

Economy, Environment and Communities, Development Management

Planning Committee

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

Plans List Item Number: 4

Reason for bringing to committee

Called in by a Councillor

Application Details

Location: 13, BUCHANAN ROAD, WALSALL, WS4 2EW

Proposal: DEMOLITION OF NO. 13 BUCHANAN ROAD AND ERECTION OF 2 DETACHED DWELLINGS FRONTING BUCHANAN ROAD

Application Number: 20/1608

Case Officer: Sally Wagstaff

Applicant: Mr J Patel

Ward: St Matthews

Agent: Fox Architects Ltd

Expired Date: 12-Mar-2021

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

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:

- No new material considerations being received; and
- The amendment and finalising of conditions.



Current Status

Before the Planning Committee meeting of 21st June 2021, and at the applicant's request, this item was deferred to allow time for additional supporting information to be submitted to the Local Planning Authority in response to the objection received by the Council's Tree Officer.

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

The supplementary paper confirmed the item was removed from the 21st June Planning Committee meeting.

There were no other matters contained within the previous supplementary paper relating to this item.

Any Other Updates

The following matters have been updated to clarify some matters relating to the assessment:

Additional information and amended plans

A further site visit was carried out on 24th June 2021 by the Planning case officer, Council's Tree Officer, Planning Agent and applicant to discuss the LPAs recommended reason for refusal of the application. Following this visit amended and additional information has been submitted in support of the application in relation to protected trees on site as described below:

- 13A and 13B labelled Tree photograph - 24/06/21 – Indicates the trees proposed to be retained and removed.
- 13A and 13B Sun Study, rev 01 24/06/21 – superseded.
- Drawing schedule - 30/06/21 - clarifies the relevant drawings for consideration by the planning case officer.
- Proposed Site Plan, 20-005 drawing no. P00-003 Rev 5 - 30/06/21 – indicates the position of the protected trees on site which are to be retained and removed. Changes to the layout of the driveway including additional planting to the front of the site.
- 13A and 13B Sun Study Rev B 30/07/21 – amended with the tree at 100% density and a radial crown spread of 14 metres as discussed with Tree Officer.
- Sun Study Perspective 01 30/07/21 - visualisation of shading.
- Sun Study Perspective 02 30/07/21 – visualisation of shading.
- Sun Study Perspective 03 30/07/21 – visualisation of shading.
- Sun Study Perspective 04 30/07/21 – visualisation of shading.

Subsequent changes have also been made to proposed floor plans and elevations to reflect the updated proposed site plan. Local residents and consultees have been consulted on the amended plans and additional information submitted. Comments received in response to this are set out below.

Consultee comments

Local Highways Authority – Support application subject to condition to secure parking and vehicle manoeuvring areas (26/08/2021).

Tree Officer – No objection. The submitted additional details show that at least 50% of the private amenity space to the rear of both proposed plots (13a and 13b) would receive at least 2 hours of direct sunlight as at March 21st. Whilst it is marginal, the shading does not appear to fall foul of relevant guidance on these matters (site Layout Planning for Sunlight and

Daylight (section 3.3 Gardens and Open Spaces), Littlefair, Paul J, BRE Trust), and there is no other available evidence to counter the argument put before us. An objection cannot therefore be sustained.

Therefore, on balance, the existing tree constraints are not significant enough to warrant consideration of this application for refusal in this instance. No objections to this application due to the lack of significant Arboricultural implications (20/08/2021).

Representations

15 objections have been received by 4 separate residential addresses following the publication of the previous committee report, and in response to re-consultations on the above amended documents and additional information. Concerns raised relate to (*Officer comments in italics*):

- Error made in committee report in relation to trees which are proposed to be removed (*clarity on this matter is provided below*).
- Request for case officer and manager site visit (*the planning case officer visited the site on two occasions as part of the assessment of the application*).
- Works being carried out on behalf of applicant in proximity to a third party protected Tree (*The Council's Tree Officer is satisfied works to the gas line have not affected root protection area of a third party tree*).
- Proposal would have detrimental impact upon the character of the area in relation to plot size, footprint of proposed property, gap between properties and proposed tree removal (*these points are already covered in the original planning committee report copied below*).
- Privacy lost due to position of habitable room windows within no. 11a Buchanan Road – officer report has error in relation to side windows within proposed 13a (*clarity is provided on this matter below*).
- Request for a Dusk Emergence and Dawn Re-entry Surveys to be carried out (*this matter is already covered in the original committee report copied below*).
- Dispute the removal of G19 x 2 Lawson Cypress Trees (*The Council's Tree officer has visited the site and inspected the trees and considers that due to poor health these trees can be removed*).

For clarity the Trees to be removed from the site are as follows:

Trees to be removed

- G19 2 x Lawson Cypress Trees
- T20 Rowan Tree
- T24 Ash Tree

Replacement Tree

- 1 x Semi mature Rowan Tree planted in location of G19 to provide additional screening to adjacent garden no. 11a Buchanan Road.

