

Wolverhampton City Council

OPEN DECISION ITEM

Committee / Panel	<u>PLANNING COMMITTEE</u>	Date: 6th November 2012
Originating Service Group(s)	EDUCATION AND ENTERPRISE	
Contact Officer(s)	Stephen Alexander (Head of Planning)	
Telephone Number(s)	(01902) 555610	
Title/Subject Matter	PLANNING APPLICATIONS FOR DETERMINATION	

Recommendation

Members are recommended to:

- (i) determine the submitted applications having regard to the recommendations made in respect to each one.
- (ii) note the advice set out in the Legal Context and Implications;

PLANNING COMMITTEE (6th November 2012)

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Guidance for Members of the Public

The above index of applications and the recommendations set out in both the index and the reports reflect the views of Planning Officers on the merits of each application at the time the reports were written and the agenda sent out.

It is important to recognise that since the agenda has been prepared additional information may have been received relating each application. If this is the case it will be reported by the Planning Officers at the meeting. This could result in any of the following

- A change in recommendation
- Withdrawal of the application
- Recommendation of additional conditions
- Deferral of consideration of the application
- Change of section 106 requirements

The Committee will have read each report before the meeting and will listen to the advice from officers together with the views of any members of the public who have requested to address the Committee. The Councillors will debate the merits of each application before deciding if they want to agree, amend or disagree with the recommendation of the officers. The Committee is not bound to accept the recommendations in the report and could decide to

- Refuse permission for an application that is recommended for approval
- Grant permission for an application that is recommended for refusal
- Defer consideration of the application to enable the Committee to visit the site
- Change of section 106 requirements
- Add additional reasons for refusal
- Add additional conditions to a permission

Members of the public should be aware that in certain circumstances applications may be considered in a different order to which they are listed in the index and, therefore, no certain advice can be provided about the time at which any item may be considered.

Legal Context and Implications

The Statutory Test

- 1.1 S70 of the Town and Country Planning Act 1990 provides that where a local planning authority is called upon to determine an application for planning permission they may grant the permission, either conditionally or unconditionally or subject to such conditions as they think fit or they may refuse the planning permission. However, this is not without further restriction, as s.70 (2) of the Town and Country Planning Act 1990 requires that the authority shall have regard to the provisions of the development plan so far as material to the planning application, any local finance considerations, so far as material to the application and to any other material considerations. Further, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determinations

of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. Officers will give guidance on what amounts to be a material consideration in individual cases but in general they are matters that relate to the use and development of the land. With regard to local finance considerations, this is a new provision that was introduced by the Localism Act 2011 and specific guidance will be given by officers where it is appropriate to have regard to matters of this nature in the context of the consideration of a planning application

Conditions

- 1.2 The ability to impose conditions is not unfettered and they must be only imposed for a planning purpose, they must fairly and reasonably relate to the development permitted and must not be manifestly unreasonable. Conditions should comply with Circular Guidance 11/95.

Planning Obligations

- 1.3 Planning Obligations must now as a matter of law (by virtue of the Community Infrastructure Levy Regulations 2010) comply with the following tests, namely, they must be:

- i) Necessary to make the development acceptable in planning terms
- ii) Directly related to the development; and
- iii) fairly and reasonably related in scale and kind to the development.

This means that for development or part of development that is capable of being charged Community Infrastructure Levy (CIL), whether there is a local CIL in operation or not, it will be unlawful for a planning obligation to be taken into account when determining a planning application, if the tests are not met. For those which are not capable of being charged CIL, the policy tests in the National Planning Policy Framework will apply. It should be further noted in any event that whether the CIL regulation 122 applies or not in all cases where a Planning Obligation is being considered regard should be had to the provisions of the National Planning Policy Framework as it is a material consideration.

Retrospective Applications

- 1.4 In the event that an application is retrospective it is made under S73A of the Town and Country Planning Act 1990. It should be determined as any other planning permission would be as detailed above.

Applications to extend Time-Limits for Implementing Existing Planning Permissions

- 1.5 A new application was brought into force on 1/10/09 by the Town and Country (General Development Procedure) (Amendment No 3) (England) Order 2009 (2009/2261) and the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2009 (2009/2262).
- 1.6 This measure has been introduced in order to make it easier for developers and LPAs to keep planning permissions alive for longer during the economic downturn, so that they can be more quickly implemented when economic conditions improve. It is a new category of application for planning permission, which has different requirements relating to:

- the amount of information which has to be provided on an application;

- the consultation requirements;
- the fee payable.

1.7 LPAs are advised to take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application will necessarily have been judged to have been acceptable at an earlier date. The application should be judged in accordance with the test in s.38(6) P&CPA 2004 (see above). The outcome of a successful application will be a new permission with a new time limit attached.

1.8 LPAs should, in making their decisions, focus their attention on development plan policies and other material considerations (including national policies on matters such as climate change) which may have changed significantly since the original grant of permission. The process is not intended to be a rubber stamp. LPAs may refuse applications where changes in the development plan and other material considerations indicate that the proposal should no longer be treated favourably.

Reasons for the Grant or Refusal of Planning Permission

1.9 Members are advised that reasons must be given for both the grant or refusal of planning decisions and for the imposition of any conditions including any relevant policies or proposals from the development plan.

1.10 In refusing planning permission, the reasons for refusal must state clearly and precisely the full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision (art 22(1)(c) GDPO 1995).

1.11 Where planning permission is granted (with or without conditions), the notice must include a summary of the reasons for the grant, together with a summary of the policies and proposals in the development plan which are relevant to the decision to grant planning permission (art 22(1)(a and b) GDPO 1995).

1.12 The purpose of the reasons is to enable any interested person, whether applicant or objector, to see whether there may be grounds for challenging the decision (see for example *Mid - Counties Co-op v Forest of Dean* [2007] EWHC 1714).

Right of Appeal

1.13 The applicant has a right of appeal to the Secretary of State under S78 of the Town and Country Planning Act 1990 against the refusal of planning permission or any conditions imposed thereon within 6 months save in the case of householder appeals where the time limit for appeal is 12 weeks. There is no third party right of appeal to the Secretary of State under S78.

1.14 The above paragraphs are intended to set the legal context only. They do not and are not intended to provide definitive legal advice on the subject matter of this report. Further detailed legal advice will be given at Planning Committee by the legal officer in attendance as deemed necessary.

The Development Plan

- 2.1 Section 38 of the 2004 Planning and Compulsory Purchase Act confirms that the **development plan**, referred to above, consists of the *development plan documents* which have been adopted or approved in relation to that area.
- 2.2 Wolverhampton's adopted Development Plan Documents are the saved policies of Wolverhampton's Unitary Development Plan (June 2006) and the West Midlands Regional Spatial Strategy.

Environmental Impact Assessment Regulations

- 3.1 The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 require that where proposals are likely to have significant effects upon the environment, it is necessary to provide an Environmental Impact Assessment (EIA) to accompany the planning application. The EIA will provide detailed information and an assessment of the project and its likely effects upon the environment. Certain forms of development [known as 'Schedule 1 Projects'] always require an EIA, whilst a larger group of development proposals [known as 'Schedule 2 Projects'] may require an EIA in circumstances where the development is considered likely to have a "significant effect on the environment".
- 3.2 Schedule 1 Projects include developments such as:-

Oil Refineries, chemical and steel works, airports with a runway length exceeding 2100m and toxic waste or radioactive storage or disposal depots.
- 3.3 Schedule 2 Projects include developments such as:-

Ore extraction and mineral processing, road improvements, waste disposal sites, chemical, food, textile or rubber industries, leisure developments such as large caravan parks, marina developments, certain urban development proposals.
- 3.4 If it is not clear whether a development falls within Schedule 1 or Schedule 2 the applicant can ask the local authority for a "screening opinion" as to which schedule is applicable and if Schedule 2, whether an EIA is necessary.
- 3.5 Even though there may be no requirement to undertake a formal EIA (these are very rare), the local authority will still assess the environmental impact of the development in the normal way. The fact that a particular scheme does not need to be accompanied by an EIA, is not an indication that there will be no environmental effects whatsoever.

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/01081/FUL

WARD:

Tettenhall Wightwick

RECEIVED: 10.09.2012

APP TYPE: Full Application

SITE: 1 Cherrington Gardens, Wolverhampton, WV6 8AJ

PROPOSAL: Demolition of existing bungalow and the erection of two three bedroom detached dwellings

APPLICANT:

Mr Roger Strudwicke
1 Cherrington Gardens
Wolverhampton
WV6 8AJ

AGENT:

Mr Jason Griffiths
PJ Barnett Associates
92-94 Chapel Ash
Wolverhampton
WV3 0TY

COMMITTEE REPORT:

1. Site Description

- 1.1 The site currently comprises of a detached bungalow, set on a prominent corner location, at the junction of Cherrington Gardens and Bramstead Avenue. The property has an open plan frontage. There is an enclosed private garden to the rear, and driveway leading to a detached garage, at the front.
- 1.2 The surrounding area is predominantly residential, with a good mix of properties, houses and bungalows, all varying in design, within an open plan setting.

2. Application details

- 2.1 The application seeks to demolish the existing detached bungalow and erect two, three bedroomed, residential houses. The houses would have open plan frontages, enclosed private rear gardens, and drives adequate for two parking spaces per property.

3. Constraints

- 3.1 Authorised Processes
Landfill Gas Zones

4. Relevant Policies

- The Development Plan
4.1 Wolverhampton's Unitary Development Plan

AM12 - Parking and Servicing Provision

AM15 - Road Safety and Personal Security
D3 - Urban Structure
D4 - Urban Grain
D5 - Public Realm Public Open Private Space
D6 - Townscape and Landscape
D7 - Scale - Height
D8 - Scale - Massing
D9 - Appearance
D11 - Access for People with Disabilities part
H6 - Design of Housing Development

Other relevant policies

- 4.2 National Planning Policy Framework
- 4.3 Wolverhampton's Supplementary Documents
SPG3 - Residential Development
- 4.4 Black Country Core Strategy (publication document Nov 2009).
ENV3 - Design Quality
HOU1 - Delivering Sustainable Housing Growth
HOU2 - Housing Density, Type and Accessibility.

5. Environmental Impact Assessment Regulations

- 5.1 "The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011/1824) require that where certain proposals are likely to have significant effects upon the environment, it is necessary to provide a formal "Environmental Impact Assessment" to accompany the planning application. (This is explained at the beginning of the schedule of planning applications)"
- 5.2 This development proposal is not included in the definition of Projects that requires a "screening opinion" as to whether or not a formal Environmental Impact Assessment as defined by the above regulations is required

6. Publicity

- 6.1 Ten letters of objection received, with one being a group letter with a request to speak at Planning Committee. Objections are as follows:
- Damage to neighbouring properties during demolition/construction
 - Disturbance during demolition/construction
 - Lack of Parking
 - Traffic Congestion
 - Safety Issues Pedestrian/Vehicular
 - Poor ingress/egress
 - Highway safety
 - Overdevelopment
 - Cramped Nature
 - Out of Character/Appearance of Street Scene

- Out of Scale
- Overbearing
- To high
- Density to high
- Loss of low level housing (in respect of elderly/mobility problems)
- Precedent (with the loss of further bungalows)
- Drainage/flooding issues
- Loss of Light
- Loss of Sunlight
- Loss of Outlook
- Loss of Privacy
- Poor Design, inadequate number of windows to plot 2
- Inaccurate plans
- Loss of open plan setting

7. **Internal Consultees**

- 7.1 **Transportation Development** – No objections subject to an amended parking layout, to provide a shared access.

8. **Legal Implications**

- 8.1 General legal implications are set out at the beginning of the schedule of planning applications [LD/08102012/Q]

9. **Appraisal**

- 9.1 The key issues are: -

- Principle
- Design/Street Scene
- Layout
- Parking/Access
- Neighbouring Amenities

Principle of Development

- 9.2 The site concerned is within a residential estate, and is currently occupied by a bungalow. There is a good mixture of properties on this residential estate, with houses, and bungalow's, all of varying designs. The loss of a bungalow to provide two dwellings, is considered acceptable, as the development would not be out of keeping with the character and appearance of this residential estate, still maintaining a good mixture of properties, with suitable access. The property next door is a two storey dwelling. Therefore the principle is consistent with current BCCS Policies ENV3, HOU1, HOU2, and UDP Policy H6.

Design/Street Scene

- 9.3 The residential estate has a diverse mixture of properties, with plots and units varying in depth, width and overall bulk. The only strong characteristic of this particular estate is its open plan nature, with limited enclosures to frontages. The proposed dwellings, although quite basic in appearance, and would not be as wide as the neighbouring detached property (which was previously granted planning permission at appeal, to change from a bungalow to a dwelling), do relate positively to the majority of properties in the surrounding area, being of a similar height and bulk.
- 9.4 The proposal has also responds positively to its corner setting, by incorporating additional fenestration, to the side elevation facing Bramstead Avenue, to introduce detail and interest, instead of a blank gable wall. The end dwelling would be more evident within the street scene, now being a two storey building projecting closer to the highway. However, the step closer to the highway would be consistent with the staggered setting of houses north of the site to Bramstead Avenue, and the layout would still provide a sufficient gap between the dwelling and the highway, reducing the dominance of the dwelling, with a landscaped surround which would still be in keeping with the open nature of the estate.
- 9.5 Therefore, it is considered that the design is acceptable, being in keeping with the established setting of properties in the surrounding area, being of a similar design and layout. Consistent with BCCS Policies ENV3, HOU1, HOU2, and UDP Policies D3, D4, D5, D6 D7, D9 and H6

Layout

- 9.6 The position of the proposed dwellings is considered to be acceptable, with sufficient distances between existing and proposed dwellings, which satisfies outlook, and privacy issues. The proposed dwellings have adequate enclosed private garden areas, and open plan surrounds. The distance between each proposed dwelling is also considered acceptable, with a pedestrian access from front to rear. The internal layout is also considered to be acceptable, with a satisfactory orientation, and internal facilities. Therefore, the proposal is consistent with BCCS Policy ENV3, and UDP Policies D3, D4, D5, D6, D7, and D9.

Parking and Access

- 9.7 With space for two cars each, the proposed dwellings have a sufficient amount of off street car parking, and the plans have been amended to incorporate a shared driveway facilitating the two dwellings, in order to address the concerns of access, especially as the site is close to the junction with Bramstead Avenue, and in relation to street furniture. Therefore the proposal is now consistent with UDP Policices AM12 and AM15.

Neighbouring Amenities

- 9.8 The properties have been appropriately positioned and designed so as to have minimum impact on neighbouring amenities in terms of outlook, light, sunlight and privacy. The distance between windows, and blank walls, all meet the criteria as set out in Supplementary Planning Guidance Number 3 "Residential Development".

9.9 One neighbour has objected to the inclusion of additional fencing along the boundary with the neighbouring property at No. 6 Bramstead Avenue, as it would be visible from a front lounge window. The projection of the proposed fencing would be 3m, and due to the nature of the structure (1.8m high fencing) it is considered that outlook would not be significantly reduced to justify a refusal of planning permission. Therefore, the proposal is consistent with BCCS Policy ENV3 and UDP D7 and D8.

10. Conclusion

10.1 It is considered that the proposed development is acceptable, being in keeping with the character and appearance, of the surrounding area, relating positively to the established setting of properties, and its prominent corner position. The dwellings have suitable amenities and parking to support future occupiers and the development would not result in any serious impact to neighbouring amenities, such as outlook, light, sunlight and privacy, or highway safety. Therefore, the proposal is consistent with BCCS and UDP Policies.

11. Recommendation

11.1 That planning application 12/01081/FUL be granted, subject to standard conditions including;

- Landscaping
- Sustainable Drainage
- Materials
- Parking Provision
- Restrict hours of operation during demolition and construction
- Removal of permitted development for enclosure of the frontage

Case Officer : Ms Tracey Homfray
Telephone No : 01902 555641
Head of Planning – Stephen Alexander



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Planning Application No: 12/01081/FUL

Location	1 Cherrington Gardens, Wolverhampton, WV6 8AJ		
Plan Scale (approx)	1:1000	National Grid Reference	SJ 387702 298682
Plan Printed	24.10.2012	Application Site Area	617m ²

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/00899/RP

WARD: Bilston North

RECEIVED: 24.07.2012

APP TYPE: Retrospective Planning Permission

SITE: 40 Gerrard Road, Wolverhampton, West Midlands, WV13 3LB

PROPOSAL: Part Retrospective. Conservatory to rear of new extension

APPLICANT:

Mr Sukhjot Singh
40 Gerrard Road
Wolverhampton
WV13 3LB

AGENT:

Mr Gurprit Benning
GT Designs
82A Holyhead Road
Wednesbury
WS10 7PA

COMMITTEE REPORT:

1. Site Description

- 1.1 The application property is an extended semi-detached house set within an extensive corner plot adjacent to a public right of way. The property has an existing conservatory in addition to the proposed conservatory.
- 1.2 Planning application reference 11/00854/FUL, Granted 21.10.2011 for single storey extension to provide living accommodation for a disabled user is under construction. The internal layout to this application has changed to now include a study.

2. Application Details

- 2.1 The application proposal is part retrospective for a conservatory which has been attached to the approved extension ref: 11/00854/FUL, Granted 21.10.2011 currently under construction.
- 2.2 Construction of the conservatory has ceased further to advice upon visiting the site.

3. Planning History

11/00854/FUL for single storey rear extension,
Granted, dated 21.10.2011

4. Constraints

Mining Referral Area

5. Relevant Policies

The Development Plan

5.1 Wolverhampton's Unitary Development Plan

D4 - Urban Grain

D7 - Scale - Height

D8 - Scale - Massing

D9 – Appearance

5.2 Black Country Core Strategy (publication document Nov 2009). ENV3 - Design Quality

Other relevant policies

5.3 NPPF – National Planning Policy Framework

5.4 Wolverhampton's Supplementary Documents SPG No4 – Extension to Houses

6. Environmental Impact Assessment Regulations

6.1 This development proposal is not included in the definition of Projects that requires a “screening opinion” as to whether or not a formal Environmental Impact Assessment as defined by the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011/1824).

7. Publicity

7.1 Two objections were received in response to this application with one request to speak at planning committee. The reasons for objection can be summarised as follows:

- Overbearing impact
- loss of privacy

8. Legal Implications

8.1 Under S73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) on an application made to the local planning authority, planning permission which may be granted includes planning permission for development carried out before the date of the application. KR/25102012/H.

9. Appraisal

The key issues are impact on neighbour outlook and enjoyment of garden space.

Impact on Neighbours

- 9.1 The proposed conservatory is at the rear of the property and is to be attached to the previously approved extension. The distance between the conservatory and back of the properties along Vaughan Road to the rear is approximately one metre at its nearest point. Due to the design and location of the conservatory in respect of neighbouring properties, it is considered that amenities such as outlook, light and sunlight would not be significantly reduced.
- 9.2 Following negotiations with the applicant, the proposed conservatory has been designed to keep the roof height as low as possible to 2.9 metres to the highest pitch and 2.6 metres to the lowest pitch to minimise the effect on neighbour amenities such as outlook and enjoyment of garden space.
- 9.3 Therefore the proposed conservatory complies with BCCS policy ENV3, UDP Policies D7 and D8.

