. The eastern boundary adjoins the existing site and beyond this are further employment areas.

Relevant Planning History

07/1362/FL/W2 - Erection of 102 dwellings and associated infrastructure including a balancing pond – Planning Committee March 2008 resolved to grant permission subject to conditions and a S106 Agreement to secure public realm improvements. The S106 has never been completed so permission never issued.

14/1878/FL - Erection of vehicle preparation building - Permission Granted- 06-Mar-2015

18/1554 - Use of the site for vehicle storage associated with the existing vehicle auction – Permission - 19-Mar-2020

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

On **planning conditions** the NPPF (para 55) says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV10: Pollution
- ENV11: Light Pollution
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals

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- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- JP8: Bad Neighbour Industrial Uses
- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- EMP1: Providing for Economic Growth
- EMP3: Local Quality Employment Areas
- 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
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Walsall Site Allocation Document 2019

IND3: Retained Local Quality Industry
 LC5: Greenways
 EN3: Flood Risk
 EN4: Canals
 M1: Safeguarding of Mineral Resources
 T4: The Highway Network
 T5: Highway Improvements

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

- NE1 – Impact Assessment [Page 16 of 153](#)

- NE2 – Protected and Important Species
 - NE3 – Long Term Management of Mitigation and Compensatory Measures
- Survey standards

- NE4 – Survey Standards
- Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW9(a) Planning Obligations and Qualifying development

Air Quality SPD

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

Consultation Replies

Canal and River Trust

No objection subject to a drainage, lighting and fencing conditions with informative's being imposed.

Coal Authority

No objection subject to an informative being imposed

Black Country Wildlife Trust's Ecology Officer

No objection subject to a biodiversity enhancement and management, drainage strategy and construction and ecological management conditions being imposed.

Environment Agency

No response

Environmental Health

No response

Local Highways Authority

No objection subject to a dropped kerb footway crossing condition being reinstating on Leamore Lane and informative being imposed.

Pollution Control

No significant environmental impacts

Severn Trent Water

No objection and offered an informative.

Staffordshire County Council/ Drainage Team

No objection

Strategic Planning Policy

Support

Tree Preservation Officer

No objection subject to an ecologically sensitive landscaping plan, details of the lighting and details of a tree protection plan conditions

West Midlands Fire Service

No objection subject to an informative being imposed.

West Midlands Police Service

No objection subject to an informative being imposed.

Car parks

No response

Cadent Gas Limited

No response

Inlands Waterways Association – Lichfield

No objection

Inlands Waterways Association – Birmingham

No response

Council Members

Councillor Jukes

No response

Councillor Hussain

No response

Councillor Gazenfer
No response

Councillor Ali
No response

Councillor Lee Jeavons – No objection subject to a signalling controlled junction condition being imposed.

Representations

One hundred and twenty-four occupiers of the neighbouring properties were notified via letter and site notices. No representations received.

Determining Issues

- Principle of Development
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways/ Access
- Ecology
- Flood Risk / Drainage
- Trees / Protected Trees
- Ground Conditions and Environment
- Canal Waterways
- Impact on the Natural Environment and Landscape of the Walsall Canal

Assessment of the Proposal

Principle of Use

The application site is identified in the SAD policy IND3 for the retention of local quality industry, and specifically site IND328. Furthermore, the policy indicates the provisions of BCCS policy EMP3 which is applicable for this application site. Also, the policy goes on to mention areas which will be safeguarded for numerous uses, one of the uses being the motor trade, including car showrooms, garages and vehicle repair. The proposed use for the motor trade accords with these allocations reflecting the previously approved 18/1554.

Design, Layout and Character

Walsall's Unitary Development Plan states that development will be of a high quality design that respects local distinctiveness, enhancing the character and appearance of the area. It states that proposals will be supported where they do not have a negative impact on the character and appearance of the surrounding locality.

The proposed development will result in the improvement of the appearance of this part of the site, with hard surfacing and some landscaping to the boundaries. Furthermore, there will be an improvement to customer parking including the use of time slots.

Amenity of Neighbours and Amenity of Future Occupiers

The proposed development will have no greater material impact on the occupiers of the neighbouring properties than what had previously been approved, save for the fact, now there are no vehicle movements proposed to access/egress via Leamore Lane.

Highways/ Access

Walsall's Unitary Development Plan requires vehicular access into and out of the site to be safe and an assessment made as to whether the existing local roads can be suitably accommodate the impact of the proposal, whether adequate parking and turning spaces exist within the site and that the needs of pedestrian and cyclists have been met. This policy is considered to carry significant weight in the determination of the application as it complies with paragraph 32 of the National Planning Policy Framework which requires all schemes to provide safe access for all.

The Local Highway Authority (Transportation) have no objection subject to reinstatement of the dropped kerb on Leamore Lane. The applicant has provided a drawing demonstrating how the Leamore Lane access can be closed and the dropped kerb removed and the kerb height reinstated. It appears that the proposed development will ease any traffic problems because it will ensure that access will only be from Green Lane.

As this is a new chapter in the planning history of the site and the 18/1554 application is still live, the developer has agreed to enter into a S106 deed of variation Agreement which defines the online operation, avoiding customers accessing the site in person which may have safety and parking implications, whilst retaining the option for the signal junction onto Leamore Lane, should the applicants needs change in the future and they again wish to access Leamore Lane. The Leamore Lane signalised junction was secured via the 18/1554 planning approval. This current proposal with the applicant's business model moving to online auctions, closes the vehicular access to Leamore Lane, to ensure all vehicle movements to and from the site are via Green Lane. This closure can be secured via a Grampian style condition, given a proportion of the works are within the public highway.

The Highway Authority considers the current development taking into account the online auction model will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2018 paragraph 109 and saved UDP policies T4, T6, T7, T10 and T13 and policies DEL1 and TRAN2 of the BCCS.

Ecology

The applicant provided a Preliminary Ecological Appraisal. The Black Country Wildlife Trust's Ecologist was consulted. She raised no objection subject to a biodiversity enhancement and management, drainage strategy and construction and ecological management conditions.

In light of the above the proposals are considered to accord with saved UDP policies GP2, ENV18, ENV23, ENV24 and ENV32 and SPD Conserving Walsall's Natural Environment.

Flood Risk / Drainage

Paragraph 100 of the National Planning Policy Framework makes it clear that inappropriate in areas of flood risk should be avoided by directing development away from areas of highest risk. The contents of the National Planning Policy Framework in terms of flood risk and carries significant weight in the determination of this application. In terms of flooding, the site is within Flood Zone One as defined in the Environment Agency.

The applicant submitted a flood risk assessment, drainage strategy and an additional plan.

The Staffordshire County Council and the Drainage Team raised no objection to the submitted documents. Therefore, the development should be carried out in accordance with the submitted documents.

Trees / Protected Trees

The Council's Arboriculturist was consulted and has no objection subject to a detailed landscaped scheme and a construction management plan to protect the existing trees adjoining the development.

Ground Conditions and Environment

The proposed development reflects the previously approved 18/1554. Recommendations for remediation and coal mining legacy were previously accepted and it is considered reasonable to reflect the same conclusions with this current scheme.

Impact on canal corridor and SLINC

The application site is adjacent to Wyrley and Essington Canal and the corridor alongside is an allocated SLINC. This forms the site's western and southern boundary. It is therefore of particular importance that all works should comply with the "Code of Practice for Works Affecting Canal & River Trust"

The Canal and River's Trust was consulted and raised no objection subject to a drainage, lighting and fencing conditions being imposed.

The proposals accord with saved UDP policies ENV23, ENV24, ENV32 and ENV33 and SPD Conserving Walsall's Natural Environment.

Impact on the Natural Environment and Landscape of the Walsall Canal

The proposed development will be for commercial use with landscaping. It is considered, the site adequately addresses above ground attributes which will not have an adverse impact on living conditions, usability of proposed amenity areas, whilst not having a detrimental impact to the visual amenity of the surrounding area. Any landscaping is proposed as part of the development to consider native species are preferred in order to maintain the appearance and biodiversity. Landscaping also has the potential to impact on the integrity of the canal and it is necessary to assess this which can be achieved via a planning condition.

Lighting can lead to unnecessary glare and light pollution if it is not carefully designed. The integrity of the canal is not adversely affected. The lighting and level of luminance should only light the areas intended and the lighting should not provide flood lighting to the canal to show consideration for local species. This can be controlled via a planning condition.

In light of the above the proposals are considered to accord with saved UDP policies GP2, ENV18, ENV23, ENV24 and ENV32 and SPD Conserving Walsall's Natural Environment

Conclusions and Reasons for Decision

The site is allocated in the SAD for retained local quality industry, specifically site IND328. The policy states the provisions of BCCS policy EMP3 will apply on this site and safeguarded for various uses including those for the motor trade. The introduction of the online car auction business allows for an existing employer to invest in Walsall Borough and boost the economy and accords with SAD policy IND3.

The proposed development will result in the improvement of the layout and appearance of this part of the site. Furthermore, there will be an improvement to customer parking including the use of time slots. Furthermore, the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

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

Recommendation

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and a Section 106 Agreement to secure a Deed of Variation that the signal junction is not required for the current proposal and to define the online business operation, and subject to:

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

Conditions and Reasons

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

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

2. This development shall not be carried out otherwise than in conformity with the following plans and documents, unless otherwise stated in other conditions:

- Air quality TECHNICAL NOTE
- (Amended) Application form – 16.07.2021
- ARBORICULTURAL IMPACT ASSESSMENT November 2020
- COAL MINING RISK ASSESSMENT - Date: 13th September XXX
- Cover Letter - 16.07.2021
- Cover Letter (includes Notice One Certificate B) - 16.07.2021

- FLOOD RISK ASSESSMENT AND DRAINAGE STRATEGY - November 2020
- Lighting Impact Assessment November 2020
- TECHNICAL NOTE – ACOUSTICS - November 2020
- PLANNING DESIGN & ACCESS STATEMENT - DECEMBER 2020
- PRELIMINARY ARBORICULTURAL ASSESSMENT - November 2020
- Drawing No. 18-215/001 – Drawing Title - PRELIMINARY DRAINAGE STRATEGY – Rev D – Date NOV 2018
- PRELIMINARY ECOLOGICAL APPRAISAL - October 2020
- Drawing No. BCAW-ASA-XX-00-DR-A-1108-S3-P02 Drawing Title Proposed Site Elevation and Section – Date 28.01.21
- Drawing No. BCAW-ASA-XX-00-DR-A-1107-S3-P02 Drawing Title Proposed Site Layout Op6 – Date 27.08.20
- Leamore Lane – Revised Contamination Risk Assessment - 03rd September 2018
- TRANSPORT ASSESSMENT - November 2020
- Drawing No. BCAW-ASA-XX-00-DR-A-1109-S3-P01 Drawing Title Proposed Leamore Lane Access Closure – Date 28.01.21
- Drawing No. BCAW-ASA-ZZ-ZZ-DR-A-2100-S2-P04 – Drawing Title Site Location Plan Date 14.06.18
- Notice One (Certificate B) dated - 16.07.2021

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

3a. Prior to the commencement of development, including demolition a Construction Working Plan shall be submitted for written approval of the Local Planning Authority. The plan shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway

- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

3b. The approved Construction Working Plan shall be implemented upon commencement of works and shall be maintained until the site is completed.

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

4a. Prior to the commencement of the development hereby approved a Construction and Ecological Management Plan shall be submitted to and agreed in writing by the local planning authority detailing the precautionary working methods for protected and priority species and the protection of retained habitats during site enabling works and construction.

4b. The development shall not be carried out otherwise than in accordance with the approved Construction and Ecological Management Plan and retained throughout the development construction phase.

Reason: To safeguard protect species in accordance with saved UDP policies GP2, ENV23, ENV24 and ENV32 and SPD Conserving Walsall's Natural Environment.

5a. Prior to the commencement of development hereby permitted the external lighting scheme for the application site, including intensity of illumination, predicted lighting contours, design of hooded lights shall be submitted to and approved in writing by the Local Planning Authority

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

Reason: In the interests of the visual amenities of the area in accordance and ensure that light sensitive species utilising the canal corridor are not affected to their detriment with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan.

6a. Prior to the commencement of development hereby permitted:

- i. details of protective fencing and ground protection to be installed shall be submitted to and approved in writing by the Local Planning Authority;
- ii. The approved protective fencing and ground protection shall be installed;
- iii. One month's written notice of the intention to commence development shall be given to the Local Planning Authority to allow the Council's Arboricultural Officer to inspect the installation of the protective fencing and ground protection;

6b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details. The erection of fencing for the protection of flora and fauna should also minimise the light spill into the canal, shall be undertaken before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

6c. Nothing shall be stored or placed nor any fires started, any tipping, refuelling, disposal of solvents or cement mixing carried out inside the protective fencing or on the ground protection referred to in part a to this condition. Ground levels within protective fencing and on ground protection areas shall not be altered nor shall any excavation or vehicular access or drainage routes be made.

6d. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped otherwise than in accordance with the approved plans and particulars.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of the UDP and Conserving Walsall's Natural Environment SPD.

7a. Prior to commencement of the development hereby approved a scheme of landscaping phased in relation to any phasing of the development and which shall include details of both hard and soft landscape works to include native plant species or species with known benefits to wildlife within the green infrastructure and earthworks shall be submitted to and approved in writing by the Local Planning Authority.

7b. The approved scheme shall be carried out in the first planting season following the completion of each development phase.

7c. Any trees shrubs or plants that die within a period of 5 years from the completion of each development phase or are removed and or become seriously damaged or diseased in that period shall be replaced and if necessary continue to be replaced in the first available planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area and to enhance the wildlife habitat in accordance with saved policies ENV17, ENV23, ENV24 and ENV33 of Walsall's Unitary Development Plan and SPD Conserving Walsall's Natural Environment.

8a. Prior to the commencement of the development hereby approved a Construction and Ecological Management Plan shall be submitted to and agreed in writing by the local planning authority detailing the precautionary working methods for protected and priority species and the protection of retained habitats during site enabling works and construction.

8b. The development shall not be carried out otherwise than in accordance with the approved Construction and Ecological Management Plan and retained throughout the development construction phase.

Reason: To safeguard protect species in accordance with saved UDP policies GP2, ENV23, ENV24 and ENV32 and SPD Conserving Walsall's Natural Environment.

9. The development hereby permitted shall not be carried out otherwise than in accordance with the existing Leamore Lane dropped kerb footway crossing shall be reinstated back to full kerb height as illustrated on drawing 'Proposed Leamore Lane Access Closure BCAW-ASA-XX-00-DR-A-1109-S3-P01 dated 28/01/21' and shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory completion and operation of the development and in the interests of highway safety.

10a. Prior to the first occupation of the development hereby approved, a scheme for provision of bat and bird nesting/roosting boxes shall submitted to and approved in writing by the local planning authority.

10b. The development shall not be occupied until the agreed bat and bird nesting/roosting boxes have been installed in accordance with the agreed details.

10c. The agreed bat and bird nesting/roosting boxes shall be maintained for the life of the development.

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

11a. Prior to the extended vehicle stock storage, customer car parking, trailer parking, access ways and vehicle manoeuvring areas first coming into use, these areas shall be fully consolidated and hard surfaced together with the clear demarcation of all parking bays, pedestrian routes and directional markings.

11b. These areas shall thereafter be retained and used for no other purpose.

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

12a. If, during development, contamination not previously suspected or identified is found to be present at the site then no further development shall be carried out until a remediation strategy has been submitted to and approved in writing by the local planning authority detailing how this unsuspected contamination shall be dealt.

12b. The remediation of the site shall not be carried out otherwise than in accordance with the agreed remediation strategy.

Reason: In order to address any unsuspected soil contamination encountered during development in order to protect controlled waters receptors, namely underlying groundwater in the Secondary A and Undifferentiated Aquifers in accordance with saved UDP policies ENV10 and ENV40.

13. No site clearance shall take place otherwise than in accordance with the following steps:

- (a) If any reptiles are discovered on site during site clearance or development works shall cease temporarily and advice sought from an experienced ecologist to determine a way forward.
- (b) Site clearance work shall be undertaken in a sensitive manner to allow any common amphibians using the site to disperse. This will involve phased, directional habitat manipulation in accordance with the following:
 - i. Existing vegetation on site shall initially be mown to a height of 150mm to make it inhospitable to amphibian species. The cut should commence at the eastern end of the site and proceed in a westerly direction towards the canal to encourage any amphibians to relocate into the canal corridor
 - ii. After initial cut is complete the site shall be left for 48 hours to give amphibians time to move out of areas lost to development
 - iii. After a period of 48 hours the site strip can commence. This should be undertaken in a sensitive manner and any amphibians recorded shall be carefully relocated to the canal corridor to the west.
- (c) The site clearance methods shall be completed during the active period for amphibians which is weather dependant but generally extends between March and October inclusive. No hibernacula such as spoil heaps should be dismantled during winter months.

Reason: To safeguard protect species in accordance with saved UDP policies GP2, ENV23, ENV24 and ENV32 and SPD Conserving Walsall's Natural Environment.

Notes for Applicant

Severn Trent Water's Note: - Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contact our Development Services Team (Tel: 0800 707 6600).

Coal Authority's Note: - The application site lies in an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can be present and problems can occur in the future, particularly as a result of development taking place.

If any coal mining feature is unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/coalauthority

Highways (Transportation) Authority's Note: -1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

2. The applicant will be expected to enter into an agreement under S38 and S278 of the Highways Act 1980 with the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team at Stephen.Pittaway@Walsall.gov.uk

Canal and River Trust's Note: - 1) The applicant is advised that they should contact Michael Banks, Senior Asset Engineer, in relation to making arrangements for the inspection and maintenance of the adjacent canal cutting slope, on Michael.banks@canalrivertrust.org.uk or on 07710 075232.

2) The applicant/developer is advised to contact Jacquie Watt of the Canal & River Trust Utilities Team on Jacquie.watt@canalrivertrust.org.uk or 07584 335885 to discuss the acceptability of discharging surface water from the site to the adjacent canal in order to ensure that any necessary consents are obtained. Please be advised that the Trust is not a land drainage authority, and such discharges are not granted as of right- where they are granted, they will usually be subject to completion of a commercial agreement.

West Midlands Police Service's Note: -External LED lights with daylight sensors to the external walls of the buildings in particular at entry and exits.

Additional LED lighting for parking areas.

If lighting columns are used ensure they are not located close to the perimeter.
That might provide an offender with a climbing aid.

Monitored alarm systems will be important.

cctv capture of all persons and vehicles particularly entering and leaving.

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

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

I would recommend security using the principles of Secured By Design.

Providing reassurance to customers and staff.

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

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

Below is a link to secured by design commercial, police approved crime reduction information guidance.

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

West Midlands Fire Service's Note: -Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 2, Table 15.2)

Consideration should be given to accommodate provision for fire service access out of normal business hours.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 05 August 2021

Plans List Item Number: 2

Reason for bringing to committee

Major application

Application Details

Location: LAND ADJACENT CEDAR HOUSE, ANGLIAN ROAD, WALSALL, WS9 8EP

Proposal: CHANGE OF USE OF LAND TO THE WEST OF ANGLIAN ROAD FROM AGRICULTURAL TO A TWO FIELD SECURE DOG WALKING / EXERCISING FACILITY, ERECTION OF 1.8M HIGH STOCK FENCING, 3.5M X 1.8M FIELD GATE AND TWO AREAS OF HARDSTANDING FOR PARKING.

Application Number: 21/0700

Case Officer: Leah Wright

Applicant: Incept Ltd

Ward: Rushall-Shelfield, Aldridge Central And South

Agent:

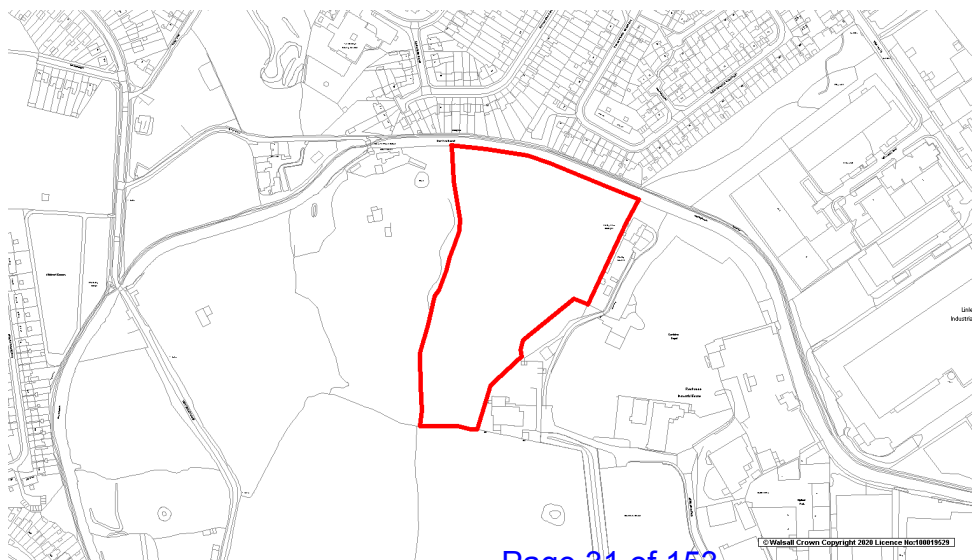
Expired Date: 04-Aug-2021

Application Type: Full Application: Major Use Class Sui Generis

Time Extension Expiry:

Recommendation

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



Proposal

This application proposes the change of use of land to the west of Anglian Road from agricultural to a two field secure dog walking / exercising facility, erection of 1.8m high stock fencing, 3.5m x 1.8m field gate and two areas of hardstanding measuring approximately 16m x 16m for parking.

It is proposed that the fields will be open during daylight hours all year round. For winter (1st October-29th February) the times proposed are 8:00 am- 4:00pm (8 hours) and for summer (1st April-30th September) the times will be 7:00am- 7:00pm (12 hours). An on-site manager is proposed and the applicants will check the fields at least twice daily. The proposal is to establish two dog walking fields for members of the local community to use. The facility will provide a space where dogs can be exercised off-lead with no impact on, or interaction with, the general public and will reduce the pressure on public open space usage.