Additional Planting

- 1 x Semi mature Cherry Tree to be planted within landscaping to the front of no. 13A
- Hedge row to be planted to front boundary with public highway of both 13A
- and 13B.

On the 1st April 2021 Planning Committee resolved to Grant Permission for Works to Protected Trees in relation to a separate tree application reference 20/1572 at 13 Buchanan Road. Members requested that officers consider new tree planting for any future development on this site. For clarity, the approved works to protected trees approved within 20/1572 relates

to the land rear of no. 13 Buchanan Road which falls outside the redline boundary of this current application site, as shown in blue on the location plan. As the trees to be removed do not form part of this current application site, a request for additional tree planting in this location has not been necessary.

For clarity the description of the site and surroundings has been amended as follows:

Following removal of the proposed third dwelling off Cameron Road, the description has been updated to state:

“Demolition of no. 13 Buchanan Road and erection of 2 detached dwellings fronting Buchanan Road”

The submitted amended plans show an area of land to the rear of the proposed gardens to the two dwellings fronting Buchanan Road which is indicated in blue as being within the ownership of the applicant. This land does not form part of the application site and would be retained as residential garden land serving No.15 Buchanan Road.

For clarity the following sentence within the officer assessment of Design, Layout and Character should read as follows:

It is considered that the proposed reduction in garden size would not undermine the character of the area.

The detail of the windows within the side elevation of no. 13a has been rephrased and expanded:

Within the ground floor side elevation of the proposed properties are two windows and a door; including a w.c and utility door and secondary window to the kitchen dining area. The agent has advised the windows on the western elevation facing no. 11a will be obscurely glazed as to limit the potential for overlooking neighbouring habitable room windows. A suitably worded condition is recommended to this affect.

When taking account of a 1.8m high boundary fence between these neighbours, it is considered that the proposal would not result in an undue loss of privacy enjoyed by the two immediate neighbouring properties subject to the above condition.

Trees / Protected Trees and Vegetation

The planning application was deferred from 21st June Planning Committee at the request of the applicants planning agent in order to allow time for additional supporting information to be provided in relation to the objection received by the Council's Tree Officer.

The Tree Officer met the applicant and agent on site to discuss the scheme and supporting information which would be required in order to make a full assessment on the potential impacts the development on protected trees on the site.

After reviewing the health of G19 2 x Lawson Cypress Trees on site the Tree Officer considers due to a compression fork in the northern tree, removal is acceptable. There is no longer an objection to its removal. The Tree officer has confirmed that a replacement semi mature Rowan Tree to be planted in that location provide additional screening to adjacent garden no. 11a Buchanan Road.

H25 is a small group of Cypress Tree's within the driveway of the applicant's property no. 15 Buchanan Road. Further to discussions with the Tree officer, the hard surfacing of the driveway of no. 13b has been moved away from H25 which is considered acceptable in terms of retention of these trees. The objection has been removed in relation to this matter.

Further to the objection from the Tree Officer in relation to the T23 Oak being a constraint in relation to the daylight and shading to the rear gardens of the proposed properties a sun study has been provided in which the Tree Officer considers the details show that at least 50% of the private amenity space to the rear of both proposed plots (13a and 13b) would receive at

least 2 hours of direct sunlight as at March 21st. Whilst it is marginal, the shading does not appear to fall foul of the guidance on this matter (Site Layout Planning for Sunlight and Daylight (section 3.3 Gardens and Open Spaces), Littlefair, Paul J, BRE Trust). Whilst this guidance does not form part of the Council's adopted suite of Supplementary Planning Documents it does provide a helpful benchmark as part of an assessment and in the absence of any other available evidence to counter the argument put before us and, on balance, a refusal would not be warranted in this instance.

The Tree Officer has confirmed minor crown lifting as agreed with the planning agent is acceptable to the T23 Oak.

Overall it is considered the existing tree constraints are not significant enough to warrant consideration of this application for refusal. There are no objections from the Council's Tree Officer due to the lack of significant Arboricultural implications.

A condition is recommended for a Tree Protection Plan to ensure preservation of protected trees on site.

Conclusion

To conclude, it is therefore considered that the proposal is unlikely to cause significant harm to protected trees and therefore the proposal accords with saved policies GP2, ENV18 and ENV23 of the Walsall Unitary Development Plan, policy ENV1 of the Black Country Core Strategy and the National Planning Policy Framework.

The application has overcome the previous recommended reason for refusal and the updated recommendation is therefore:

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

- No new material considerations being received; and
- The amendment and finalising of conditions.