Impact on Public Right of Way

- 9.4 A public right of way runs alongside the site, connecting Gerrard Road and Vaughan Road. The proposal will raise the boundary wall alongside this route. However, the right of way is characterised by high walls as security issues are of concern along this route. Therefore, there would be no detrimental impact to street scene, compliant with BCCS policy ENV3 and UDP Policy D4.

Design

- 9.5 Due to the size of the plot and generous size of the garden the proposed conservatory would not result in an overdevelopment of the site, and is considered to be of a suitable height and scale and so as to maintain the existing character and appearance of the property. Consistent with BCCS policy ENV3 and UDP policies D7, D8 and D9.

10. Conclusion

- 10.1 Although it is appreciated that the occupiers of the properties along to the rear of Vaughan Road are of the opinion the conservatory will adversely affect neighbour amenities such as outlook and privacy, it is considered that due to location and height of the conservatory, the proposal would not adversely affect neighbour amenity to an unacceptable degree. Also, due to the size of the substantial size of the plot, the garden is capable of accommodating the proposed development. Therefore complying with the relevant UDP Policies D7-height and D8-Massing.

11. Recommendation

- 11.1 That Planning Application 12/00899/FUL be granted planning permission, subject to any appropriate planning conditions.

Case Officer : Ms Laleeta Butoy
Telephone No : 01902 555605
Head of Planning – Stephen Alexander



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Planning Application No: 12/00899/RP

Location	40 Gerrard Road, Wolverhampton, WV13 3LB		
Plan Scale (approx)	1:1250	National Grid Reference	SJ 395272 298097
Plan Printed	25.10.2012	Application Site Area	694m ²

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/00784/FUL

WARD: Tettenhall Regis

RECEIVED: 17.07.2012

APP TYPE: Full Application

SITE: The Claregate Public House, 34 Codsall Road, Wolverhampton

PROPOSAL: Erection of retail store on part of car park at the Claregate Public House.

APPLICANT:

Marstons Estates
C/O Agent

AGENT:

Mr Michael Robson
Cerda Planning Ltd
Suite 322
Fort Dunlop
Fort Parkway
Birmingham
B24 9FD

COMMITTEE REPORT:

1. Site Description

- 1.1 The site is located on part of the existing pub car park. Immediately to the south and east of the site are houses. The pub is located to the north of the application site. To the west, on the opposite side of Codsall Road, is an area of public open space.
- 1.2 A large Horse Chesnut tree is located to the west of the site. This tree is subject to a Tree Preservation Order.
- 1.3 A public right of way runs along the southern and western boundary of the site adjacent, linking Codsall Road and Glassford Drive.

2. Application Details

- 2.1 The proposal is for a single storey retail store, with a gross floor space of 377sq.m. The application is speculative, no operator is proposed.
- 2.2 The car park would be re-configured to provide parking for both the pub and the proposed retail store.
- 2.3 It is proposed to divert the public right of way to follow a more direct route across the site.

3. Constraints

- 3.1 Public Right of Way
Tree Preservation Order

4. Relevant Policies

4.1 National Planning Policy Framework

4.2 Black Country Core Strategy

CSP1 The Growth Network

CSP2 Development Outside the Growth Network

CSP3 Environmental Infrastructure

CSP4 Place-Making

CEN1 The Importance of the Black Country Centres for the Regeneration Strategy

CEN2 Hierarchy of Centres

CEN3 Growth in Strategic Centres

CEN4 Regeneration of Town Centres

CEN5 District and Local Centres

CEN6 Meeting Local Needs for Shopping and Services

CEN7 Controlling Out-of-Centre Development

TRAN2 Managing Transport Impacts of New Development

ENV2 Historic Character and Local Distinctiveness

ENV3 Design Quality

ENV8 Air Quality

WM1 Sustainable Waste and Resource Management

WM5 Resource Management and New Development

4.3 Unitary Development Plan

D3 Urban Structure

D4 Urban Grain

D5 Public Realm Public Open Private Space

D6 Townscape and Landscape

D7 Scale - Height

D8 Scale - Massing

D9 Appearance

D10 Community Safety

EP1 Pollution Control

EP4 Light Pollution

EP5 Noise Pollution

AM12 Parking and Servicing Provision

AM15 Road Safety and Personal Security

5. Environmental Impact Assessment Regulations

- 5.1 This development proposal is not included in the definition of Projects that requires a "screening opinion" as to whether or not a formal Environmental Impact Assessment as defined by the above regulations is required.

6. Publicity

6.1 Two petitions against the proposed store, one containing 255 signatures, the other 83, have been received. In addition, 89 individual letters of objection, including one from the local MP, have been received. The main points of concern are:

- Impact on existing businesses
- impact on residential amenity
- impact on traffic and highway safety
- Design
- Could become a focus for antisocial behaviour

6.2 Concerns regarding the operation and management of the existing public house have also been raised, but these are not relevant to this planning application.

7. Internal Consultees

7.1 **Environmental Health & Transportation Development** – See appraisal.

8. External Consultees

8.1 **Police** – The parking area to the rear of the store will have little natural surveillance.

9. Legal Implications

9.1 General legal implications are set out at the beginning of the schedule of planning applications. (LD/17102012/U).

10. Appraisal

10.1 The key issues are: -

- Economic benefits
- Retail policy
- Design
- Impact on residential amenity
- Transportation
- Protected tree and public right of way

Economic benefits

10.2 The National Planning Policy Framework (NPPF) says that “planning should operate to encourage.....sustainable growth” and that significant weight should be, “placed on the need to support economic growth”.

10.3 This is supported by the Black Country Core Strategy (BCCS) which envisages

and supports the creation of an economically prosperous Black Country.

- 10.4 The applicants state that the development would create approximately 20 jobs and represent a significant investment. For these reasons, the proposal would accord with the aims of the BCCS.

Retail Policy

- 10.5 The site occupies an out-of-centre location in terms of the National Planning Policy Framework (NPPF) and the development plan. In such locations a sequential test should be applied to demonstrate that there are no suitable sites in preferable locations in, or on the edge of existing centres. An assessment of the impact of the proposal on existing centres should also be undertaken. The NPPF states that if the application fails to satisfy the sequential test, or is likely to have a “significant adverse impact” on existing centres, it should be refused.
- 10.6 The size of the proposed store is relatively modest. Existing stores of a similar size and format predominantly provide for top-up shopping for local residents arriving on foot, rather than for people travelling significant distances by car for a larger shop. In this case, given the location of the application site, on a relatively busy arterial route, the car-based passing trade that the store will generate is likely to be for top-up shopping.
- 10.7 In relation to the sequential test, a 500m radius from the application site has been used for the proposals primary catchment as this is considered to represent a reasonable walking distance. This distance includes the Aldersley Local Centre which is a small and compact Local Centre where there is no opportunity for further retail provision.
- 10.8 A further site which has been identified and assessed is the former petrol station at Newbridge Local Centre. This is approximately 1,000 metres from the application site and therefore does not fall within the primary catchment area. Although any future convenience store provision at that site could potentially meet some of the need in the southern part of this applications primary catchment area, the distance between the two sites means that they have the potential to complement rather than duplicate provision by both serving their surrounding residential areas. There is also no evidence that the store proposed as part of this application would prevent future development coming forward at the site in Newbridge Local Centre.
- 10.9 In conclusion there are no sequentially preferable sites for the proposed development.
- 10.10 In terms of impact, the retail statement submitted with the application indicates that the proposed store is estimated to realise a turnover of approximately £2.6 million. The trade draw and impact of a store of this scale would cause a degree of impact on the vitality and viability of existing centres. However, there is no clear evidence that the proposals would cause a “significant adverse impact”.
- 10.11 Comparatively, there is a relative under-provision of local convenience stores in the area of the City in which the application site is located. The proposal will contribute to delivering economic growth and regeneration, enhancing

consumer choice, competition and employment creation. Approximately 20 full-time equivalent jobs would be created.

10.12 Therefore, the proposal is acceptable in terms of impact and sequential location, subject to conditions restricted the gross and net floorspace of the scheme to minimise the impact of the development on existing designated centres.

Design

10.13 The application site is currently a relatively large 'gap site' in the Codsall Road street frontage. The proposed building would fill this void, reinforcing the definition of the street and providing a sense of enclosure to it.

10.14 The proposed building would positively reflect the established street pattern along Codsall Road, projecting no further forward than the houses adjacent.

10.15 In addition, a significant proportion of the ground floor of the building, facing Codsall Road, would be glazed, ensuring that the proposed scheme assists in creating of a sense of activity and vitality.

10.16 The scale of the proposed building is compatible with its surroundings.

10.17 With regard to the architecture appearance, the elevations echo the existing public house with a strong gable feature facing onto Codsall Road. In addition, the proposed materials are appropriate and characteristic of the surrounding area, particularly the existing public house.

10.18 Whilst a parking area to the rear of the proposed store will have little natural surveillance. The installation of lighting and CCTV should assist in deterring anti-social behaviour. This information can be required by condition.

10.19 The design of the proposed building is therefore acceptable.

Impact on residential amenity.

10.20 The development would not result in any loss of sunlight to principal rooms or gardens of neighbouring properties.

10.21 There is a potential for noise disturbance, from deliveries, people coming and going and from plant and mechanical equipment. The proposed operating and delivery hours are as follows:

Opening hours:

- 0700 hrs to 2300hrs on Mondays to Saturdays
- 0800 hrs to 2300hrs on Sundays and Bank Holidays

Larger deliveries (including refuse collection):

- 0800 hrs to 1800hrs Monday to Saturdays
- 0900 hrs to 1800hrs Sundays and Bank Holidays

Small delivers (newspapers etc)

- 0700 hrs to 1800hrs Monday to Saturdays
- 0700 hrs to 1800hrs on Sundays and Bank Holidays

- 10.22 The proposed opening hours are reflective of similar sized stores operating elsewhere in the City. Currently, the existing public house is open every day from 11:30am to 11:00pm, with the exception of Sunday, when it opens at 11:00. The closing time of the proposed store therefore reflects that of the public house and is acceptable.
- 10.23 Whilst it is store would open at 7am, significant numbers of customers are unlikely to arrive at that time and the impact would therefore be comparatively low.
- 10.24 Noise from deliveries is more likely to have a significant impact on neighbouring residents than general comings and goings and it is therefore proposed to restrict delivery hours more severely than general opening hours. However, it is reasonable to draw a distinction between larger, articulated and refrigerated lorries and smaller vans delivering, for example, newspapers.
- 10.25 The precise detail of servicing and refuse arrangements can be specified in a written strategy which can be required by a planning condition.
- 10.26 Details of external plant and machinery have been submitted and are considered to be acceptable, subject to conditions controlling the level of noise emitted from the equipment and preventing any additional equipment being installed without written permission.
- 10.27 In summary, subject to relevant planning conditions, the impact on residential amenity would not be unacceptable.

Car parking & access

- 10.28 A store of the proposed size and type is expected to generate a demand of 15-20 vehicles at peak times. There is currently an oversupply of spaces for the existing public house and it is considered that the combined demand of the public house and the proposed store can be sufficiently accommodated on site, without overspill parking.
- 10.29 Whilst there would be a significant increase in traffic associated with the proposed store; this would not generate an unacceptable impact on traffic flow or highway safety on Codsall Road.
- 10.30 The site access would need to be slightly widened to allow for service vehicles. There is no objection to this in principle.
- 10.31 National Planning Policy Framework says that the, “development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”.
- 10.32 For the reasons set out above, the transport impacts of the development are not considered to be severe and the proposal is therefore acceptable on transport grounds.

Protected Tree and Public Right of Way

- 10.33 The submitted arboricultural report confirms that the existing protected horse chestnut tree would not be affected by the proposed development.

10.34 The proposed route of the diverted public right is acceptable as it would follow a more direct route across the site.

11. Conclusion

11.1 The development would bring economic benefits, creating jobs both during and after construction. It would not have a 'significantly adverse impact' on existing centres. The design of the building would positively contribute to improving the character of the area. The transport impacts would not be severe and subject to conditions, the development would not have an unacceptable impact on residential amenity.

11.2 Therefore the development is acceptable and in accordance with the development plan.

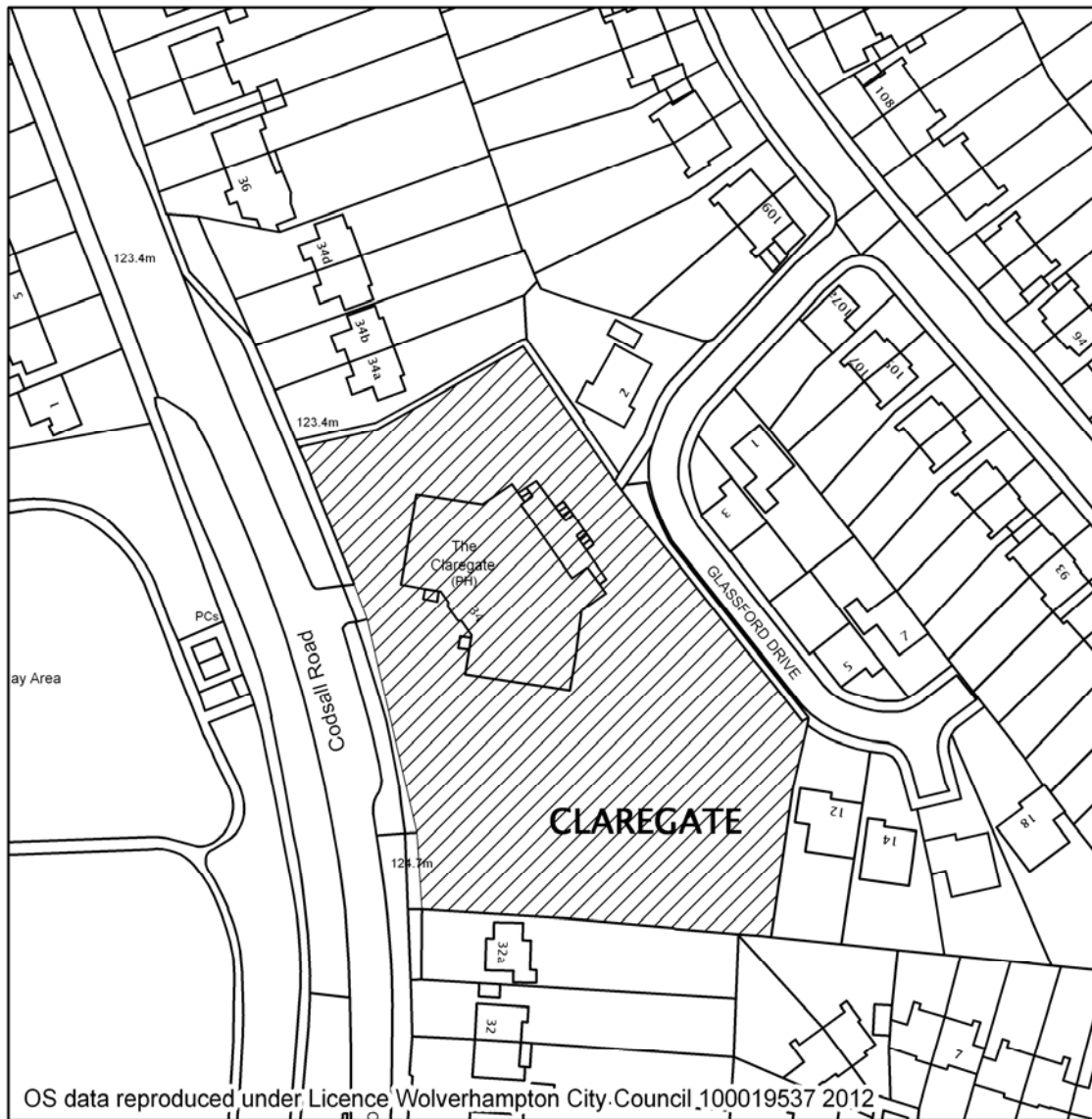
12. Recommendation

12.1 Grant, subject to the following conditions:

- Architectural details
- Landscaping and boundary treatment
- Cycle/motorcycle storage and provision of disabled parking
- Delivery and refuse collection details
- Restrict maximum delivery vehicle size
- Details of vents, flues, plant and machinery
- No additional vents, flues, plant, machinery without prior approval
- No external shutters/obscuring of windows
- CCTV and lighting details
- Bin stores
- Measures to mitigate impact of construction on residents

Note for information
Public right of way

Case Officer : Mr Richard Pitt
Telephone No : 01902 551674
Head of Planning – Stephen Alexander



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Planning Application No: 12/00784/FUL

Location	The Claregate Public House, 34 Codsall Road, Wolverhampton		
Plan Scale (approx)	1:1250	National Grid Reference	SJ 389289 300962
Plan Printed	24.10.2012	Application Site Area	5220m ²

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/00925/FUL **WARD:** Tettenhall Regis

RECEIVED: 08.08.2012

APP TYPE: Full Application

SITE: Danescourt, Danescourt Road, Wolverhampton

PROPOSAL: Creation of 26 apartments. Extension to former Lodge and conversion of Tara House to create two houses.

APPLICANT:

Mr Nouredine Elbakkali
Bantock Homes Ltd
9 Salisbury Street
Wolverhampton
WV3 0BG

AGENT:

Mr Graham Onions
Caeparius Ltd
Taptag House
PO Box 190
Wolverhampton
WV3 9TA

COMMITTEE REPORT:

1. Site Description

- 1.1 This 1.8ha site is situated close to the boundary of the City, approximately 3.5km from the City Centre and about 1km from Tettenhall District Centre. The site is located within the Green Belt.
- 1.2 The main part of the site is occupied by the former Danescourt Children's Centre which was completed in the 1970s and is now disused and appears to be in a poor state of repair. The accommodation consists of 30 bedrooms, communal and service areas, staff rooms and administration. There are 26 parking spaces serving the Children's Resource Centre.
- 1.3 A smaller childrens care home would remain operational, adjacent to the application site.
- 1.4 The frontage onto Danescourt Road, which includes the Lodge (this is the original lodge to Danes Court, demolished in the mid- 20th Century) and Tara House Rehabilitation Unit, is within the Tettenhall Greens Conservation Area. The Lodge, gate pier and stone walling on the Danescourt Road frontage of the site are locally listed.
- 1.5 The general character of the site and the surrounding area is one of countryside with pockets of small scale development with open landscape and woodland. The site itself is largely enclosed by hedgerows and woodland.
- 1.6 The site is accessed off Danescourt Road which links to the A41 Wergs Road to the South and leads to Stockwell End to the east. Danescourt Road gets busy during peak hours and the morning rush hour in particular, but is relatively quiet at other times. Its character as a country lane is attractive.

2. Application Details

- 2.1 The application can be split into three parts. The most significant part is the creation of a two storey building, on the footprint of the carehome, containing 26, two bedroomed apartments.
- 2.2 The second is the conversion of Tara House back into two houses, with some cosmetic alterations to its external appearance.
- 2.3 Thirdly, the application proposes the extension of the former Lodge which will remain as a single dwelling.