The fields will be available to book for 50 minute time slots and will be staggered to avoid interaction between the users and their dogs. This will also avoid two vehicles crossing on the access road at any one time.

The parking at site would be available for up to two cars inside the individual fields, with the individual gates locked during and between customer visits.

In terms of waste management a number of waste bins will be provided in each field for users to deposit their dogs waste, as per the terms and conditions of use, and the owners will empty these on a regular (daily) basis. The collected waste will be placed in a clearly marked industrial waste bin, for collection by a commercial waste management company.

New native species hedging is also proposed between the fields to provide privacy for each enclosure, it is considered this will increase available habitat for insects and fauna.

Site and Surroundings

The land is currently an open field, with hedge boundaries to the north, east and west and a barbed wire fence boundary to the south. The site is bound by the Daw End Branch Canal to the north, open fields to the west and south and to the east by the Red House Industrial Estate. The site is within the West Midlands Green Belt.

Grade II Listed Brawn's Works Bridge, and Locally Listed Stone House are located to the north-west of the site.

The land currently comprises a field of approximately 3.56ha.

Relevant Planning History

None relevant

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 8 – Promoting healthy and safe communities**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment.**

On planning conditions the NPPF (para 55) says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV25: Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV28: The Local List of Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- T4: The Highway Network
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV6: Open Space, Sport and Recreation

Walsall Site Allocation Document 2019

- GB1: Green Belt Boundary and Control of Development in the Green Belt
- EN1: Natural Environment Protection, Management and Enhancement

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows

- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW2 Safe and Welcoming Places
- DW3 Character
- DW9 High Quality Public Realm

Consultation Replies

Archaeology

No archaeological implications for this proposal.

Historically there were early limeworks in the area associated with the canal, and quarries that were potentially worked since Roman times. However, the laying down of areas of hardstanding and erection of fences would not impact on any remains, should they be present.

Canal and River Trust

No objection.

Coal Authority

No comments to make.

Environmental Health

No comments to make.

Inland Waterways (Lichfield Branch)

No objection subject to retention of the existing canalside trees and shrubs with the new fence line set back behind them.

Local Access Forum

No objection. The proposed use of the land will help to avoid potential further development in the future. The nearest path we can find to this location is ALD 16, (Winterley Lane to Windsor Way), which runs to the north of the site, but along the opposite side of the canal, so should not be impacted by the proposals.

Natural England

No comment to make.

Pollution Control

With regard to the above site Pollution Control have no specific requirements for the development of the site, however we recommend that Environmental Health are consulted as they would be involved in any complaints made about the site.

Transport

No objections from the Local Highway Authority. The site access is off Anglian Road which is a private road and the access point is about 400m from the nearest public road. The proposed use is unlikely to generate a significant number of vehicle trips that would present any particular issues.

West Midlands Fire Service

No adverse comments

Tree Preservation Officer

No objection subject to condition securing the future of existing trees around the periphery of the site.

Representations

1 x representation was received which can be summarised as follows (*Officer's comments in italics*):

- Concerns over potential lighting which would affect my house (*No external lighting is proposed*).

Determining Issues

- Principle of Development and Impact on the Green Belt
- Heritage
- Trees
- Impact on the amenities of Surrounding Occupiers
- Highways

Assessment of the Proposal

Principle of the Development and Impact on the Green Belt

The proposal would represent outdoor recreation. The NPPF (2021) Section 13 para 145 indicates that the provision of appropriate facilities in connection with a change of use for outdoor recreation is not considered inappropriate development as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

The proposal doesn't include any buildings, it however does include the erection of a 1.8m high stock fence, 3.5 x 1.8m field gate and two areas of hardstanding for parking.

The fencing would have rounded wooden posts and be constructed from gauge wire. It would allow for full views through it and it is considered that it is suitable in design and appearance in this rural location, reducing any adverse impact on the visual amenity and openness of the Green Belt.

The use would operate during daylight hours only and would therefore not require any lighting that would otherwise potentially impact on the openness and character of the Green Belt. A condition preventing any new lighting is recommended.

Overall, given the modest scale of the physical elements of the proposal combined with the acceptable recreational use, it is considered that the proposal would have minimal impact on the character, appearance or openness of the Green Belt and as such the proposals would represent appropriate development within the Green Belt.

Heritage

Brawns Works Bridge, a Grade II listed building is sited approximately 85m from the site, whilst Stone House, a locally listed building is approximately 69m from the site.

The development is within the setting of a Grade II listed structure and a locally listed building and is for a change of use to a dog walking field which includes a modest amount of physical elements in the form of boundary treatment and small hardstanding areas. As such it is considered that the development proposal would lead to less than substantial harm to the significance of the designated heritage assets. In line with paragraph 202 of the NPPF this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The change of use would create a dog walking field facility for use by the general public, providing a community facility which would benefit the public. As such, when this public benefit is weighed up against the less than substantial harm to the significance of the designated heritage assets, it is considered that the proposal is acceptable.

Trees

It is noted that there is a well treed linear feature to the western boundary and there are TPOs on site.

Whilst the Inland Waterways Association comments are noted regarding the request for the new fence line to be set back behind the existing canalside trees and shrubs, the Council's Tree Officer does not object to the proposal and considers that the

works can be carried out without resulting in harm to these trees and vegetation. A condition would be included to ensure the retention of the protected trees within the boundary of the development.

Impact on the amenities of Surrounding Occupiers

Due to the proposed hours of use, and the limited number of people and dogs likely to be on site at any one time, it is considered that the use is unlikely to have any adverse impact on the amenities of the surrounding occupiers through noise and any increase in traffic is likely to be low level. It is also considered that the use would have no adverse impact on the surrounding agricultural uses. A condition would be included to ensure the proposed hours of use is complied with to safeguard nearby occupiers amenity.

Access and Parking

The proposal would have access off Anglian Road which is a private road with the access point around 400m from the nearest public road. The development would provide two small areas of hardstanding which would meet the needs of the development.

It is considered that the proposed use is unlikely to generate a significant number of vehicle trips that would present any particular issues for the Highway Authority and as such there was no objection raised and Highways support the development.

Conclusions and Reasons for Decision

The change of use of the land to a dog-walking facility is considered acceptable and would represent appropriate development within the Green Belt. It is considered the use is unlikely to have any adverse impact on the amenities of the surrounding occupiers and would not present issues to the highway authority.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

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

Recommendation

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

Conditions and Reasons

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

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

- 2) The works hereby approved shall not be carried out otherwise than in accordance with the following drawings:

- Application Form – dated 5th May 2021
- Location Plan- Received 3rd June 2021
- Site Layout- Received 3rd June 2021
- Fence Details- Received 3rd June 2021
- Gate Details- Received 3rd June 2021
- East and West Elevations- Received 3rd June 2021
- North and South Elevations- Received 3rd June 2021
- Design and Access Statement – Received 3rd June 2021

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

- 3) a. Prior to commencement of the development hereby permitted details of soft landscaping works shall be submitted in writing to and approved in writing by the Local Planning Authority.

b. Prior to the development hereby permitted first coming into use the approved landscaping details shall be carried out.

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

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

- 4) The use hereby approved development shall not operate otherwise than during 08:00am until 16:00pm Monday to Sunday and Bank Holidays during Winter (1st October to 29th February) and 07:00am until 19:00pm Monday to Sunday and Bank Holidays during Summer (1st April to 30th September).

Reason: To define the permission, to safeguard nearby occupiers amenity and in the interest of highways safety in accordance with UDP policy GP2, T7 and T13.

- 5) No external lighting shall be installed at the site at any time.

Reason: To define the permission and to ensure no requirement for lighting at the site to protect the Green Belt, in compliance with Policy GB1 of the SAD.

- 6) No existing trees, shrubs or hedges within the site boundary shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed. Any trees, shrubs or hedges removed, or which die or become severely damaged or seriously diseased with five years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species.

Reason: To ensure the continued well-being of the protected trees in the interests of the amenity and environmental quality of the locality in accordance with Saved Policies GP2, ENV18, ENV23 of the UDP, Policy ENV1 of the BCCS and Policy GB1 and EN1 of the SAD, Conserving Walsall's Natural Environment SPD and the NPPF.

Notes for Applicant

1) Natural England

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>.

2) Dog Waste Bins

Dog waste bins should be provided in the field and emptied on a daily basis.

END OF OFFICERS REPORT

Planning Committee

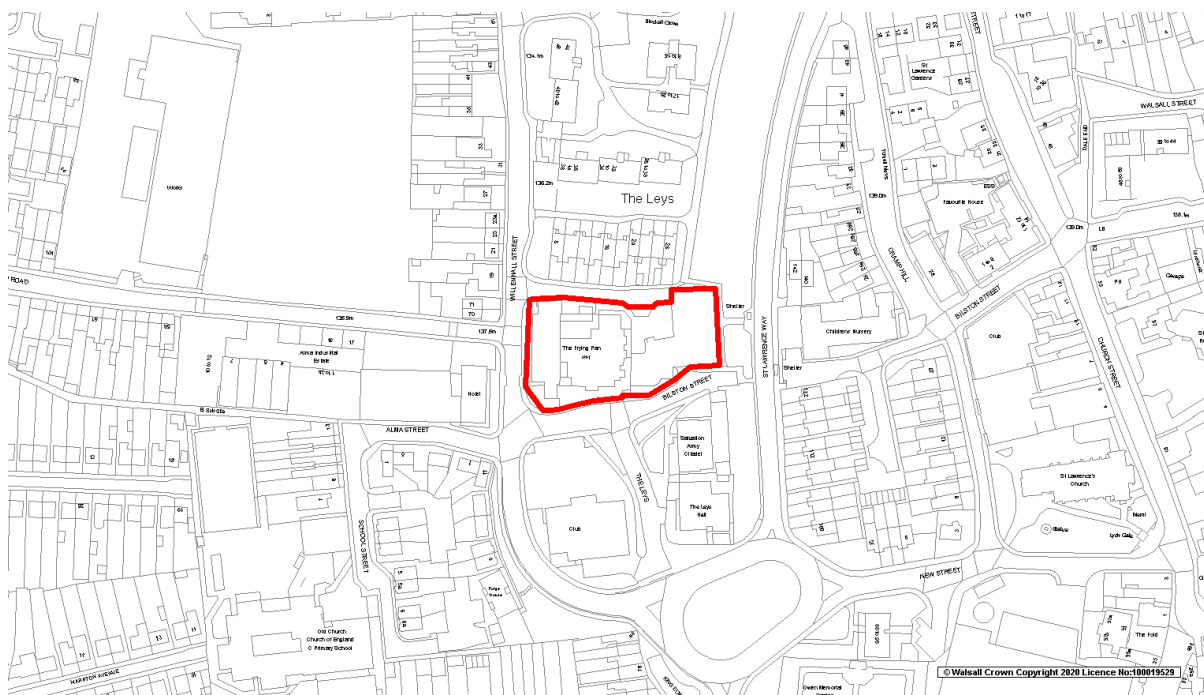
Report of Head of Planning and Building Control on 05 August 2021

Plans List Item Number: 3

Reason for bringing to committee**Significant Community Interest****Application Details****Location:** THE FRYING PAN, BILSTON STREET, DARLASTON, WEDNESBURY, WS10 8EY**Proposal:** CHANGE OF USE FROM PUBLIC HOUSE TO BUSINESS CENTRE**Application Number:** 21/0397**Case Officer:** Rebecca Rowley**Applicant:** Jacob Asset Management Ltd**Ward:** Darlaston South**Agent:** Lee Mitchell**Expired Date:** 15-Jun-2021**Application Type:** Full Application: Change of Use**Time Extension Expiry:****Recommendation**

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

- The amendment and finalising of conditions;
- Addressing the final outstanding points in relation to the submitted Sequential Test;
- and
- No objection from the Council's Pollution Control Team



Proposal

This application seeks permission to change the use of part of the building that housed the former public house known as The Frying Pan to a Business Centre. An existing chip shop which occupies the ground floor frontage facing Willenhall Street would remain unaffected.

The Business Centre would consist of 12 self-contained office suites ranging in size from 1 person to 4 person offices, and 1 conference suite as well as a reception, a communal kitchen and toilet facilities. There would be minimal change to the external appearance of the building.

Opening hours would be:

Monday to Friday: 7.30am – 9.00pm

Saturday: 8.00am – 9.00pm

Sunday: 10.00am – 4.00pm

These hours are when the building would be officially accessible. The application specifies that the main usage of the building would be during 'normal' office hours, which have not been specified but are likely to be between 8am and 6pm.

The centre would create 4 full time jobs and employ a maximum of 2 staff at any time during opening hours.

There would be 39 dedicated off-street parking spaces, including 11 that would be shared with the chip shop at the front of the building. Allocated disabled parking bays would be provided.

An allocated bin storage area and cycle storage provision for 4 cycles have been indicated on the site plan.

Site and Surroundings

The application building is located on a corner plot at the junction of Willenhall Street and Bilston Street. The frontage of the building, facing Willenhall Street has two floors, the side elevation facing Bilston Street and the rear of the building is single storey. The front rooms of the ground floor of the building house a chip shop which would be retained as a separate operation. There is a 3 bedroom residential flat on the first floor which would also be retained. There are 3 trees at the rear of the application site which are shown to be retained.

The site lies approximately 60m outside of the Darlaston District Centre boundary. The site itself does not have any specific use allocation in the Council's adopted Development Plan. To the north and north west sides of the site is residential use. On the opposite side of Willenhall Street are industrial uses comprising Alma Industrial Estate and Land fmr London Works (allocated as local industry consider for release under sites IN123 and IN126 of Site Allocation Document Policy IND4). To the south west of the site is further residential use with Old Church Primary School located behind the houses, approximately 130m from the application site. To the south east of the site is a Salvation Army building, to the south is a Social club and to the rear of the site, on the opposite side of St Lawrence Way is a childrens' day nursery.

There is a bus stop 75m from the application building serving routes to Walsall, Willenhall, Wednesbury and Bilston.

Relevant Planning History

15/0624 - Part change of use to A5 Hot Food Takeaway, new shopfront and extraction duct – granted permission 20/04/2017

13/1372/FL - Single storey childrens' room, smoking shelter, garage extension, boundary wall and railings – granted permission – 21/03/2013

BC11493 – Erection of New Public House and Construction of Car Park – granted permission – 22/03/1979

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **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**

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

- GP2: Environmental Protection
- GP6: Disabled People
- ENV32: Design and Development Proposals
- 5.3 to 5.11 Strategic Policy Statement
- S1: Definition of Town Centre Uses

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- S6: Meeting Local Needs
- S7: Out-of-Centre and Edge-of-Centre Developments
- T7 - Car Parking
- T9 – Cycling
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- EMP1: Providing for Economic Growth
- CEN2: Hierarchy of Centres
- CEN5: District and Local Centres
- CEN7: Controlling Out-of-Centre Development
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW8 Adaptability

Consultation Replies

Archaeology

No response provided

Coal Authority

No objections, high risk coal note for applicant included

Drainage

No response provided

Ecology Officer

No response provided

Local Highway Authority

09/06/2021

The Highway Authority cannot support the application based on the current details due to insufficient information.

23/07/2021

Following the submission of additional information on the expected number of users and staff and details of the operating times, the Highway Authority is now satisfied that the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2021 paragraph 111, subject to conditions to secure appropriate provision of a cycle shelter and 3no. allocated disabled parking spaces.

Public Health

No response provided

Strategic Planning Policy

24/06/2021

The site lies approximately 60m outside Darlaston District Centre and is considered to be an 'edge-of-centre' location. Sequential Test required to explore the possible availability of alternative sites within Darlaston District Centre and to consider economic impact and transport.

The proposed mixed use appears to be comprehensive and makes effective use of land. Proximity to nearby housing allocations could support employment opportunities for future residents.

Concerns regarding loss of community uses (a public house). Other viable community uses should be explored.

23/07/2021

(Following submission of a sequential test and plans demonstrating cycle shelter provision)

The submitted sequential test is in line with our recommendations and is acceptable subject to the applicant agreeing to a number of interpretations that have been made on its content. We acknowledge the inclusion of cycle storage to encourage sustainable travel to and from the site.

Further consideration should still be given to potential alternative community use being incorporated within the overall scheme i.e. community enterprises or not-for-profits.

Tree Preservation Officer

No objection.

Representations

17 representation were received in response to this proposal raising the following points (*Officer comments in italics*):

- Loss of a local community facility.
- Not enough pubs left in the area.
- People will have to go out of town to socialize and that will take away jobs for local people in the town.
- The community pub is more beneficial and potential for job creation and retention in the town.
- Won't benefit the community.
- There are enough business units in the area/We don't need a business centre.
- This sort of development belongs in one of the many other available buildings in the area that are suitable.
- Not in keeping with the local area, this is a residential area and not suitable for this type of business use.
- Jobs can be created in areas requiring investment and development in another area of Darlaston.
- Close proximity to a school.
- As a pub any traffic increase is after school hours and increased traffic created at peak times will be a hazard to families walking to school.
- Increased traffic causing congestion, noise nuisance and increased pollution.
- References have been made to the applicant having a relationship with J9 Accommodation and concerns regarding the site being used to create residential accommodation or a hostel (*the Local Planning Authority has a duty to determine a planning application on the basis of the information submitted and cannot consider alternative future uses which would need to be considered separately and on their own merits at that time*).
- Not a very good idea and people have signed the online petition (*no petition has been formally submitted to the Local Planning Authority to consider as part of this current planning application*).
- A previous planning application ruled that the Frying Pan was central to the community and the use of the building should not be altered. What has changed? (*Each application is judged on its own merits*).
- Why have the new owners started carrying out internal renovations (*the carrying out of physical internal works do not require planning permission*).
- I can't understand why there is a loss of 39 parking spaces (*whilst the application form incorrectly indicates a loss of 39 spaces, the submitted site plan demonstrates the retention of all 39 parking spaces which would be secured by condition on any approval*).

Determining Issues

- Principle of Development
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Trees / Protected Trees

Principle of Development

This site does not have a site-specific allocation in the development plan, and the existing building and area do not have any heritage designations.

The site lies approximately 60m outside Darlaston District Centre. This application is requesting permission for a town centre use in an edge-of centre location. Furthermore, the change of use from a public house involves the loss of a community facility. The Strategic Planning Policy Team initially requested provision of a sequential test to detail evidence that no other alternative units are available to meet the level of proposed provision in Darlaston District Centre and that concerns over economic impact and transport were addressed in accordance with Saved UDP, BCCS and NPPF policies. A sequential test and plans demonstrating the provision of cycle storage at the site were subsequently submitted.

The key planning policy issues for the proposal comprise the loss of the existing community facility (applying saved UDP policies LC8 and S6, and the NPPF paragraph 93) and the appropriateness of the location for offices (applying in particular NPPF paragraph 87, BCCS policies CEN1, CEN2, CEN4 and CEN7, and saved UDP policies S6 and S7).

Efforts to lease the site and economic viability considerations, existing nearby facilities and recent vacancy of use, as required by saved UDP policy LC8, are all referred to in the Design and Access Statement and that it would not be viable to retain the facility for use as a Public House. Accessibility of alternative provision has been evidenced by the developer in the Design and Access Statement and has been evidenced to be plentiful within walking distance. When considering the proximity of other public houses and clubs, this inactive site comparatively does not appear to serve an important local need. This addresses one concern raised by a number of local residents. It is noted that the site also sits among other local community uses and services along Bilston Street and The Leys, namely the Old Hall People's Partnership, Salvation Army Citadel and Sports and Social Club that would offer continued community use. This accords with the requirements of saved UDP policies S6 and LC8.

Concerns raised by local residents that there is no need for a business centre or that a business centre should be located elsewhere in the area, specifically in vacant business units. The BCCS identifies a need for additional offices as part of the employment portfolio to meet economic requirements. However, both national policy, the BCCS and saved policies of the UDP direct offices to main town centres. It is acknowledged that the extant use is a town centre use as defined by saved UDP policy S1. Saved UDP policy S7 outlines the circumstances under which edge-of-centre development such as this proposal may be supported. The proposal would not occupy a site that has been allocated for provision of any other service and would not deprive the local community of access to basic shops and services. The sequential test submitted has demonstrated to the satisfaction of the Strategic Planning Policy Team that there are no more suitable sites within Darlaston District Centre boundary that could accommodate the floor space proposed in the application and is

acceptable subject to agreement from the applicant to a number of interpretations made on its content. An update on this will be provided for Members in the supplementary paper.

This site represents an edge-of-centre location immediately adjacent to the centre boundary with good public transport provision. The proposed use would not require an increase in parking provision based on the parking standards in the Saved UDP, although it is recognised that the hours of use are likely to change, with an increase in traffic movements at peak times. The Local Highway Authority have expressed that there would be no significant adverse traffic impact on the local highway network. Therefore this proposal meets the requirements of saved UDP policy S7.

NPPF Paragraph 119 refers to development needing to make effective use of land. This scheme promotes mixed uses through the retention of the hot food takeaway (chip shop) unit to the ground floor and the residential unit (apartment) to the first floor. In this way, the scheme appears to be comprehensive and makes effective use of land.

It is considered that given the restrictive housing allocations to the west, an application for town centre uses on this site in proximity to these allocations could support employment opportunities for future residents while the 'business centre' model would foster embryonic business growth.

One representation received observed that the loss of this building as a public house would take away jobs for local people. It is acknowledged that the site has been vacant for some time so currently provides no jobs and the information provided by the applicant has sufficiently demonstrated that the use of the site as a public house would likely not be viable moving forward. Reuse of this site for the proposed purpose would bring investment into the area from businesses occupying the proposed office space and potentially create jobs within these businesses for local residents.

However, the Strategic Planning Policy team has raised a concern that while efforts to continue current use by the applicant have been detailed, they would like to see explored options to bring the site into another form of other viable community uses before other uses are considered. The applicant could either identify viable community uses for this site or make available one, or some, of the business units within this proposed scheme for community enterprises or not-for-profits. This has been discussed with the applicant and any suggestions that are put forward will be included in the supplementary paper for consideration.