Recommended Conditions

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

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

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

- Proposed Site Plan, drawing no. P00-003 Rev 05. Submitted 30/06/21
- Proposed Ground Floor Plan, drawing no. P01-003 Rev.09 submitted 30/06/21
- Proposed First Floor Plan, drawing no. P01- 004- Rev. 09. Submitted 30/06/21
- Proposed Second Floor Plan, drawing no. P01 -005 Rev. 09. Submitted 30/06/21
- Proposed Roof Plan, drawing no. P01- 006. Submitted 30/06/21
- Existing & Proposed Street Scene Trees Omitted, drawing no. P02-002- Rev 04 Submitted 30/06/21
- 13A & B Proposed Front Elevations – South, drawing on. P02-003- Rev 10, submitted 30/06/21
- 13A Proposed Side 01 Elevation – West, drawing no. P02-004 Rev 06, submitted 30/06/21
- 13A & B Proposed Rear Elevations – North, drawing no. P02-005-Rev 06, submitted 30/06/21

- 13A Proposed Side 02 Elevation – East, drawing no. P02-006-Rev 06, submitted 30/06/21
- 13B Proposed Side 01 Elevation – West, -drawing no. P02-007-Rev 06, submitted 30/06/21
- 13B Proposed Side 02 Elevation, drawing no. P02-008-Rev 06, submitted 30/06/21
- East Existing & Proposed Street Scene, drawing no. P02-009-Rev 06, submitted 30/06/21
- Phase 1 Bat Survey carried out by Ridgeway Ecology Ltd date 16th July 2020, updated 21st February 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 an intrusive pre-demolition asbestos survey in accordance with HSG264 supported by an appropriate mitigation scheme to control risks to future occupiers shall be submitted to and approved by the Local Planning Authority. The scheme shall:

- i. be written by a suitably qualified person
- ii. demonstrably identify potential sources of asbestos contamination and
- iii. detail removal.

b. Prior to occupation of the development hereby permitted a written Validation Report shall be submitted to and agreed in writing with the Local Planning Authority.

c. All contaminated material to be removed from the site shall be removed by a licensed waste carrier to a facility that is licensed to accept it.

Reason: To ensure any potentially hazardous asbestos associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

4a. 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:

1. Construction working hours
2. Loading and unloading of materials
3. Storage of plant and materials used in constructing the development
4. A scheme for recycling/disposing of waste resulting from construction works
5. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
6. Measures to prevent flying debris
7. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
8. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)

9. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

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

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

6. Prior to the commencement of development:

1. details of protective fencing and ground protection to be installed around all retained trees shall be submitted in writing to and approved in writing by the Local Planning Authority
2. The protective fencing and ground protection shall be installed in accordance with the approved details
3. One month's written notice of the intention to commence development shall be given to the Local Planning Authority to allow the Council's Arboricultural Officer to fully inspect the installation of the protective fencing and ground protection

b. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved details before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

c. 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.

d. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

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

7a. Prior to the commencement of 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.

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

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

8a. 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.

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

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

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

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

b. Prior to occupation of the development hereby permitted 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.

10a. Prior to first occupation of the development hereby permitted a brick bat box shall be incorporated into the proposed south west elevation of each of the two proposed. The bat box shall be located away from windows or lights.

b. The entrance to the brick bat boxes shall be kept clear from obstructions at all times.

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

11a. Prior to first occupation of the development hereby permitted at least three bird boxes shall be provided on the site shall thereafter be retained as such. The bird box shall be located at a point not lower than 2.5m from ground level and shall not be positioned directly above any doors or windows and shall be spaced as far apart from one another as possible.

b. The entrance to the bird boxes shall be kept clear from obstructions at all times.

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

12a. Prior to first occupation 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.

b. Prior to occupation of the development hereby permitted 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.

13.a. Prior to first occupation of the development hereby permitted details of an Air Quality Low Emission Scheme to install electric-vehicle charging points and Ultra-Low NOx boilers shall be submitted in writing to and agreed in writing by the Local Planning Authority.

b. Prior to first occupation of the development the approved electric vehicle charging points shall be installed in accordance with the approved details and shall be retained and maintained for the lifetime of the development.

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

14 a. Prior to the first occupation of any part of the development hereby approved all parking and vehicle manoeuvring areas shall be fully consolidated with permeable paving or hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway

b. 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.

14. Notwithstanding the details as submitted and prior to the first occupation of any part of the proposal hereby approved, west side elevation shall to obscurely glazed to meet Pilkington level 4 or equivalent and be retained thereafter.

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.

Notes to applicant

Protected Species

Bats

The development of the site provides an opportunity to improve the roosting opportunities for bats within the area. Bats could be encouraged to roost within the site by Creating access to the cavities between the tiles, lining and battens on the south-east or south-west roof pitches of the new buildings (e.g. Figure 2; Photograph 25). A bitumastic lining (e.g. 1F Roofers (BS747) Felt) must be laid over the modern breathable membrane (if this is used) within these cavities to prevent bats becoming entangled in the fibres of the breathable membrane. To prevent bats moving onto the breathable membrane at the end of the cavities, a block of wood must be installed between the laths.

Newts

The grass must continue to be kept close to ground level by mowing or clearing before development and must be maintained in that condition until the development is complete.

☐ During construction, storage of materials should be kept on raised pallets, to avoid creating potential shelter opportunities for reptiles and great crested newts.