3. Constraints

- 3.1 Tettenhall Green Conservation Area
Tree Preservation Order
Green Belt

4. Relevant Policies

- 4.1 National Planning Policy Framework
- 4.2 Black Country Core Strategy
CSP2 Development Outside the Growth Network
CSP4 Place Making
ENV2 Historic Character and Local Distinctiveness
ENV3 Design Quality
EMP5 Improving Access to the Labour Market
HOU1 Delivering Sustainable Housing Growth
HOU2 Housing density, Type and Accessibility
TRAN2 Managing Transport Impacts of New Development
ENV2 Historic Character and Local Distinctiveness
ENV3 Design Quality
ENV7 Renewable Energy
ENV8 Air Quality
WM1 Sustainable Waste and Resource Management
WM5 Resource Management and New Development
- 4.3 Unitary Development Plan
D3 Urban Structure
D4 Urban Grain
D5 Public Realm Public Open Private Space
D6 Townscape and Landscape
D7 Scale - Height
D8 Scale - Massing
D9 Appearance
D10 Community Safety
D11 Access for People with Disabilities part
D12 Nature Conservation and Natural Features
D13 Sustainable Development Natural Energy
D14 The Provision of Public Art

- EP8 Water Supply Arrangements for Development
- EP9 Sustainable Drainage Arrangements for Development
- HE1 Preservation of Local Character and Distinctiveness
- HE3 Preservation and Enhancement of Con. Areas
- HE4 Proposals Affecting a Conservation Area
- HE5 Control of Development in a Con. Area
- HE8 Encouragement of Appropriate ReDev in CA
- HE10 Removal of PD Rights in a Con. Area
- HE12 Preservation and Active Use of LBs
- HE18 Preservation & Enhancement of Local Building
- HE19 Development Affecting a Local List Building
- HE20 Demolition of a Local List Building Site
- N1 Promotion of Nature Conservation
- N9 Protection of Wildlife Species
- G2 Control of Development in the Green Belt
- G3 Con. of Dev. Conspicuous from the Green Belt
- R7 Open Space Requirements for New Develop.
- H6 Design of Housing Development
- AM12 Parking and Servicing Provision
- AM15 Road Safety and Personal Security

5. Environmental Impact Assessment Regulations

- 5.1 This application is considered to be a Schedule 2 Project as defined by the above Regulations. The “screening opinion” of the Local Planning Authority is that a formal Environmental Impact Assessment is not required in this instance as the development is unlikely to have a significant effect on the environment as defined by the above Regulations and case law.

6. Publicity

- 6.1 Thirteen letters have been received from neighbouring residents. Whilst many welcome some form of development to replace the current vacant and derelict site, concerns have been raised regarding:
- Impact of traffic on Danescourt Road
 - Appearance of the proposed development
 - Damage to existing boundary wall

7. Internal Consultees

- 7.1 **Transportation & Environmental Health** – See appraisal
- 7.2 **Tree Officer** – No objections provided suitable replacement planting is provided.

8. Legal Implications

- 8.1 General legal implications are set out at the beginning of the schedule of planning applications.
- 8.2 In addition, when an application is situated in or affects the setting of a Conservation Area by virtue of Sections 72 and Sections 73 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering the application and exercising their powers in relation to any buildings or other land in or adjacent to a Conservation Area the Local Planning Authority must ensure that special attention is paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area and further should have regard to any representations ensuing from the publicity required under Sections 73 of the said Act
- 8.3 The Planning Authority is also a competent authority for the purposes of The Conservation of Habitats and Species Regulations 2010 ("the Habitat Regulations") and the Planning Authority is under a duty to have regard to the Habitats Directive (Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora) in the exercise of its function so far as any requirements of the Habitats Directive may be affected by the exercise of those functions. Planning authorities should give due weight to the presence of protected species on a development site to reflect these requirements in reaching planning decisions.
- 8.4 It should be noted that Paragraph 99 of Circular 06/2005 "Biodiversity and Geological Conservation - Statutory Obligation and their impact within the Planning System" provides that it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development is established before the planning permission is granted otherwise all the relevant material considerations may not have been addressed before making the decision . The need to carry out ecological surveys should only be left to planning conditions in exceptional circumstances. LC/24102012/B

9. Appraisal

- 9.1 The key considerations in determining this application are:
- Impact on the Green Belt
 - Acceptability of residential use
 - Design
 - Impact on historic environment
 - Transportation
 - Nature Conservation
 - S106 Obligations

Green Belt

- 9.2 The National Planning Policy Framework (NPPF) states that the Government attaches great importance to Green Belts and that their fundamental aim is to, "prevent urban sprawl by keeping land permanently open".

- 9.3 The NPPF also states that the local planning authority should regard the construction of new buildings as inappropriate in Green Belt. However, there are exceptions to this, including:

“...complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use....which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development”.

- 9.4 The proposed development is located on a previously developed site and uses the same footprint of the existing building. The building would also be of a similar scale to that of the existing building. For these reasons, the proposed building would not be inappropriate development.
- 9.5 In addition, as the proposed extension to the lodge would not result in “disproportionate additions over and above the size of the original dwelling” it does not constitute inappropriate development.

Acceptability of Residential Use

- 9.6 The application site is included in the Wolverhampton Strategic Housing Land Availability Assessment (May 2012) as a site suitable for housing, with a minimum capacity of 9 dwellings.
- 9.7 Not only are there a number of residential properties in the surrounding area, but there is a need for around 450 homes (of all types and sizes) in the Tettenhall Neighbourhood Plan area (covering the Tettenhall Wightwick and Tettenhall Regis wards) over the next 15 years (taken from the Wolverhampton Strategic Housing Land Availability Assessment May 2012) and relatively few housing sites. The larger housing sites in the Tettenhall area which are coming forward, or are anticipated to come forward in the near future, are expected to provide 4 or 5 bedroomed detached houses.
- 9.8 The proposed development would therefore help meet the area’s housing target and also help increase the variety of new homes available in the area in line with Black Country Core Strategy Policy HOU2.

Design

- 9.9 The proposed development is set in a context where there is not a unifying architectural character. Instead, the surrounding area illustrates that different architectural styles can evolve compatibly and still retain their own aesthetic character.
- 9.10 The proposed apartments, which would have a contemporary appearance, would not be readily visible from the surrounding area. A contemporary approach to the architecture is acceptable in principle as it is desirable to have representative buildings of all periods – including our own. Also, whilst the overall appearance is contemporary, the use of scale and proportion mean that the proposed building would not appear alien.
- 9.11 Only cosmetic alterations will be made to the external appearance of Tara House. The proposed extension to the Lodge would have a contemporary appearance, being constructed predominantly of glass. The alterations to both Tara House and the Lodge are acceptable.

- 9.12 The proposed design is acceptable, would preserve and enhance area and is in accordance with UDP policies H6, D3, D4, D5, D6, D7, D8, D9 and D10 and BCCS policies ENV3, CSP4 and WM5.

Impact on the Historic Environment

- 9.13 Part of the site, including the Lodge and former rear gardens of Tara House, is located within the Tettenhall Green Conservation Area. The Lodge is also a locally listed building.
- 9.14 The proposed extension to the Lodge is of a contemporary appearance, which is intended to compliment, rather than compete with the existing building. The proposal is in accordance with the development plan as it would not have an adverse effect on the buildings special character or historic interest. There is therefore no objection in principle, subject to the conditioning of appropriate architectural detailing and materials.
- 9.15 At present, the historic boundary wall onto Danescourt Road is damaged; the application proposes to repair this damage. The boundary walls would also need to be re-aligned to improve visibility. There are no objections to this in principle, subject to securing details of the proposed materials.
- 9.16 The proposed apartments would not be located in, or visible from, the Conservation Area and therefore do not affect its setting.

Transportation

- 9.17 Whilst the proposals would significantly increase traffic flows to and from the site it would be unlikely to have a significant impact on traffic flows on Danescourt Road and the remainder of the local Highway Network. Sufficient parking spaces are proposed. The proposal is therefore acceptable on transport grounds subject to realignment of the existing boundary wall to improve visibility.

Nature Conservation

- 9.18 The site is of ecological interest. A Phase 1 habitat survey has highlighted the potential for both bats and badgers at the site. Further assessments are now necessary to determine if these protected species are present and planning permission should not be issued until this has occurred. However, even if the presence of the protected species is established, it is very likely that appropriate mitigation measures can be put in place.

Planning Obligations

- 9.19 In accordance with the development plan there is a requirement for:
- 25% affordable housing,
 - public open space contribution
 - a scheme for targeted recruitment and training,
 - 10% renewable energy
 - public art
- 9.20 The applicants have stated that the impact of the current financial situation and challenging market conditions have led to a need to seek cost reductions. They

are therefore seeking a reduction in the S106 obligations as part of this application.

- 9.21 On the 11th of November 2009 and 23rd of March 2011 Cabinet endorsed a recommendation that a flexible and pro-active approach to planning obligations is taken, in response to the economic downturn. This would also be in line with the advice in the National Planning Policy Framework which provides that “where obligations are being sought, local planning authorities should take account of changes in market conditions over time and where appropriate, be sufficiently flexible to prevent planned development being stalled.”
- 9.22 Should it be demonstrated that the scheme is insufficiently viable to meet the full S106 requirements then it would be justified to reduce the contributions accordingly, in order to support early development.

10. Conclusion

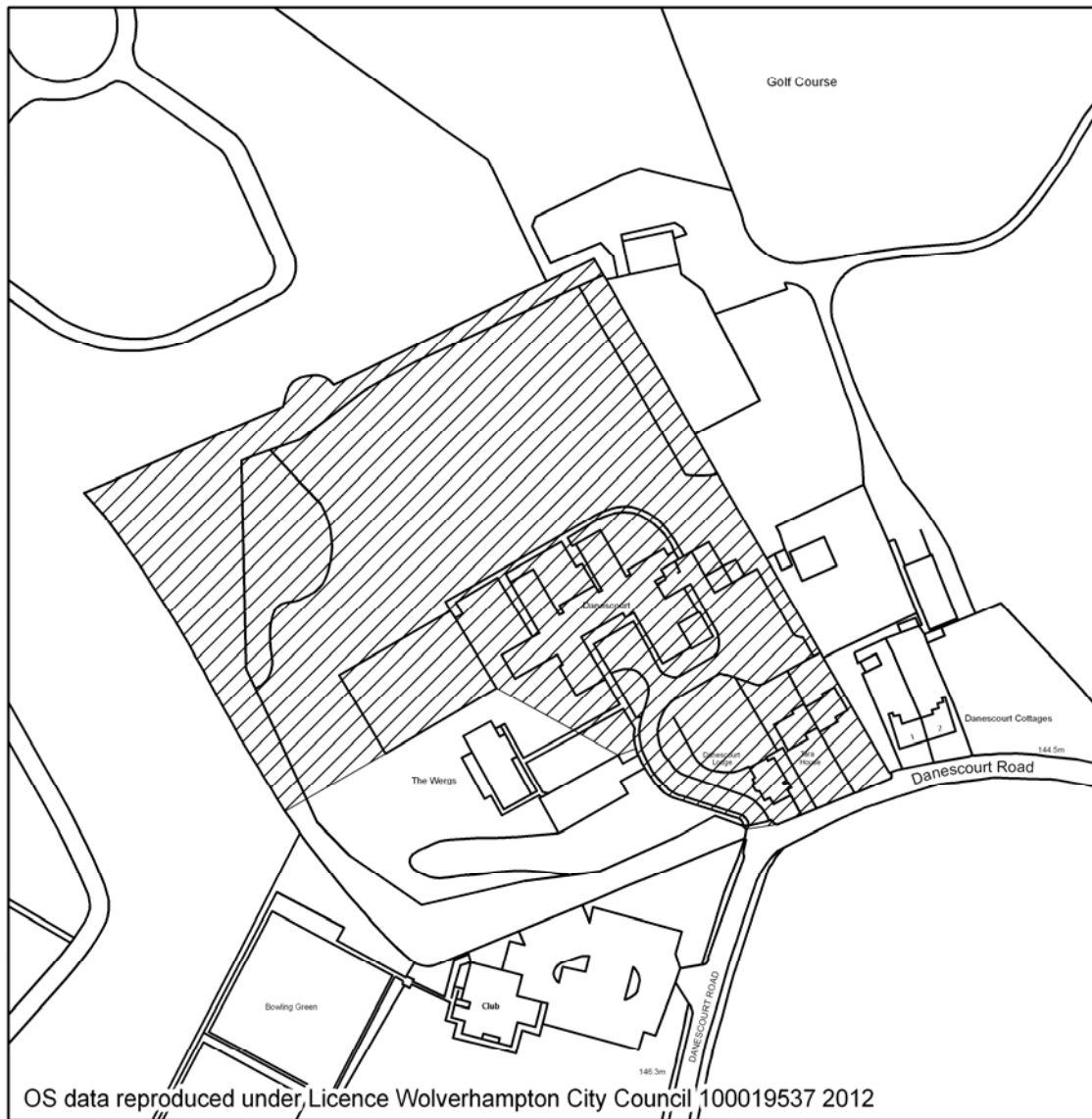
- 10.1 The proposal would represent a significant investment in the city and create a considerable number of jobs during construction and good quality homes upon completion.
- 10.2 The proposed development is appropriate in the Green Belt. The design is acceptable. The proposal is acceptable on transport grounds. The proposed is acceptable and in accordance with the development plan.

11. Recommendation

- 11.1 That the Interim Director for Education and Enterprise be given delegated authority to grant planning application 12/00925/FUL subject to:
- (i) Completion and submission of satisfactory bat and badger surveys and appropriate mitigation measures.
- (ii) Negotiation and completion of a S106 to include:
For the whole development:
- a scheme for targeted recruitment and training
 - Management of communal amenity area
- If viable:
- 25% affordable housing,
 - public open space compensation
 - 10% renewable energy
 - public art
- If not viable:
A reduction in the requirements for public art, public open space/play contribution, renewable energy and affordable housing, commensurate with the lack of viability demonstrated, on a pro-rata basis for all dwellings that are ready for occupation within 3 years from the date of this Committee.

- (iii) Conditions to include:
- Materials
 - Architectural details
 - Landscaping
 - Boundary treatment
 - Nature Conservation
 - Drainage
 - Site waste management plan
 - Bin stores for the apartments
 - Cycle and motorcycle parking for the apartments
 - Measures to reduce the impact of construction of the development on local residents
 - Realignment of the boundary wall to improve visibility

Case Officer : Mr Richard Pitt
Telephone No : 01902 551674
Head of Planning – Stephen Alexander



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Planning Application No: 12/00925/FUL

Location	Danescourt, Danescourt Road, Wolverhampton		
Plan Scale (approx)	1:1250	National Grid Reference	SJ 388345 300723
Plan Printed	24.10.2012	Application Site Area	18093m ²

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/01152/FUL

WARD: St Peters

RECEIVED: 25.09.2012

APP TYPE: Full Application

SITE: Asia Takeaway And Restaurant, Great Hampton Street,
Wolverhampton

PROPOSAL: Erection of a detached two storey building. The ground floor is proposed to be used as a retail shop (Use Class A1) and the first floor as a residential flat (Use Class C3: Dwelling Houses)

APPLICANT:

Mr Soran Kadir
Asia Restaurant, Great Hampton Street
Wolverhampton
WV1 4AY

AGENT:

Mr Jacob Sedgemore
Stoneleigh Architectural Services Ltd
Compton Whard
Bridgnorth Road
Compton
Wolverhampton
WV6 8AA

COMMITTEE REPORT:

1. Site Description

1.1 The site is located on a prominent corner plot at the junction of Staveley Road and Great Hampton Street. It forms part of the existing car park for the Asia Takeaway and Restaurant (formerly the Ash Tree public house). The existing restaurant is a two storey building with car parking around each of its sides. Immediately to the east and south of the site is housing. On the opposite side of Staveley Road is housing and a cluster of small shops. A Police office building is on the opposite corner of Great Hampton Street.

2. Relevant Planning History

2.1 **06/0195/OP/M.** Three storey apartment building. Refused 28.04.2006.

3. Application Details

3.1 The proposal is for the erection of a retail shop with flat above. The shop would have a gross floor space of 180 sq.m.

3.2 The building would be two storey at the front and single storey at the back. It would be positioned on a part of the existing restaurant car park between the restaurant building and 197 Staveley Road.

3.3 The current car park would be re-configured to provide spaces for both the restaurant and the proposed retail store and flat. Twenty six off street car

parking spaces (including two disabled person bays) would be provided. Refuse storage and cycle parking would be provided.

- 3.4 110 sq.m. of private amenity space would be provided to the rear of the building for use by the future occupants of the flat.

4. Relevant Policies

4.1 National Planning Policy Framework

4.2 Black Country Core Strategy

CSP2 Development Outside the Growth Network

CSP3 Environmental Infrastructure

CSP4 Place Making

HOU1 Delivering Sustainable Housing Growth

HOU2 Housing density, Type and Accessibility

CEN1 The Importance of the Black Country Centres for the Regeneration Strategy

CEN2 Hierarchy of Centres

CEN3 Growth in Strategic Centres

CEN4 Regeneration of Town Centres

CEN5 District and Local Centres

CEN6 Meeting Local Needs for Shopping and Services

CEN7 Controlling Out-of-Centre Development

ENV2 Historic Character and Local Distinctiveness

ENV3 Design Quality

EMP5 Improving Access to the Labour Market

TRAN2 Managing Transport Impacts of New Development

TRAN4 Creating Coherent Networks for Cycling and for Walking

EMP1 Providing for Economic Development

ENV2 Historic Character and Local Distinctiveness

ENV3 Design Quality

ENV7 Renewable Energy

ENV8 Air Quality

WM1 Sustainable Waste and Resource Management

WM5 Resource Management and New Development

4.3 Unitary Development Plan

D3 Urban Structure

D4 Urban Grain

D5 Public Realm Public Open Private Space

D6 Townscape and Landscape

D7 Scale - Height

D8 Scale - Massing

D9 Appearance

D10 Community Safety

D11 Access for People with Disabilities part

D12 Nature Conservation and Natural Features

D13 Sustainable Development Natural Energy

D14 The Provision of Public Art

EP1 Pollution Control

EP5 Noise Pollution

- EP8 Water Supply Arrangements for Development
- EP9 Sustainable Drainage Arrangements for Development
- H6 Design of Housing Development
- AM12 Parking and Servicing Provision
- AM15 Road Safety and Personal Security

- 4.4 Supplementary Planning Documents
SPG No.3 Residential Developments

5. Environmental Impact Assessment Regulations

- 5.1 The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011/1824) require that where certain proposals are likely to have significant effects upon the environment, it is necessary to provide a formal "Environmental Impact Assessment" to accompany the planning application. (This is explained at the beginning of the schedule of planning applications).
- 5.2 This development proposal is not included in the definition of Projects that requires a "screening opinion" as to whether or not a formal Environmental Impact Assessment as defined by the above regulations is required.

6. Publicity

- 6.1 Three letters of objection have been received and a petition containing twelve signatures. The following comments were raised:
 - Unacceptable impact on residential amenity, particular problems being from an increase in likely noise and general disturbance
 - Security and safety concerns
 - Loss of privacy and sunlight to neighbouring houses
 - Damage to existing boundary fences
 - Litter problems
 - No need for an additional local shop at this location
 - Loss of residential character
 - Detriment to traffic flows and lack of parking

7. Internal Consultees

- 7.1 Environmental Health & Transportation Development – See appraisal.