Notwithstanding any details to follow regarding a potential community use at this site, it should be noted that nearby provision of alternative community facilities has already been demonstrated in addition to the unviable future of the extant public house use. Furthermore, on balance, the proposed mixed use which would make effective use of this site along with the creation of employment opportunities weighs in favour of the proposal and this proposal is therefore considered to be acceptable and in accordance with local and national planning policies and guidance as set out.

Design, Layout and Character

The only alterations to the exterior of the building that are apparent from comparison of the plans to the existing building would be:

- bricking up of 3no. single pane windows on the north side elevation;
- replacement of 1no window on the northern side of the rear elevation with a fire door; and
- replacement of 4 single pane windows on the south side elevation with 2no. windows that would be 3 panes wide.

There are no proposed alterations to the front elevation. It is considered that there are no proposed alterations to the exterior of the building that would have any significant impact on the character or overall appearance of the application building or the locality.

Amenity of Neighbours and Amenity of Future Occupiers

This application does not request permission for any extensions or alterations to the structure of the building that would have any impact on neighbouring amenity above and beyond the existing situation.

It is considered that the activities taking place at a business centre would likely create no further potential for noise and disturbance to local residents than could be caused by the extant use and any disturbance created would be at more sociable hours than activity usually associated with a public house use that would carry on much later into the evening. Pollution Control Officers have been consulted and any comments or conditions that are recommended will be included in the supplementary paper for consideration. On balance, the proposal is considered acceptable.

Highways

Following an initial objection from the Local Highway Authority on the basis that there was insufficient information contained within the application to make a fully informed assessment of the potential impact of the proposal on the local highway network, further supporting information has since been submitted by the applicant. Following the submission of additional information on the expected number of users and staff and details of the operating times, the Local Highway Authority observe that parking for up to 39 cars is provided. Taking into account the proposed business use requires a maximum of 16 spaces under the provisions of Saved UDP Policy T13 based upon a GFA of 423sqm and there will be a maximum of around 50 (12 suites x 4 users +2 staff) users on site at any one time, it is considered that there would be more than adequate parking to cater for all the uses on the site.

It is recognised that the travel pattern to the Business Centre is likely to be significantly different to that of the extant uses and is likely to generate more traffic in the traditional peak traffic periods, particularly in the AM peak when parents are dropping off school children to the nearby school. The local streets around the site are, at times, extremely congested due to the close proximity of a primary school and therefore the potential impact the proposed use will have on existing parking and congestion has been considered. If all the users turned up by car in the AM peak period, which is considered unlikely, this would equate to 1 trip every minute spread over the peak hour. It is accepted that these trips will effectively be new trips on the highway network to this site during this period over and above those to the extant uses which are mainly in the evenings.

However, taking into account that the site is relatively sustainable being a reasonable walking distance to Darlaston District Centre and there is adequate parking on site to minimise any potential over-spill parking onto the highway, on balance, it is considered that the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2021 paragraph 111. This acknowledges and addresses concerns that have been raised by local occupants regarding the impact of this proposal in relation to the proximity to the nearby school, increased traffic created at peak times being a hazard to families walking to school and increased traffic causing congestion, noise nuisance and increased pollution.

The Local Highway Authority does not object to the proposal subject to conditions to secure the appropriate provision of a cycle shelter and the allocation of 3 parking spaces for disabled users. These would be included on any permission.

Trees / Protected Trees

There are three mature trees located on a grassed amenity area immediately beyond the rear elevation of the application building. They are shown on the Council's records as being protected trees, however, the Tree Officer has confirmed that the TPO was never confirmed because these trees were severely pruned by the owner. As these trees were not the subject of a Tree Preservation Order at the time of pruning, the owner carried out this work lawfully, but the trees could no longer be protected as they were not retained in a satisfactory condition. These trees are shown on the submitted block plan as retained. The Tree Officer has no objections and would not object to their removal in any case.

Conclusions and Reasons for Decision

The application has demonstrated sufficiently that the change of use of the premises fulfils the requirements of saved UDP policy LC8 and S6 in relation to the loss of a community facility and fulfils the requirements of saved UDP policy S7 in relation to the siting of a town centre use in an edge-of-centre location, including fulfilment of the sequential test, subject to agreement from the applicant on a number of final points raised on its content. The proposed use is unlikely to result in any significant additional harm to Darlaston District Centre to warrant a refusal reason, its use will

provide new business to operate in the locality providing employment opportunities and will not have any additional impact on surrounding residents over and above any already experienced from businesses which currently operate in the area or the extant use of the site as a Public House, nor would it cause significant further harm to highway safety.

As such the key material planning considerations, neighbour comments and consultee responses have been weighed in assessing the planning application and it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, specifically paragraphs 87, 93 and 119, Black Country Core Strategy policies CEN5 and CEN7, Saved Unitary Development Plan policies GP2, GP6, ENV32, S1, S6, S7, T7, T9, T12 and T13 and the Supplementary Planning Document Designing Walsall and on balance is considered to be acceptable.

The use of safeguarding conditions in respect of the plans, the hours of use, , disabled parking provision and cycle storage provision will ensure that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent regarding the requirement for submission of a sequential test and plans to demonstrate provision of a refuse storage area and cycle storage. Amended plans and additional information have been submitted which enable full support to be given to the scheme.

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:
 - The amendment and finalising of conditions;
 - Addressing the final outstanding points in relation to the submitted Sequential Test; and
 - No objection from the Council's Pollution Control Team

Conditions and Reasons

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

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

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

- Application Form, submitted 18/03/2021
- Site Plan, submitted 20/04/2021
- Proposed Plan, drawing no. 1699 - 1, submitted 23/07/2021
- Design and Access Statement, submitted 14/06/2021
- Sequential Assessment, dated 19/07/2021

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

3a) Notwithstanding the details as submitted and prior to commencement of the development hereby permitted, full details of the proposed cycle shelter, shall be submitted to and approved in writing by the Local Planning Authority. The cycle shelter shall be covered and illuminated.

3b. The development hereby permitted shall not be carried out otherwise than in accordance with the agreed cycle shelter facility details and shall thereafter be retained and used for no other purpose for the lifetime of the development.

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

4a. Notwithstanding the details as submitted and prior to the first use of the development hereby permitted, at least 3 parking spaces shall be allocated for disabled users and demarcated accordingly. The spaces shall be located as close as possible to an accessible entrance.

4b. The disable parking spaces shall thereafter be retained and used for no other purpose for the lifetime of the development.

Reason: In accordance with UDP Policy T13.

5. The development hereby permitted shall not be open to customers otherwise than between the hours of 07:30am to 21:00pm Mondays to Fridays; between the hours of 08:00am to 21:00pm Saturdays and between the hours of 10:00am and 16:00pm Sundays and Bank and Public Holidays.

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

Notes for Applicant

1: This permission is for a change of use only and does not grant permission for any other alterations to the exterior of the premises which may require planning permission.

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

3: The Coal Authority's High Risk Coal note to applicant would be included on any approval.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 05 August 2021

Plans List Item Number: 4

Reason for bringing to committee

Walsall Council Application

Application Details

Location: CASTLE BUSINESS AND ENTERPRISE COLLEGE, ODELL ROAD, WALSALL, WS3 2ED

Proposal: PROPOSED EXTERIOR SHELTER, LOCATED TOWARDS THE SOUTH SIDE OF THE SITE.

Application Number: 20/1426

Case Officer: Leah Wright

Applicant: Mr Edward Kennedy

Ward: Birchills Leamore

Agent: Baily Garner LLP

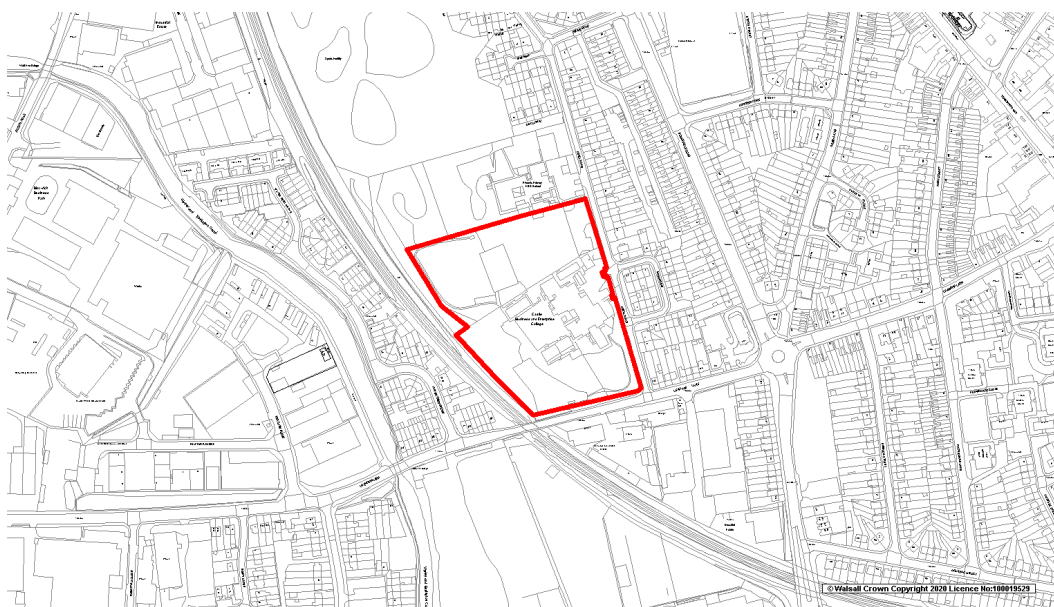
Expired Date: 08-Feb-2021

Application Type: Regulation 4: Minor Application (SI 1992/1492)

Time Extension Expiry: 09-Aug-2021

Recommendation

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



Proposal

This application proposes the erection of an exterior shelter for pupils to use during playtime, located towards the south side of the site.

The shelter will measure 2.7m with a curved roof with eaves of 2.2m. The shelter measures 4.2m in width and 6.2m in depth. The shelter is approximately 22.9sqm.

The shelter will be a timber structure with a translucent PETG- Polyethylene Terephthalate curved roof with infills to sides. It would have a pressure treated timber framed canopy and built in seating.

Site and Surroundings

The application site is a single storey special educational needs school, situated on the corner of Odell Road and Leamore Lane. The building is located in the centre of the site with green playing fields and ancillary green spaces to the North West and south of the building. To the east of the building is the staff and visitor car parking facilities.

The college provides for Primary, Secondary and Post 16 education for children with moderate learning difficulties.

To the north of the site is Phoenix Primary School. To the east is residential development with limited off-street parking facilities and commercial uses beyond. To the south are commercial and employment uses. To the west is the railway line and then residential development beyond that.

The site can be accessed by pedestrians and vehicles from Odell Road.

The overall site is approximately 2.76ha which mostly consists from playing fields. The proposed site for the works is approximately 25sqm.

The site is not within a Conservation Area, nor is it a listed building.

The submitted Design and Access Statement explains that there is a need for a shelter to be located to the Southside of the school, with access to the playground area to be used by pupils during playtime.

Relevant Planning History

17/0417 – Erection of a timber structure to be used as a seating plan – **Granted subject to conditions.**

18/0086 - Two single storey extensions to existing school building, one comprising 3 classrooms and one comprising 2 classrooms with a ramped access and covered link to the main school building. A further extension would provide a covered link between existing buildings and creation of 26 additional car parking spaces with new accesses onto Odell Road and associated gates and amendments to boundary treatment. – **Granted subject to conditions 13-07-18.**

19/0700 -Proposed new classroom block consisting of 3 no. classrooms, a store and wc's and minor external works including the erection of a ramp to the rear- **GSC 18 May 2020.**

19/1180- Installation of rubber surface & timber climbing frame- **GSC.**

20/1212- Erection of a sports hall including ramp accesses.- **GSC.**

21/0107- Non-Material Amendment to application 20/1212, for Erection of a sports hall including ramp accesses, to amend proposed facing materials from facing brick to part-brick part-cladding- **Permission granted.**

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 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**

On planning conditions the NPPF (para 55) says:

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

all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

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

Reducing Inequalities

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- T7 - Car Parking
- T8 – Walking
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces
- LC3: Children's Play Areas
- LC4: Allotment Gardens
- LC6: Sports Pitches

Black Country Core Strategy

- HOU5: Education and Health Care Facilities
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- CSP4: Place Making
- ENV6: Open Space, Sport and Recreation
- DEL1: Infrastructure Provision

Walsall Site Allocation Document 2019

- T4: The Highway Network
- OS1: Open Space, Sport and Recreation
- LC5: Greenways

Supplementary Planning Documents

Designing Walsall

- DW1 Sustainability
- DW3 Character

Consultation Replies

Canal and River Trust - No comments to make on the proposal.

Coal Authority – No objection and no requirement for a Coal Mining Risk Assessment.

Local Highways Authority - Support

Natural England - No comment to make.

Pollution Control - No comment to make.

Public Health - No objection to this planning application and recognise the need to improve the outdoor facilities in the school to support the improvement in outdoor activities for the pupils.

Sport England - No objection

Network Rail - No comment to make

West Midlands Police - Note to applicant regarding Secure by Design Principles. No objection to development.

West Midlands Fire Service - No objection, note to applicant regarding Requirement B5: Access and facilities for the fire service.

Representations

None received

Determining Issues

- Principle of Development
- Design, Layout and Character
- Impact upon neighbouring occupiers and Phoenix School
- Highways

Principle of development

National planning policy identifies the importance of planning for healthy communities.

Policy HOU5 of the BCCS states that education is fundamental to achieving the vision for sustainable communities and economic prosperity. It goes on to state that the physical enhancement and expansion of higher and further educational facilities and related business and research will be supported where it helps to realise the educational training and research potential of the Black Country.

The Walsall Site Allocation Document (SAD) states that new facilities should be planned and improvements prioritised where they are most accessible to the communities they are intended to serve. Often this will be in town, district or local centres.

Improvements to existing facilities will be supported in principle, provided they accord with the other policies of the plans and would not have adverse impacts on local amenity and traffic, nor on the viability of facilities that are important for the vitality of centres or that are required to maintain important assets.

The proposal involves the construction of a single storey shelter. The works would not lead to an increase in the number of pupils, but rather an improvement to the environment for existing pupils.

Further it should be noted Sport England have no objection to the proposal.

As such, the principle of development is acceptable subject to all other material considerations set out in this report.

Design

Policy HOU5 of the BCCS states that school, further and higher education facilities should be well designed and well related to neighbourhood services and amenities.

The proposed shelter is modest in height, measuring 2.7m in maximum height with a curved roof with eaves of 2.2m. The extension is also modest in area measuring 22.9sqm.

It is considered that the design and scale is acceptable as it will blend into the design of the existing buildings at site and does not appear at odds. The shelter will have a curved roof which is considered acceptable as there are examples of varying roof styles in the vicinity.

Given the extensions modest height, the fact that it will be constructed from timber which is a material used throughout buildings at the school and blends well with the existing structures. When combined with the location of the shelter which is positioned within the site, and away from nearest public vantage points it is not considered to be visually detrimental in the street scene. As such, it is considered that the shelter will be of a high quality design and is acceptable.

Impact upon neighbouring occupiers and Phoenix School

The nearest residential properties are on Odell Road some 50m away from the proposed shelter. Views of the shelter will be obscured by the existing school buildings. It is considered the proposed shelter would not unduly harm the amenities of these neighbouring occupiers in respect of loss of privacy, overlooking or loss of light.

The proposed sports hall is located some 138m away from the boundary with Phoenix School; as such, the proposal would not unduly harm the amenities of the neighbouring school, Phoenix.

Pollution Control had no comment to make on the proposal and do not require any specific planning conditions.

The proposal is therefore considered to be acceptable on amenity grounds.

Access and parking

The highway officer has no objection and supports the proposal. The shelter will not result in any change to the existing access to the site or the number of parking spaces on site. The proposal is therefore acceptable on highways grounds. Furthermore, no conditions are proposed.

Conclusions and Reasons for Decision

The principle of development is considered acceptable, as is the design. The proposal would not unduly harm the amenities of neighbouring residential or the adjacent school.

The proposal complies with the policies as set out in the policy section of this report.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

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

Recommendation

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

Conditions and Reasons

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

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

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

- 1100 REV P 02- Site Location Plan and Block Plan- Received 18th December 2020
- 1400 REC P 02- Proposed Shelter- Received 18th December 2020
- Design and Access Statement (by Bailey Garner dated October 2020) – Received 13th November 2020

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

3: The walls and roof of the shelter hereby approved shall not comprise materials other than those detailed on drawing 1400 REC P 02- Proposed Shelter- Received 18th December 2020, and shall be retained as such for the lifetime of the development.

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

Notes for Applicant

1. **West Midlands Fire** - the applicant is advised to note that access and facilities for the fire services should comply with requirement set out in the approved Document B, Volume 2, Buildings other than Dwellings 2019.

2. **Police**- The applicant may find aspects of the Secured by Design New Schools 2014 guide of use.

Please see

https://www.securedbydesign.com/images/downloads/New_Schools_2014.pdf

Below is a link to secured by design commercial, police approved crime reduction information guidance.

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

Secured By Design security standards are explained.

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

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 05 August 2021

Plans List Item Number: 5

Reason for bringing to committee

Major Application

Application Details

Location: FORMER METAFIN SITE, GREEN LANE, WALSALL

Proposal: ERECTION OF 72, 1 AND 2 BED FLATS IN 4 X 3 STOREY BLOCKS, CAR AND CYCLE PARKING, LANDSCAPING, ACCESS AND ASSOCIATED WORKS.

Application Number: 19/0245

Case Officer: Leon Carroll

Applicant: Mr Corbett

Ward: Birchills Leamore

Agent: Ian Foden

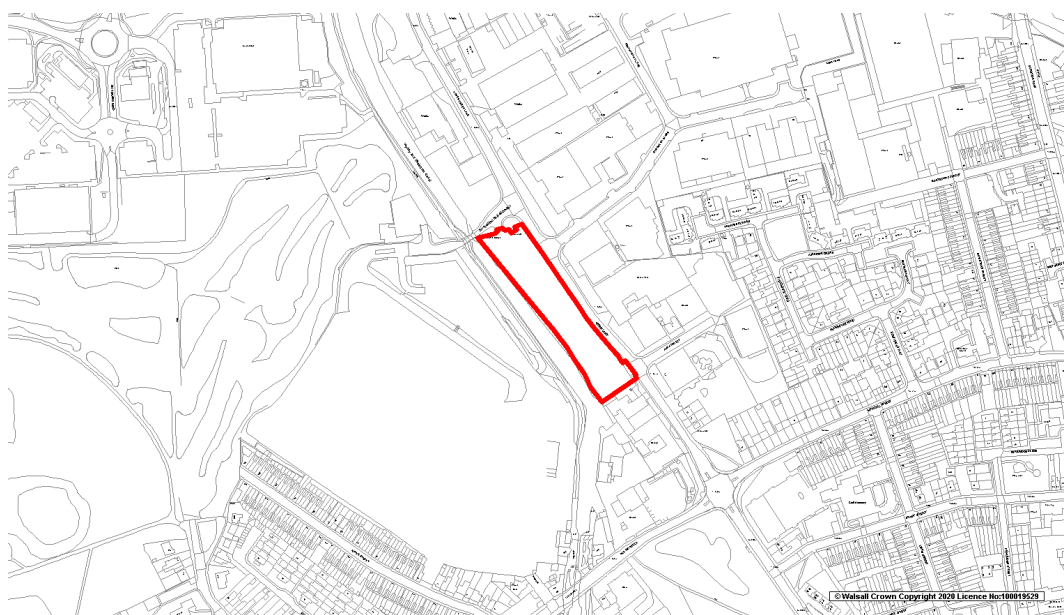
Expired Date: 30-May-2019

Application Type: Full Application: Major Use Class C3 (Dwellinghouses)

Time Extension Expiry: 06-Dec-2019

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and a S111 Agreement to require a S106 Agreement to secure contributions towards the provision of Affordable Housing and Urban Open Space and to either maintain the requirement for a viability review, waive the need for a viability review or amend the trigger for the viability review.



Current Status

At the Planning Committee meeting of 28th November 2019 Members resolved the following:

That planning application no. 19/0245 be delegated to the Head of Planning, Engineering and Transportation to grant permission, subject to conditions and a Section 106 agreement to secure contributions towards the provision of affordable housing and urban open spaces, and that the viability matter be revisited as soon as the first block has been completed and sold.

The S106 Agreement that committee previously resolved to support was to secure initial contributions of £14,412.85 towards provision of off-site affordable housing and £2,454.15 towards provision of urban open space. If found to be viable partway through development this would trigger payment of clawback contributions for the same.

The following section of this update report will set out any changes since the original report (which follows), including matters to be addressed which were contained within the previous supplementary paper.

Supplementary Paper

Healthy Spaces Team advised that following consultation with the Friends Group, it is recommended that the £2,454.15 open space contribution be spent on access improvements at Reedswood Park, which sits in close proximity to the site.

This provision should be included in the S106 Agreement.

Any Other Updates

It has become apparent that the application site includes a parcel of land at the front of the site which is Council owned. As a result a S111 Agreement is required to secure the S106 Agreement for Affordable Housing and Open Space contributions as the Council cannot enter into a S106 Agreement with themselves.

In addition since the Committee resolved to grant permission Walsall Housing Group (WHG) has confirmed that they are in very advanced discussions to acquire the site and take the development forward. Formal exchange of contracts to acquire the site has been held up due to the need to conclude land matters relating to the parcel of land in Council ownership and need for a S111 Agreement to require the S106 Agreement. If agreed, the land would be transferred to Square Space the applicant and then sold contemporaneously to WHG to enable them to implement the permission. WHG will be the delivery partner for the scheme and will, following acquisition of both parcels of land, build out and manage the homes in the long term.

WHG has advised that the land will be delivered for 100% affordable tenures with no open market sale; as a consequence WHG request that members consider removing the requirement for a viability review. The reasons for this are explained by WHG below:

- The timing of the viability exercise it has been currently drafted creates a practical complication since the development is for apartments; therefore agreeing a point in time of 70% occupation of an apartment scheme would in reality delay all occupation of much needed new homes since an apartment scheme cannot be occupied until the development is 100% completed.
- Furthermore since the values for affordable will be well below market value, the likelihood of the scheme remaining financially unviable is a virtual certainty, the viability exercise therefore creates delays as a result of negotiations between Walsall LPA and WHG which we feel are unnecessary.