☐ If at any point during these activities or any other stage during works, a great crested

newt is discovered, all work must stop and a suitably licensed ecologist must be consulted.

Highways

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.

West Midlands Fire Service

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

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).

Blocks of flats with a floor more than 30m above ground level should be fitted with a sprinkler system, throughout the building (ADB Vol 1, Section 7)

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)

Air Quality

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

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 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 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.

Severn Trent Water

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)

Protected Trees

You are reminded that the trees within the curtilage/boundary of 13 and 15 Buchanan Road, Walsall, are protected by The Walsall Tree Preservation Order No. 13/2020. It is a 'Area' Order, specifying the "All trees of whatever species within the area marked A1" as being protected. Anyone who, in contravention of a tree preservation order, cuts down, uproots, wilfully destroys, tops, lops, or wilfully damages a tree is guilty of an offence. Anyone found guilty of this offence is liable, if convicted in the Magistrates Court, to a fine of up to £20,000. In serious cases a person may be committed to trial in the Crown Court and, if convicted, is liable to an unlimited fine.

THE ORIGINAL REPORT FOLLOWS:

Reason for bringing to committee:

Called in by a Councillor

Recommendation:

Refuse

Proposal

The proposal relates to the demolition of no. 13 Buchanan Road and erection of two detached dwellings fronting Buchanan Road. The properties are of three stories with four bedrooms in each dwelling.

The dwellings measure:

- 10 metres in width
- 15 metres in depth
- 5.8 metres to the eaves
- 9 metres to the ridge

The new dwellings would provide the following accommodation:

- Ground floor – living room, snug, office, wc, utility and kitchen diner
- First floor – three bedrooms, bathroom, one bedroom with en-suite
- Second floor – Attic

The external facing materials include brick to the ground floor, render to the first floor and attic window and a clay tile roof.

The original proposal included two dwellings facing Buchanan Road and one facing Cameron Road. The property facing Cameron Road has been omitted from this application as a result of discussions with the agent regarding concerns on this aspect of the scheme.

The amended design also includes:

- Roof height reduction

- A dormer window within the roof space
- Half hip and gable roof design
- Gable to the front elevation
- Canopy above ground floor
- Obscurely glazed side elevation windows

Local residents and interested parties have been re -consulted on amendments to the application including the change to the description of development. Amended site notices were also put up on Buchanan Road and Cameron Road to alert local residents to the change in the description of development.

The application is accompanied by the following:

- Arboricultural Impact Assessment produced by Eden Arboriculture Ltd December 2020
- Phase 1 Bat Survey produced by Ridgeway Ecology - 16th July 2020
- Updated Bat Survey produced by Ridgeway Ecology – 21st Feb 2021
- Planning Statement produced by Landmark Planning – December 2020
- Ecology response produced by Ridgeway Ecology – 13th April 2021

The agent has also submitted the following points in response to some of the concerns raised by local residents:

- A street scene has been provided showing the roof level in-between number 11A & 13A,
- It has been stated that the new dwelling would take light away from those on the opposite side of Buchanan Road but these are to the south-west of number 13 so there will be no loss of light.
- No 18-20 are already 3 storey dwellings and are obscured by a large tree with TPO in place and the properties are at an oblique angle so there will be no direct views.
- For number 22 – there is an existing low-level tree planted on the front garden that shields the ground floor windows and this will be reinforced by the planting of a semi-mature tree in number 13B garden. This tree will then obscure any view from 13A of number 22.
- From plot 13B the window positions would not differ from that of the existing dormer bungalow and if this was still felt to be an issue a further tree could be planted to provide more obscuring.
- There is only one first floor window on number 22, all the light and views would be from the 12 existing roof lights and side facing dormer. A point to note is the on the front of both 13A & B, the central first-floor windows are obscure glass to the en-suite rooms.
- Concerning number 24 there are more windows to the front but the existing mature coniferous trees retained on the boundary of number 15 obscure out all views from 13b to number 24 as noted by the separation distance maker on the attached plan. The separation distance between 13a and number 24 is 40 metres and is at such an oblique angle there is no direct view of the properties.
- The 2 new dwellings have 3 spaces demarked which allow a car to enter and leave the driveway in a forward motion. If a car can reverse out on the road which is commonplace to virtually every house along Buchanan Road there is space for a further 2 cars in each driveway. Which would allow for visitor parking.
- As noted in the planning statement the parking ratios are per Walsall Councils' highways policy. The site is in a very sustainable location and there will be no impact on the existing highway infrastructure.

Site and Surroundings

The site currently hosts a dilapidated detached dormer bungalow set within a large plot. The bungalow is set back from the highway with an 'in' and 'out' driveway and a small grassed area to the front elevation. The plot is approx. 23 metres in width with a rear garden approx. 25 metres in length. The land level increases towards the rear boundary. The boundary joins

the public highway of Cameron Road. The site has a disused garage and existing dropped kerb for access into the site from Cameron Road.