8. Legal Implications

- 8.1 General legal implications are set out at the beginning of the schedule of planning applications.
- 8.2 Under the Use Classes Order 2010, the use of the shop would fall under Use Class A1 and the flat C3 dwelling house. In light of the nature of the

development the conditions discussed below should be attached to any grant of permission. Legal implications reference LM/24102012/N.

9. Appraisal

9.1 The key considerations in determining this application are:

- Economic Benefits
- Acceptability of mixed use retail and residential uses
- Design and Appearance
- Access and Parking
- Residential Amenity

Economic benefits

9.2 The National Planning Policy Framework (NPPF) says that “planning should operate to encourage.....sustainable growth” and that significant weight should be, “placed on the need to support economic growth”.

9.3 This is supported by the Black Country Core Strategy (BCCS) which envisages and supports the creation of an economically prosperous Black Country.

9.4 The applicants state that the development would create approximately two full-time and six part-time jobs and represent a significant investment. For these reasons, the proposal would accord with the aims of the BCCS.

Acceptability of mixed use retail and residential development

Retail Use

9.5 The size of the retail shop, at less than 200 sq.m would be appropriate at this out of centre location. The shop will meet a local need for shopping. The proposal is in accordance with BCCS policy CEN6.

Residential Use

9.6 The site is located in a predominately residential area. It is a sustainable location with good access to bus services, local facilities and services. The site is suitable for residential use and the proposal is in accordance with BCCS policy HOU2.

Design and Appearance

9.7 The application site currently has the appearance of a ‘gap site’ in the Staveley Road street frontage. The proposed building would fill this gap, reinforcing the definition of the street adding to the sense of enclosure to it.

9.8 The proposed building would positively reflect the established street pattern along Staveley Road, projecting no further forward than the houses adjacent.

9.9 In addition, a significant proportion of the ground floor of the building, facing Staveley Road, would be glazed, ensuring that the proposed scheme assists in creating of a sense of activity and vitality.

9.10 The scale of the proposed building is compatible with its surroundings.

- 9.11 With regard to the architecture appearance, this is in keeping with surrounding buildings. The proposed materials are appropriate and characteristic of the surrounding area.
- 9.12 UDP policy H6 “Design of Housing Development” requires proposals for residential development to have adequate provision of private amenity space. The level of amenity space proposed is acceptable.
- 9.13 For the reasons set out above, the design would take many of the opportunities available for improving the quality of the area and would positively contribute to improving the character of the area. The design of the proposed development is therefore acceptable. The proposal is in accordance with UDP policies D5, D7, D8, D9 and H6 and BCCS policies CSP4, ENV3 and HOU2.

Access and Parking

- 9.14 The site layout includes an adequate number of car parking spaces and satisfactory vehicular circulation system. There are also satisfactory arrangements for the servicing of the retail shop. The proposals are in accordance with UDP policy AM12 and BCCS policies TRAN2 and TRAN4.

Residential Amenity

- 9.15 The development would not result in any loss of sunlight to principal rooms or gardens of neighbouring properties. This is because of the intervening distance between the building and the neighbouring properties and its step down from two storeys at the front to single storey at the back.
- 9.16 The likeliest impact on neighbouring residents, as a result of the development, will be from potential noise from deliveries to the shop, people coming and going and possibly from plant and mechanical equipment. Following discussions with the applicants, the proposed operating and delivery hours are as follows:

Store opening hours:

- 0700 hrs to 2300hrs on Mondays to Saturdays
- 0800 hrs to 2300hrs on Sundays and Bank Holidays

Larger vehicle deliveries (including refuse collection):

- 0800 hrs to 1800hrs Monday to Saturdays
- 0900 hrs to 1800hrs Sundays and Bank Holidays

Small van deliveries

- 0700 to 1800 Monday to Saturdays
- 0800 to 1800 Sundays and Bank/Public Holidays.

- 9.17 The proposed opening hours are reflective of similar sized stores operating elsewhere in the City.
- 9.18 Whilst it is proposed that the store would open relatively early, it is not considered that significant numbers of people would be arriving at that time and that the impact would therefore be comparatively low.

- 9.19 Noise from deliveries is more likely to have a significant impact on neighbouring residents than general comings and goings and it is therefore proposed to restrict delivery hours more severely than general opening hours. However, it is considered reasonable to draw a distinction between larger, articulated and refrigerated lorries delivering food and goods and smaller vans delivering, for example, newspapers.
- 9.20 The precise detail of servicing and refuse arrangements can be specified in a written strategy which can be required by a planning condition.
- 9.21 A standard condition is recommended to require details of any plant of machinery likely to generate noise or fumes.
- 9.22 In summary, whilst the proposal would have some impact on residential amenity, particularly with regard to noise, it is considered that, subject to relevant planning conditions, the impact would not be detrimental.

10. Conclusion

- 10.1 The scheme would bring economic benefits, creating jobs both during and after construction.
- 10.2 The principle of a small shop with flat above at this location is acceptable.
- 10.3 The design of the scheme would positively contribute to improving the character of the area and is acceptable.
- 10.4 The transport impacts of the development are acceptable and the proposal is therefore acceptable on transport grounds.
- 10.5 The residential amenities of existing residents, in terms of outlook, noise, privacy and daylight, are preserved, and the impact in residential terms would be acceptable subject to conditions relating to hours of opening and deliveries.

11. Recommendation

- 11.1 That Planning Application 12/01152/FUL be granted with relevant conditions including;
- External Materials
 - Drainage
 - Provision and retention of car parking and vehicular circulation system
 - Cycle/motorcycle storage and provision of disabled parking
 - External lighting
 - Servicing and refuse details
 - Bin storage
 - Operational hours during construction
 - Restrict shop to A1 (retail) use

- Boundary treatments No external plant, ventilation equipment, meter Boxes, vents, flues, aerials, satellite dishes etc without the written approval of the local planning authority
- Hours of opening and deliveries
- No external shutters/obscuring of shop front windows
- Sound insulation between the business outlet and the adjoining living accommodation above
- Details of vents/flues/plant or machinery
- Obscure glazing for first floor landing window overlooking 197 Staveley Road

Case Officer : Mr Phillip Walker

Telephone No : 01902 555632

Head of Planning – Stephen Alexander



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Planning Application No: 12/01152/FUL

Location	Asia Takeaway And Restaurant, Great Hampton Street, Wolverhampton		
Plan Scale (approx)	1:1250	National Grid Reference	SJ 391061 299573
Plan Printed	24.10.2012	Application Site Area	1591m ²

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/01039/VV

WARD: Blakenhall

RECEIVED: 03.09.2012

APP TYPE: Vary of Condition(s) of Previous Approval

SITE: 106 Birmingham Road, Wolverhampton, WV2 3NH

PROPOSAL: To allow 24 hour use of the building as a gym

APPLICANT:
Pure Gym Limited
c/o Agent

AGENT:
Mr James Mumby
Pegasus Planning Group
5 The Priory Old London Road
Canwell
Sutton Coldfield
B75 5SH

COMMITTEE REPORT:

1. Site Description

- 1.1 The site, 106 Birmingham Road, occupies a fairly prominent position, on a main arterial route into the city. This site is located approximately 1.3 km south of the City Centre and covers an area of approximately 0.55 ha.
- 1.2 To the west, the site adjoins small commercial premises; otherwise the site is surrounded by houses.

2. Application details

- 2.1 Planning permission 11/001164/FUL for use of the premises as a gym was granted subject to restricted operating hours, in order preserve the amenity of the area.
- 2.2 Planning permission 12/00379/VV for 24 hour use of the gym was granted for a temporary 12 month period, to allow for the impact of the gym on neighbour amenity to be assessed.
- 2.3 This application proposes the removal of the condition which restricts the 24-hour use of the premises for a 12 month period, in order to allow the permanent operation of the gym for 24 hour use.

3. Planning History

- 3.1 11/01164/FUL – Change of use from retail to a gym. Granted 1st of March 2012.
- 3.2 12/00379/VV – Variation of condition 5 of application 11/01164/FUL to allow 24-hour use as a gym. Granted 24th of May 2012.

4. Relevant Policies

4.1 National Planning Policy Framework

4.2 Black Country Core Strategy

TRAN2 Managing Transport Impacts of New Development

4.3 Wolverhampton's Unitary Development Plan

EP4 – Light Pollution

EP5 – Noise Pollution

AM12 – Parking and Service Provision

AM15 – Road Safety and Personal Security

5. Environmental Impact Assessment Regulations

5.1 This development proposal is not included in the definition of Projects that requires a "screening opinion" as to whether or not a formal Environmental Impact Assessment as defined by the above regulations is required.

6. Publicity

6.1 Two letters of objection from local residents have been received. The main concerns raised relate to the impact of the proposal on residential amenity, parking problems relating to parking as result of the increase in traffic, overlooking and light pollution.

7. Internal Consultees

7.1 **Environmental Health & Transportation** – See appraisal

8. Legal Implications

8.1 General legal implications are set out at the beginning of the schedule of planning applications.

8.2 This application is made under Section 73 of the Town and Country Planning Act 1990 and is therefore an application "for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted". On an application under S73 the planning authority must consider the question of the conditions. If the proposed amended conditions are acceptable, permission should be granted with the new conditions, any conditions on the original permission which remain relevant and any other conditions required that would make the proposal acceptable (provided that these conditions could have been imposed lawfully on the earlier permission and do not amount to a fundamental alteration of the proposal put forward in the original application). Such a new permission would be an alternative to the original permission, which would remain extant. It should be noted that this is not an opportunity to revisit the grant of permission. However

the application must still be determined in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 but attention should be focussed on policies or material changes which may have changed significantly since the original grant of permission.
(LD/17102012/K)

9. Appraisal

9.1 The key issues in determining the application are

- Transportation
- Residential Amenity

Transportation

9.2 Currently, the use of premises does result in some overspill parking on Birmingham Road, but the impact of this is not severe. The National Planning Policy Framework says that the, “development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”.

9.3 The original planning consent 11/001164 approved the use of the premises as a gym between 0700 to 2200 hours Monday - Friday and 0800-1800 hours Saturdays, Sundays and Bank Holidays. The vast majority of the current overspill parking occurs between these hours. Therefore, preventing the 24-hour use of the premises as a gym would not ease the existing parking issues.

9.4 Whilst it is likely that membership levels at the gym will temporarily increase in the New Year, is it highly likely that this additional impact will also be focused at the peak hours already approved.

9.5 Therefore, there is no transportation reason to refuse permission for permanent 24-hour operation.

Residential Amenity

9.6 The site is in very close proximity to existing dwellings and several noise complaints were received when the premises first opened. However, these related to the authorised erection of mechanical and plant equipment. This matter has now been resolved and no further complaints have been received.

9.7 Subject to the imposition of conditions to prevent further plant and mechanical equipment being installed and also to control the level of noise generated from plant and equipment, permanent 24 use of the gym would not create an unacceptable impact on neighbouring residents in relation to noise pollution.

9.8 Two additional concerns from local residents, light pollution and a perceived loss of privacy as a result of occupiers from the gym overlooking the houses on the opposite side of Birmingham New Road.

9.9 In relation to the first issue, no lights are directly pointed at adjacent dwellings and general light levels emitted from the premises are similar to the ambient levels generated by the street lights.

- 9.10 In relation to the perceived loss of privacy, the operators have recently installed an opaque film windows directly opposite those properties affected, preventing users of the gym from being able to see across the street.
- 9.11 For these reasons, there would be no unacceptable impact on residential amenity.

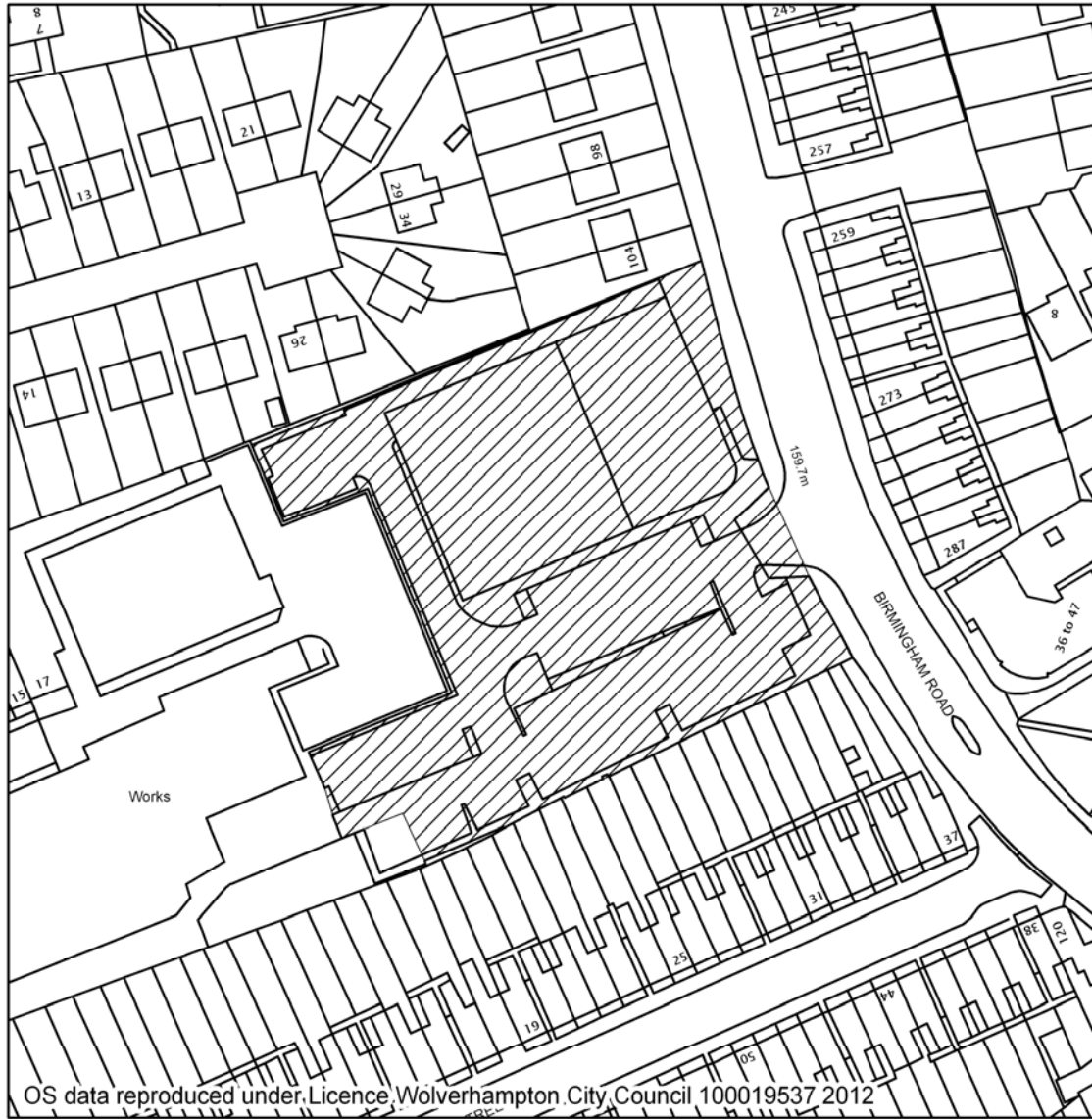
10. Conclusion

- 10.1 There is no Transportation reason to refuse permission for permanent 24-hour operation and subject to the imposition of conditions, the proposal would not have an unacceptable impact on the amenity of neighbouring residents. The proposal is therefore acceptable and in accordance with the development plan.

11. Recommendation

- 11.1 That Planning Application 12/01039/VV be granted, subject to relevant conditions from planning permission 12/00379/VV.

Case Officer : Mr Richard Pitt
Telephone No : 01902 551674
Head of Planning – Stephen Alexander



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Planning Application No: 12/01039/VV

Location	106 Birmingham Road, Wolverhampton, WV2 3NH		
Plan Scale (approx)	1:1250	National Grid Reference	SJ 391707 297342
Plan Printed	24.10.2012	Application Site Area	5482m ²

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/00652/FUL

WARD: Bushbury North

RECEIVED: 29.05.2012

APP TYPE: Full Application

SITE: Wentworth Lodge Residential Home, Wentworth Road,
Wolverhampton

PROPOSAL: Two storey side extension and internal alterations to create eight additional bedrooms (resulting in 44 residential bedrooms)

APPLICANT:

Mrs Sandra Dell
Wentworth Lodge Residential Care Home
Wentworth Lodge
Wentworth Road
Bushbury
Wolverhampton
WV10 8EH

AGENT:

Mr Nick Massey
5 Knightsbury Close
Walsall
WS4 2HZ

COMMITTEE REPORT:

1. Site Description

- 1.1 The property concerned is a residential home, located on a prominent corner location, within a predominantly residential area, with a street scene consisting mainly of two storey semi-detached houses.
- 1.2 The premises has a large area of surfaced car parking surrounding the property to both Wentworth Road and Pendrill Road, and a private enclosed landscaped garden area to the southern/western aspect of the site.

2. Application details

- 2.1 The proposal involves a first floor side extension and two storey side extension. The proposal also includes some internal changes to create eight additional bedrooms, which would result in a forty four bedroom Residential Home.
- 2.2 The size of the two storey side extension (including the first floor extension) measures – 14m wide and 11.9m deep, with a feature gable projecting out to the frontage by 1m. The design is in keeping with the existing residential home, with a brick facade, and a pitched tiled roof.
- 2.3 The extension would provide four new bedrooms to the ground floor, and six new bedrooms to the first floor. The internal alterations to the existing ground floor element would convert three existing bedrooms into a new lounge and laundry, and the conversion of the existing laundry to a new bedroom. This results in eight additional bedrooms.

3. Planning History

- 3.1 11/00121/FUL – first floor rear extension creating five new bedrooms, refused on 24 March 2011. Appeal dismissed on 17 October 2011.

Inspectorate states:

“the extension would appear bulky and incongruous addition to the rear of the home, owing little to the original design, and overwhelming the visible part of the rear elevation. Some visual harm would also result (albeit from a greater distance) in views from Pendrill Road, to the north)”

“Specific impact on the proposal on the aspect from No. 6 Denstone Gardens, whose side elevation and rear garden share a common boundary with the appeal site”

“As to the question of car-parking, the Council provide little detail to explain their concerns (although I have noted a number of representation by the local residents about the issue). The block plan accompanying the application indicated a layout to accommodate 10 spaces; and while I accept that little further detail was shown, I have been given no reason to believe that the area available for parking and manoeuvring would be inadequate, or that the matter could not be satisfactorily resolved by condition. This objection, therefore, is one to which I have not attached a great deal of weight”

- 3.2 10/00118/FUL – Two storey side and first floor rear extensions creating ten additional residential bedrooms and erection of a conservatory to side elevation, refused 31 March 2010.
- 3.3 10/00504/FUL – Two storey side extension creating four additional residential bedrooms, granted 27 September 2010.

4. Constraints

- 4.1 Landfill Gas Zones, Mining Advice area, Sites and Monuments, Source Protection Zone.