WHG request that if removing the requirement altogether is not possible then could the viability assessment review be moved to earlier in the programme to “commencement of the development” as opposed to a % of occupation or % completion - for the reason outlined in the first bullet point above. This would at least mean that any delays are at the start of development, not near completion.

The reason that a viability assessment is carried out broadly half way through a development is to capture actual costs and income which are not available at the outset of a development. A viability review at the outset would be unlikely to show any difference than that already provided with the application because it would have to be based on projected costs and income rather than actual. The earlier committee resolution was reached in consideration of the affordable housing and urban open space clawback contributions only becoming payable if the scheme was found to be viable. An early viability assessment or waiving of a viability assessment review would effectively mean that no clawback contributions are received and the contributions are limited only to the amounts of £14,412.85 towards provision of off-site affordable housing and £2,454.15 towards provision of urban open space.

As WHG has not yet purchased the property yet they will not be party to the S111 or S106 so the LPA cannot place an obligation on them but WHG have indicated that they intend the whole site to be on-site affordable units which is more than level of affordable housing provision the Council can usually secure.

Members are asked to consider the following options:

- a) Maintain the need for a viability review as per the original resolution;
- b) Waive the need for a viability review such that no clawback contributions will be payable and contributions are limited to £14,412.85 and £2,454.15 respectively;
or
- c) Amend the trigger for requirement of a review of the viability assessment to an earlier point in the development leaving the potential for a clawback contribution;

An amendment to the original resolution is therefore recommended to incorporate the need for a S111 Agreement to require the S106 Agreement and for Committee to confirm whether they agree to either of the options a) or b) above.

Conclusion

The recommendation to committee has been amended to reflect the need for a S111 Agreement to require a S106 Agreement to secure affordable housing and urban open space provision and also to allow for consideration as to either maintain the requirement for a viability review, waive the need for a viability review or amend the trigger for the viability review.

THE ORIGINAL REPORT FOLLOWS:

Proposal

This application proposes the redevelopment of the former Metafin industrial site for residential purposes.

The application has been amended since submission and now proposes to provide 72 apartments (6 x 1 bed and 66 x 2 bed) within 4 three storey blocks that would be set back from Green Lane with parking on the frontage. The four blocks would sit north to south facing Green Lane and backing onto the Wyrley and Essington Canal, with a feature square situated between the central blocks.

Each block would be constructed from red multi facing bricks with blue brick features to windows, with a grey tiled gable roof that would have large gable features to the front and rear elevations. All the flats would be single aspect and each would have a Juliet balcony off the lounge area.

Block A (19.4m x 13.7m, 3 storey 12.5m maximum height)

- 12 flats, 6 x 1 bed and 6 x 2 bed
- A single central staircase and single projecting entrance feature to the front elevation.
- Northern elevation to Rayboulds Bridge Road would have windows, the southern elevation would have no windows.

Block B (41.8m x 13.7m, 3 storey 12.5m maximum height)

- 24 x 2 bed flats, 8 on each floor
- Two stairwells and projecting front entrance features to the front elevation
- Southern elevation would have side facing windows overlooking the feature square
- Second Floor windows to the front and rear elevations would be set above the eaves level.

Block C (41.8m x 13.7m, 3 storey 12.5m maximum height)

- 24 x 2 bed flats, 8 on each floor
- Two stairwells and projecting front entrance features to the front elevation

- Northern elevation would have side facing windows overlooking the feature square
- Second Floor windows to the front and rear elevations would be set above the eaves level.

Block D (21m x 13.7m), 3 storey 12.5m maximum height

- 12 x 2 bed flats
- A single staircase and projecting entrance feature to the front elevation
- Southern elevation would have side facing windows

The applicants have advised that the proposed flats would be for 100% private market sale.

Access to the site would use the existing site access to the north off Rayboulds Bridge Road for entrance and exit and entrance only via an access at the southern end of the site off Green lane.

72 parking spaces would be provided on the frontage, including 8 disabled spaces and 7 with electric vehicle charging points. Two bike storage facilities are indicated between blocks A and B and C and D providing bike storage for 36 cycles. Bin storage facilities would be provided at the northern and southern end of the site.

Landscaping and trees would be provided to the frontage of Green Lane with additional trees within the site, within the feature square and grass provided to the rear adjacent to the canal.

The proposals would have a density of 107 dwellings per hectare.

The following have been submitted in support of the application:

- Planning Statement
- Heritage Statement
- Archaeological Report
- Design and Access Statement
- Financial Viability Appraisal
- Preliminary Ecological Appraisal Report
- Tree Survey and Constraints Assessment
- Air Quality Assessment
- Flood Risk Assessment with Drainage and SUDS Strategy
- Noise Impact Assessment
- Residential Travel Plan Statement by Mode Transport Planning Feb 2019
- Transport Statement
- Stage 1 Ground Investigation Report

Site and Surroundings

The site (0.67ha) is situated on the western side of Green Lane (A34 Strategic Highway Network and Red Route), to the south of Rayboulds Bridge Road. The site runs north/south and sits between Green Lane and the Wyrley and Essington Canal. It was formerly occupied by a number of industrial buildings operated by Metafin, the buildings were demolished and the site cleared of trees earlier in the year.

The canal towpath is on the opposite side of the canal from the site. Rayboulds Bridge is a Grade II listed bridge and is set immediately to the north/west of the site. The boundary of the Walsall Locks conservation area is immediately to the south west of the site and Grade II listed Top Lock and two canal side properties (Boatman's Rest and Old Birchills Toll House) are situated further to the south west.

To the north of the site beyond Rayboulds Bridge Road is a vacant site covered in trees and landscaping with industrial premises beyond. To the west of the site on the opposite side of the canal is the former Caparo site which has a recent outline planning consent for up to 252 dwellings. To the south of the site, up to the corner of Old Birchills are a number of commercial premises; catering services, car sales, car wash, fencing sales, paint centre, air products and boat builder's yard, that infill the corner between Green Lane and the canal. To the east on the opposite side of Green Lane are industrial premises, a vacant site and a kidney treatment centre. Stockton Close opposite comprises a number of industrial premises. The closest residential premises to the site are No 1 Alma Street (off Green Lane) and 36 and 38 Green Lane to the south east of the site.

Relevant Planning History

None for the site itself.

Caparo Site to the west of the canal

11/1411/OL, outline for residential development of up to 252 dwellings, (access and scale to be considered) GSC and S106 Agreement 21-10-19.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

On **planning conditions** the NPPF (para 55) says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act’) sets out 9 protected characteristics which should be taken into account in all decision making.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People

- ENV10: Pollution
- ENV26: Industrial Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H4: Affordable Housing parts g, h, i and j
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- 8.3 Urban Open Space

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV6: Open Space, Sport and Recreation
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- HC1: Land allocated for New Housing Development
- HC3: Affordable Housing and Housing for People with Special Needs
- T4: The Highway Network
- T5: Highway Improvements
- IND3: Retained Local Quality Industry
 - IN31 – West of Green Lane, Birchills

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

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

Consultation Replies

Transportation – No objections subject to conditions relating to the surfacing and drainage of all parking and manoeuvring areas, cycle storage, construction method statement and modifications to the existing dropped kerbs.

Pollution Control – No objections subject to conditions relating to intrusive contaminated land investigations, construction management plan, acoustic mitigation measures and compliance with the Air Quality SPD

Coal Authority – No objections subject to conditions to secure a Stage 2 ground investigation, as recommended by the Stage 1 report.

Strategic Planning Policy –Support proposals. .

Canal and River Trust – Supportive of the development. Consider that the proposals would have a positive impact on the canal corridor, offering a strong frontage of open living space and a core amenity area that looks directly onto the canal. The scale of the development is considered appropriate, the revised layout provides breaks between the buildings. Concerns about the stability of the canal wall, a condition survey is required to identify any repair works necessary. A new piled bank is likely to be necessary to prevent further erosion of the canal bank. Previous neglect of the site resulted in materials and debris falling into the canal, which need to be removed. Brickwork should match existing local examples. Conditions required to ensure additional landscaping to the canal frontage, a construction methodology statement and lighting.

Archaeology – No objections. Following initial concerns further archaeological evaluation has been undertaken throughout the course of the application and confirms no archaeological remains that pre date the mid 19th century, no further work is therefore required at the site.

Fire Officer – Water supply and vehicle access needs to comply with guidance and Part B Building Regulations. Flats not fitted with a fire mains should have vehicle access for a fire appliance not more than 45m from all points within each dwelling.

Severn Trent Water – No objections to the drainage proposals, note to applicant recommended

West Midlands Police – No objections, comments on security relayed to the applicant. Secured by Design recommended

Housing Standards – No comments

Highways England – No objections

Natural England – No objections

Historic England – No comments

Network Rail – No objections

Representations

One letter of objection received relating to the original submission and one relating to the amended scheme.

Original objections:

- Please to hear about the redevelopment of the site but concerns about the size, scale and setting of the development.
- Block B would be further south than the previous buildings
- Detrimental impact on privacy and views from Old Toll House and Boatman's Rest, both Grade II Listed
- Significant alteration to the landscape
- Increase in height over previous buildings and moved further south
- Loss of light to Old Toll House and Boatman's Rest, previously enjoyed day light from sunrise to sunset which will be lost
- Development over bearing as a backdrop to the nearby heritage assets and Walsall Locks conservation area
- The area to the south east of the site should not be developed, closest to the heritage assets, should be open space
- Overdevelopment, block too large in scale for the setting
- Development should be sympathetic to the local heritage assets, the local environment and character of the neighbourhood
- Three storey apartments unprecedented in the area
- No heritage statement submitted
- Conflict to policy EN4 Canals
- No objection to the principle of development, but proposals overdevelopment and will negatively impact and views and light to nearby listed buildings, insensitive to heritage assets and local environment.

Amended Scheme objections:

- The development will be seen within a view of surrounding listed buildings which must be considered as well as the Walsall Locks conservation area.
- The development will be overbearing as a backdrop to these heritage sites, detrimental to the heritage of the area and the surrounding listed buildings
- The development of the site will be detrimental to the heritage of the area and have an adverse effect on the setting of the nearby listed buildings.
- The land to the south east should be open space
- The heritage statement does not define the 'zone of visual influence' which would demonstrate that the proposal is unproportioned within the zone.
- Disagree with the Heritage Statement that the Boatman's Rest and the Old Birchills Toll House do contribute to the setting. The proposals will not enhance the setting of these heritage assets.
- Block D will affect the views from The Boatman's Rest and Old Toll House and will impact on privacy
- The buildings will be further to the south east of the site than the previous buildings on site and the proportions of the buildings increased
- Impact on light to Old Toll House and Boatman's Rest from increased height and new positioning of new buildings over the previous single storey building
- Over development of the site and blocks too large in scale for their setting

- Three storey apartment blocks unprecedented in this area, other developments in keeping and only two storey
- Conflict with Policy EN4 Canals
- Not opposed to the principle of development but current proposals insensitive to the heritage assets and the local environment.

Determining Issues

- **Principle of the Development**
- **Design and Layout**
- **Impact on the amenities of the surrounding occupiers, the street scene and nearby heritage assets**
- **Wyrley and Essington Canal**
- **Access and Parking**
- **Land Stability**
- **Planning Obligations**
- **Local Finance Considerations**

Assessment of the Proposal

Principle of the Development

The site forms part of site IN31 identified within policy IND3 of the adopted SAD as Retained Local Quality Industrial Land. The nature and constraints of the site, including its narrowness, its relationship to the canal, the proximity to the A34 and to the Walsall locks conservation area and nearby listed buildings would make the site difficult to redevelop for modern industry. The remainder of the IN31 site to the south of the application site is now no longer in industrial use, rather it is occupied by commercial uses. The loss of the application site to residential has been compensated for by the investment by Metafin, (the former owners/occupiers of the site) in upgrading and moving to a site in Northcote Street, which is identified in the SAD under Policy IND4 as an area that could be considered for release to other uses, subject to an adequate supply of employment land being retained. The retention of this consider for release site can therefore be seen as compensation for the loss of the application site from industry to residential use.

Whilst the land to the south of the application site up to the Old Birchills road junction forms part of the IN31 site, this is not included in the application site, which is disappointing. However the applicants have provided an illustrative site plan that demonstrates how the site could be developed for residential use in the future where the current proposed application layout would not constrain its development. The Caparo site on the opposite side of the canal now has an outline approval (subject to conditions and a S106 Agreement) for residential redevelopment up to 252 dwellings. Redevelopment of the application site for residential development would provide a more comprehensive residential development in the area and improve the general environment for the future residents of both sites. The redevelopment of the remainder of IN31 site would be encouraged, and it is recognised that the proposed layout of the application proposals would not preclude this.

The NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed. This is a previously developed site. The NPPF also says that housing applications should be considered in the context of the presumption in favour of sustainable development.

This is a sustainable location, close to Walsall town centre, situated on a strategic highway route that provides good public transport, walking and cycling links and within walking distance of urban open space. The principle of residential development of the site is considered acceptable subject to impacts upon the character of the area, the residential amenity provided, highway safety and parking.

The density of the development at 107dph far exceeds the recommended 35dph within Policy HOU2 of the BCCS. It must be recognised however that the site is in a sustainable location on a strategic route into and out of the town centre, where higher density development is more likely to be acceptable. Also, it is inevitable that apartment schemes provide a higher density than traditional housing. On balance it is considered that the proposed density would be acceptable in such a sustainable location.

The principle of the provision of 72 dwellings on an identified brownfield site for residential use, that would sit comfortably with the approved residential development of the Caparo site to the west and would not hinder or constrain the redevelopment of the remainder of the site to the south for residential is considered acceptable and accords with the aims of local and national planning policies.

Design and Layout

The design and layout of the blocks of apartments has been amended since submission, from two very large blocks to the four now proposed, which has split up the blocks to reduce the overall impact. The roof profile on blocks B and C (the larger two) has been amended to provide differing levels, with some of the third floor windows now sitting above the eaves level. This design adds interest together with blue brick detailing added to windows and Juliet balconies added to each apartment which adds variety to the window detailing and both the front and rear elevations. Windows would be provided to the end elevations of each block, to provide interest to the visible gables and provide overlooking/surveillance of public spaces, which should help to improve security.

The location of bins stores and cycle storage has been amended to reduce their impact on the street scene as well as the canal to the rear.

Trees and landscaping would be provided to the frontage to soften the impact of the parking on the frontage and the three storey development. A grassed area would be provided to the rear of the blocks backing onto the canal, with further landscaping and trees situated within the feature square set in the centre of the site between blocks B and C. The open square (approx. 28m wide) would allow views through the site from the road to the canal (and beyond to the Caparo site) and vice versa.

Whilst the feature square in the centre of the site would provide some relief from the built form and some amenity space. It is recognised that the level of amenity space (476m²) would not fully comply with the 20m² per flat required by Appendix D of Designing Walsall. However, Sydenham playing fields sits just 170m to the south of the site, the canal sits to the rear and Reedswood Park sits to the north west of the site within walking distance, so the level of amenity on site is considered appropriate in this case. Rayboulds Bridge immediately to the north west of the site would provide direct access for residents to the canal towpath on the opposite side of the canal. The Juliet balconies allow improved visual amenity to each flat and there is also a benefit from being accessible to Walsall town centre and the amenity benefits this offers.

Whilst parking on the frontage of a site is not always the best form of urban design, in this case it is considered appropriate. Green Lane (A34) forms part of the strategic highway network and is a busy strategic route into and out of the town centre. It is therefore considered appropriate for the proposed flats to be set back from the highway with the car parking on the frontage with a landscaping buffer to the street, to reduce the impact of traffic noise to the future residents and ensure that the buildings address the canal appropriately to the rear.

The three storey buildings proposed are considered appropriate as they would reflect the height and style of buildings that historically would have lined the canal. Indeed the Juliet balconies now introduced could be seen as reflecting the design of upper floor openings in historic canal side buildings for loading and unloading onto barges for transport.

The revised design and layout of the scheme is considered appropriate.

Impact on the Amenities of the Surrounding Occupiers, the Street Scene, Nearby Heritage Assets and the Canal

As a site formerly used for industry the site sits within an industrial/commercial area, on a busy strategic highway route into and out of the town centre. It is considered that the proximity to the industrial uses on the opposite side of Green Lane would not adversely impact on the operations of the industrial uses and would not constrain the future operations of the industrial uses.

Mitigation measures to provide acoustic glazing have been recommended to ensure that the future occupiers are not adversely affected by traffic noise or noise from industrial/commercial activities.

It is considered that the canal to the rear and the future development of the Caparo site beyond the canal for residential use would provide an appropriate residential environment for the future occupiers of the apartments.

The site layout with the buildings set back from the road with landscaping and parking on the frontage would help to provide an appropriate residential environment for the future occupiers whilst providing an acceptable street scene to the main road.

It is considered that the proposals would have no adverse impact on the amenities of the surrounding occupiers or the street scene.

The site sits just outside the Walsall Locks conservation area and in close proximity to a grade II listed bridge, grade II listed top lock and two canal side buildings (Former Boatman's Rest and Old Birchills Toll House) both grade II listed. A heritage statement has been submitted in support of the proposals, which concludes that the development would not significantly impact on the Walsall Locks conservation area or affect the setting of the listed bridge or listed buildings.

The listed Lock, Toll House and Boatman's Rest all sit within the Walsall Locks conservation area to the south west of the site beyond the bend in the canal and have a strong relationship with each other which provides their setting. The Lock, Toll House and Boatman's Rest are set approx. 140m to the south of the southern end of the site and would not be seen in direct views. Rayboulds Bridge immediately to the north west of the site would be seen against a backdrop of the new buildings however the principle setting of the bridge is the canal itself, which would be unaffected by the proposals. The bridge would not be utilised for access to the development

The former industrial premises on the site were shed style buildings of no historical importance that did nothing to enhance the setting of the listed bridge or the conservation area to the south. The proposed development would provide buildings adjacent to the canal similar in style and positioning to traditional canal side properties from the past, which is considered would enhance the setting of the bridge over the previous buildings on the site.

It is considered that the proposals would have no adverse impact on the character or appearance of the Walsall Locks conservation area or the setting of the grade II listed bridge, Lock, Toll House and Boatman's Rest that are situated in the immediate area.

A condition is recommended to ensure that the materials used, in particular the facing bricks are matched to local examples.

The former use of the site for industrial purposes resulted in a poor visual appearance of the site from the canal, the rear of the site was neglected and resulted in some materials from the site ending up in the canal. The proposals would result in direct overlooking of the canal and towpath, providing surveillance and hopefully reducing potential for anti-social behaviour that occurs around Raybould Bridge.

Wyrley and Essington Canal.

The applicant is involved in continuing negotiations with officers from the Canal and River Trust about stability of the canal wall and canal bank works that will be required as a result of the development. Conditions are recommended by Canal and River Trust to ensure that appropriate details of the works required are agreed prior to implementation. The applicant has agreed to the conditions.

Access and Parking

The proposals would provide 72 off street parking spaces (including disabled spaces and electric vehicle charging spaces), equating to 100% parking, falling short of the 150% required by Policy T13 of the UDP. Given the site is situated in a relatively sustainable location, with good public transport and walking/cycling links, the level of parking is considered acceptable in this case. The site sits less than 0.5 miles from the Reedswood retail park and less than 0.4m from Walsall Town Centre, with good transport links to both.

Secure cycle storage would be provided between blocks A and B and C and D.

The main two way access to the site would be at the northern end, utilising the existing access off Rayboulds Bridge Road, which already benefits from a ghost right turn lane on Green Lane. A secondary access only would be retained at the southern end of the site off Green Lane, with all other footway crossings along Green Lane to be reinstated to full height kerbs. The access and egress arrangements for the development are considered acceptable and would not adversely impact on the existing highway network.

A Travel Plan Statement has been submitted and its content agreed, the document is secured by condition.

The amended scheme also includes improved segregated pedestrian links within the site and onto Green Lane.

Land Stability

The site falls within a defined Development High Risk Area, and site records indicate that the site is likely to have been subject to historic unrecorded underground coal mining at shallow depth. A Stage 1 Ground Investigation Report has been submitted in support of the application which concludes that shallow mine workings pose a potential risk to the proposed development and that a Stage 2 Site Investigation comprising rotary boreholes to 30mbgl is required and being undertaken. A condition is recommended to ensure that this investigation is completed and a report of the findings is submitted for consideration by the Coal Authority. The Coal Authority are satisfied that that the Stage 1 report submitted is sufficient at this stage to meet the requirements of the NPPF to demonstrate that the site is or can be made safe and stable for the proposed development.

Planning Obligations

The development of the site for the provision of 72 residential units would trigger the Council's policies for contributions towards Urban Open Space and Affordable Housing.

Urban Open Space

In accordance with policies GP3 and LC1 of the UDP, policy DEL1 of the BCCS and Supplementary Planning Document: Urban Open Space, identify that the proposals trigger the need for an urban open space contribution. In accordance with the policies an urban open space contribution of £96,738.00 is required towards open space improvements in the neighbourhood.

Affordable Housing

Policies HOU3 and DEL1 of the BCCS and Supplementary Planning Document: Affordable Housing, identify that the proposals trigger the need for affordable housing. In this case a Commuted Sum in lieu of onsite provision has been recommended by Housing Strategy. Policy AH5(c) of the SPD allows for a Commuted Sum to be paid, calculated to enable a similar amount of affordable housing to be provided with a housing partner. It is therefore considered acceptable that the developer pay a Commuted Sum in lieu of onsite provision.

The figure adopted to provide affordable housing provision elsewhere is based on advice from WHG and Accord Housing Association and is currently £31,562.50 per unit. In this case 25% of 72 units is calculated at £568,125.00.

Viability Assessment

The applicant has submitted a viability appraisal that has been independently assessed by an expert valuer Lambert Smith Hampton (LSH).