The site, along with neighbouring property no. 15 has an area TPO. There are a number of protected trees and vegetation within the rear garden area.

The site lies adjacent to Arboretum Conservation Area. Properties opposite the site are included within the Conservation Area, their rear gardens adjoin the boundary with the Arboretum Park.

The area has a residential character which consists of a mix of large detached houses, semi-detached properties and bungalows of individual design, styles, sizes and ages.

The neighbouring houses include:

11a Buchanan Road

No. 11a Buchanan Road sits to the east of the site and is two storey detached property on the corner of Buchanan Road and Cameron Road. The property has recently undergone extensions to the front and rear with a detached garage. The planning approval included render to the front elevation and the use of timber cladding to the rear. The property has 4 ground floor side elevation windows facing into the site which serve a playroom and living area. The first floor side elevation window serves a bedroom. There is a separation distance of approximately 5 metres between the proposal and the side elevation of this property.

15 Buchanan Road

No.15 Buchanan Road sits to the west of the site and is a two detached property, traditional in design with two gable features to the front elevation. The property has a garage with dormer window which abuts the application site. The property has a number of extensions. There is a separation distance of approximately 1 metre between the proposal and the side elevation of this property.

This property is also within the ownership of the applicant.

22 Buchanan Road

No. 22 Buchanan Road lies opposite the site within Arboretum Conservation Area. The property is a rendered detached bungalow. There is a separation distance of over 30 metres between the application property and this dwelling.

20 Buchanan Road

No. 20 Buchanan Road lies opposite the site within Arboretum Conservation Area. The property is two storey end of terrace dwelling of arts and crafts design with a small gable which extends into the roof space. This property forms the first in a row of 6 terraced properties which are all similar in design. There is a separation distance of over 30 metres between the application property and this dwelling.

Relevant Planning History

20/1572 - T1 Rowan Tree - Fell to ground level. G1 Ash Trees - Fell to ground level. G2 Elder and Prunus Tree - Fell to ground level. G3 x4 Ash trees and 1 Prunus tree - fell to ground level. Grant Consent to Conditions 01/04/21.

Relevant Policies

National Planning Policy Framework (NPPF)

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

The NPPF sets out the Government's position on the role of the planning system in both plan-

making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

Key provisions of the NPPF relevant in this case:

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

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act’) sets out 9 protected characteristics which should be taken into account in all decision making. 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
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- EN1: Natural Environment Protection, Management and Enhancement
- T5: Highway Improvements

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- 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

Support application

Pollution Control

No objection. Conditions are required to install ultra-low NOx boilers and electric vehicle charging points, and to control impacts during construction activities.

Severn Trent Water

No objections and no drainage condition required. An Informative has been provided for the applicant.

Strategic Planning Policy

No objections- The proposal will add to the supply of housing and can potentially be supported by the NPPF paragraph 59, subject to the impact on trees, bats and residential amenity.

Tree Preservation Officer

Objection – Proposal has an unacceptable impact on the protected trees through the removal of G19, the likelihood of premature decline/death or instability of H25 and the pressure to significantly prune T23 to allow any future occupiers reasonable enjoyment of their properties.

West Midlands Fire Service

Support application subject to compliance with Building Regulations

Representations

51 objections have been received by 22 addresses over the course of the application. On submission of amended plans which includes omitting the proposed property facing Cameron Road and changes to the design of the two properties on Buchanan Road, local residents and interested parties have been re-consulted. The previously proposed property on Cameron Road does not therefore form part of the assessment of this current application. Comments received relating solely to this aspect of the superseded scheme are no longer material considerations in the determination of the application.

The grounds for objection relating to the amended scheme for the two properties on Buchanan Road are as follows:

Officer comments in italics

- Congestion on Buchanan Road due to visitors of the Arboretum, an additional household will increase this.

- The properties will not be able to accommodate 3 car parking spaces each off road resulting in parking on street
- Loss of privacy to properties on Buchanan Road due to elevated plot and three storey properties overlooking habitable rooms
- Loss of privacy due to proposed window positions in relation to immediate neighbour's property.
- Overdevelopment of the site due to scale, mass and number of properties proposed - site suitable for a single dwelling
- Development is not appropriate immediately adjacent Walsall Arboretum Conservation Area
- Design of the two properties is not in keeping with character and appearance of the area in relation to footprint, height, gaps between properties.
- Reduction in garden sizes is not representative of gardens on Buchanan Road
- No. 15 Buchanan Road has had a number of extensions which increases footprint over and above those of neighbouring properties (*The previous extensions and overall size of no.15 Buchanan Road do not form part of the assessment of this application*)
- The applicant is misleading local people by removing the bungalow on Cameron Road to submit a new application at a later date. (*This application does not preclude the applicant submitting further applications on the site*).
- Proposal would set a precedent for future development of this nature(*Each application is assessed on it's individual merits*)
- Proposal would result in the removal of a large amount of top soil and sub soil to reduce the height of properties which would impact the environment and neighbouring properties
- Excavation for the new property could result in subsidence to neighbouring property (*The proposal is required to meet the relevant building regulations for excavations of foundations, nevertheless the neighbouring resident may wish to seek party wall advice. This is a civil matter and is not a material planning consideration*).
- Proposal results in a loss of trees and ecological habitats including habitats for bats, hedgehogs, foxes, squirrels and possibly newts.
- Bat survey carried out in the winter - An emergence and re- entry should be carried out in the summer months as recommended by Bat Conservation Trust (*The initial survey was carried out in July 2020 with a further survey on the trees carried out February 2021. No further surveys are considered necessary*)
- Gardens of no. 13 and no. 15 are being neglected and becoming overgrown – gardens need to be maintained under a restrictive covenant under the Buchanan Trustees of this area. (*These are not relevant material planning considerations in the determination of this planning application*).
- Inaccuracies in the drawings, solar panels shown on some not all drawings (*the solar panels have been omitted from the front elevation roof planes of both properties*).
- Inaccuracies between line drawings and the 3D images of the properties in terms of the entrance to the properties (*the officer is not certain as to which line drawing the objector is referring to. It is considered that sufficient overall information has been submitted to enable an assessment to be made*).