5. Relevant Policies

The Development Plan

- 5.1 Wolverhampton’s Unitary Development Plan
AM12 - Parking and Servicing Provision
AM15 - Road Safety and Personal Security
D4 - Urban Grain
D7 - Scale - Height
D8 - Scale - Massing
D9 - Appearance
H12 - Residential Care Homes

Other relevant policies

- 5.2 National Planning Framework

5.3 Wolverhampton's Supplementary Documents
SPG3 - Residential Development

5.4 Black Country Core Strategy (publication document Nov 2009).
ENV3 - Design Quality

6. Environmental Impact Assessment Regulations

6.1 "The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011/1824) require that where certain proposals are likely to have significant effects upon the environment, it is necessary to provide a formal "Environmental Impact Assessment" to accompany the planning application. (This is explained at the beginning of the schedule of planning applications)"

6.2 This development proposal is not included in the definition of Projects that requires a "screening opinion" as to whether or not a formal Environmental Impact Assessment as defined by the above regulations is required.

7. Publicity

7.1 Five representations received, and a Petition of 59 Signatures.

7.2 One letter – on behalf of the residents at Denstone Gardens raised no objection to the proposal.

7.3 Four Letters of objection, and a petition objecting to the following:

- Parking – Parking on Wentworth Road instead of the home.
- Increased Traffic
- Disturbance from dust and dirt
- Out of Character
- Out of Scale
- Road Safety (in respect of children crossing the roads due to parked cars, access for emergency vehicles)
- Overbearing
- Loss of Outlook
- Loss of Privacy
- Loss of Sunlight
- Incorrect Plans

7.4 Petition objects to parking.

8. Internal Consultees

8.1 **Access Team** – No objections.

- 8.2 **Transportation Development** - No objection subject to condition for the closure of the vehicular and pedestrian access off Wentworth Road, and the dropped kerb made good prior to development. This should encourage the use of the car park, and prevent additional parking to Wentworth Road.
- 8.3 **Adults - Older People** – No response received.
- 8.4 **Environmental Health** - No objection, subject to “Operational Hours” condition, to limit the potential for complaint during construction. Landfill Gasa Note 32 required.

9. **External Consultees**

- 9.1 Fire Service – No objection

10. **Legal Implications**

- 10.1 General legal implications are set out at the beginning of the schedule of planning applications [LD/08182012/C]

11. **Appraisal**

- 11.1 The key issues are: -

- Design
- Street Scene
- Layout
- Parking
- Neighbouring Amenity

Design

- 11.2 The design of the first floor side and two storey side extension, with its pitched roof design and gable detail, is consistent with the existing character and appearance of the residential home, and with those properties surrounding which all display a pitched roof design..
- 11.3 The extension remains level with the existing front and rear elevations of the existing home, apart for the 1m projecting gable features, which reduces the dominance of the structure, especially when viewed from Denstone Gardens west of the application site, as it is significantly set back from the existing rear boundary.
- 11.4 It is considered that the new positioning and design has addressed the previous design reason for refusal by the Planning Inspectorate.

Street Scene

- 11.5 The proposal would result in a reduction to the visual break between the application site and the neighbouring property at 77 Wentworth Road. However, a sufficient gap would still remain (6.5m) enough not to have a

significant impact on the appearance of the dwellings within the street scene, maintaining the character and appearance, of the surrounding area.

Layout

- 11.6 The proposed extension would increase the residential home from 36 to 44 bedrooms. There would be a loss of garden space to make way for the proposed extension; however, the area of land remaining around the perimeter of the site is approximately 500sqm, which is considered sufficient to meet the increased usage of this residential care home.
- 11.7 The proposed extension would increase the number of bedrooms by eight. It is considered that the proposed parking arrangement of 14 car parking spaces, ambulance drop off point and cycle parking, is sufficient enough to support the extended usage. Also to allay the concerns of neighbouring residents (as raised in the letters and petition of objections), the layout has been amended to remove the vehicular and pedestrian access off Wentworth Road, which should encourage visitors to use the car park, and prevent additional parking on Wentworth Road.
- 11.8 It is considered that the new positioning and layout has addressed the previous reasons for refusal, parking layout as quoted in the Council previous reasons of refusal (11/00121/FUL) and by the Planning Inspectorate.

Neighbouring Amenity

- 11.9 The proposal would be positioned 12m away from the rear boundary with Denstone Gardens, 25m away from those properties opposite in Wentworth Road, and 5.916m to 6.5m (due to a splay in the land) from the adjacent property at 77 Wentworth Road.
- 11.10 Due to the distance between the proposed extension and those properties within Denstone Gardens, it is considered that the proposal would not be unduly dominant, and although clearly evident would not appear overbearing or oppressive, from this neighbouring street scene.
- 11.11 The property along the southern aspect, 77 Wentworth Road, has no habitable room windows to its side elevation, only a landing window. There would be a distance of 5.916m between the neighbouring property and the gable end of the proposed extension. There would be a slight projection out past its rear elevation, however, due to the distance between the garden area and the proposed structure, the extension would not appear overbearing or oppressive, and there would be no loss of light or sunlight, due to the orientation. It is also proposed to include a condition to ensure that the side facing windows, in the fire exit are obscurely glazed, to protect the future privacy of this neighbouring property.
- 11.12 The properties opposite in Wentworth Road, would look directly out onto the proposed extension, however, there is a 25m distance between the windows of the proposed development and the properties opposite. Therefore, the proposed extension would not appear dominant or obtrusive, with no loss of privacy, light or sunlight.
- 11.13 It is considered that due to the new positioning of the proposed extension, the impact to neighbouring amenities has been significantly reduced, addressing

previous reasons for refusal (11/00121/FUL) in respect of neighbouring amenity, outlook, light, sunlight, privacy and that by the Planning Inspectorate.

12. Conclusion

- 12.1 The revised proposals have satisfactorily addressed the previous reasons for refusal, including those by the Planning Inspectorate, with an alteration which is in keeping with the character and appearance of both the existing property, and those in the surrounding street scene. The proposal does result in a substantial extension to the existing home; however, there is a sufficient amount of parking and amenity space to support both the extension and its usage which would increase bedroom capacity by eight. Although this extension would be clearly evident from neighbouring properties, the impact on amenities, such as outlook, light, sunlight and privacy would be minimal. The conditions proposed should also protect the future amenities of neighbouring properties, and should dispel the concern in respect of parking/access issues. Therefore, the proposal is consistent with Black Country Core Strategy Policies ENV3, Tran4, and Unitary Development Plan Policies AM12, AM15, D4, D7, D8, D9, and H12, subject to conditions.

13. Recommendation

- 13.1 That planning application 12/ 00652/FUL be granted planning permission, subject to any appropriate planning conditions including the following:
- (i) Matching Materials
 - (ii) Parking Areas
 - (iii) Cycle Parking
 - (iv) Restriction of working hours during Construction Phase
 - (v) Closure of Pedestrian and Vehicular Access of Wentworth Road.
 - (vi) Details of boundary Treatment to Wentworth Road
 - (vii) Obscure glazing to those windows on the southern elevations.
 - (viii) Prior to Development the Vehicular and Pedestrian access from Wentworth Road, shall be closed off, the existing dropped kerb made good, and to remain closed unless otherwise agreed in writing by the Local Planning Authority.

Case Officer : Ms Tracey Homfray
Telephone No : 01902 555641
Head of Planning – Stephen Alexander



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Planning Application No: 12/00652/FUL

Location	Wentworth Lodge Residential Home, Wentworth Road, Wolverhampton		
Plan Scale (approx)	1:1250	National Grid Reference	SJ 392570 303180
Plan Printed	24.10.2012	Application Site Area	2004m ²

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/01158/TEL **WARD:** Graiseley

RECEIVED: 25.09.2012

APP TYPE: Telecommunications PA(not notifications)

SITE: Oaks Crescent, Adjacent To 23A Merridale Road, Wolverhampton

PROPOSAL: Installation of 1 BT Equipment Cabinet

APPLICANT:

BT Group
BT Centre
81 Newgate Street
London
EC1A 7AJ

AGENT:

Mr Sebastian Bowe
Mono Consultants
Steam Packet House
76 Cross Street
Manchester
Greater Manchester (Met County)
M2 4JG

COMMITTEE REPORT:

1. **Site Description**

- 1.1 The application site consists of a small section of the footpath on Oaks Lane next to its junction with Merridale Road. The site relates to the back edge of the footpath against the side boundary wall of no.23a Merridale Road. The site is located within the Oaks (Merridale Road) Conservation Area.

2. **Application details**

- 2.1 The application has been made to the local planning authority to determine whether "prior approval" is required for the siting and appearance of a proposed BT equipment cabinet.
- 2.2 The cabinet will be sited on the back edge of the footpath adjacent to no.23a Merridale Road, next to an existing equipment cabinet. The dark green cabinet will measure 750mm (width) x 407mm (depth) x 1308mm (height).
- 2.3 The cabinet will house equipment connected with the provision of high speed fibre broadband services to residents and businesses in the area.

3. **Constraints**

- 3.1 Oaks (Merridale Road) Conservation Area.

4. **Relevant Policies**

- 4.1 **National Planning Policy Framework (NPPF) (2012)**

4.2 Black Country Core Strategy (BCCS) (2011)

EMP1 - Providing for Economic Growth and Jobs
ENV3 - Design Quality
CSP4 - Place Making

4.3 Wolverhampton's Unitary Development Plan (UDP) (2006)

D6 - Townscape and Landscape
D7 - Scale - Height
D9 - Appearance
EP20 - Telecommunications
HE4 - Proposals Affecting a Conservation Area
AM15 - Road Safety and Personal Security

4.4 Wolverhampton's Supplementary Documents

Interim Telecommunications Policy (note: this was produced particularly in respect of telecommunication masts and related equipment)

5. Environmental Impact Assessment Regulations

5.1 This development proposal is not included in the definition of Projects that requires a "screening opinion" as to whether or not a formal Environmental Impact Assessment as defined by the above regulations is required.

6. Publicity

6.1 No responses received to notifications, site notice or press notice.

7. Internal Consultees

7.1 Transportation Development – No objections.

8. Legal Implications

8.1 In the case of certain telecommunication equipment in conservation areas there is a modified system of planning control that is governed by permitted development rights under Part 24 development by Electronic Communications Code Operators of The Town and Country Planning (General Permitted Development) Order 1995. The permitted development rights are subject to a number of conditions and importantly before development begins an application must be made to the local planning authority to determine whether it will require "prior approval" of siting and appearance of the development.

8.2 The local planning authority is required to give notice to the applicant within 56 days of receipt of the application if it requires prior approval. If the local planning authority does consider that it requires prior approval then it must proceed to approve or refuse the application within 56 days and notify the applicant within that time. There is no ability to extend this time limit by

agreement or otherwise and failure to act in the prescribed period will mean that the development will be deemed to have consent.

- 8.3 When an application is situated in or affects the setting of a Conservation Area by virtue of S72 and S73 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering the application and exercising their powers in relation to any buildings or other land in or adjacent to a Conservation Area the local planning authority must ensure that special attention is paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area and further should have regard to any representations ensuing from the publicity required under S73 of the Act. Legal Implications reference LD/22102012/W.

9. **Appraisal**

- 9.1 The key issues are: -

- Principle of the proposed development
- Visual appearance & impact on the conservation area;
- Traffic and pedestrian flow.

Principle of Development

- 9.2 UDP policy EP20 and the NPF1 require applicants for telecommunication equipment to demonstrate that there is a need for the additional equipment, that there are no alternative sites in less sensitive locations and the proposal has been designated to minimise its visual impact. This has been done.

- 9.3 The proposed cabinet is one of many which will be put in place around the city to provide Super-Fast Fibre Internet Access which will benefit residents and businesses throughout the city. The proposal is therefore compliant with UDP policy EP20 and BCCS policy EMP1.

Visual Appearance & Impact on the Conservation Area

- 9.4 All new developments within conservation areas must 'conserve or enhance' the identified character of the conservation area. Given the small size, the neutral colour and the location of the cabinet, it is considered that this proposal will sufficiently conserve the character of the conservation area. It will therefore comply with the NPF1 and UDP policy HE4 and BCCS policy CSP4.

- 9.5 This proposal is for a type of BT cabinet that is common on many streets in the city. An existing cabinet is also located adjacent to the site. As such, the cabinet will not appear as an alien feature within the streetscape and due to its colour and small scale will not appear visually prominent. It therefore complies with UDP policies D6 and D9 and BCCS policy ENV3.

Traffic and Pedestrian Flows and Safety

- 9.6 The small scale nature of the proposed cabinet, together with its location at the back of the footpath on Oaks Crescent means that it is unlikely that there will be any traffic or pedestrian safety issues. Consequently, the proposal complies with UDP policy AM15.

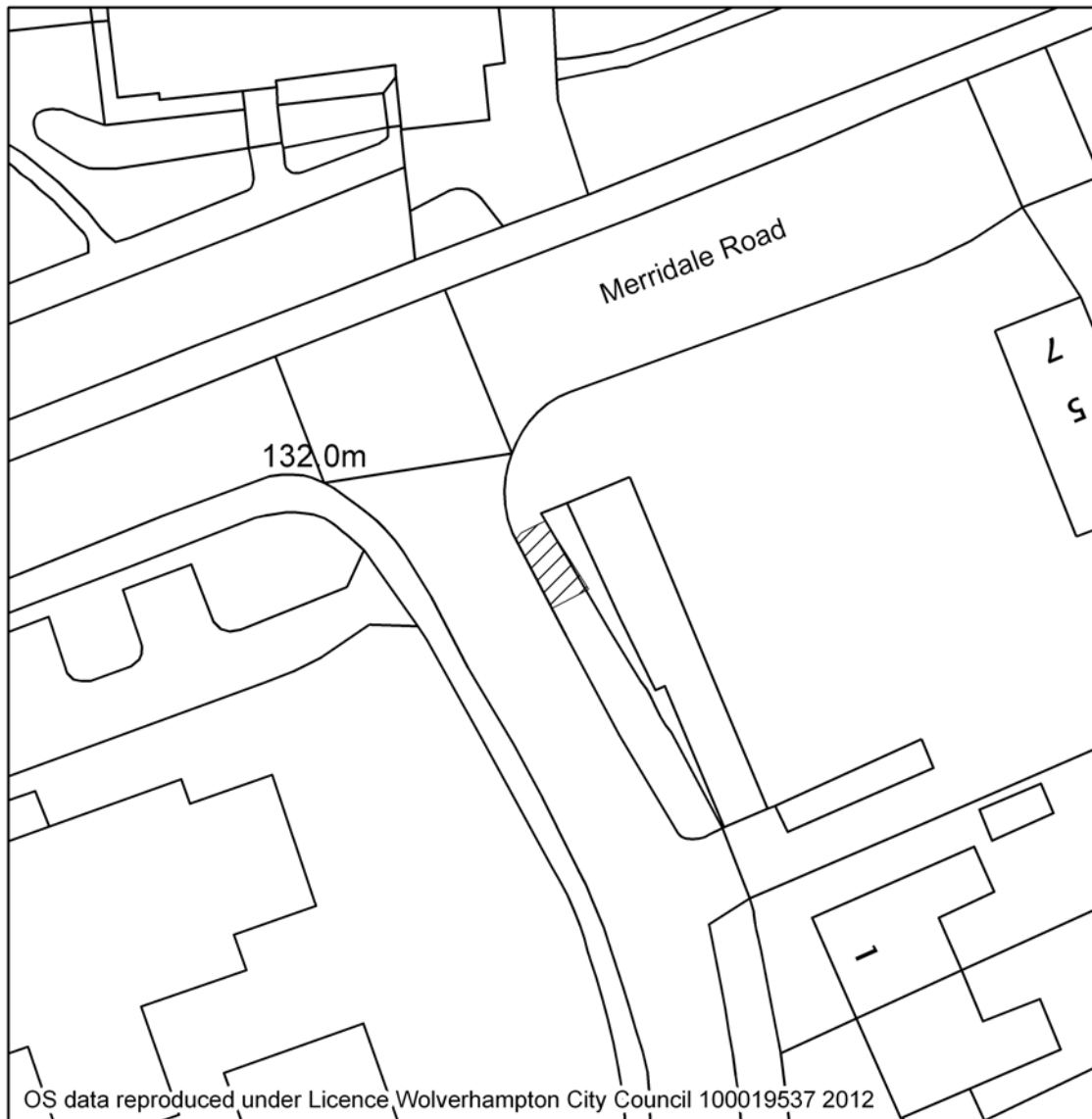
10. Conclusion

- 10.1 The proposed equipment cabinet will help facilitate the provision of high speed fibre broadband services to residents and businesses in the area. The cabinet will not be prominent within the street scene and will not detrimentally impact on the character of the Oaks (Merridale Road) Conservation Area. There will also be little or no interference with road or pedestrian traffic.
- 10.2 The scheme can therefore be said to be compliant with the relevant UDP and BCCS policies of the Council, as well as the Council's Interim Telecommunications Policy and national planning guidance as set out above.

11. Recommendation

- 11.1 It is recommended that prior approval of application reference 12/01158/TEL is given, subject to standard conditions.

Case Officer : Mr Morgan Jones
Telephone No : 01902 555637
Head of Planning – Stephen Alexander



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Planning Application No: 12/01158/TEL

Location	Oaks Crescent, Adjacent To 23A Merridale Road, Wolverhampton		
Plan Scale (approx)	1:625	National Grid Reference	SJ 390442 298577
Plan Printed	24.10.2012	Application Site Area	14m ²

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/00959/FUL

WARD:

Tettenhall Wightwick

RECEIVED: 10.08.2012

APP TYPE: Full Application

SITE: Lidl, Finchfield Hill, Wolverhampton

PROPOSAL: Demolition of dwelling number 42 Finchfield Hill to facilitate the construction of a single storey extension to the existing Lidl foodstore.

APPLICANT:

Miss Donna Commock
Lidl UK
Wellington Parkway
Magna Park
Lutterworth
Leicestershire
LE17 4XW

AGENT:

COMMITTEE REPORT:

1. Site Description

- 1.1 The application site 42 Finchfield Hill (originally built as Fern Place) is located in a prominent position at the junction of Finchfield Hill, Oak Hill and Finchfield Road West. Opposite the front of the site (east) lie two parades of shops with flats above, this is the local centre of Finchfield. To the rear (west) and north of the site lie residential dwellings, to the South lies the existing Lidl foodstore which was constructed in 2009.
- 1.2 The dwelling has been vacant and boarded up since 2008 when Lidl purchased the site in order to incorporate the domestic garage of the dwelling into the proposed food store site. The dwelling built in 1879 was one of the earlier buildings, along with the Church of St Thomas and a scatter of other houses in Finchfield Hill, forming part of the settlement of Finchfield. There are two mature trees in the back garden of the dwelling.

2. Application details

- 2.1 The application proposal is for the demolition of the dwelling and replacement with an extension to the existing Lidl foodstore. The proposal is for a 209.1 m² extension to create an additional 197 m² net sales floorspace to the existing 1,113 m² (gross internal area), (790 m² net) Lidl Store.
- 2.2 The proposed extension would be attached to the side of the existing foodstore, it would be 10.2 m wide and 20 m deep. The internal floor level would continue through at the same level as the existing store. The proposed height of the building would be 6.3 metres and have a shallow slope from front to rear. The proposed extension would be mainly in red facing brickwork with an area of

horizontal western red cedar cladding. The extension would be designed to match the existing building.