The LSH report agrees that the residual method of valuation approach used by the applicant is considered appropriate. The report advises that the benchmark adopted land value used by the applicant in their appraisal is considered excessive and a lower benchmark land value was adopted by LSH in their calculations. Other costs and assumptions made by the applicant are considered appropriate and have been adopted by LSH.

LSH viability assessment identifies a significantly improved viability position compared to that of the applicants appraisal and has produced a developer profit on cost of 20.09% (16.73% on GDV). Whilst this viability position is significantly improved given the site specifics, it falls short of the targeted developer's profit margin of 17% on GDV.

The report concludes that LHS are satisfied that due to the associated abnormal costs and low value location the proposed scheme does not show a sufficient level of developers profit to sustain any affordable housing or S106 contributions.

The applicant however included in their original appraisal a CIL payment of £16,867.00. Whilst Walsall MBC has not adopted CIL, the viability report included this contribution and the LSH report concludes that the application scheme can sustain this level of contribution without prejudicing the deliverability of the scheme.

It is therefore recommended that a Section 106 Agreement is required to secure this contribution and that the amount is proportionally split between the provision of Affordable Housing and Public Open Space. A proportional split would equate to 14.55% (£2,454.15) towards urban open space and 85.45% (£14,412.85) towards the provision of affordable housing.

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 72 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

Conclusions and Reasons for Decision

Whilst the site falls within site IN31 of SAD policy IND3 as retained local quality industrial land. The nature and constraints of the site would make the site difficult to redevelop for modern industrial use. The former industrial occupiers of the site have now invested in an alternative site that was considered for release for other uses, which can be seen as compensation for the loss of the industrial site for residential use. The layout of the site is such that it would not preclude further residential development of the land to the south for residential use and the Caparo site on the opposite side of the canal has a recent consent for residential development. This would add to the comprehensive residential development in the area and improve the general surrounding environment. The site sits in a sustainable location on a busy strategic route where higher density development is considered appropriate. The principle of the redevelopment of the site for residential purposes is therefore considered appropriate in these circumstances and in compliance with policies HOU2 and CSP4 of the BCCS, Policy HC2 of the SAD and H3 and ENV14 of the UDP.

The amended design and layout is considered appropriate for the site and its surroundings and in compliance with policies GP2, ENV32 and T13 of the UDP and Appendix D of Designing Walsall.

It is considered that the development would have no adverse impact on the amenities of the surrounding occupiers in compliance with policies GP2 and ENV32 of the UDP and Appendix D of Designing Walsall.

It is considered that the proposals would have no adverse impact on the character or appearance of the adjacent Walsall Locks conservation area or the setting of the grade II listed bridge, Lock Toll House and Boatmans Rest that are situated in the immediate area, in compliance with policies ENV27 and ENV29 of the UDP.

The Canal and River Trust have advised that a solution to ensure the integrity of the canal wall and canal bank is part of continued negotiations with the applicant and have recommended appropriate conditions to ensure these details are confirmed prior to the commencement of any development on site, in compliance with Policy ENV4 of the BCCS.

The access and parking arrangements for the development are considered appropriate. Although the parking levels would fall below the 150% required by Policy T13 of the UDP, the site is situated in a sustainable location on a strategic route with good access to public transport and within walking distance of Reedswood retail park and Walsall town centre.

The site falls within a defined Development High Risk Area. The Coal Authority are satisfied that the Stage 1 report submitted is sufficient at this stage to meet the requirements of the NPPF to demonstrate that the site is or can be made safe and stable for the proposed development and in compliance with Policy ENV14 of the UDP.

The viability assessment undertaken by Lambert Smith Hampton concludes that due to the associated abnormal costs and low value location the proposed scheme does not show a sufficient level of developer's profit to sustain any affordable housing or S106 contributions. A contribution of £16,867 was calculated into the figures as a CIL payment and LSH have confirmed that the application scheme can sustain this level of contribution without prejudicing the deliverability of the scheme. A Section 106 Agreement is therefore appropriate to proportionally split this contribution between the provision of affordable housing and urban open space.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised regarding the layout and design, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and a S106 Agreement to secure contributions towards the provision of Affordable Housing and Urban Open Space.

Conditions and Reasons

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

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

2: This development shall not be carried out otherwise than in conformity with the following approved plans: -

- Location Plan Drawing D00 Rev A submitted 22-07-19
- Topographical Survey Drawing 2884/0001 submitted 20-02-19
- Site Plan Drawing D02 Rev B submitted 22-07-19
- Block A Plans & Elevations Drawing D100 Rev A submitted 22-07-19
- Block B Elevations Drawing D102 Rev A submitted 22-07-19
- Block B Plans Drawing D101 Rev A submitted 22-07-19
- Block C Elevations Drawing D104 Rev A submitted 22-07-19
- Block C Plans Drawing D103 Rev A submitted 22-07-19
- Block D Plans & Elevations Drawing D105 Rev B submitted 24-09-19
- Street Scenes Drawing D200 Rev A submitted 22-07-19
- Landscape and Boundaries Plan Drawing D14 Rev D submitted 19-11-19
- Site Sections Section A-A & B-B Drawing D106 Rev A submitted 22-07-19
- Site Sections Section C-C & D-D drawing D106 Rev A submitted 22-07-19
- Bin Enclosure Drawing D04 submitted 24-09-19
- Illustrative Site Plan – Showing possible future residential development on adjacent land Drawing D03 Rev A submitted 22-07-19
- Visibility Splays Drawing J32-3863-PS-001 submitted 22-07-19
- Swept Path Analysis Drawing J32-3863-PS-002 submitted 22-07-19
- Transport Statement – Mode Transport Planning submitted 20-02-19
- Residential Travel Plan Statement by Mode Transport Planning submitted 20-02-19
- Flood Risk assessment with Drainage and SUDS Strategy by GHW Consulting Engineers Ltd submitted 20-02-19
- Change of Use Statement submitted 20-02-19
- Stage 1 Ground Investigation Report by Johnson Poole & Bloomer Consultants submitted 20-02-19
- Design and Access statement submitted 20-02-19
- Noise Impact Assessment submitted 20-02-19
- Air Quality Assessment submitted 20-02-19
- Tree Survey & Constraints Assessment BS5837:2012 submitted 20-02-19
- Preliminary Ecological Appraisal Report submitted 20-02-19
- Archaeological Report dated June 2019 submitted 22-07-19

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- Benchmark Archaeology, An Archaeology Field Evaluation 2019 Report Titled: Land at the Former Metafin Site, Green Lane, Walsall, WS2 *JG (NGR 400505 299657) submitted 24-09-19
- Heritage Statement submitted 22-07-19
- Planning Statement submitted 24-09-19
- Viability Assessment by Squarespace Ventures Ltd submitted 19-06-19

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

3a. No development above damp proof level shall commence until samples of all facing and roofing materials, plus all proposed hard surfacing within the site have been submitted to and approved in writing by the Local Planning Authority.

3b. The development shall be completed with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity, including local heritage assets.

4a. Prior to the commencement of development, including demolition a Construction Working Plan shall be submitted for written approval of the Local Planning Authority. The plan shall include:

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

4b. The approved Construction Working Plan shall be implemented upon commencement of works and shall be maintained until the site is completed.

Reason: To protect the amenities of the surrounding occupiers and minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway due to the access constraints to the site, in the interests of amenity and highway safety in accordance with Policy GP2, ENV32, T7 and T13 of the UDP.

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

- i) 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)
- ii) 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 identified and/or potential hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) 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)
- iv) The remedial measures as set out in the 'Remediation Statement' required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v) 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 i) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi) 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 in accordance with saved UDP policies GP2, ENV10 and ENV14

6a. Prior to built development commencing a scheme of intrusive site investigations adequate to assess the ground conditions and the potential risks to the development by past shallow coal mining activity shall be undertake.

6b. A report of the findings arising from the intrusive investigations, including any gas monitoring undertaken and a scheme of proposed remedial works shall be submitted to and approved in writing by the Local Planning Authority.

6c. The development shall not be carried out otherwise than in accordance with the approved scheme of remedial works.

Reason: In order to ensure the stability and safe development of the site in connection with Coal Mining legacy in compliance with Policies GP2 and ENV14 of the UDP.

7a. Prior to the commencement of the development hereby approved, a Construction Methodology shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that any proposed earthmoving, excavations, details of piling and foundation construction or other building operations can be safely carried out without adversely affecting the stability of the adjacent canal infrastructure.

7b. The development shall not be carried out otherwise than in accordance with the approved details.

Reason: In order to ensure no adverse impact on the stability of the canal or associated infrastructure and protect the integrity of the Walsall Canal in accordance with Paragraphs 170 & 178-179 of the NPPF and Policy ENV4 of the BCCS.

8a. Prior to the commencement of the development hereby approved, a survey of the condition of the existing waterway wall, and a method statement and schedule of the repairs/measures identified, including piling where necessary, to repair and protect the wall from erosion shall be submitted to and approved in writing by the Local Planning Authority.

8b. Any heritage features and materials identified by the survey shall be made available for inspection by the Canal & River Trust and where appropriate, preserved in-situ or reclaimed and re-used elsewhere.

8c. The repair works identified shall not be carried out otherwise than in accordance with the method statement and repairs schedule, in accordance with dates to be agreed.

Reason: In the interest of the structural integrity of the waterway wall, waterway heritage, navigational safety and visual amenity and in compliance with Policy ENV4 of the BCCS.

9. The development shall not be carried out otherwise than in accordance with the approved the drainage scheme detailed in the submitted report: GHW Consulting Engineers Ltd, 18-3571 Report Titled: Proposed Residential Project, Green Lane, Walsall, Flood Risk Assessment with Drainage and SUDS Strategy, Dated February 2019 and shall be retained for the life of the development.

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 in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

10a. Prior to commencement of the development hereby approved a scheme of landscaping phased in relation to any phasing of the development and which shall include details of both hard and soft landscape works and earthworks, a planting scheme to screen the bin stores, and reference to plant species types, surface treatments, fences and walls, any signage and information boards, and together with the means of on-going maintenance shall be submitted to and approved in writing by the Local Planning Authority.

10b. The approved scheme shall be carried out in the first planting season following the completion of each development phase.

10c. Any trees shrubs or plants that die within a period of 5 years from the completion of each development phase or are removed and or become seriously damaged or diseased in that period shall be replaced and if necessary continue to be replaced in the first available planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area and adjacent canal and to enhance the biodiversity of the area, in accordance with saved policies ENV17 and ENV33 of Walsall's Unitary Development Plan and Policy ENV4 of the BCCS.

11a. Prior to the occupation of the development hereby permitted, full details of the proposed lighting scheme shall be submitted to and approved in writing by the Local Planning Authority.

11b. The development shall not be carried out otherwise than in accordance with the approved lighting scheme and retained for the life of the development.

Reason: In the interest of ecology, visual amenity and the waterway setting and in compliance with Policy ENV4 of the BCCS.

12a. Prior to the first occupation of the dwellings, written details shall be submitted to and approved by the Local Planning Authority on how the requirements of the Black Country Air Quality SPD will be implemented.

12b. The agreed measures shall be implemented prior to occupancy and a written validation statement shall be submitted to the Local Planning Authority.

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

13a. Prior to any dwelling identified in the Noise Impact Assessment Report first being occupied, the following details shall be submitted for written approval of the Local Planning Authority

- The acoustic specification of the glazing to be installed within each of the premises,
- Details of the acoustic ventilation systems to be installed within each of the premises.

13b. Prior to the effected dwellings being occupied, a validation report confirming the approved details have been installed shall be submitted for written approval of the Local Planning Authority.

Reason: To protect human health and amenity of future occupiers in compliance with Policies GP2 and ENV10 of the UDP.

14a. Prior to the first occupation of any flat on the development, all access ways, pedestrian routes, parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain. All parking bays shall be clearly demarcated on the ground. Internal pedestrian routes shall have tactile dropped kerb crossings when they cross vehicular routes.

14b. These areas shall thereafter be retained and used for no other purpose.

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

15a. Prior to the development first coming into use, full details of the proposed cycle shelters, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented in accordance with the approved details.

15b. The cycle shelter facility shall thereafter be retained and used for no other purpose.

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

16. None of the flats hereby approved shall be occupied until the following highway works have been carried out:

i) The modification of the existing retained dropped kerb access/egress onto Green Lane to a kerbed bellmouth with a tactile pedestrian crossing,

ii) The reinstatement back to full kerb height all existing dropped kerb footway crossings on Green Lane made redundant as a result of the development.

Reason: To ensure the satisfactory completion and operation on the access/egress onto the A34 strategic highway, in the interests of the free flow of traffic along the public highway, in the interests of highway safety and in accordance with UDP Policy GP2 and T4.

17. The development hereby approved shall not be occupied until the provisions of the Residential Travel Plan Statement by Mode Transport Planning dated February 2019 have been implemented.

Reason: To encourage sustainable travel modes, in accordance with BCCS policy TRAN2 and UDP Policy T10.

18. Notwithstanding permitted development rights under part 3, class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) there shall be no change of use of any apartment hereby approved to a use falling within class C4 (house in multi occupation).

Reason: To safeguard the amenities of the occupiers of adjoining premises and provide adequate parking provision and in accordance with UDP policy T7 and T13.

Notes for Applicant

Canal & River Trust

- 1) The applicant/developer should contact the Trust's third party works engineer and refer to the current "Code of Practice for Works affecting the Canal & River Trust" to ensure that any necessary consents are obtained (<https://canalrivertrust.org.uk/business-and-trade/undertaking-works-on-our-property-and-our-code-of-practice>).
- 2) The applicant/developer is advised that any encroachment over or into the canal will require the agreement of the Canal & River Trust, and is advised to contact Keith Johnston, Estates Surveyor at keith.johnston@canalrivertrust.org.uk to discuss any commercial agreements / licences that will be required.
- 3) The applicant is advised that any surface water discharge to the waterway will require prior consent from the Canal & River Trust. As the Trust is not a land drainage authority, such discharges are not granted as of right-where they are granted they will usually be subject to completion of a commercial agreement. Please contact Joanna Bryan, Utilities Surveyor at Joanna.bryan@canalrivertrust.org.uk to discuss this further.

West Midlands Police

Recent developed security and fire standard doors may be appropriate.

In the interests of safety, security and crime prevention I recommend all door sets to each apartment to PAS 24: 2016 standard and the communal front entrance doors to standard LPS 1175.

Secure mail is recommended without providing unnecessary access to private areas.

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

Below is a link to secured by design recommendations regarding selecting flat entrance doorsets. This includes combined fire resistance with security.

https://www.securedbydesign.com/images/downloads/DOORSET_BROCHURE_200319.pdf

The development is suitable for crime prevention and home security through Secured By Design.

Please see

: https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NEW_version_2.pdf

Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to either enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.

Pollution Control – Contaminated Land

CL1

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A1:2013 '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 and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3

Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in

validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

Pollution Control - Air Quality SPD

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

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

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

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

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

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

Ultra-low NO_x boilers discharge NO_x at or below 40mg/kWh. The latest models are future-proofed to the European Union's Energy-related Products Directive 2018 NO_x levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NO_x, and are eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

END OF OFFICERS REPORT



Planning Committee

Report of Head of Planning and Building Control on 05 August 2021

Plans List Item Number: 6

Reason for bringing to committee

Called in by Councillor Andrew due to public interest

Application Details

Location: Land to the rear of 105, 107 and 109 Lichfield Road, Walsall, WS3 3LU

Proposal: DEVELOPMENT OF 5 NO 3 BEDROOM HOUSES AND ASSOCIATED PARKING AND LANDSCAPING.

Application Number: 20/1222

Case Officer: Leah Wright

Applicant: Eric Russell

Ward: Bloxwich East

Agent: Design Construction Management Services

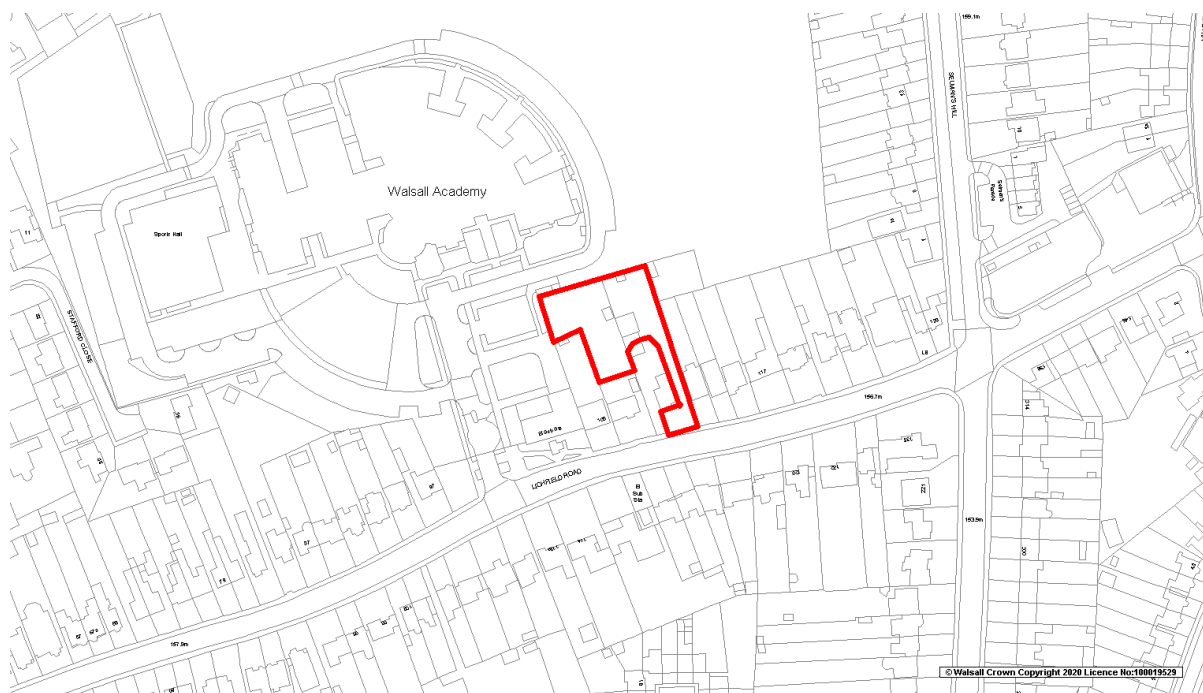
Expired Date: 24-Nov-2020

Application Type: Full Application: Minor Use Class C3 (Dwellinghouses)

Time Extension Expiry: 12-Aug-2021

Recommendation

Refuse



Proposal

This application proposes the development of 5 No 3 bedroom houses and associated parking and landscaping to the rear gardens of 105, 107 and 109 Lichfield Road, Bloxwich.

The proposed houses would be set back 53m into the site with all five houses being parallel to the Lichfield Road.

The dwellings measure 7.7m wide, 8.54m in depth, 8.3m in height with a pitched roof with eaves of 5m. They would be set off the boundary with 111 Lichfield Road by 1.2m.

To the front elevation the dwellings would have four windows and a front door with a canopy. To the rear elevation there would be three windows and a set of patio doors at ground floor. To the side elevation there would be two windows to the east and one window to the west which would break up an otherwise blank elevation.

Internally the dwellings would have a hallway, dining room, WC, living room and an open plan kitchen/breakfast/family room at ground floor. At first floor the dwellings would have three bedrooms (bedroom one would measure 11.6m, bedroom two would measure 10.4m and bedroom three would measure 8.58m). Bedroom one would benefit from an en-suite and there would be a separate bathroom for other inhabitants. There would also be a landing, cupboard space and a study.

It is stated that the dwellings would each have a rear garden length of 7.4m, measuring 70sqm. However, when measuring the garden sizes from the submitted block plan they measure approximately 5.8m in length and 49sqm in area. Bin and cycle stores would be provided within each rear garden measuring 1.8m high, 3.4m in depth and 0.7m wide.

The proposed boundary treatment is a 2m high close board fence to the rear and a 1.8m high larch lap fence at the side of each house.

Each dwelling would have 2 off street parking spaces, driveway and new vehicle access to the front, excluding plot 5 whose parking would be located on the opposite side of the access road along with a further space to serve No.109 Lichfield Road and two visitor spaces. Two further spaces to serve No.109 would be provided to the front of Lichfield Road. The new dwellings would be set back 0.6m behind the proposed parking spaces to provide a pedestrian path in front of the dwellings.

Site and Surroundings

The subject site is land sited to the northern side of Lichfield Road, to the rear of gardens of 105, 107 and 109 Lichfield Road.

The street scene is characterised by dwellings of various styles and sizes and is a predominately residential area. The pattern of development is of linear built form with a strong consistent building line fronting Lichfield Road with driveways and landscaped areas fronting dwellings.

105 Lichfield Road is a detached two storey property with a hipped roof.

107 Lichfield Road is a large detached dwelling set back from the highway with a gated access driveway and an area of off-road parking for four vehicles.

109 Lichfield Road is a detached two storey dwelling with a tiled gable end roof.

Millfields Nursery and Walsall Academy are sited approximately 15m to the rear of the proposed site.

The site is not within a conservation nor is it a listed building.

Relevant Planning History

105 Lichfield Road

04/1500/FL/H1- First Floor Extension & Single Storey To Side & Rear- **GSC 18/08/2004**

107 Lichfield Road

02/1278/FL/H1- First Floor Side Extension- **GSC 31/08/2002**

06/0493/FL/H1- Two-storey extension and front boundary wall- **Refused 21/06/2006**

06/1439/FL/H1- Two-Storey Side Extension, and Boundary Wall and Gates to Front- **GSC-25/09/2006**

Land rear of 107-109 Lichfield Road

17/1209- Erection of 4 x 1 bed detached bungalows- **Withdrawn 03/08/2018**

20/0097- Re build and extend existing garage to form garden annex granny flat- **GSC 23/03/2020**

Land rear of 109 Lichfield Road

19/1590- Erection of 5 no 3 bed detached dwellings with associated access, parking and landscaping at land to the rear of 105, 107 and 109 Lichfield Road- **Withdrawn 21/08/2020.**

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Manual For Streets

Paragraph 6.8.9 Schedule 1, Part H of the Building Regulations (2000)¹⁷ define locations for the storage and collection of waste. The collection point can be on-street (but see Section 6.8.11), or may be at another location defined by the waste authority. Key points in the Approved Document to Part H are:

- residents should not be required to carry waste more than 30 m (excluding any vertical distance) to the storage point;
- waste collection vehicles should be able to get to within 25 m of the storage point (note, BS 5906: 2005¹⁸ recommends shorter distances) and the gradient between the two should not exceed 1:12.