3 comments of support have been received, one of which from the applicant. This has not been taken into consideration due to their interest in the application. Comments of support relate to:

- Site is currently overgrown and needs attention
- Removal of derelict bungalow will be a significant improvement to the residents of Buchanan Road.
- The detached properties are in keeping with the size of both no. 11 and no. 15
- Design is in keeping with the number of storeys of properties opposite the site

Determining Issues

- Principle of Development

- Heritage Assessment
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Ecology
- Trees / Protected Trees
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

The proposal will replace one dwelling with two dwellings. The application site is within a suitable location, close to Walsall Town Centre and within walking distance to public transport links across the borough.

The proposal will add to the supply of housing and the principle is therefore considered acceptable in line with NPPF paragraph 59, subject to all other material considerations to follow in this report.

Heritage Assessment

The application site lies adjacent to Arboretum Conservation Area. The site includes the Arboretum Park but also the roads and buildings which adjoin its boundaries. This includes property no's. 8-48 of Buchanan Road and 33-41 Buchanan Avenue.

The buildings within the Conservation Area are not limited to one architectural style, the character of the area is leafy with long rear gardens.

It is acknowledged that the demolition of the property and replacement with two properties would result in visual change in the streetscene, nevertheless it is considered the proposed development would not detract from the way in which the Conservation Area would be experienced as a whole as such the development would not cause harm to the character or appearance of the Conservation Area.

Design, Layout and Character

The proposal relates to the demolition of a traditional bungalow and replacement with two detached properties of three stories. The proposed properties are larger than the bungalow resulting in addition mass within the street scene. The width and depth of the properties are considered reflective of the immediate neighbour's no. 11 and no. 15 with evidence within the streetscene of three storey properties (no's. 42-48 Buchanan Road).

In response to concerns raised regarding the height of two dwellings in comparison to neighbouring properties, the overall height has been reduced. The eaves height of 13A is reflective of no. 11A and the eaves height of 13B is reflective of no. 15. This results in 13A and 13B having marginally different eaves and ridge heights. It is considered that the proposed properties would not be detrimental to the character of the area.

In relation to comments made by local residents regarding the height of the properties, it is considered that whilst the site is elevated in relation to properties opposite, the overall height would not be overly dominant as to be incongruous within the streetscene.

The existing plot has been halved in width to accommodate two properties rather than one. Whilst the two neighbouring properties sit within wide plots, this is not reflective of the wider streetscene. There are a number of semi-detached properties which have comparable plot widths.

The current rear garden has been reduced in width and depth due to the applicant removing a section of the garden from the application site. The retained rear garden would be approximately 19 metres in length which accords with guidance within Designing Walsall SPD in relation to acceptable amenity levels. Whilst the garden size is smaller in length than those on Buchanan Avenue, the corner plot of no. 11A, Buchanan Road, properties no's. 2-6 Cameron Road and no. 2 Argyle Close have smaller triangular rear amenity areas. It is considered that the proposed reduction in garden size would undermine the character of the area.

Buchanan Road is characterised by irregular gaps between properties. A 5 metre gap is proposed between no. 11A and 13A, a 1.3 metre gap between 13A and 13B and a 1 metre gap between 13B and no. 15. The roof height of no. 15 next to 13B. It is considered that the gaps between the properties would not result in a terracing effect within the streetscene. The properties are set back from the highway and would be no further forward than the neighbouring properties which reflects the building line of the streetscene.

It is acknowledged that the overall roof shape is unique to the proposal, nevertheless roof shapes within the streetscene include; hipped, gable, catslide, pyramid and flat roofs. The design of the property includes architectural features found within the streetscene with the introduction of the dormer within the roof space taking cues from properties adjacent to the site. The property has modern design elements such as the style of the boundary treatment and glazing around the entrance but the fenestration details reflect those adjacent to the site. The palette of materials includes render and brickwork which is considered acceptable, the street scene has both brick and rendered properties. A condition would be sought for approval of all external materials to ensure satisfactory appearance of the development.