- 2.3 The proposal would include a block paved frontage with an addition tree, bounded by a brick wall and railings to the street frontage to match the existing. A two metre high close boarded timber fence is proposed along the side and rear boundaries. Two trees in a poor state of health would be removed from the existing rear garden (adjacent to the rear garden of no.7 the terrace) and would be replaced with three new trees and shrub planting.
- 2.4 The proposal includes the provision of five additional parking spaces in the existing car park. This element of the proposal would involve the loss of small areas of landscaping.

3. Planning History

- 3.1 07/00446/FUL for neighbourhood food store and car parking, Refused, 31.10.2007.
- 3.2 08/00371/FUL for neighbourhood food store and car parking, Granted, 15.08.2008.
- 3.3 08/01364/FUL for neighbourhood food store and car parking. Revised application to retain the development as constructed, 830 mm higher at the front and 650 mm at the rear than approved under application 08/00371/FUL]. Granted, 25.03.2009.
- 3.4 11/00962/FUL for demolition of 42 Finchfield Hill and erection of an extension to the existing Lidl foodstore. Refused 24.5. 2012. There is an ongoing appeal against the Council's refusal of this application.

4. Relevant Policies

The Development Plan

- 4.1 Wolverhampton's Unitary Development Plan

AM12 – Parking and Servicing Provision

AM15 – Road Safety and Personal Security

D2 – Design Statement

D4 - Urban Grain

D5 – Public Realm (public space/ private space)

D6 – Townscape and Landscape

D7 Scale – Height

D8 Scale – Massing

D9 – Appearance

D13 – Sustainable Development (Natural resources and Energy Use)

HE 1 – Preservation of Local Character and Distinctiveness (Part 1)

HE20 – Demolition of a Local List Building or Site

N1 – Promotion of Nature Conservation (Part 1)

N7 – The Urban Forest

N9 – Protection of Wildlife Species

B1 – Economic Prosperity (Part 1)
SH 4 – Integration of Development into Centres
SH 13 – New Retail Development Food stores

4.2 Black Country Core Strategy (BCCS).

ENV 1 – Nature Conservation
ENV 2 – Historic Character and Local Distinctiveness
ENV 3 – Design Quality
CEN 1 –The Importance of the Black Country Centres for the Regeneration Strategy
CEN 2- Hierarchy of Centres
CEN 5 – District and Local Centres
CEN 7 – Controlling Out - of - Centre Development

4.3 Other relevant policies

National Planning Policy Framework (March 2012)

5. **Environmental Impact Assessment Regulations**

- 5.1 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations) 2011 (SI 2011/1824) require that where certain proposals are likely to have significant effects upon the environment, it is necessary to provide a formal "Environmental Impact Assessment" to accompany the planning application. (This is explained at the beginning of the schedule of planning applications).
- 5.2 This development proposal is not included in the definition of Projects that requires a "screening opinion" as to whether or not a formal Environmental Impact Assessment as defined by the above regulations is required.

6. **Publicity**

- 6.1 14 individual representations have been received, 12 in objection to the proposals and two in support, the reasons for objection include:
- Destruction of a perfectly good home
 - Loss of Historic Victorian building
 - Deliberate running down of Fern Place
 - Extended store would be out of keeping in the existing residential area
 - The extension would have an overbearing impact
 - Fern Place should be restored as a residence as originally agreed by Lidl
 - The neighbourhood store is turning into a supermarket
 - Fern Place should be protected not destroyed
 - Lidl site is already overdeveloped and out of proportion
 - The extension would give the store the appearance of a retail park
 - Increase in vehicular traffic
 - Lidl are a constant detriment to neighbours amenity
 - Already difficult to park on car park at peak times

- Access road unable to cope with traffic
- Danger to pedestrian safety
- Overdevelopment of site
- Danger to school children
- Density too high
- Detrimental impact on property values
- Detrimental to residential amenity
- Existing on street parking
- Inadequate parking provision
- Increased use of a substandard junction
- Out of scale/ character
- No demand for additional development
- Proximity of building to site boundaries
- Undesirable precedent
- Inadequate landscaping retained between the car park and adjacent dwellings
- Additional noise and disturbance from the car park on adjacent dwellings
- A 25% increase in shop floor space would require the provision of more than five additional parking spaces
- Loss of landscaping to accommodate additional parking spaces

6.2 The two letters of support list the following:

- Fern Place is an eyesore
- Proposal would improve visual amenity
- The proposed development would boost the local economy by creating more employment

7. **Internal Consultees**

7.1 **Historic Environment –**

The proposal involves the demolition of a mid to late nineteenth century house originally built as Fern Place. This was one of the earlier buildings, along with the Church of St Thomas and a scatter of other houses in Finchfield Hill, forming part of the settlement of Finchfield and as such can be regarded as a heritage asset. The loss of the building located as it is at the junction of Finchfield Hill, Finchfield Road and Oak Hill, will be a serious loss and detrimental to the character and local distinctiveness of this part of the city. The proposed replacement extension does not compensate for the loss in terms of its design and contribution to the street scene.

7.1.1 Fern Place came to the attention of the Council in the context of an earlier (2011) planning application for the expansion of the Lidl store which would have resulted in the loss of the building. The building was considered for and subsequently included in the Local List at the next available opportunity to do so being June 2012.

7.1.2 Fern Place continues to have a presence in the street scene and makes a positive contribution towards the historic character of the Finchfield area. The

design of the proposed extension to the store and the loss of the heritage asset would neither preserve or enhance the townscape quality of the locality and would further erode the character and distinctiveness of the historic settlement of Finchfield and is therefore not in accordance with the requirements of Core Strategy Policy ENV2.

7.2 Transportation Development -

7.2.1 In transportation terms the store extension is very similar to the previous application 11/00962/FUL. The increase in sales area is effectively the same though the earlier proposal to also increase the warehouse has now been dropped. Externally the car park layout has been amended such that there would be an additional 5 general parking bays – assuming that these changes are acceptable in planning terms. The transport consultant has also suggested a minor change to the access road to improve ease of entry/ exit.

7.2.2 Parking for the proposed extension

The main transportation objection to the previous application was that the increase floor area would lead to an increase in vehicular trips which, coupled with the car park layout, could have lead to queuing onto the highway. It has always been Lidl's position that any increase in customer numbers would be minimal but had not submitted any evidence to support this assertion. However, the figures now submitted do indicate that the likely growth in vehicle trips for a 25% increase in sales area (taking the worst case from 5 similar extensions at other sites) could be accommodated by the proposed increase in parking spaces.

7.2.3 The updated Transport Statement supporting the application also contains evidence from a high mast video survey which recorded images of the access road over two whole days – Friday 22nd and Saturday 23rd June 2012. It is accepted that these dates should represent average demand. The survey confirms that queuing as far as the island can occur but is a rare event (once in the two days of observation) and that the effect of this on the highway was minimal. Logic suggests that any increase in trips would also be likely to increase the occurrence of any queuing events. However, as the increase in trips would be minimal, it follows that the increase of incidence/ severity of queuing events would also be small.

7.2.4 Following the introduction of the National Planning Policy Framework in March 2012, (paragraph 32) transportation are required to consider that “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”. Whilst the wording is obviously open to interpretation, following the submission of the latest evidence for this site, it is not considered that the likely impact could be described as severe. Therefore, whilst there may still be some concerns over the operation of the car park, it is unlikely that a transportation reason for refusal could be substantiated at appeal.

7.2.5 Other transportation issues

Improvements to access road. An issue previously raised is that the kerb alignment of the access is not satisfactory as it results in drivers striking the kerb or running wide to avoid the kerb. The Transport Consultant has now

examined the access and concluded that the existing kerbs were not built to the approved layout. A proposed improvement has been submitted which aligns the kerb to ease vehicular movements and maintains footway width. The improvements appear to be acceptable.

7.2.6 Improvements to car park – as well as the additional bays it is suggested that the following low cost improvements be made to the car park;

- Staff parking – it would be sensible for Lidl staff to park in the least popular bays i.e. those furthest from the store, to free up more popular bays. This was marked on the initial store layout plans but does not appear to have been applied. It would be necessary for the store manager to enforce this regime.
- Access road and area in front of store to be marked out with double yellow lines to encourage customers not to park in this area. These would obviously not be enforceable by the Council's Parking Enforcement Officers but could be managed by the store staff/ security as it is a private car park.

7.2.7 Transportation conclusions

Whilst there may still be some concerns over the operation of the car park, it is unlikely that a transportation reason for refusal could be substantiated at appeal. Transportation request that the above improvements to the car park be considered as well as the requested conditions to control the proposed additional car parking and access improvements.

7.3 **Environmental Services –**

7.3.1 On the understanding that there is no plant or equipment associated with this application, or any openings/louvers associated with the same, there are no adverse comments. There are residential premises in close proximity to the site. In order to limit the potential for complaint, the following is recommended:

7.3.2 Demolition and construction phase only- Operational hours, including commercial vehicle movements to or from the site are restricted to 0800 to 1800 Monday to Friday and 0800 to 1300 Saturday and at no time on Sundays or Bank and Public Holidays.

7.4 **Private Sector Housing Team –**

7.4.1 The dwelling, 42 Finchfield Hill is in the process of being compulsory purchased by the council in order to return the property to use as residential accommodation. In agreement with the Department for Communities, the CPO process has been suspended until a decision has been made on this application. Lidl have objected to the Order on the basis that they wish to extend their store at the site.

7.5 **Trees –**

7.5.1 The proposed provision of three of the five additional car parking spaces will have an adverse impact upon the existing landscaped margin, in particular parking spaces numbered 16 and 17 and space numbered 58. The creation of new spaces 16 and 17 would necessitate the removal of a healthy Field Maple and would result in damage to the root system of a newly planted (replacement)

Lime tree. Taking into account the concrete haunching which would be required to the new kerb line, the reduced width of the landscaped area at less than 1 metre in depth, would be insufficient to permit the establishment any new trees in this location. Construction of space number 58 would result in damage to a newly planted (replacement) Lime tree. The proposed reinstatement of three Field Maples adjacent to spaces numbered 33 and 34 would only be feasible if the depth of the planted area (once the new spaces are constructed) corresponds – on the ground – to that shown on the landscape drawing i.e. 2.7 metres. It should be noted that the accuracy of the plan cannot be relied upon – the landscape architects advised that the physical measurement on the ground is 2.1–2.2 metres deep adjacent to parking spaces 33 and 34, rather than the 2.7 metres shown on the plan. It is not considered that any erosion of the existing landscaping to the perimeter of the car park is acceptable.

7.6 Ecology –

- 7.6.1 The applicant has submitted a copy of the required “Extended Phase 1 Habitat Survey Report” dated November 2011 and a “Bat Survey Report” dated July 2012 with the application. The reports combined with a letter from Clear Environmental dated 28 September 2012 clarifying the relationship of the reports confirm that no further material on this issue is required prior to consideration of this planning application.

8. Legal Implications

- 8.1 General legal implications are set out at the beginning of the schedule of planning applications. Legal Ref: [FD/26102012/0].

9. Appraisal

- 9.1 The key issues are: -

- Loss of Heritage asset, Character and appearance
- Impact on neighbours
- Retail Impact
- Car parking provision and highway Safety
- Ecological considerations (bats)
- Impact on trees and landscaping

9.2 Loss of Heritage asset, Character and appearance

- 9.2.1 The proposal involves the demolition of 42 Finchfield Hill, a mid to late nineteenth century house originally built as Fern Place. This was one of the earlier buildings, along with the Church of St Thomas and a scatter of other houses in Finchfield Hill, forming part of the settlement of Finchfield and as such can be regarded as a heritage asset. The loss of the building located as it is at the junction of Finchfield Hill, Finchfield Road and Oak Hill, would be seriously detrimental to the character and local distinctiveness of this part of the city.

9.2.2 Fern Place came to the attention of the Council in the context of the earlier (2011) planning application for the expansion of the Lidl store which would also have resulted in the loss of the building. The applicants consider that as the building was extended in the 1950s this devalues its heritage significance. However, the fact that the building has mid 20th century extensions does not in itself disqualify the building from being added to the Local List. Whilst redevelopment of the rear original range and outbuildings may have caused some harm to its significance, the survival of the principle rooms of the main house are such that it is judged to be of sufficient special interest at present to justify Local List status. Fern Place was included in the Council's Local List in June 2012. Development which involves the total demolition of a local list building or site, or partial demolition which would result in the loss of features of special character or historic interest, will not be permitted unless it can be clearly demonstrated that:

- The proposed demolition is essential to the success of a scheme which would provide other, overriding, planning benefits; and
- All reasonable alternatives to demolition have been investigated and proved not to be feasible.

In respect of this policy, the above tests have not been met when considering the total demolition of Fern Place.

9.2.3 The existing dwelling whilst having substantial proportions is set with gaps to either side. The proposed store extension would be 1.5 metres lower in height than the dwelling at the street frontage. It would be connected to the existing store and the intervening gap in the street scene would be lost, so adding to the elongation of the already large format store in the street scene of a generally much finer grain. The proposed replacement extension would not compensate for the loss in terms of its design, character and contribution to the street scene. For these reasons the proposed demolition and redevelopment would be contrary to the provisions of the NPPF paragraphs 129-131 and 135, BCCS-ENV 2 – Historic Character and Local distinctiveness and UDP Policies HE1: Preservation of Local Character and Distinctiveness, HE 20 Demolition of a Local List Building or Site, D4:Urban Grain, D5:Public Realm, D6: Townscape and Landscape and D9:Appearance and the NPPF – which requires that the loss of a heritage asset is off-set by the public benefit of the proposal.

9.3 Impact on Neighbours

9.3.1 The application site has immediate boundaries with two residential properties, 40 Finchfield Hill to the side and 7 The Terrace to the rear. The proposed store extension would be located in a similar position and footprint to that of the existing dwelling on the site. The extension with a virtually flat roof construction (falling from front to rear) at 6 metres in height, would be lower than the existing dwelling which rises to 7 metres at the two storey rear extension and would be set in an additional 1.5 metres from the side boundary with 40 Finchfield Hill. The store would however be sited 4.5 metres closer to the rear of the site than the existing dwelling. It would be set in from the boundary by between 7 and 9 metres with the property at 7 The Terrace and would be located over 20 metres from the rear of the dwelling itself. The development also proposes a substantial (7 metre deep) landscape/tree bed in the intervening space with a 2 metre high close boarded fence around the side and rear boundaries of the site.

9.3.2 Assessing the proposed store extension relative to the existing dwelling, the extension would be set in from the side, would be lower than the existing but slightly longer, the impacts in respect of neighbouring amenity are very similar and the distances between properties are also acceptable. An additional mitigating feature is the proposed intervening tree planting and landscaping between the proposed building and the dwelling, 7 The Terrace to the rear. For these reasons, the impact of the proposed extension would not substantiate a recommendation for refusal of planning permission and the development would accord with BCCS- ENV2 and UDP policies D7-Scale – Height and D8 Scale – Massing.

9.4 Retail Impact

9.4.1 The retail impact of the proposed extension to the store has been considered in respect of Sequential and Impact Tests and in relation to the new NPPF (National Planning Policy Framework). For the purposes of applying the sequential approach, it is reasonable for the proposed extension to be considered in terms of forming part of a larger store to serve Finchfield Local Centre. There are not considered to be any sequentially preferable opportunities within Finchfield Local Centre to accommodate this proposal. In terms of the impact tests in paragraph 26 NPPF, the turnover uplift of the proposal is likely to be very modest (in retail planning terms), and therefore unlikely to cause any significantly adverse impact on the vitality and viability of Finchfield Local Centre. Therefore, there are no planning policy objections to this proposal.

9.5 Car Parking provision and Highway Safety -

9.5.1 The Transportation considerations are detailed at paragraphs 7.2.1 – 7.2.7 of this report. The main conclusions are:

- The application proposes the provision of 5 additional car parking spaces and the figures submitted indicate that the likely growth in vehicle trips for a 25% increase in sales area (taking the worst case from 5 similar extensions at other sites) could be accommodated by the proposed increase in parking spaces.
- A high mast video survey confirms that queuing as far as the island can occur but is a rare event (once in two days of observation) and that the effect of this on the highway was minimal. As the increase in trips would be minimal it follows that the increase of incidence/severity of queuing events would also be small.
- Following the introduction of the National Planning Policy Framework in March 2012. Transportation are required to consider that “*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*”. Transportation do not consider that the likely impact could be described as severe.

9.5.2 Therefore, whilst there may still be some concerns over the operation of the car park, it is unlikely that a transportation reason for refusal could be substantiated at appeal. The proposals therefore accord with UDP Policy AM12.

9.6. Ecological considerations (bats) -

9.6.1 The reports submitted with the application confirm that there is no evidence that bats are roosting within the property surveyed therefore there are no constraints on the project in respect of roosting bats. The proposals therefore accord with UDP Policy N9.

9.7 Impact on trees and landscaping –

9.7.1 By virtue of the proposal to increase the retail floor space by approximately 25% there is a necessary requirement to provide a proportionate increase in the provision of parking spaces to support the extended store. Transportation have confirmed that the addition of five new spaces would be appropriate for this purpose. Because Lidl do not have any additional land to provide the required increase in parking spaces, the land to provide the proposed new spaces has been created within the existing car park, however, this is at the expense of existing landscaping and trees around the car park boundaries between the parking spaces and residential boundaries.

9.7.2 The proposed additional parking spaces would involve the loss of significant landscaped areas and trees. 2.4 metres depth of landscaping would be lost in five areas of the car park to create proposed new parking spaces 16,17,33,34 and 58. At least two trees(a Field Maple and a Lime) would be lost adjacent to the rear of dwellings in Mirbeck Close. Three Field Maples could be lost to create parking spaces 33 and 34 (depending upon the remaining depth of the area retained for planting) and proposed new space 58 would result in the loss of a Lime tree.

9.7.3 In consideration of the scale of the store, its car park and its position immediately adjacent to residential garden boundaries on three sides the existing landscaping cannot be considered to be deep or provide good screening to the neighbouring dwellings. Any erosion of the existing landscaping to the perimeter of the car park is not considered to be acceptable. Contrary to UDP Policies N7, D6 and D9.

10. Conclusions

10.1 The proposed demolition of 42 Finchfield Hill (Fern Place), a Locally Listed Building, would be seriously detrimental to the character and local distinctiveness of this part of the city. The proposed store extension would not compensate for the loss in terms of its design and contribution to the street scene, or the additional floorspace it would provide. For these reasons the proposed demolition and redevelopment would be contrary to the provisions of the NPPF paragraphs 129-131 and 135, BCCS- ENV 2, UDP Policies HE1: Preservation of Local Character and Distinctiveness, HE20: Demolition of a Local List Building or Site, D4: Urban Grain, D5: Public Realm, D6: Townscape and Landscape and D9: Appearance.

10.2 The proposed extension whilst having some impact on neighbouring residential properties, when compared with the impact of the existing dwelling, would not have significant adverse impacts to substantiate a recommendation of refusal.