Paragraph 6.8.10 Based on these parameters, it may not be necessary for a waste vehicle to enter a cul-de-sac less than around 55 m in length, although this will involve residents and waste collection operatives moving waste the maximum recommended distances, which is not desirable.

Paragraph 6.8.11 BS 5906: 2005 provides guidance and recommendations on good practice. The standard advises on dealing with typical weekly waste and recommends that the distance over which containers are transported by collectors should not normally exceed 15 m for two-wheeled containers, and 10 m for four-wheeled containers.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T13 – Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development

- 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
- ENV8: Air Quality

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing

EN1: Natural Environment Protection, Management and Enhancement

EN3: Flood Risk

T4: The Highway Network

T5: Highway Improvements

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

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

Consultation Replies

Local Highways Authority - The Local Highway Authority objects and considers the development will have an unacceptable impact on road safety contrary to the NPPF, Saved UDP Policy GP2, SAD Policy T4, DfT Manual for Streets guidance, to the detriment of the free flow of traffic along the public highway and to highway safety.

Pollution Control - It is considered that as a minimum a desktop survey and appraisal is undertaken to determine whether an intrusive investigation is required. The Applicant shall agree measures to be implemented to comply with the Black Country Air Quality SPD. A construction management plan shall be agreed in writing with the Local Planning Authority prior to the commencement of development. Conditions to address these points have been included as part of this consultation.

Strategic Planning Policy - This application raises similar issues to the previous application 19/1590 which was withdrawn. The proposal would provide a small scale development opportunity that would boost the supply of housing so could potentially be supported on strategic planning policy grounds by NPPF paragraph 59, BCCS Policy CSP2 and SAD Policy HC2. However, the site is very close to the school so future residents could suffer from noise and disturbance, especially in view of the limited amenity space and separation proposed from the boundary. The site also appears to contain mature trees so should be checked for the possible presence of bats.

West Midlands Police - No objection. Principles of Secure by Design recommended.

Community Safety Team – No comments received.

Waste Management – No comments received.

Representations

6 representations were received from five different households which can be summarised as follows: *Officers comments are in italics.*

- 1 neighbour in support of the application.

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- Child safety issues.
- Safety issues on the private access road. The proposed development could significantly add to local vehicle traffic and given the number of children at peak times increase the risk of potential accidents.
- Concerned about the parking of contractors' lorries and vans during the demolition and construction phase of this development.
- Provision of lighting along the access road would certainly improve safety after dark (*no external lighting is proposed as part of this development*).
- We do not think the access road is 5 metres wide; nor do we think two vehicles could pass safely.
- We are also concerned about the risks of building works to the walled border of 111 (*this is not a material planning consideration and falls under the remit of Building Regulations*).
- We would confirmation that this development will be for residential purposes and not for business (*the submitted details show the development is for use as dwellings (C3) use*).
- Impacts on my privacy.
- Effect on the value of my property (*this is not a material planning consideration*).
- Development would provide clear views from the houses into the playground of Millfields Nursery and into their learning areas which cater for young children and into classrooms and to social areas for the students of Walsall Academy.
- The trees on the topographical survey have already been removed by the applicant and provide no screening to the direct view into rooms or play area from the proposed development.
- Poor visibility, accidents and danger to pedestrians.

Determining Issues

- Principle of Development
- Design, Layout and Character
- Amenity of Neighbours
- Amenity of Future Occupiers
- Highways
- Trees and Ecology
- Ground Conditions and Environment
- Flood Risk and Drainage
- Local Finance Considerations

Principle of Development

The proposal would add to the supply of housing so could potentially be supported by paragraph 60 of the National Planning Policy Framework, subject to detailed consideration of the potential impact of the proposal on local character, trees and the amenity of neighbouring properties. BCCS Policy CSP2 and SAD Policy HC2.

The principle of development is therefore considered acceptable subject to all other material considerations set out in this report.

Design, Layout and Character

Lichfield Road has a strong building line with detached and semi-detached dwellings fronting Lichfield Road with a linear pattern of development. The proposal puts forward five dwellings sited to the rear of 105, 107 and 109 Lichfield Road which would represent inappropriate backland development and would erode the character of the area. It is considered that the dwellings would not be well connected with the surrounding street scene.

The surrounding area is mixed in style and size with semi-detached and detached dwellings and as such the design of the dwellings would appear to be in keeping being semi-detached properties with pitched roofs.

Amenity of Neighbours

The dwellings would be sited approximately 1.7m from one another; the side windows of the proposed dwellings would be serving a landing, en-suite and bathroom and are not considered to be habitable room windows and therefore do not raise any issues through overlooking.

The dwellings are sited to the rear land of 107 and 109 Lichfield Road. There would be approximately 35m from the habitable room window of plot 3 and 4 to 107 Lichfield Road and 30m from plot 1 to 109 Lichfield Road, thus complying with the 24m separation distance between habitable windows in two storeys (and above) developments.

Plot 5 would introduce habitable room windows at ground and first floor which would introduce a direct form of overlooking to the rear amenity space serving No.105 Lichfield Road. Furthermore, the provision of the turning head and vehicle parking directly adjacent the rear garden of No.105 would also introduce an unacceptable level of additional noise and disturbance from vehicle movement, doors closing, and people congregating resulting in significant additional overlooking, loss of privacy and noise and disturbance to the detriment of this neighbours amenity.

The remaining garden areas of 36.9sqm and 60sqm serving No.107 and No.105 respectively are below the minimum standards with no justification given to the lack of amenity space. These small garden area fail to provide an acceptable level of outdoor amenity to occupiers and fail to reflect the size of gardens in the locality.

The proposed main access directly adjacent No.113 would also introduce an unacceptable level of vehicle movement which would result in noise and disturbance to the rear garden amenity area serving this neighbour, and increased light pollution, particularly to ground floor habitable windows in the front elevation.

To the rear of the dwellings there are no residential properties however Walsall Academy and Millfields Nursery are approximately 15m from the rear of the properties. It is considered that the dwellings would not cause any issues regarding overshadowing to existing developments. In terms of overlooking, it is considered that views may be afforded to the nursery and school, however there is no policy basis which would warrant a refusal reason on these grounds as safeguarding of amenity usually applies to residential occupiers. Furthermore, it is commonplace to have residential uses and habitable windows in close proximity to schools and other educational facilities.

Amenity of Future Occupiers

Appendix D of the Designing Walsall SPD states that garden dimensions should be 12m in length or a minimum area of 68sqm for dwellings. The design and access statement states that the dwellings would have a rear garden length of 7.4m, measuring approximately 70sqm in area. However, when measuring the garden sizes from the submitted block plan they measure approximately 5.8m in length and 49sqm in area and as such are below the minimum standards with no justification given to the lack of amenity space. These small garden areas fail to provide an acceptable level of outdoor amenity and fail to reflect the size of gardens in the locality.

The bedrooms would all be single aspect and whilst it would be preferred for them to be dual aspect it is considered that they would still allow for an adequate amount of daylight into the bedrooms. Further, all habitable rooms of the development would have a large window allowing for daylight.

In terms of outlook, the bedrooms would have unobstructed views, with bedroom 1 and 3 looking on to and bedroom 2 looking out to the rear. The bedrooms are all of an adequate size and it is considered a good internal amenity could be achieved.

Comments have been made that the proposed development is very close to the school and potential for future residents to suffer from noise and disturbance. However, this has not been raised as a concern by the Council's Pollution Control Team. On balance, whilst some noise and disturbance would be likely, this would not be dissimilar to that already experienced by existing residential occupiers in the locality and would not warrant a refusal reason in this instance.

Highways

In terms of site layout, this application appears to be identical to the previous withdrawn application 19/1590 to which the Local Highway Authority raised concerns.

The current proposal does not appear to address the highway issues raised by the previous scheme and the situation on the ground or highway design guidance has not materially changed since the previous application to alter the Local Highway Authority's view.

Notwithstanding the access road is shown at 5.385m in width this is measured tight onto the property boundaries on either side. As such it is considered unlikely that two vehicles will attempt to pass on the access road with entering vehicles potentially waiting at the entrance on Lichfield Road as there is no passing place. The intensification of the access serving five dwellings is likely to result awkward vehicle reserving movements onto Lichfield Road which is a classified road (A4124) and a strategic highway or vehicles blocking of the highway footway at a sensitive location close to school and nursery where at times there will be relatively high footfall passing by.

The layout fails to demonstrate the required visibility splays, both along the street and pedestrian inter-visibility at the access point onto Lichfield Road, which do not pass over third party land. The splays are required as a result of: a) the intensification of the access as a result of the development, b) the proximity of the access to a school and nursery entrance and c) the nature of Lichfield Road being a classified road (A4124) and a strategic highway.

The layout fails to address accessibility for disabled persons or persons with visual impairments accessing the development. The proposed dwellings are served by a shared space access road with no suitable segregated pedestrian facility. The access road will be used by delivery vehicles and the refuse wagon as well as residents and visitors leaving vulnerable users with no safe refuge or segregated facility.

The Highway Authority considers the development will have an unacceptable impact on road safety contrary to the NPPF, Saved UDP Policy GP2, SAD Policy T4, DfT Manual for Streets guidance, to the detriment of the free flow of traffic along the public highway and to highway safety.

Trees and Ecology

Whilst comments have been made regarding trees and potential to provide roosting opportunities for bats, records available at the time of writing this report suggests there are limited trees on site, none of which are protected, and the site is predominantly surrounded by built form and does not fall within the Council's bat buffer zone. On balance, it is therefore considered unlikely that bats would be present and a refusal on this ground would not be warranted.

Ground Conditions and Environment

There was no information supplied with the application regarding ground conditions on the site and no information was supplied in support of the application regarding any contamination or ground gas issues on the site. As such, Pollution Control have considered that as a minimum a desktop survey and appraisal is undertaken to determine whether an intrusive investigation is required. Further, the applicant would be required to agree measures to be implemented to comply with the Black Country Air Quality SPD. A construction management plan would be required. Conditions to address the above points were provided by Pollution Control and would be included on any approval.

Flood Risk and Drainage

The site, which is in Flood Zone 1, is not in an area known for flooding and there are no watercourses nearby. It is therefore considered that the development would be acceptable in terms of flood risk if accompanied by an appropriate foul and surface water drainage scheme which would be secured by condition on any permission.

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 5 new homes.

The Government has indicated that, for 2019-20, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

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

Conclusions and Reasons for Decision

The proposal represents inappropriate backland development which would fail to integrate with the existing pattern of development and erode the character of the area, and would have an unacceptable adverse impacts on the amenity of existing and future occupiers and highway safety.

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

Positive and Proactive Working with the Applicant

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal, and with previous similar proposals, and discussing those with the applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the full details of the harm identified within the reasons for refusal – which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

Recommendation

Refusal

Reasons for Refusal

1. This proposal represents inappropriate backland development which would cause harm to the character and amenity of the local area, would erode the spatial characteristics of the existing site and would be poorly related to its surroundings in terms of design, density and layout, contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) and HOU2 (Housing Density, Type and Accessibility) of the Black Country Core Strategy, SAD Policy HC2 (Development of Other Land for Housing), DW3 (Character), DW4 (continuity) and DW6 (Legibility) of the Designing Walsall Supplementary Planning Document and section 12 of the National Planning Policy Framework (Achieving well-designed places).
2. The intensification of the vehicle access serving five dwellings is likely to result awkward vehicle reserving movements onto Lichfield Road which is a classified road (A4124) and a strategic highway or vehicles blocking of the highway footway at a sensitive location close to school and nursery where at times there will be relatively high footfall passing by thus causing significant harm to the highway safety of drivers, cyclists and pedestrians contrary to saved policies GP2 (Environmental Protection), T10 (Accessibility Standards – General) and ENV32(Design and Development Proposals) of the Walsall Unitary Development Plan and policy TRAN2 (Managing Transport Impacts of New Development)of the Black Country Core Strategy.
3. The layout fails to demonstrate the required visibility splays, both along the street and pedestrian inter-visibility at the access point onto Lichfield Road, which do not pass over third party land which would have an unacceptable impact on road safety to the detriment of the free flow of traffic along the public highway and to highway safety and contrary to the NPPF, Saved UDP Policy GP2 (Environmental Protection), SAD Policy T4 (The Highway Network), DfT Manual for Streets guidance.

4. The layout fails to address accessibility for disabled persons or persons with visual impairments accessing the development. The proposed dwellings are served by a shared space access road with no suitable segregated pedestrian facility. The access road will be used by delivery vehicles and the refuse wagon as well as residents and visitors leaving vulnerable users with no safe refuge or segregated facility to the detriment of the free flow of traffic along the public highway and to highway safety. This is contrary to the NPPF, Saved UDP Policy GP2 (Environmental Protection), SAD Policy T4 (The Highway Network DfT Manual for Streets guidance).
5. The proposed development would provide an unacceptable standard of amenity for the future occupants for each plot due to an insufficient level of private rear garden amenity space. The proposal is therefore contrary to saved policy GP2 (Environmental Protection), of the Walsall Unitary Development Plan, policy ENV3 (Design Quality) of the Black Country Core Strategy, SAD Policy HC2 (Development of Other Land for Housing), and DW5 (Ease of Movement) and Appendix D of the Designing Walsall Supplementary Planning Document (Numerical Guidelines for Residential Development).
6. The remaining garden areas of 36.9sqm and 60sqm serving No.107 and No.105 Lichfield Road respectively are below the minimum standards with no justification given to the lack of amenity space. These small garden area fail to provide an acceptable level of outdoor amenity to occupiers and fail to reflect the size of gardens in the locality. The proposal is contrary to Saved UDP Policy GP2 (Environmental Protection), Appendix D of the Designing Walsall SPD (Numerical Guidelines for Residential Development) and the NPPF.
7. Plot 5 would introduce habitable room windows at ground and first floor which would introduce a direct form of overlooking to the rear amenity space serving No.105 Lichfield Road. Furthermore, the provision of the turning head and vehicle parking directly adjacent the rear garden of No.105 would also introduce an unacceptable level of additional noise and disturbance from vehicle movement, doors closing, and people congregating resulting in significant additional overlooking, loss of privacy and noise and disturbance to the detriment of this neighbours amenity. The proposal is contrary to Saved UDP Policy GP2 (Environmental Protection) and the NPPF.
8. The proposed main access directly adjacent No.113 would also introduce an unacceptable level of vehicle movement which would result in an unacceptable level of additional noise and disturbance to the rear garden amenity area serving this neighbour, and increased light pollution, particularly to ground floor habitable windows in the front elevation. The proposal is contrary to Saved UDP Policy GP2 (Environmental Protection) and the NPPF.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 05 August 2021

Plans List Item Number: 7

Reason for bringing to committee

Section 106 Agreement

Application Details

Location: 2, COALPOOL LANE, WALSALL, WS3 1QJ

Proposal: PROPOSED NEW SEMI-DETACHED HOUSE ADJOINING NO.2 COALPOOL LANE INCLUDING ASSOCIATED VEHICLE PARKING AND INFORMAL LANDSCAPING. SINGLE STOREY REAR EXTENSION TO NO.2 COALPOOL LANE INCLUDING NEW REAR VEHICULAR ACCESS FROM ROSS ROAD (RE-SUBMISSION OF 19/1086).

Application Number: 20/1320

Case Officer: Rebecca Rowley

Applicant: Mr Veaceslav Scorici

Ward: Blakenall

Agent: Lawrenson Associates

Expired Date: 19-Jan-2021

Application Type: Full Application: Minor Use Class C3 (Dwellinghouses)

Time Extension Expiry: 30-Jul-2021

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and a Section 106 Agreement to secure commuted sums regarding the provision of 6 x replacement trees on the adjacent open space and subject to:

- The amendment and finalising of conditions; and
- Submission of bat emergence surveys and inclusion of recommended mitigation measures and methods in condition/s and note/s to applicant.



Proposal

This application has been submitted following an appeal for non-determination of previous application 19/1086. Application 19/1086 was a resubmission of application 18/0916 that had been refused on the grounds of a breach of the 45 degree code and harmful impact on the outlook and light received at the rear of no.2 Coalpool Lane, as well as the impact on two trees that are located on the public land adjacent to the application site.

The appeal for non-determination of application 19/1086 was dismissed by the Planning Inspectorate on the grounds outlined in the planning history. Application 19/1086 was considered to have overcome the reason for refusal relating to the impact on occupants of no. 2 Coalpool Lane but was refused on the grounds that the applicant had failed to provide a legal agreement to secure replacement tree planting and ongoing maintenance of the same. Without replacement trees, the development would result in the loss of biodiversity and harm to the visual amenity of the area.

This application seeks to overcome this reason for refusal. The proposal seeks permission for erection of a new two-storey, 3 bedroom dwelling attached to 2 Coalpool Lane plus a single storey rear extension to 2 Coalpool Lane. This will form a pair of semi-detached dwellings.

Ground floor rear extension to no 2

3.5m deep

6.7m wide

Mono-pitch roof 2.5m to eaves, 3.2m to pitch

Double door and two narrow windows either side facing the rear garden

Retained garden area: Around 130m²

New dwelling

Ground Floor: 5.6m wide and 12m deep drawing level with the front and extended rear elevation at no 2 Coalpool Lane

First Floor: 5.6m wide and 10.5m long including a 2.1m rear projection

Windows at front and rear elevations plus kitchen window in the side elevation

7m in height to pitch

Gable projection at front with windows mirroring those at no 2 Coalpool Lane

Garden: Around 70m²

The submitted drawing (Drg.104 Rev A) does not accurately correlate between floor plans and side elevation as there are no windows shown on the first floor plans yet a window is shown on the elevation drawing.

The site plan identifies a shared access and individual driveways for each dwelling with 2 parking spaces for 2 Coalpool Lane and 2 spaces for the new dwelling. The existing dropped kerb would be widened to facilitate the shared access.

The layout includes removal of the two trees on the adjacent open space that overhang the site and commuted sums to ensure replacement of 6 trees is proposed which would be secure within a Section 106 Agreement.

A Design & Access Statement has been provided that explains the planning history of the development and how the application has sought to address a previous refusal of permission plus information about pre-application advice.

Site and Surroundings

The site is located at the junction of Coalpool Lane and Ross Road. Number 2 Coalpool Lane is a detached dwelling so the proposals would form a pair of semi-detached dwellings with the new dwelling located on the corner. The surrounding character is semi-detached dwellings.

There is an area of grassed open space at the highway junction with two trees upon it and a path through it.

Relavant Planning History

- 21/0843 – Two Storey Side Extension/Replacement Dwelling – currently under assessment
- 19/1086 - Erection of a new two-storey dwelling attached to No 2 Coalpool Lane plus single storey rear extension to 2 Coalpool Lane – an appeal was submitted for non-determination which was dismissed and planning permission was refused on 2nd July 2020 on the ground that the Council had explained that had it decided the application, it would have refused the proposal on the basis that the applicant failed to provide a legal agreement to secure replacement tree planting and ongoing maintenance of the same. Without replacement trees, the development would result in the loss of biodiversity and harm to the visual amenity of the area, contrary to policy CSP3 of the Core Strategy and policies ENV17 and ENV18 of the Local Plan.
- 18/0916 - Proposed new house adjoining 2 Coalpool Lane forming a pair of semi's. – refused permission on the following grounds:
 1. The proposal significantly breaches the 45 degree code used to assess the impact on neighbours living conditions. The outlook and light received at the rear of no.2 Coalpool Lane will be adversely affected to the extent that the development harms the living conditions of the existing and future occupiers, contrary to the amenity aims of saved policy GP2 of the UDP and SPD Designing Walsall.
 2. Trees 1 and 2 as shown on the submitted plans are considered to be in good health and due to their location have significant group amenity value. T1 is the more dominant tree and the growth of T2 has significantly been affected by the presence of T1. The removal of T1 will leave T2 so one-sided to have a negative effect on this cohesive group feature of the trees, and it will be at an increased risk of failure due to increased exposure to adverse weather conditions, contrary to saved policy ENV18 of the UDP and SPD Conserving Walsall's Natural Environment.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

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.

Reducing Inequalities

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

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

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

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

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon

those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- EN1: Natural Environment Protection, Management and Enhancement

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

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

Air Quality SPD

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

Consultation Replies

(Case Officer's Comments in italics)

Asset Management

Concerns raised regarding access to the proposed site from Ross Road over council land. Asset Management has not been contacted in regards to purchasing the land or obtaining an agreement for access *(the proposal has since been amended to provide parking and access directly to the front of the dwellings, accessed from Coalpool Lane and no longer a requirement to cross Council owned land).*

Community Safety Team

No response provided

Ecology Officer

This planning application should not be progressed until an assessment is conducted by a suitably experienced person to determine likely impact on bats.

Local Highway Authority

- 04/01/2021

Support subject to conditions to secure a consolidated parking area for the existing dwelling, provision of a new access with dropped kerb from Ross Road and the use of inward opening gates only. A note for the applicant has been provided.

- 24/01/2021 (*In response to a revised site plan removing the proposed access from Ross Road and providing two parking spaces on the existing frontage of the property with an extended dropped kerb*)

Support subject to conditions to secure consolidation of the parking area and widening of the existing dropped kerb to access the new driveway. Advisory notes for the applicant have been provided.

Pollution Control

No objections subject to conditions to ensure the installation of an electric vehicle charging point and ultra-low nox boilers and the provision of a Construction Management Plan.

Public Rights of Way

No objections.

Severn Trent Water

No objections. A note for the applicant has been included regarding public sewers.

Strategic Planning Policy

No response provided.

The Wildlife Trust

This planning application should not be progressed without the provision of a bat roost inspection report.

Tree Preservation Officer

No comments received.

Waste Management

No objections. An advisory note for the applicant has been included.

West Midlands Fire Service

A note for the applicant outlining standard requirements has been provided.