On balance, it is considered the proposal would not result in a development which would be unduly dominant within the streetscene as to be detrimental to the character of the area.

Amenity of Neighbours and Amenity of Future Occupiers

The proposal complies with the 45 degree code measured from the nearest rear ground and first floor habitable room windows within both neighbouring properties. This code is used to assess the impact on light and outlook. It is considered the proposal would not result in a loss of light nor outlook from rear habitable room windows within 11A and 15 Buchanan Road.

The outlook from side elevation habitable windows of 11A would alter due to the height of the proposed dwelling nevertheless, a gap of 5 metres will be introduced between the two properties. The windows within ground and first floor of the side elevation of 11A are secondary windows with the main outlook gained from the front and rear windows/patio doors. It is considered the proposal would not result in an undue loss of outlook from habitable room windows within the side elevation of this property as to limit the amenity of the occupiers and future occupiers of the dwelling.

Windows within the side elevations of the proposed property serve non habitable rooms, including a w.c and utility. The agent has advised the windows and the door will be obscurely glazed as to limit the potential for overlooking neighbouring habitable room windows. A suitably worded condition is recommended to this effect.

It is considered that the proposal would not result in an undue loss of privacy enjoyed by the two immediate neighbouring properties.

The proposed properties are positioned at a distance of over 30 metres from properties opposite the site, no's. 20-24 Buchanan Road. It is acknowledged that through the introduction of first and second floor windows the proposal would result in an element of overlooking neighbouring amenity, nevertheless the proposal complies with Walsall Council Designing Walsall SPD in relation to separation distances between habitable room windows. To add, the relationship between the proposed houses is replicated throughout Buchanan Road. It is considered the proposal would not result in undue overlooking neighbouring habitable rooms as to warrant refusal of the application for this reason.

The proposed development would provide an adequate standard of living in relation to room sizes and garden amenity for future occupiers.

The application site is located within a residential area and Pollution Control Officers recommend conditions for a Construction Management Plan to control noise, dust and debris affecting local residents. The Construction Management Plan should also contain a restriction of construction and demolition working hours which can also be conditioned.

Pollution Control is of the opinion that the Application falls under the Type 1 category set out in the Air Quality SPD, therefore a condition is recommended on any approval for the installation of an electric vehicle charging points within the residential unit and for low NOx boilers.

Highways

The two dwellings have 3 parking spaces each which accords with T13 parking policy.

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.

Ecology

The application has been accompanied by a Phase 1 Bat Survey produced by Ridgeway Ecology on 16th July 2020. The existing bungalow was surveyed on the 13th July 2020 for potential roost sites and signs of bats.

The survey concluded the bungalow to be of low bat roosting potential; no evidence of bats was recovered during the internal and external building inspection.

Further to the initial submission, an updated Phase 1 Bat Survey produced by Ridgeway Ecology was submitted on 21st February 2021. This was carried out on 20th February and relates to the survey of several trees on the site documented in the arboricultural report *"Tree Survey and Constraints Assessment BS5837:2012 by Eden Arboriculture, dated 3rd November 2020, ref: EA-2020-100 (TCA)"* to identify any of bat roosting potential. It concluded none of the trees listed in the above survey contained any potential features for bats.

The Ecologist is satisfied the proposal is unlikely to have an impact upon bats and no further survey work is necessary. In line with the recommendations set out, conditions will be attached in relation to an ecologist being present on site during removal of roof tiles.

The site provides an opportunity to improve the roosting opportunities for bats within the area. Informatives are recommended on any approval to encourage bats to roost within the site.

Local residents have advised Great Crested Newts could be present on the site. In response to this, Ridgeway Ecology have subsequently submitted a letter on 13th April 2021 to advise, *"Given the water quality, the small size of the pond, the lack of ponds within the area, the shading of the upper pond, the habitat surrounding the pond comprising mainly mown lawn and the lack of aquatic vegetation suitable for egg-laying it is unlikely to be used by great crested newts. Nevertheless, if great crested newts were to be present, the result of Natural England's Rapid Risk Assessment for Great Crested Newts predicts that the risk of offence being committed would be "highly unlikely" given the distance of the pond from the development site and the area being affected"*.

As a precaution, informative notes would be included on any approval to protect and conserve Great Crested Newts should they be present on site.

Policy ENV1 of the Black Country Core Strategy states “that adequate information must be submitted with planning applications for proposals which may affect any important habitat, species or geological feature to ensure that the likely impacts of the proposal can be fully assessed. It is considered that the applicant has provided sufficient information as to assess the effect on wildlife habitats on site.