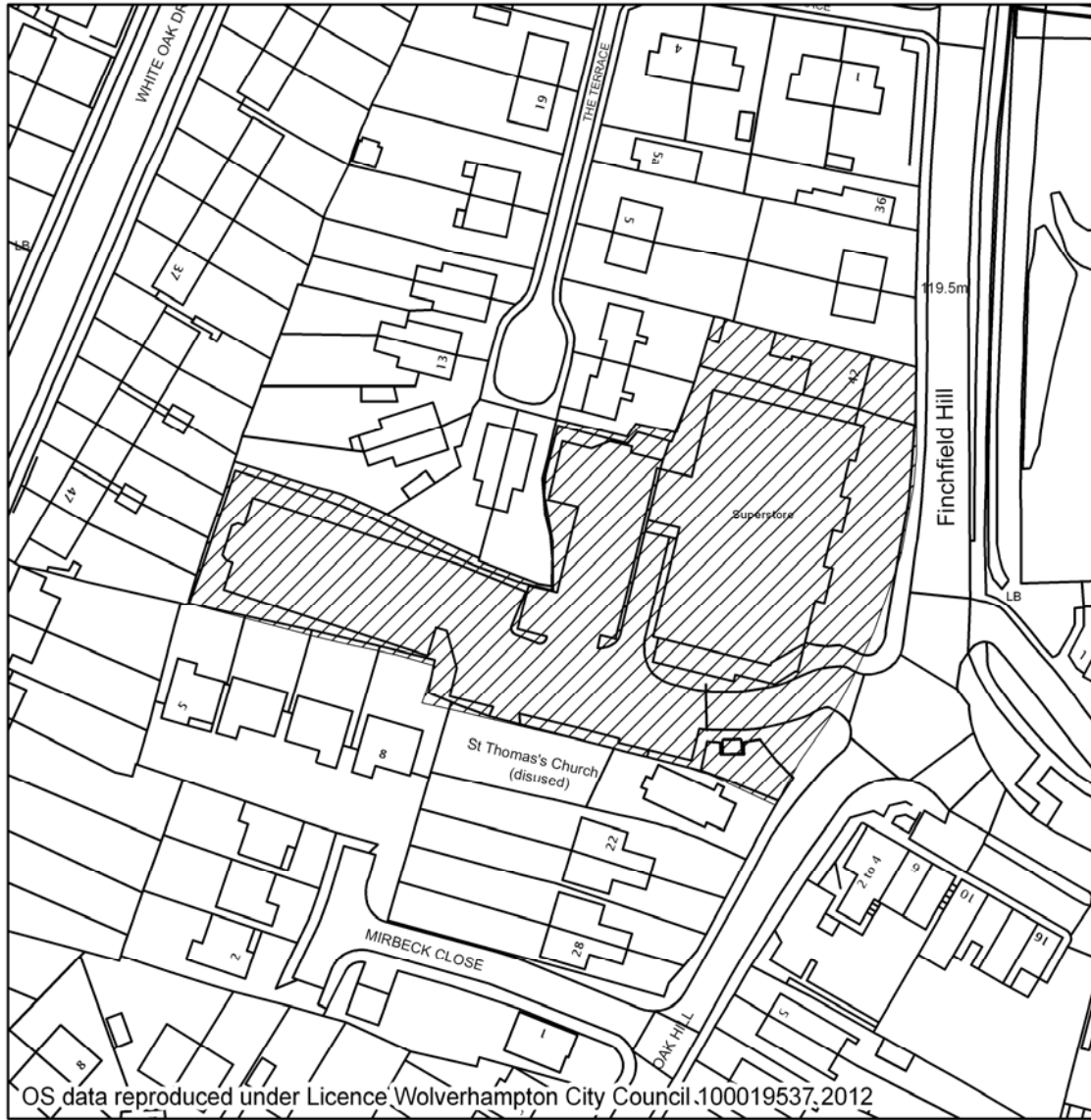
The proposal is therefore considered to comply with BCCS- ENV 2, and UDP policies D7: – Scale- Height and D8: Scale - Massing

- 10.3 In respect of retail policy, the proposed extension would comply with the provisions of the NPPF, BCCS Policy CEN5 and UDP Shopping Policies.
- 10.4 With the addition of five new parking spaces, the proposal is considered to provide adequate parking provision to support the development overall and would therefore comply with UDP policy AM12 – Parking and Servicing Provision.
- 10.5 The proposed five additional parking spaces would be provided at the expense of perimeter trees and landscaping which would be unacceptable in respect of the setting of the car park itself and providing an adequate physical and visual buffer between car parking and neighbouring residents' gardens, contrary to UDP Policies N7, D6 and D9.
- 10.6 The reports submitted with the application confirm that there is no evidence that bats are roosting within the property surveyed, therefore there are no constraints on the project in respect of roosting bats. The proposal therefore accords with UDP Policy N9.

11. Recommendation

- 11.1 That Planning Application 11/000962/FUL be refused, for the following reasons:
- (i) The proposed demolition of the dwelling 42 Finchfield Hill (Fern Place), a heritage asset and replacement with the food store extension would be seriously detrimental to the street scene and character of the area. The proposal would therefore be contrary to the NPPF; paragraphs 129-131 and 135, BCCS – ENV 2, UDP Policies HE1: Preservation of Local Character and Distinctiveness, HE20: Demolition of a Local List Building or Site, D4: Urban Grain, D5: Public Realm, D6: Townscape and Landscape and D9: Appearance.
- (ii). By virtue of the proposed addition of five new parking spaces in the existing car park, the proposal would involve the loss of trees, shrubbery and landscaped beds around the perimeter of the site. This element of the proposal would be unacceptably detrimental to the setting of the mainly hard surfaced development and more significantly, provide inadequate physical and visual screening between the car parking spaces and neighbouring residential gardens, being detrimental to the amenities of neighbouring residents. The proposal would therefore be contrary to UDP Policies N7, D6 and D9.

Case Officer : Mr Martyn Gregory
Telephone No : 01902 551125
Head of Planning – Stephen Alexander



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Planning Application No: 12/00959/FUL

Location	Lidl, Finchfield Hill, Wolverhampton		
Plan Scale (approx)	1:1250	National Grid Reference	SJ 388408 298132
Plan Printed	24.10.2012	Application Site Area	5160m ²

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/00745/FUL

WARD: Tettenhall Wightwick

RECEIVED: 05.07.2012

APP TYPE: Full Application

SITE: The Arcade, High Street, Tettenhall, Wolverhampton

PROPOSAL: Retrospective change of use of Unit 7 the Arcade from A1 (Shop) to A3 (Cafe) with additional seating on adjoining land within the Arcade and an extension to opening hours from 0900 - 1700 to 0900 - 1800 Mon - Sat

APPLICANT:

Mrs Sarah Hipkiss
48 High Street
Bridgnorth
Shropshire
WV16 4DX

AGENT:

Mr Anthony McGlue
AJM Planning Associates Ltd
East Wing
Wrottesley Hall
Codsall
Wolverhampton
WV8 2HT

COMMITTEE REPORT:

1. Site Description

1.1 The site is an existing coffee shop within the Arcade at the northern end of the High Street in Tettenhall.

2. Application details

2.1 The proposals are for a retrospective change of use to Unit 7 of the Arcade from A1 (Shop) to A3 (Cafe). The additional unit has been incorporated within units 5 and 6 to allow an extension of the café and form a row of three units which comprise the business "Gluttons for Nourishment". The additional unit is used as a food preparatory area, allowing for the creation of further customer seating space within the cafe.

2.2 The expansion of the cafe has created three further part-time jobs, taking the total number of staff to five part-time and one full member of staff.

2.3 The application also includes the provision of additional seating on the walkway of the central arcade.

2.4 The proposals include an increase in the opening times of an extra hour per day Monday to Saturday.

3. Planning History

3.1 Relevant planning history is set out below:

3.1.1 10/01353/FUL for Retrospective Change of Use to Unit 6 from A1 (retail) to Cafe (A3), Granted 03.03.2011.

4. Constraints

4.1 Conservation Area - Tettenhall Greens Conservation Area

5. Relevant Policies

The Development Plan

5.1 National Planning Policy Framework (NPPF) (2012)

5.2 Black Country Core Strategy (BCCS) (2011)

EMP1 Providing for Economic Growth

CEN5 District and Local Centres

5.3 Wolverhampton's Unitary Development Plan (2006)

SH10 – Protected Frontages

SH14 – Catering Outlets

HE5 Control of Development in a Conservation Area

Other relevant policies

5.4 National Planning Policy Framework

6. Environmental Impact Assessment Regulations

6.1 "The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011/1824) require that where certain proposals are likely to have significant effects upon the environment, it is necessary to provide a formal "Environmental Impact Assessment" to accompany the planning application. (This is explained at the beginning of the schedule of planning applications)"

6.2 This development proposal is not included in the definition of Projects that requires a "screening opinion" as to whether or not a formal Environmental Impact Assessment as defined by the above regulations is required.

7. Publicity

7.1 Two letters received and two customer petitions. One letter is in support of the proposals as are both of the petitions which have approximately 240 and 145 signatories respectively. The representation in support makes the following planning comments:

- The café brings people into Tettenhall and has complementary benefits for the shops;

- Other local food produce businesses support the café through the supply of goods

The representation against makes the following planning comments:

- Approval would result in a non-A1 (shop) use of more than 30% of the units in the District Centre

8. Internal Consultees

8.1 **Environmental Health** – No observations

9. External Consultees

9.1 No external consultees.

10. Legal Implications

10.1 General legal implications are set out at the beginning of the schedule of planning applications.

10.2 When an application is situated in or affects the setting of a Conservation Area by virtue of S72 and S73 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering the application and exercising their powers in relation to any buildings or other land in or adjacent to a Conservation Area the Local Planning Authority must ensure that special attention is paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area and further should have regard to any representations ensuing from the publicity required under S73 of the Act. Legal Implications reference LM/18092012/Q

11. Appraisal

11.1 The key issues are: -

- Non A1 use in the District Centre
- Neighbour Amenity
- Impact on the Conservation Area

Non A1 use in the District Centre

11.2 The proposals bring non A1 uses to 30% of the total retail units in the District Centre, which is compliant with policy requiring that not more than 30% are non A1 uses.

11.3 The proposals would result in 37% of the frontage length being in non-retail use when assessing the Arcade as a whole. Consequently the proposals are not consistent with the policy requirement of no more than 30% of a frontage length being non-retail.

- 11.4 Whilst the proposal exceeds the frontage policy there are other material considerations which must be measured. Cafes perform an important function in attracting shoppers to centres who are then likely to spend more time within the retail destination. Cafes also increase pedestrian footfall and can create frontages which are more active than some A1 uses. Tettenhall centre has a variety of uses including, shops, hairdressers, estate agents, cafes and banks. Balancing these uses is important to the retail function of the centre. Further, a variety of uses will provide people with the opportunity to undertake a range of tasks in one visit, therefore reducing the need to travel outside the Centre.
- 11.5 This specific proposal is in a self-contained arcade and supports the expansion of an independent local business. The proposed use of the central Arcade for further seating brings footfall into the Arcade and can have the benefit of supporting other operators with the Arcade. The proposals will also result in the creation of three further part time jobs and will bring a previously vacant unit back into occupation. Overall it is considered that the proposal will not undermine the balance of uses in the centre.
- 11.6 Therefore the proposals are not considered to threaten the retail function of the Arcade or the District Centre as a whole and are in-line with legislation which places a duty on local planning authorities to determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise.

Neighbour Amenity

- 11.7 The proposals include the extension of opening times by one hour in the evening, from 1700 to 1800 Monday to Saturday. The extended opening hours are not judged to present concerns for neighbour amenity, and Environmental Health have raised no objections. The proposed hours are consistent with policy SH14.

Impact on the Conservation Area

- 11.8 The application proposes no changes to the exterior of the building; therefore there is no impact to the character and appearance of the Tettenhall Greens Conservation Area. The proposals are consistent policy with HE5.

12. Conclusion

- 12.1 On balance the retrospective proposals to extend the café into a third unit are acceptable in principle. The resulting increase of non-A1 frontage within the Arcade whilst not compliant with policy is not deemed to undermine the retail functions of the Arcade or Centre, but would have the complementary benefits of attracting shoppers to the centre, and supporting existing shops. In addition the expansion of the business has provided a further three part-time jobs, and has brought a vacant unit back into use.

13. Recommendation

13.1 That planning application 12/00745/FUL be granted subject to the following conditions:

- Hours of use 0900 - 1800 Mon – Sat and 1000-1500 on Sundays

Case Officer : Mr Andy Carter

Telephone No : 01902 551132

Head of Planning – Stephen Alexander



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Planning Application No: 12/00745/FUL

Location	The Arcade, High Street, Tettenhall, Wolverhampton		
Plan Scale (approx)	1:1000	National Grid Reference	SJ 388745 300053
Plan Printed	24.10.2012	Application Site Area	116m ²

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/00820/FUL

WARD: St Peters

RECEIVED: 20.07.2012

APP TYPE: Full Application

SITE: 1 Market Street, Wolverhampton, WV1 3AE

PROPOSAL: Retention of Roller Shutter

APPLICANT:

Mr Joseph Yusef
1 Market Street
Wolverhampton
WV1 3AE

AGENT:

Mr P K Sehdeva
Integrated Designs
38 Old Walsall Road
Great Barr
Birmingham
B42 1NP

COMMITTEE REPORT:

1. The Site

- 1.1 The application site sits in a prominent position on the corner of Market Street and Castle Street within Wolverhampton City Centre. Currently trading as a beauty and laser clinic. The shop has a 90 degree chamfered shop-front which is set back at ground floor behind a triangular shaped covered footway.

2. Applications Details

- 2.1 The application is for the retention of external security shutters that have been placed on both the Castle Street and Market Street frontages of the property, attached to the corner supporting column. The shutters comprise of semi perforated curtains, shutter boxes and guide rails. This matter was deferred from Planning Committee on the 2 October 2012 to allow Councillors the opportunity to visit the application site.

3. Relevant Policies

The Development Plan

- 3.1 Wolverhampton's Unitary Development Plan

D4 Urban Grain
D6 Townscape and Landscape
D9 Appearance
CC4 City Centre Environment
D10 Community Safety

- 3.2 Black Country Core Strategy

ENV3 Design Quality

CSP4 Place Making

Wolverhampton's Supplementary Documents

3.3 SPG5 Shop-front Design

Other relevant policies

3.4 National Planning Policy Framework

4. Environmental Impact Assessment Regulations

4.1 This development proposal is not included in the definition of Projects that requires a "screening opinion" as to whether or not a formal Environmental Impact Assessment as defined by the above regulations is required.

5. Publicity

5.1 No representations received.

6. Legal Implications

6.1 General legal implications are set out at the beginning of the schedule of planning applications. Legal implications reference KR/12102012/Q

7 Appraisal

7.1 The key issues are:

- The principle of security shutters
- The effect of the shutters on the building and the viability and vitality of the City Centre.

The principle of security shutters

7.2 SPG5 states that in most circumstances sufficient shop-front security can be achieved by the use of laminated glass or internal tube and link roller grilles or a combination of the two. However, where there may be special circumstances, for example, where there is a proven severe and persistent security or vandalism problem, external security shutters of an appropriate design will be considered. Since the previous Committee the applicant has submitted amended plans detailing shutters of the approved design and a supporting statement. Although the supporting statement does refer to some criminal activity at the premises the information within the statement is ambiguous and does not establish a severe or persistent criminal problem exists at the site.

The effect of the shutters on the building and the viability and vitality of the City Centre.

7.3 The applicant has pointed to a number of external security shutters on shop-fronts within the street and surrounding shopping area. These have either been permitted through now superseded policies, have been in place for over four years and are therefore exempt from planning enforcement action or have not

been brought to the attention of the Council. The Council will continue to improve the appearance of the City Centre and seek the removal of external shutters whenever the opportunity arises.

- 7.4 The application shop-front is set back from the building frontage which creates an interesting and attractive architectural detail which contributes to the building's identity. Although while open the effect of the shutters does not have a seriously detrimental impact on the shop-front, when closed they completely obliterate this important feature, creating a solid hard edge encasing this portion of the building. The shutters therefore have a detrimental effect on the appearance of the shop-front and the wider street-scene.
- 7.5 The Council seeks to promote the creation of safe and visually stimulating shopping areas, which remain so after normal shop opening hours. These external security shutters have a visually deadening and intimidating effect on the shop-front and the surrounding street-scene. Shutters adjacent to footways have a harsh and foreboding appearance that creates a feeling of oppression, intimidation, unease and apprehension in pedestrians, contributing to the fear of crime. Consequently the shutters have an adverse effect on the vitality and viability of the City Centre and are contrary to BCCS Polices CSP4 and ENV3 and UDP Polices. D4, D6, D9, D10 and CC4.

8. Conclusion

- 8.1 Despite the additional information supplied since the last Committee the applicant has failed to demonstrate that the property has been the subject of a severe and persistent security or vandalism problem. Consequently even though a revised design for the shutters has been submitted the development is unacceptable. The development remains detrimental to the appearance of the street scene, promotes the fear of crime and adversely affect the vitality and viability of the City Centre. The proposal is therefore contrary to BCCS Polices CSP4 and ENV3 and UDP Polices. D4, D6, D9, D10 and CC4.

9. Recommendation

- 9.1 That planning application 12/00820/FUL be refused for the following reasons:
- The applicant has failed to demonstrate that the property has been the subject of a severe and persistent security or vandalism problem.
 - The shutters have an adverse effect on the vitality and viability of the City Centre and are contrary to BCCS Polices CSP4 and ENV3 and UDP Polices. D4, D6, D9, D10 and CC4.

Case Officer : Mr Colin Noakes
Telephone No : 01902 551124
Head of Planning – Stephen Alexander



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Planning Application No: 12/00820/FUL

Location	1 Market Street, Wolverhampton, WV1 3AE		
Plan Scale (approx)	1:1000	National Grid Reference	SJ 391607 298584
Plan Printed	24.10.2012	Application Site Area	116m ²

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/01038/VV

WARD: Tettenhall Regis

RECEIVED: 30.08.2012

APP TYPE: Vary of Condition(s) of Previous Approval

SITE: 59 Pendeford Avenue, Wolverhampton, WV6 9EH

PROPOSAL: Variation of condition 3 of previous approval [06/01223/FUL] to allow opening Monday to Friday from 12:00 - 14:00 and 16:30 - 22:00, 12:00 - 22:00 on Saturdays and Sundays and Bank holidays from 17:00 - 22:00

APPLICANT:

Mr Daljit Singh
King Cod
59 Pendeford Avenue
Wolverhampton
WV6 9EH

AGENT:

COMMITTEE REPORT:

1. Site Description

- 1.1 The application relates to a hot food take-away business located within a local centre on Pendeford Avenue. Other businesses in this parade of shops consist of a hairdressers, butchers, off-licence, general store, hardware and card shop and a hot food take-away at 51A Pendeford Avenue. The general store and off-licence both remain open until 22:00 hours.
- 1.2 The surrounding area is predominantly residential and there are flats above most of the retail units. There is a parking area to the front of the parade of shops.