West Midlands Police

No response provided

Representations

1 representation was received from a neighbouring occupant raising the following concerns:

- Noise concerns relating to a larger property
- Parking issues
- Concerns regarding proposed access from Ross Road in close proximity to a pedestrian crossing and a bus stop

Determining Issues

Whether the proposals overcome reasons for refusal of 19/1086 in terms of:

- Impact on the adjacent trees

Other issues:

- Principle of development
- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Access and Parking
- Protected Species
- Pollution Control

Assessment of the Proposal

Whether the proposals overcome reasons for refusal of 19/1086 in terms of:

Impact on the adjacent trees

This proposal requires the removal of two trees on the adjacent open space which are managed by Clean & Green and includes their replacement with 6 new trees. The Council's Clean & Green Team are satisfied that with the appropriate mitigation i.e. planting and maintenance of 6 new trees is considered sufficient mitigation to address the loss of the two existing trees. This would be secured by a Section 106 Agreement. The applicant has agreed in principle to the necessary provisions of a Section 106 Agreement and this therefore provides a satisfactory form of mitigation thus overcoming the refusal reason of application 19/1086. The associated sums to be collected in the Section 106 Agreement are as follows:

- £585.00 to fell the two existing lime trees and treat the stumps; and
- £900.00 for six replacement trees including their ongoing maintenance.

The mitigation scheme will also help to ensure that the proposal does not result in a loss of biodiversity value as required in Policy EN1 of the Site Allocation Document.

Subject to the above mitigation, the proposal is considered to accord with the provisions of Policies CSP3 of the Black Country Core Strategy, ENV17 and ENV18 of the Saved Unitary Development Plan, EN1 of the Site Allocation Document, NE9 of the Natural Environment SPD and the National Planning Policy Framework.

Other issues:

Principle of development

The principle of residential development in this residential location is considered acceptable, and would make effective use of land which would also bring forward new housing in accordance with Paragraphs 69(c) and 119 of the National Planning policy Framework. The principle of a single dwelling in this location would not be contrary to any of the Council's adopted Development Plan policies, or supplementary guidance listed in this report.

Design of Extension and Character of Area

The overall layout and design is considered would be sympathetic to the character and appearance of the application site itself, and the locality which has a predominantly semi-detached dwelling character. Furthermore, the design of the new dwelling would mirror the style of adjoining No.2 Coalpool Lane to the frontage, and is considered to be of an overall acceptable appearance which would not harm the character or visual amenity of the locality. A condition would be included to seek the use of matching external materials to those used in No.2 to ensure satisfactory appearance.

Whilst it is noted that the submitted proposed floor plans do not match the submitted proposed elevation plans which show a first floor window, this would not result in any overlooking or design issues and would not therefore warrant a reason for refusal. A condition would be included to secure obscured glazing in this window to protect the privacy of occupants.

The proposal would meet the separation distances, and garden sizes set out in Appendix D of the Designing Walsall SPD. A condition would however be included to remove permitted development rights for rear extensions which have the potential to significantly reduce the amount of outdoor amenity space serving each dwelling.

Overall, the proposals is considered accords with the provisions of Policies CSP4 and ENV3 of the Black Country Core Strategy, GP2 and ENV32 of the Saved Unitary Development Plan, HC2 of the Site Allocation Document, DW3 and Appendix D of the Designing Walsall SPD, and the National Planning Policy Framework.

Amenity of Nearby Residents

The earlier proposals put forward under 18/0916 showed the new dwelling had a 3m deep projection to the rear beyond the rear elevation of 2 Coalpool Lane. As a consequence the earlier proposals seriously breached the 45 degree code measured from the nearest habitable room windows at ground and first floor of 2 Coalpool Lane and would have had a detrimental effect on the amenity of these neighbours by reason of the overbearing nature and overshadowing impact.

The proposed development now includes a rear extension to no 2 Coalpool Lane so that it draws level with the proposed new dwelling at ground floor and consequently accords with the 45 degree code guidelines to protect neighbour amenity. The first floor rear projection of the new dwelling is reduced in depth from 3m to 2.2m and complies with the 45 degree code guidelines from the neighbours nearest habitable room window.

In the circumstances the changes to the design have addressed the reason for refusal of application 18/0916 in terms of adverse impact on neighbour's amenity. Under current permitted development rights, a single storey rear extension of between 3m and 6m deep (subject to prior approval) could be erected at No.2, and / or at the new dwelling, which has the potential to result in loss of light, outlook, and breach of the 45 degree code to future occupiers. A condition would therefore be included to remove these permitted development rights to safeguard occupiers' amenity.

As set out above, the proposals would not result in any significant additional impacts to the amenity of adjacent neighbours with regard to loss of light, loss of outlook or loss of privacy, and the proposal meets the separation distances set out in Appendix D of the Designing Walsall SPD. As set out, a condition would be included to remove permitted development rights for rear extensions to safeguard occupiers' amenity.

Access and Parking

The application looks to construct a new 3 bedroom dwelling attached to the existing dwelling forming a part of semis. The original scheme proposed the installation of a new vehicle crossover from Coalpool Lane to service the proposed car parking related to the proposed dwelling, which raised concerns as the land for these works falls outside of the application boundary. The scheme has been amended to create 2 parking spaces for the existing property no. 2 Coalpool Lane and 2 spaces for the new semi-detached dwelling on the frontage of the site, accessed from Coalpool Lane. This access would require the provision of an extended dropped kerb.

In accordance with the requirements of saved UDP policy T13, two 3 bedroom dwellings require two off road vehicular parking spaces each. Parking for both the existing and new dwelling on the revised scheme is provided on the frontage.

The Local Highway Authority have advised that due to the position of the existing Speed Hump on Coalpool Lane (which is not able to be repositioned as it is the optimum position for delivering speed reduction), access to the parking spaces is not ideal and is a compromise solution. However, on balance, the proposed access is considered acceptable and preferable to alternative access to the rear off Ross Road which would otherwise involve crossing Council owned land and not directly onto the adopted highway.

On balance, the Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF, subject to conditions to secure consolidation of the parking area and widening of the dropped kerb access from Coalpool Lane.

Protected Species

The site falls close to Ryecroft Cemetery within an area of known bat activity and there are mature trees along the boundary of the application site, which raises the risk of bat presence. In this case, as the application proposes alterations to the roof, if bats are present in the house disturbance and destruction to their roost would occur.

Consequently, in accordance with NPPF 15 and Conserving Walsall's Natural Environment SPD, a bat survey report in support of this proposal was requested and was provided, which recommended two dusk and/or dawn emergence/re-entry surveys are conducted during the active season of bats (May - August).

We are still awaiting submission of the report from these two emergence surveys. Any conditions, mitigation methods or requirement for a European Protected Species Mitigation Licence will be included in the event of a decision in support of this proposal.

Pollution Control

Further conditions would be included to secure the installation of an electric vehicle charging point and use of a low NOx boilers for the new dwelling and a construction management plan, to reduce impacts on air quality to comply with the requirements of Policy CSP3 of the Black Country Core Strategy, the Air Quality SPD and the National Planning Policy Framework.

Conclusions and Reasons for Decision

When assessing the material planning considerations and taking into account the local and national planning guidance and representations received, it is considered that The proposal has addressed the previous refusal reason, and is considered to be an acceptable form of development which would not harm the character or appearance of the area, and would not result in significant additional harm to the amenity of adjacent neighbours. The proposal would not result in any significant impacts on the operation of the highway, or result in any highways safety issues and

would not harm the visual appearance, or environmental quality of the area. This would be in accordance with the requirements of the NPPF, policies CSP4 and ENV2 of the Black Country Core Strategy and saved policies GP2, ENV32 and T13 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall policy DW3 and Appendix D.

Overall, the proposal is considered acceptable subject to the conditions, and mitigation scheme to be secured through a Section 106 Agreement as set out in this report.

The use of safeguarding conditions in respect of the materials and plans to maintain its appearance, obscured glazing to maintain privacy, conditions to protect highway safety and air quality (plus any further conditions that may arise from the bat survey report) will further ensure that the neighbours amenity is protected and that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding the original proposed access crossing land outside of the ownership of the applicant, concerns regarding the size of the gardens of the adjacent properties, requirements for a S106 agreement to secure the replacement planting and maintenance of trees and the requirement for a bat survey, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and a Section 106 Agreement to secure commuted sums regarding the provision of 6 x replacement trees on the adjacent open space and subject to:

- The amendment and finalising of conditions; and
- Submission of bat emergence surveys and inclusion of recommended mitigation measures and methods in condition/s and note/s to applicant.

Conditions and Reasons

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

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

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

- Existing and Proposed Block Plan, drawing no. 102 F, submitted 21/01/2021
- Existing and Proposed Site Plan, drawing no. 103 E, submitted 21/01/2021
- Existing and Proposed Plans and Elevations, drawing no. 104 B, submitted 21/10/2020
- Design and Access Statement, submitted 21/10/2020

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

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

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration mitigation measures

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

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

4a. Prior to commencement of the development hereby permitted, details shall be submitted to and approved in writing by the Local Planning Authority of a vehicle footway crossing to align with the new access. The new crossing shall be designed not to exceed five 900mm flat kerbs and two 900mm taper kerbs.

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

4c: Prior to the first occupation of the development hereby approved the approved crossing shall be fully constructed and implemented and thereafter retained for the life of development.

Reason: To ensure the satisfactory completion and operation of the access, in the interests of highway safety and in accordance with Saved UDP Policy GP2 and the National Planning Policy Framework.

5a: Prior to the commencement of development hereby permitted an Air Quality Low Emission Scheme for the installation of electric-vehicle charging points and Ultra-Low NOx boilers shall be submitted to and agreed in writing, with the Local Planning Authority.

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

5c: Prior to the first occupation of the development hereby approved an independent validation report shall be submitted to and agreed in writing, with the Local Planning Authority that demonstrates the approved mitigation measures have been carried out in accordance with the approved details.

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

6a. Notwithstanding the details as submitted, the development hereby permitted shall not be carried out otherwise than in accordance with providing a minimum of four off road parking spaces measuring 4.8m by 2.4m with the parking area being consolidated, hard surfaced and drained so that surface water run-off from the parking area does not discharge onto the highway or into any highway drain.

6b. This area shall thereafter be retained for the purposes of parking motor vehicles for the lifetime of the development hereby approved and shall thereafter be retained used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and the loss of the garage space with the increase from 3 to 5 bedrooms, in accordance with UDP policy GP2, T7 and T13.

7: The walls and roof of the development hereby permitted shall comprise facing materials that match, in size, colour and texture, those which are used in the existing building and the facing materials shall thereafter be retained for the lifetime of the development.

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

8: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no side facing windows, doors, or other openings other than those shown on the approved plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policy GP2 of the Walsall's Unitary Development Plan.

9: Notwithstanding the details as submitted, the development shall not be carried out otherwise than in accordance with the first floor south east side facing bathroom window, facing towards the junction of Ross Road and Coalpool Lane, hereby permitted, shall be non-opening below 1.7m and obscurely glazed to meet Pilkington level 4 or equivalent and shall thereafter be retained for the lifetime of the development.

Reason: To safeguard the amenities of the occupiers of adjoining premises, and the privacy of occupiers of the application property, and to comply with policy GP2 of Walsall's Unitary Development Plan.

10: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no extensions or additions as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house:

-Class A (enlargement, improvement or other alterations);

-Class E (outbuildings)

Shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of the application site and the adjoining premises and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

Notes for Applicant

Highway Authority - Notes for the Applicant:

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

2. The applicant will be required to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information please contact the Traffic Management Team at Traffic.Management@walsall.gov.uk or visit the Council's webpage under 'Parking Roads and Vehicles'.

Severn Trent Water

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

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

works need to be carried out by Severn Trent.

Please note if you wish to respond to this email please send it to Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. Alternately you can call the office on 01902 793851.

West Midlands Fire Service

Approved Document B, Volume 1, Dwellings, 2019.

Requirement B5: Access and facilities for the fire service

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

Requirement

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

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

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

Intention

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

a. External access enabling fire appliances to be used near the building.

b. Access into and within the building for firefighting personnel to both:

- i. search for and rescue people
- ii. fight fire.

c. Provision for internal fire facilities for firefighters to complete their tasks.

d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required. Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult) **Section 13: Vehicle access**

Provision and design of access routes and hard-standings

13.1 For dwelling-houses, access for a pumping appliance should be provided to within 45m of all points inside the dwelling-house.

13.3 Access routes and hard-standings should comply with the guidance in Table 13.1.

13.4 Dead-end access routes longer than 20m require turning facilities, as in Diagram 13.1. Turning facilities should comply with the guidance in Table 13.1.

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 1, Table 13.1).

Water Supplies

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

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

For further information please contact the WMFS Water Office at the address given

above or by email on Water.Officer@wmfs.net

Sprinklers

Where sprinklers in accordance with BS 9251:2014 or BS EN 12845:2015 are fitted throughout a house or block of flats:

- a) the distance between a fire appliance and any point within the house (in houses having no floor more than 4.5m above ground level) may be up to 90m:
- b) the distance between the fire and rescue service pumping appliance and any point within the house or flat may be up to 75m (in houses or flats having one floor more than 4.5m above ground level) (BS 9991:2015 50.1.2).

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

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 1, Section 7)

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

Waste Management

Bins will need to be presented on Coalpool Lane for collection. Bins should be presented for 6:30am on scheduled collection day.

Pollution Control

1. Electric Vehicle Charging Points and Ultra-low NOx Boilers

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points and Ultra-low NOx boilers:

The electric vehicle charging point provision for residential premises is a charging point per residential premise or Units with unallocated parking e.g. apartments – 1 charging point per 10 spaces, complying with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only singlephase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

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

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

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

Vehicle Charging Equipment Installation.

Ultra-low NOx boilers discharge NOx at or below 40mg/kWh. The latest models are futureproofed to the European Union's Energy-related Products Directive 2018 NOx levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NOx, and may be eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 05 August 2021

Plans List Item Number: 8

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 262, WALSALL WOOD ROAD, ALDRIDGE, WALSALL, WS9 8HB

Proposal: REPLACEMENT DWELLING

Application Number: 20/1274

Case Officer: Sheila Denison

Applicant: Aldridge & Barons Ltd

Ward: Aldridge Central And South

Agent: Sueshire Services

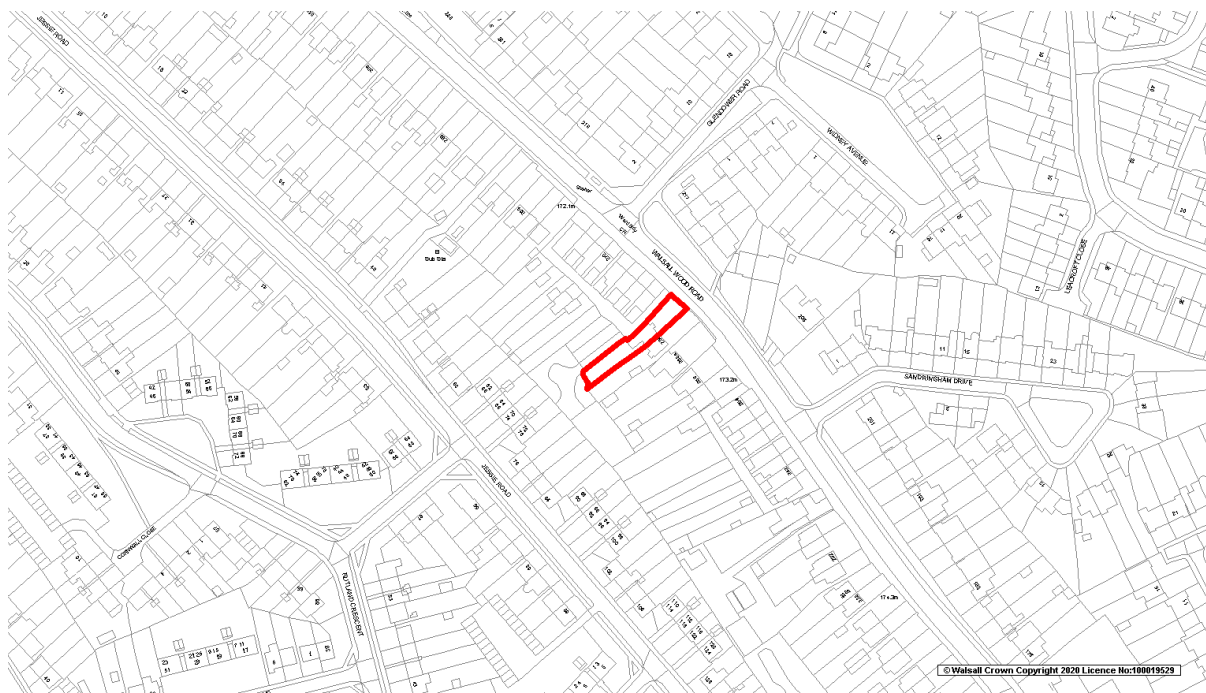
Expired Date: 01-Jan-2021

Application Type: Full Application: Minor Use Class C3 (Dwellinghouses)

Time Extension Expiry: 07-Apr-2021

Recommendation

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



Proposal

This application seeks approval for a replacement dwelling at No.262 Walsall Wood Road. A similar separate application for a replacement dwelling at the adjoining semi-detached property No.260 Walsall Wood Road is currently under consideration under application reference 20/1367.

This application was originally submitted for a side and rear two storey extension and loft conversion to an existing dwelling house. However, following the case officer's site visit it was established that works that had already been carried out amounted to a replacement dwelling. This current application is therefore part retrospective and works have ceased on site pending the decision.

The proposed replacement house will provide; at ground floor a lounge, study, laundry and bathroom and kitchen dining area. On the first floor four bedrooms, one with an en-suite and a main bathroom and stairs leading up to the loft conversion which the applicant's agent confirms would provide a further bedroom. Updated plans have been requested to clearly annotate the space in the loft for clarity.

The plans indicate a 1.5m deep balcony off the two rear bedrooms.

The proposed replacement house measures:

- 8.3m to the main roof ridge with a hipped roof
- 4.5m to the eaves on the principle and rear elevation
- 7.3m to the rear dormer roof
- 2.8m to the flat roof of the single storey rear elevation
- 7.4m wide at the front and rear
- 11.5m deep at the ground floor
- 10.1m deep at the first floor
- a gap of 3.5m to no. 26 Walsall Wood Road (The shared access road)
- Rear dormer is 3.8m wide

Whilst the submitted application form explains the external materials would be brick, tiles and UPVC windows and doors, the structure built to date is of a breeze block construction and the applicant's agent has therefore confirmed that it would be externally finished in render.

Parking on the front curtilage is provided for up to 3 vehicles.

Site and Surroundings

The application site is located within a residential area that has a mix of houses and bungalows that vary in height, design and external materials including brick and rendered properties. In this instance there is considered to be no single prevailing character in this location. There are two pairs of semi-detached houses with a single detached bungalow between them that are set back from Walsall Wood Road by 15m, and set further beyond the building line of two rows of adjacent terraced houses. Semi-detached property No.256 benefits from a large two-storey side extension.

The existing application house is a traditional 3 bedroom semi-detached house with a double round bay window feature to the front elevation and had a main hipped roof. The previous 2.3m single storey rear extension has since been demolished. This property has been empty for a number of years. Prior to works commencing, there was vegetation growing up and out of the roof and brickwork and with very overgrown gardens. The overgrown vegetation has since been cleared.

There is a 3.5m wide access road to the north serving land at the rear and also serving terraced properties numbers 264 to 278 which benefit from dedicated parking areas, some including a detached garage. The rear gardens serving these terraced properties are mostly 40m long beyond the parking areas with the exception of numbers 264 and 266 whose rear gardens are 21m long and are separated from the rear of the properties by the service road.

Nearest neighbour to the north is No.264 and this neighbour's rear elevation is set around 1.7m forward of the application dwelling due to the set-back of the application property from Walsall Wood Road. This neighbouring property benefits from a 1.6m high brick wall around the side and rear perimeter.

Number 260 is the other half of the pair and is currently partly under construction and has an identical planning application before this committee. When the applications were submitted it was requested by the agent that these be considered and determined in tandem.

Houses at the rear in Jessie Road are separated by 65 metres and separated by an open piece of land which contains a number of mature trees.

Planning History

Application Site

BC60927P - Retrospective: Two covered storage and garage areas - Permission granted STC 02/06/2000

260 Walsall Wood Road

19/0605 - Part single, part two storey rear extension plus single storey side extensions - Permission granted STC 28/06/2019

20/1367 - Replacement dwelling - Under assessment

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**

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

- GP2: Environmental Protection
- GP5: Equal Opportunities
- ENV32: Design and Development Proposals
- T7 - Car Parking

- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

Consultation Replies

Not applicable.

Representations

Neighbour comments were received in response to the initial consultation. Following the change of description neighbours were also re-consulted and further comments received. These have been summarised below (*officer comments in italics*):

- Access rights and scaffolding blocking the shared driveway – (*This is a civil matter*).
- The proposed extension is excessive.
- They are making false claims regarding ownership of land, Between 262 and 264 there is a driveway that provides access to the gardens, garages and extended property belonging to residents of 264 – 278 (*The submitted location plan shows the site boundary to exclude the adjoining shared access. Disputes over land ownership are a civil matter*).
- They are planning to cut off access to private property (*The submitted location plan shows the site boundary to exclude the adjoining shared access. Disputes over land ownership are a civil matter*).
- They are using land that does not belong to them for ease of access (*The submitted location plan shows the site boundary to exclude the adjoining shared access. Disputes over land ownership are a civil matter*).
- The new owner's seem to have had no original plan to submit a planning application (*Planning legislation allows for the submission of retrospective planning applications*).
- They have not once approached myself or any of my neighbours to discuss what they are doing, either as a matter of courtesy or otherwise (*this is not a material planning consideration*).
- Extended construction period likely to cause noise, dust and disturbance (*noise, dust and disturbance from construction sites are covered by separate environmental legislation*).
- No net curtains in my bedroom, which is on the rear of the property and it is the only room I can have any natural light come in the property.