Trees/Protected Trees and Vegetation

Properties 13 and 15 Buchanan Road are subject to a Tree Preservation Order -13/2020 which was made permanent on 19th April 2021. The Order prohibits anyone from cutting down, topping, or lopping any of the trees within no. 13 and no. 15 Buchanan Road without the Council’s consent. Before the TPO was made permanent, the applicant received consent to fell to ground a number of trees within the rear of no. 13 Buchanan Road (as described in recent planning history above). It was considered the proposed works are acceptable as the trees subject to the application did not provide a significant contribution to the amenity of the area, and they would not be considered worthy of inclusion in a more specific TPO. However, Members of Planning Committee on 1st April 2021 requested that Officers take account of new tree planting for any potential future development of this site.

As specified with Arboricultural Impact Assessment produced by Eden Arboriculture, the following trees are proposed to be removed due to conflicting with the foot print of the building:

T2 Birch
T7 Apple
T8 Ash
T9 Hawthorn
T10 Plum
T11 Rowan
G19 Lawsons Cypress x2
T20 Rowan
T24 Ash

The trees specified above have been categorised within the report as C and U as they considered to be of low quality. The author considers and their removal would not have a “significant negative impact on the visual amenity on the visual amenity of the site in my opinion”.

The report concludes the proposed buildings would be at a sufficient distance from retained trees to make direct damage unlikely subject to proper engineering. It adds, shading onto buildings and patio areas is considered minimal. Also that majority of vegetative screening around the boundary will be retained.

Further to the submission of this report the Tree Officer raised objections in relation to the findings of the survey. It was advised further information was to be supplied to conclude the assessment.

The applicant has provided a response to the Tree officer concerns nevertheless it is considered the amended information does not overcome concerns raised in order to remove the objection. The Tree officer concludes with the following points:

1. **T23 Oak** –T23 remains a significant constraint on the private amenity space for both proposed plots. I remain unconvinced that the rear garden areas complies with the guidance in Site Layout Planning for Daylight, which states at section 3.3.17 - If ... an existing garden ... does not meet the above (half the garden should receive at least 2 hours of sunlight on March 21) ... then the loss of sunlight is likely to be noticeable. This is corroborated in British Standard 5837:2012 at section 5.3.4a)2) where it states “**Shading of open spaces**. Open spaces such as gardens and sitting

areas should be designed to meet the normal requirement for direct sunlight for at least a part of the day.”

2. The amended drawings (20005-P00-(02-04) Rev 04 and 20005-P00-005-Rev 03) now show some of the trees that were previously omitted. Specifically G19 on the rear flank boundary with 11 Buchanan Road (and immediately adjacent to T18 Holly). Object to the removal of these trees as they provide a useful amount of amenity value to the locality, as well as a good amount of screening to the neighbouring property.
3. T24 Ash, a multi-stemmed Ash - proximity of this tree to the nearby buildings will cause problems in the future and its removal is considered acceptable on these grounds only.
4. Re-aligned driveway would still have a detrimental impact on the long-term health and condition of H25 through significant root severance. Object.

Saved policy ENV18 of the Walsall Unitary Development Plan states that “development will not be permitted if it would damage or destroy trees or woodlands protected by Tree Preservation Order”. It is considered that the proposal would result in unacceptable impacts on the protected trees through the removal of G19, the likelihood of premature decline/death or instability of H25 and the pressure to significantly prune T23 to allow any future occupiers reasonable enjoyment of their properties. Furthermore, it is considered that there is unlikely to be sufficient space within the site to allow any necessary mitigation / compensatory planting to be provided without potential detriment to existing protected trees or without compounding the issues set out in this refusal reason.

To conclude, it is therefore considered that the proposal is likely to cause significant harm to protected trees and therefore the proposal is contrary to saved policies GP2, ENV18 and ENV23 of the Walsall Unitary Development Plan, policy ENV1 of the Black Country Core Strategy and the National Planning Policy Framework.

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 a net gain of 1 new home.

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

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

Conclusions and Reasons for Decision

The proposal would have an adverse impact on protected trees within the site and third party land. The proposal is contrary to saved policies GP2, ENV18, ENV23 of the Walsall Unitary Development Plan. Policy ENV1 of the Black Country Core Strategy and Walsall Council’s SPD ‘Conserving Walsall’s Natural Environment’ NE10. It is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Refuse

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing and negotiation those with the applicant during the course of this application. However, significant concerns remain on protected trees as set out in this report and the application cannot be supported for this reason.

Recommendation

Refuse

Conditions and Reasons

1. The proposal would have an adverse and unacceptable impact on protected trees through the removal of tree 'G19', the likelihood of premature decline/death or instability of 'H25' and the pressure to significantly prune 'T23' to allow any future occupiers reasonable enjoyment of their properties. Furthermore, it is considered that there is unlikely to be sufficient space within the site to allow any necessary mitigation / compensatory planting to be provided without potential detriment to existing protected trees or without compounding the issues set out in this refusal reason. The proposal is therefore contrary to saved policies GP2, ENV18, ENV23 of the Walsall Unitary Development Plan. Policy ENV1 of the Black Country Core Strategy and Walsall Council's SPD 'Conserving Walsall's Natural Environment' NE10.