- I am concerned that such a large extension, on an already big home, and especially the loft conversion would invade my privacy.
- It is unnecessarily large.
- The new application is for a 4 bedroomed house, what is happening with the loft conversion, is this conversion included on the new plans (*the loft conversion and extension is shown on submitted plans*).
- The two story building is being built right up to its boundary which will prevent sunlight reaching the cottage immediately to the north.
- Because the property is built to its boundary it is unclear how the owner will maintain their north facing gable wall (*this is not a material planning consideration*).
- The plans suggest the external walls will be red or brown bricks but the new walls erected so far are grey concrete blockwork which is unsightly for the entire row of cottages.
- Whilst the blockwork can be rendered it will therefore need to be maintained, which takes us back to the access issue (*this is not a material planning consideration*).
- The original roof has been removed and the walls built higher than they originally were. Does this mean there is going to be an extra story i.e. three stories or, a loft conversion not included on the application? (*The loft conversion and extension is shown on submitted plans*).
- A fence has been put up to the rear of the building blocking access to a separate property to the rear of this building site. At present it contains bricks demolished at some point. It also covers the passing place for the cottagers should they meet on the way in or out. (*This fence and area of land falls outside of the application site boundary and does not form a material planning consideration in the determination of this current application. Disputes over land ownership are a civil matter*).
- External painted render would be ok but the current external blockwork would look very unattractive.

Determining Issues

- Principle of Development
- Design and Character of the Area
- Amenity of Nearby Residents
- Highways and Parking

Assessment of the Proposal

Principle of Development

The site is situated within an established residential area within easy walking distance of shops and regular bus services along Walsall Wood Road and is consistent with the previous residential use of the site. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and Saved Policies of the UDP.

The principle of a replacement dwelling is considered to be appropriate in this location, subject to the other material planning considerations set out in this report.

Design and Character of the Area

The proposed replacement dwelling is considered to be in keeping with the design of the original dwelling and reflects the mixed character of the area. Given the application is for a replacement dwelling, and due to the mixed character of the area, it is considered acceptable that there is no set back or set down to the two storey side element of the proposal which would match, and balance, the proposal for the adjoining property No.260. Whilst the main roof ridge height would be 0.5m higher than the original dwelling, it retains a hipped roof which is considered acceptable.

The proposed external materials, including external render, is considered reflects the mixed character of the area and specific details would be secured by condition. A further condition would be included to secure the submission of landscaping and boundary treatment details to ensure satisfactory appearance.

The rear extension replaces an existing flat roof extension and as it is at the rear is not visible within the street scene so causes no harm.

The proposal is considered appropriate within the street scene and does not harm the visual amenities of the area and accords with saved UDP policies GP2 and ENV32, CSP4, ENV2 and ENV3 of the BCCS and the Designing Walsall SPD.

Amenity of Nearby Residents

Whilst not a material planning consideration, an advisory note will be added to any approval regarding the erection of scaffolding so that it does not block the shared vehicle access.

Objections have been raised that work has already started. It should be noted that the original house was in a very poor state of repair with vegetation growing out of it and some of the works included general clearing of the site. Work has now ceased on site following advice from the planning officer that planning permission had not yet been granted and unauthorised works are at the applicant's own risk.

An objection was raised from a dwelling at the rear of the site on privacy grounds. This neighbour is 53.4m away from the proposed rear habitable bedroom windows and separated by fencing and also screened by a number of mature trees. This distance exceeds the 24m separation distance between rear habitable windows outlined in Designing Walsall SPD, Appendix D. No significant additional harm to this neighbours amenity is considered likely to arise.

Objections have been raised that it is an unnecessarily large extension and will invade privacy, especially the loft conversion. It should be noted that a loft conversion and extension can already be carried out under permitted development rights if it meets the size and conditions of the legislation. The placement of habitable windows in the loft space would reflect those existing at first floor in the rear elevation and would not

therefore introduce an unacceptable additional level of overlooking or loss of privacy to neighbours. Houses at the rear in Jessie Road are separated by 65 metres and separated by an open piece of land which contains a number of mature trees which help to screen the proposal and exceeds the 24m recommended within Appendix D of the Designing Walsall SPD and is acceptable. The proposal has been assessed in relation to neighbours' amenity, and is considered would not result in any significant additional impacts on neighbours amenity and meets the guidelines of national and local planning policy specifically Appendix D of the Designing Walsall SPD.

The application for a replacement dwelling that is 10.1m deep at the first floor is mirrored in the current application at adjoining number 260 Walsall Wood. It is considered that as both pairs of these replacement semi-detached houses have applied for identical proposals, there would be no significant additional loss of light or impacts to the future occupiers of this adjoining property, with the exception of the proposed balcony at rear.

Plans indicate French doors opening from both first floor rear bedrooms onto a flat roof balcony; there is no screening shown on the plans and it is considered that the addition of a balcony would result in significant additional overlooking and loss of privacy to nearby neighbours. A condition would therefore be included to ensure 2m high privacy screens are placed at all side ends of this balcony to protect neighbours' amenity. It is considered that views from the rear of this balcony would not be dissimilar to that already possible from habitable windows in the rear elevation and would not therefore warrant a refusal.

The ground floor of the proposed development is 11.5m deep overall and includes a rear projection of 1.4m out from the rear elevation as number 260 has the same projection. It does not breach the 45 degree code.

No 264 Walsall Wood Road is set 1.7m forwards of the application house and to the north, the rear garden is separated from the house by the 3.5m wide access road. This neighbours rear garden is located to the west of the application site and is considered would not be significantly harmed in terms of any additional loss of sunlight and shadowing. Whilst the small courtyard area at the rear may experience some shadowing in the early morning, this is not considered to be excessive over and above any already arising from the existing house.

Overall, the proposal is considered would not result in significant additional harm to neighbours amenity and is acceptable, in accordance with Saved UDP Policy GP2, Appendix D of the Designing Walsall SPD and the NPPF.

Highways and Parking

The proposals alter the dwelling from a 3 to 5 bedroom dwelling. Under the terms of saved UDP policy T13 a total of 3 off-street parking spaces. There is space within the front curtilage to accommodate three vehicles. A condition has been added to ensure the parking spaces are hard surfaced and available before first occupation.

The vehicle access remains unchanged but no details have been submitted of intended boundary treatment and this would be secured by condition to ensure highways safety for vehicles and pedestrians in relation to the access. The proposals comply with Saved UDP Policies T7 and T13 and the NPPF.

Conclusions and Reasons for Decision

This application has been assessed alongside application 20/1367 at the agents request and both are therefore presented to Members for consideration.

The key material planning considerations and neighbour comments have been weighed in the assessment of this planning application and it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, BCCS policies CSP4, ENV2, and ENV3, Saved Unitary Development Plan policies GP2, ENV32, ENV33, T7 and T13 and the Designing Walsall SPD and on balance is considered to be acceptable.

As the proposals are identical schemes to the original pair of semi-detached houses it is considered that the view from the street scene will remain balanced. The design is acceptable in relation to the original dwelling and is considered appropriate within the street scene and does not harm the visual amenities of the area and accords with saved UDP policies GP2 and ENV32 and SPD Designing Walsall.

The proposals comply with 45 degree code guidelines in respect of both neighbours and will therefore not significantly harm the outlook, daylight or privacy to habitable rooms of these neighbours and protects residential amenities in accordance with saved UDP policies GP2 and ENV32 and SPD Designing Walsall.

There is adequate off-street parking to accommodate 3 vehicles on the frontage in compliance with saved UDP policies T7 and T13.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Following discussions with the applicant's agent which resulted in re-submission of details to reflect a replacement dwelling, the submitted details are now considered to be acceptable and no further changes have been requested.

Recommendation

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

Conditions and Reasons

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

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

2: The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:
Existing and Proposed Plans and Elevations received 14/10/20

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

3a. Prior to commencement of the development hereby permitted details of landscaping including both hard and soft landscape works and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.

3b. Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

3c. If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

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

4a. Notwithstanding the submitted details, prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

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

5a. Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

5b. The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

5c. The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved schedule.

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

6a. Prior to first occupation of the development hereby permitted a minimum of 3 parking spaces each measuring a minimum of 2.4m by 4.8m shall be provided on the drive within the curtilage of the application dwelling.

6b. The parking spaces shall be fully consolidated hard surfaced and drained or permeable surfaced to prevent surface water from the driveway running on to the public highway or into any highway drain.

Reason: In accordance with the requirements of saved Unitary Development Plan policies GP2, T7, T13 and ENV40 and in the interest of highway safety.

7. Notwithstanding the details submitted, the development hereby permitted shall not be constructed other than to include 2m high obscure glazed privacy screens to both ends of the balcony facing No.260 and No.264 Walsall Wood Road as shown on 'Existing and Proposed Plans and Elevations', received 14/10/20. The privacy screens shall be erected prior to first occupation of the hereby approved dwelling and shall thereafter be retained for the lifetime of the development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no side facing windows, doors, or other openings other than those shown on the approved plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policy GP2 of the Walsall's Unitary Development Plan.

Notes for Applicant

During construction, the access road to the side of the dwelling should at all times remain open and accessible for occupiers of the neighbouring cottages.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 05 August 2021

Plans List Item Number: 9

Reason for bringing to committee

Delicate Judgement Required

Application Details

Location: 260, Walsall Wood Road, ALDRIDGE, WALSALL, WS9 8HB

Proposal: REPLACEMENT DWELLING

Application Number: 20/1367

Case Officer: Sheila Denison

Applicant: Mr John Simmons

Ward: Aldridge Central And South

Agent: Sueshire Services

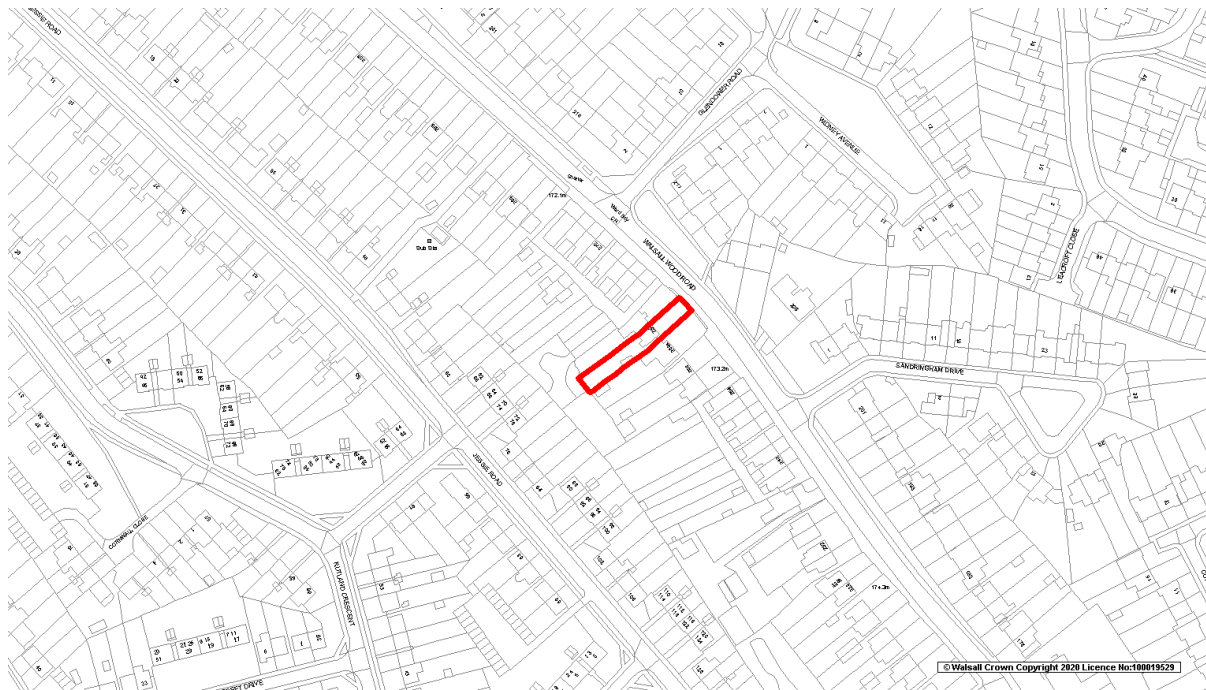
Expired Date: 18-Jan-2021

Application Type: Full Application: Minor Use Class C3 (Dwellinghouses)

Time Extension Expiry: 19-Mar-2021

Recommendation

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



Proposal

This application seeks approval for a replacement dwelling at No.260 Walsall Wood Road. A similar separate application for a replacement dwelling at the adjoining semi-detached property No.262 Walsall Wood Road is currently under consideration under application reference 20/1274. It should be noted that only 1 x objection has been received in relation to this planning application. However, given the need for these applications to be considered together this application is also presented to Members of this Planning Committee.

This application was originally submitted for a side and rear two storey extension and loft conversion to an existing dwelling house. However, following the case officer's site visit it was established that works that had already been carried out amounted to a replacement dwelling. This current application is therefore part retrospective although all works have ceased on site pending the decision.

The proposed replacement house will provide; at ground floor a lounge, study, laundry and bathroom and kitchen dining area. On the first floor four bedrooms, one with an en-suite and a main bathroom and stairs leading up to the loft conversion which the applicant's agent confirms would provide a further bedroom. Updated plans have been requested to clearly annotate the space in the loft for clarity.

The plans indicate a 1.5m deep balcony off the two rear bedrooms.

The proposed replacement house measures:

- 8.3m to the main roof ridge with a hipped roof
- 4.5m to the eaves on the principle and rear elevation
- 7.3m to the rear dormer roof
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The existing application house is a traditional 3 bedroom semi-detached house with a double round bay window feature to the front elevation and had a main hipped roof. There are timber gates across the space at the side that are in line with the front of number 258a.

Number 258a is a bungalow which is to the south east and lies back 1.5 metres from the front of the application house. The single storey side elevation of the flat roof ed section to number 258a is built up to the shared boundary which includes a hallway adjacent to the boundary at the front with patio doors to the lounge to the rear. The rear of 258a projects approximately 6 metres beyond the rear of the proposed two storey part of the application house.

Number 262 is the other half of the pair and is currently partly under construction and has an identical planning application before this committee. When the applications were submitted it was requested by the agent that these be considered and determined in tandem.

Houses at the rear in Jessie Road are separated by 65 metres and separated by an open piece of land which contains a number of mature trees.

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Application Site

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Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

Consultation Replies

Not applicable.

Representations

1 x neighbour objection has been received (*Officer comments in italics*):

- The loft conversion would invade the privacy of my bedroom, being the only room where I can get any natural light
- I received a letter mentioning possible amendments. However, upon trying to use the search function, no information was available to me (*Amendments were set out in a letter to neighbours dated 11th May 2021 and have been published on the Council's website*).
- These houses are large family dwellings and already have been subject to full extensions to the side and rear (*Planning legislation allows for the submission of retrospective planning applications*).
- I feel the loft conversion is unnecessary and objectionable.

Determining Issues

- Principle of Development
- Design and Character of the Area
- Amenity of Nearby Residents
- Highways and Parking

Assessment of the Proposal

Principle of Development

The site is situated within an established residential area within easy walking distance of shops and regular bus services along Walsall Wood Road and is consistent with the previous residential use of the site. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and Saved Policies of the UDP. The principle of a replacement dwelling is considered appropriate in this location, subject to the other material planning considerations set out in this report.

Design of Extension and Character of the Area

The proposed replacement dwelling is considered to be in keeping with the design of the original dwelling and reflects the mixed character of the area. Given the application is for a replacement dwelling, and due to the mixed character of the area, it is considered acceptable that there is no set back or set down to the two storey side element of the proposal which would match, and balance, the proposal for the adjoining property No.260. Whilst the main roof ridge height would be 0.5m higher than the original dwelling, it retains a hipped roof which is considered acceptable.

The proposed external materials, including external render, is considered reflects the mixed character of the area and specific details would be secured by condition. A further condition would be included to secure the submission of landscaping and boundary treatment details to ensure satisfactory appearance.

The rear extension replaces an existing flat roof extension and as it is at the rear is not visible within the street scene so causes no harm.

The proposal is considered appropriate within the street scene and does not harm the visual amenities of the area and accords with saved UDP policies GP2 and ENV32, CSP4, ENV2 and ENV3 of the BCCS and the Designing Walsall SPD.

Amenity of Nearby Residents

The rear extensions would not project beyond the rear of number 258a at either the ground or first floor. Planning permission at the application site was previously granted under reference 19/0605 for a part single, part two storey rear extension and single storey side extensions which is similar to the scale of this current replacement dwelling. This permission remains extant.

As number 258a projects beyond the rear of the proposed extensions and would be to the south of the application house, it is considered that the proposal would have little impact on light or outlook of the occupiers of the bungalow and the proposal does not breach the 45 degree code from nearest habitable windows at this neighbours property.

The first floor projects out from the original rear elevation by 3.4m and number 258a is a bungalow that sits south of the application house. It is considered that due to the orientation of the bungalow the proposals would not result in any significant additional loss of light or outlook to the occupiers of the bungalow over and above any already arising from the original dwelling.

Objections have been raised on the size of the extension and impacts on privacy, in particular the loft conversion. It should be noted that a loft conversion and extension can already be carried out under permitted development rights if it meets the size and conditions of the legislation. The placement of habitable windows in the loft space would reflect those existing at first floor in the rear elevation and would not therefore introduce an unacceptable additional level of overlooking or loss of privacy to

neighbours. Houses at the rear in Jessie Road are separated by 65 metres and separated by an open piece of land which contains a number of mature trees which help to screen the proposal and exceeds the 24m recommended within Appendix D of the Designing Walsall SPD and is acceptable. The proposal has been assessed in relation to neighbours' amenity, and is considered would not result in any significant additional impacts on neighbours amenity and meets the guidelines of national and local planning policy specifically Appendix D of the Designing Walsall SPD.

The application for a replacement dwelling that is 10.1m deep at the first floor is mirrored in the current application at adjoining number 262 Walsall Wood. It is considered that as both pairs of these replacement semi-detached houses have applied for identical proposals, there would be no significant additional loss of light or impacts to the future occupiers of this adjoining property, with the exception of the proposed balcony at rear.

Plans indicate French doors opening from both first floor rear bedrooms onto a flat roof balcony; there is no screening shown on the plans and it is considered that the addition of a balcony would result in significant additional overlooking and loss of privacy to nearby neighbours. A condition would therefore be included to ensure 2m high privacy screens are placed at all side ends of this balcony to protect neighbours' amenity. It is considered that views from the rear of this balcony would not be dissimilar to that already possible from habitable windows in the rear elevation and would not therefore warrant a refusal.

The ground floor of the proposed development is 11.5m deep overall and includes a rear projection of 1.4m out from the rear elevation as number 262 has the same projection. It does not breach the 45 degree code.

Overall, the proposal is considered would not result in significant additional harm to neighbours amenity and is acceptable, in accordance with Saved UDP Policy GP2, Appendix D of the Designing Walsall SPD and the NPPF.

Highways and Parking

The proposals alter the dwelling from a 3 to 5 bedroom dwelling. Under the terms of saved UDP policy T13 a total of 3 off-street parking spaces. There is space within the front curtilage to accommodate three vehicles. A condition has been added to ensure the parking spaces are hard surfaced and available before first occupation.

The vehicle access remains unchanged but no details have been submitted of intended boundary treatment and this would be secured by condition to ensure highways safety for vehicles and pedestrians in relation to the access. The proposals comply with Saved UDP Policies T7 and T13 and the NPPF.

Conclusions and Reasons for Decision

This application has been assessed alongside application 20/1274 at the agents request and both are therefore presented to Members for consideration.

The key material planning considerations and neighbour comments have been weighed in the assessment of this planning application and it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, BCCS policies CSP4, ENV2, and ENV3, Saved Unitary Development Plan policies GP2, ENV32, ENV33, T7 and T13 and the Designing Walsall SPD and on balance is considered to be acceptable.

As the proposals are identical schemes to the original pair of semi-detached houses it is considered that the view from the street scene will remain balanced. The design is acceptable in relation to the original dwelling and is considered appropriate within the street scene and does not harm the visual amenities of the area and accords with saved UDP policies GP2 and ENV32 and SPD Designing Walsall.

The proposals comply with 45 degree code guidelines in respect of both neighbours and will therefore not significantly harm the outlook, daylight or privacy to habitable rooms of these neighbours and protects residential amenities in accordance with saved UDP policies GP2 and ENV32 and SPD Designing Walsall.

There is adequate off-street parking to accommodate 3 vehicles on the frontage in compliance with saved UDP policies T7 and T13.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Following discussions with the applicant's agent which resulted in re-submission of details to reflect a replacement dwelling, the submitted details are now considered to be acceptable and no further changes have been requested.

Recommendation

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

Conditions and Reasons

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

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

2: The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:- Existing and Proposed Plans and Elevations received 14/10/20

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

3a. Prior to commencement of the development hereby permitted details of landscaping including both hard and soft landscape works and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.

3b. Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

3c. If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

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

4a. Notwithstanding the submitted details, prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

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

5a. Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

5b. The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

5c. The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved schedule.

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

6a. Prior to first occupation of the development hereby permitted a minimum of 3 parking spaces each measuring a minimum of 2.4m by 4.8m shall be provided on the drive within the curtilage of the application dwelling.

6b. The parking spaces shall be fully consolidated hard surfaced and drained or permeable surfaced to prevent surface water from the driveway running on to the public highway or into any highway drain.

Reason: In accordance with the requirements of saved Unitary Development Plan policies GP2, T7, T13 and ENV40 and in the interest of highway safety.

7. Notwithstanding the details submitted, the development hereby permitted shall not be constructed other than to include 2m high obscure glazed privacy screens to both ends of the balcony facing No.262 and No.258a Walsall Wood Road as shown on 'Existing and Proposed Plans and Elevations', received 14/10/20. The privacy screens shall be erected prior to first occupation of the hereby approved dwelling and shall thereafter be retained for the lifetime of the development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no side facing windows, doors, or other openings other than those shown on the approved plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policy GP2 of the Walsall's Unitary Development Plan.

Notes for Applicant

During construction, the access road to the side of the dwelling should at all times remain open and accessible for occupiers of the neighbouring cottages.

END OF OFFICERS REPORT