2. Application details

- 2.1 The application has been made to vary the hours of opening. The premises are currently conditioned to open as follows;

*Monday to Saturday 12:00-14:00 hours and 16:30-20:30 hours
Sundays and Bank or Public Holidays – Closed.*

- 2.2 The business is seeking to vary the hours to the following;

*Monday to Friday 12:00-14:00 hours and 16:30-22:00 hours
Saturdays 12:00-22:00 hours
Sundays and Bank/Public Holidays 17:00-22:00 hours*

3. Planning History

- 3.1 06/01223/FUL for Change of use to hot food takeaway (Use class A5) - Granted, dated 22.01.2007.
- 3.2 08/00636/VV for Variation of condition 3 of previous approval [06/01223/] to allow opening Monday to Friday from 12:00 - 14:00 and 16:30 - 22:00, Sundays and Bank holidays from 17:00 - 22:00 - Refused, dated 26.08.2008.

4. Constraints

- 4.1 None

5. Relevant Policies

- The Development Plan
5.1 Wolverhampton's Unitary Development Plan

EP1 – Pollution Control
EP5 - Noise Pollution
SH14 – Catering Outlets

Black Country Core Strategy
CEN5 – District and Local Centres
CEN6 – Meeting Local Needs for Shopping and Services
ENV8 – Air Quality
EMP1 – Providing for Economic Growth and Jobs

- Other relevant policies
5.2 National Planning Policy Framework

6. Environmental Impact Assessment Regulations

- 6.1 This development proposal is not included in the definition of Projects that requires a “screening opinion” as to whether or not a formal Environmental Impact Assessment as defined by the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011/1824).

7. Publicity

- 7.1 Twenty-four letters of representation received objecting to the proposal
- 7.2 The application was supported by a log-book containing customer comments supporting an extension of opening hours.
- 7.3 Objections were made on the following grounds;
- Noise disturbance later into the night
 - Anti-social behaviour

- Cooking odours
- Inadequate parking facilities leads to on-street parking
- Increased litter

8. Internal Consultees

- 8.1 **Environmental Health** – Since January 2008 there have been 11 complaints relating to odour from both premises at Pendeford Avenue. Officers undertook monitoring in January 2009 and the level of odour monitored was not found to be a statutory nuisance. The extension in hours would increase the duration that the odour would affect the nearby residents, however as the department has not found odour at a level at which action could be taken the department has no objection with the extension of hours.

9. Legal Implications

- 9.1 The application is made under Section 73 of the Town and Country Planning Act 1990 and is therefore an application “*for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted*”. If the proposed condition is acceptable, in this case to extend the opening hours of the take away, permission should be granted with the new condition and any conditions on the original permissions, which remain relevant and any other conditions required that would make the proposals acceptable. KR/26102012/Z.

10. Appraisal

- 10.1 The key issues are: -

- Economic Impact
- Impact on residential amenity

Economic Prosperity

- 10.2 The National Planning Policy Framework (NPPF) promotes competitive centre environments and requires that policies support their viability and vitality. The current hours of opening for the take-away business allow six hours trade per day. When compared to other hot food take-away uses in Wolverhampton the current opening hours are considerably less. Particularly in the current economic climate this has the potential to affect the viability of the business. It also potentially stifles growth and the creation of further job opportunities.
- 10.3 The applicant has stated that the economic downturn has adversely impacted on their business and that the current hours of opening restricts the viability of the business and that they have to turn away potential custom by closing at 20:30 hours.
- 10.4 The proposed extension of opening hours would provide the opportunity to economically expand and potentially provide further job opportunities. This would reflect the policies of the NPPF which encourages economic growth and would be in accordance with BCCS policy EMP1.

Impact on residential amenity

- 10.5 There has been significant objection to the proposed extension of hours for the hot food take-away premises. Reasons for objecting largely relate to the potential disturbance in the form of noise and cooking odours that may occur from allowing the business to open later into the evening. Correspondence from residents has also expressed the fear that anti-social behaviour would be exacerbated by a proposed extension of hours.
- 10.6 The current hours of operation were applied when permission was granted for the hot food take-away use in 2007 in the interests of residential amenity. An application to extend the hours of opening was refused in 2008 on grounds of harm to residential amenity. The interests of residential amenity still forms an important consideration in the assessment of this application, however the decision must also be balanced against the Council's policies to encourage the viability and vitality of existing centres and the current national planning policy and the recently adopted Black Country Core Strategy towards the potential economic effects of restricting the hours of opening on the viability of the business when viewed in the current economic climate.
- 10.7 The Pendeford Avenue centre contains two general stores and an off-licence which remain open until 22.00 hours Monday to Saturday. It is therefore reasonable to suggest that there is already a considerable level of pedestrian and vehicular movement associated with these businesses until this time of the evening. An extension of opening hours for the hot food take-away business until 22.00 would add to the vitality of this parade into the evening, but the unit would not be open any later than other existing businesses in the parade. Whilst it is inevitable that the extension of hours would increase the level of pedestrian and vehicular activity along the parade between 20:30 and 22:00 hours it is not considered the revised hours would increase footfall to an extent which would add significant disturbance or be unreasonably late to affect residential amenity to an unacceptable degree.
- 10.8 In respect of disturbance from cooking odours the Council's environmental health department have investigated several complaints relating to cooking odours emanating from both take-away premises on Pendeford Avenue. However the results of these investigations have not concluded that the cooking odours are causing a statutory nuisance and on this basis do not object to the extension of hours. Whilst in planning terms a 'statutory nuisance' is not necessarily the trigger measure, nevertheless in this case, taking all matters into consideration it is not considered that the proposal could reasonably be refused on these grounds.
- 10.9 Permission is also sought to open on Sundays and Bank/Public holidays. It is acknowledged that the hot-food take-away use does generate a level of disturbance. Whilst the economic benefits of extending the hours of opening until 22:00 hours is considered appropriate it is felt necessary to give some respite by requiring that the hot food take-away business remains closed on Sundays and Bank/Public holidays.
- 10.10 The extension of the hours of opening for 59 Pendeford Avenue 12:00 – 14:00 and 16:30 – 22:00 hours Monday to Friday and 12:00 – 22.00 on Saturdays is therefore considered reasonable and in accordance with the Council's

Development Plan Policies SH14, EP1 and EP5, BCCS policy EMP1 and the NPPF.

11. Conclusion

- 11.1 The proposed extension of the Mondays to Saturdays opening hours for the businesses at 59 Pendeford Avenue is considered appropriate when the economic benefits of extending the hours are balanced against the potential limited impact on residential amenity.
- 11.2 The opening of the premises on Sundays and Bank/Public holidays is not supported as it is considered that the premises should remain closed for at least one day a week. This would give residents a break from the general activities associated with the hot food take-away use at a time when they are most likely to reside at home.

12. Recommendation

- 12.1 That Planning Application 12/01038/VV be granted in part with all previous and relevant conditions attached and the following varied condition;
- The use hereby permitted shall not be open to customers and there shall be no food collection or deliveries outside the following times 1200 hours to 1400 hours and 1630 hours to 2200 hours on Mondays to Fridays and 1200 hours to 2200 hours on Saturdays. The premises shall remain closed, for the use hereby permitted, on Sundays and Bank or Public Holidays

Case Officer : Mr Mark Elliot
Telephone No : 01902 555648
Head of Planning – Stephen Alexander



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Planning Application No: 12/01038/VV

Location	59 Pendeford Avenue, Wolverhampton, WV6 9EH		
Plan Scale (approx)	1:1250	National Grid Reference	SJ 389156 301479
Plan Printed	24.10.2012	Application Site Area	214m ²

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/01090/VV **WARD:** Tettenhall Regis

RECEIVED: 10.09.2012

APP TYPE: Vary of Condition(s) of Previous Approval

SITE: 51A Pendeford Avenue, Wolverhampton, WV6 9EH

PROPOSAL: Variation of condition 3 of previous planning permission
07/00640/FUL to allow opening Monday to Saturday 12.00 - 22.00
and Sundays and Bank Holidays from 17.00 - 22.00

APPLICANT:

Mr C Gavriel
96 Codsall Road
Tettenhall
Wolverhampton
WV6 9QP

AGENT:

COMMITTEE REPORT:

1. Site Description

1.1 The application relates to a hot food take-away business located within a local centre on Pendeford Avenue. Other businesses in this parade of shops consist of a hairdressers, butchers, off-licence, general store, hardware and card shop and a hot food take-away at 59 Pendeford Avenue. The general store and off-licence both remain open until 22:00 hours.

1.2 The surrounding area is predominantly residential and there are flats above most of the retail units. There is a parking area to the front of the parade of shops.

2. Application details

2.1 The application has been made to vary the hours of opening. The premises are currently conditioned to open as follows;

*Monday to Saturday 12:00-14:00 hours and 16:30-20:30 hours
Sundays and Bank or Public Holidays – Closed.*

2.2 The business is seeking to vary the hours to the following;

*Monday to Saturday 12:00-22:00 hours
Sundays and Bank/Public Holidays 17:00-22:00 hours*

3. Planning History

- 3.1 07/00640/FUL for Change of use from green grocers (Use Class A1) to hot food takeaway (Use Class A5) and associated external flue and new shopfront - Granted, dated 06.09.2007.
- 3.2 08/00714/VV for Variation of condition 3 of previous planning permission 07/00640/FUL to allow opening until 10:00pm Monday to Saturday [Excluding Bank holidays and Sundays] - Refused, dated 26.08.2008.

4. Constraints

- 4.1 None

5. Relevant Policies

The Development Plan

- 5.1 Wolverhampton's Unitary Development Plan

EP1 – Pollution Control
EP5 - Noise Pollution
SH14 – Catering Outlets

Black Country Core Strategy
CEN5 – District and Local Centres
CEN6 – Meeting Local Needs for Shopping and Services
ENV8 – Air Quality
EMP1 – Providing for Economic Growth and Jobs

Other relevant policies

- 5.2 National Planning Policy Framework

6. Environmental Impact Assessment Regulations

- 6.1 This development proposal is not included in the definition of Projects that requires a “screening opinion” as to whether or not a formal Environmental Impact Assessment as defined by the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011/1824).

7. Publicity

- 7.1 Twenty-six letters of representation received objecting to the proposal. Objections were made on the following grounds;
- Noise disturbance later into the night
 - Anti-social behaviour
 - Cooking odours
 - Inadequate parking facilities leads to on-street parking
 - Increased litter

8. Internal Consultees

- 8.1 **Environmental Health** – Since January 2008 there have been 11 complaints relating to odour from both premises at Pendeford Avenue. Officers undertook monitoring in January 2009 and the level of odour monitored was not found to be a statutory nuisance. The extension in hours would increase the duration that the odour would affect the nearby residents, however as the department has not found odour at a level at which action could be taken the department has no objection with the extension of hours.

9. Legal Implications

- 9.1 The application is made under Section 73 of the Town and Country Planning Act 1990 and is therefore an application “*for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted*”. If the proposed condition is acceptable, in this case to extend the opening hours of the take away, permission should be granted with the new condition and any conditions on the original permissions, which remain relevant and any other conditions required that would make the proposals acceptable. KR/25102012/0.

10. Appraisal

- 10.1 The key issues are: -

- Economic Impact
- Impact on residential amenity

Economic Prosperity

- 10.2 The National Planning Policy Framework (NPPF) promotes competitive centre environments and requires that policies support their viability and vitality. The current hours of opening for the take-away business allow six hours trade per day. When compared to other hot food take-away uses in Wolverhampton the current opening hours are considerably less. Particularly in the current economic climate this has the potential to affect the viability of the business. It also potentially stifles growth and the creation of further job opportunities.
- 10.3 The applicant has stated that the economic downturn has adversely impacted on their business and that the current hours of opening restricts the viability of the business and that they have to turn away potential custom by closing at 20:30 hours.
- 10.4 The proposed extension of opening hours would provide the opportunity to economically expand and potentially provide further job opportunities. This would reflect the policies of the NPPF which encourages economic growth and would be in accordance with BCCS policy EMP1.

Impact on residential amenity

- 10.5 There has been significant objection to the proposed extension of hours for the hot food take-away premises. Reasons for objecting largely relate to the

potential disturbance in the form of noise and cooking odours that may occur from allowing the business to open later into the evening. Correspondence from residents has also expressed the fear that anti-social behaviour would be exacerbated by a proposed extension of hours.

- 10.6 The current hours of operation were applied when permission was granted for the hot food take-away use in 2007 in the interests of residential amenity. An application to extend the hours of opening was refused in 2008 on grounds of harm to residential amenity. The interests of residential amenity still forms an important consideration in the assessment of this application, however the decision must also be balanced against the Council's policies to encourage the viability and vitality of existing centres and the current national planning policy and the recently adopted Black Country Core Strategy towards the potential economic effects of restricting the hours of opening on the viability of the business when viewed in the current economic climate.
- 10.7 The Pendeford Avenue centre contains two general stores and an off-licence which remain open until 22.00 hours Monday to Saturday. It is therefore reasonable to suggest that there is already a considerable level of pedestrian and vehicular movement associated with these businesses until this time of the evening. An extension of opening hours for the hot food take-away businesses until 22.00 would add to the vitality of this parade into the evening, but the unit would not be open any later than other existing businesses in the parade. Whilst it is inevitable that the extension of hours would increase the level of pedestrian and vehicular activity along the parade between 20:30 and 22:00 hours it is not considered the revised hours would increase footfall to an extent which would add significant disturbance or be unreasonably late to affect residential amenity to an unacceptable degree.
- 10.8 In respect of disturbance from cooking odours the Council's environmental health department have investigated several complaints relating to cooking odours emanating from both take-away premises on Pendeford Avenue. However the results of these investigations have not concluded that the cooking odours are causing a statutory nuisance and on this basis do not object to the extension of hours. Whilst in planning terms a 'statutory nuisance' is not necessarily the trigger measure, nevertheless in this case, taking all matters into consideration it is not considered that the proposal could reasonably be refused on these grounds.
- 10.9 It is therefore considered that the extension of opening hours between 14:00-16:30 hours would not adversely impact on residential amenity to an unacceptable degree.
- 10.10 Permission is also sought to open on Sundays and Bank/Public holidays. It is acknowledged that the hot-food take-away use does generate a level of disturbance. Whilst the economic benefits of extending the hours of opening until 22:00 hours is considered appropriate it is felt necessary to give some respite by requiring that the hot food take-away business remains closed on Sundays and Bank/Public holidays.
- 10.11 The extension of the hours of opening for 51A Pendeford Avenue 12:00 – 22:00 hours Monday to Saturday is therefore considered reasonable and in

accordance with the Council's Development Plan Policies SH14, EP1 and EP5, BCCS policy EMP1 and the NPPF.

11. Conclusion

- 11.1 The proposed extension of the Mondays to Saturdays opening hours for the businesses at 51A Pendeford Avenue is considered appropriate when the economic benefits of extending the hours are balanced against the potential limited impact on residential amenity.
- 11.2 The opening of the premises on Sundays and Bank/Public holidays is not supported as it is considered that the premises should remain closed for at least one day a week. This would give residents a break from the general activities associated with the hot food take-away use at a time when they are most likely to reside at home.

12. Recommendation

- 12.1 That Planning Application 12/01090/VV be granted in part with all previous and relevant conditions attached and the following varied condition;
- The use hereby permitted shall not be open to customers and there shall be no food collection or deliveries outside the following times 1200 hours to 2200 hours on Mondays to Saturdays. The premises shall remain closed, for the use hereby permitted, on Sundays and Bank or Public Holidays

Case Officer : Mr Mark Elliot
Telephone No : 01902 555648
Head of Planning – Stephen Alexander



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Planning Application No: 12/01090/VV

Location	51A Pendeford Avenue, Wolverhampton, WV6 9EH		
Plan Scale (approx)	1:1250	National Grid Reference	SJ 389147 301427
Plan Printed	24.10.2012	Application Site Area	130m ²

PLANNING COMMITTEE - 06-Nov-12

APP NO: 12/00924/FUL

WARD:

Bushbury South And
Low Hill

RECEIVED: 08.08.2012

APP TYPE: Vary of Condition(s) of Previous Approval

SITE: 3 Raynor Road, Wolverhampton, WV10 9QY

PROPOSAL: Variation of previous approval (09/00179/FUL) to allow opening from 0800 hours to 2300 hours on Monday to Sundays and for the installation of an external flue to the rear of the premises.

APPLICANT:

Mr Balbir Ghateaura
8 Lambert Road
Fallings Park
Wolverhampton
WV10 9RF

AGENT:

Mr Peter Tyler
Seven Design Build
20 Bridgnorth Road
Wombourne
Wolverhampton
Staffordshire
WV5 0AA

COMMITTEE REPORT:

1. Site Description

- 1.1 The building is situated within a parade of commercial premises in the Fallings Park District Centre. The parade contains two other hot food takeaways. Both hot food take-away businesses have unrestricted hours of opening and one premises currently opens until 00:30 hours on Friday and Saturday evenings. Adjacent to the premises is a pharmacy and a dwelling house is situated to the rear, 2A Mandale Road.
- 1.2 The premise currently extracts its cooking odours through a low level vent to the rear of the building.

2. Application details

- 2.1 The application has been made to vary the hours of opening and for the installation of an external flue to replace a low level extraction system and vent.
- 2.2 The premises are currently conditioned to open as follows;
- Monday to Saturday 0800 to 2100 hours*
Sundays and Bank/Public Holidays - Closed
- 2.3 Permission is sought to extend the opening hours as follows;
- Monday to Sunday 0800 to 2300 hours*

- 2.4 The flue would be located to the rear of the premises, attached to the existing chimney breast. It would extend approximately two metres above the eaves.
- 2.5 An application for an extension of hours was previously refused at Planning Committee and dismissed on appeal.

3. Planning History

- 3.1 09/00179/FUL for Change of use from Use Class A1 (Retail) to Use Class A5 (Hot Food Takeaway) - Granted, dated 10.11.2009.
- 3.2 10/00827/VV for Variation of condition 4 of previous approval (09/00179/FUL) to allow opening from 0800 hours to 2300 hours on Monday to Sundays - Refused, dated 04.11.2010. Appeal Dismissed 05.10.2011
- 3.3 12/00749/FUL for Erection of new shop (Use Class A1 Retail) to create an additional unit - Granted, dated 08.10.2012.

4. Constraints

- 4.1 None relevant.

5. Relevant Policies

The Development Plan

- 5.1 Wolverhampton's Unitary Development Plan

EP1 – Pollution Control
EP5 - Noise Pollution
SH14 – Catering Outlets
AM12 - Parking and Servicing Provision
AM15 - Road Safety and Personal Security

Black Country Core Strategy
CEN5 – District and Local Centres
CEN6 – Meeting Local Needs for Shopping and Services
ENV8 – Air Quality
EMP1 – Providing for Economic Growth and Jobs

Other relevant policies

- 5.2 National Planning Policy Framework

6. Environmental Impact Assessment Regulations

- 6.1 This development proposal is not included in the definition of Projects that requires a “screening opinion” as to whether or not a formal Environmental Impact Assessment as defined by the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011/1824).

7. Publicity

7.1 One letter of representation received. This objected to the proposal on the following grounds;

- Proximity to residential dwelling
- Inadequate parking
- Cooking odours
- Flue visually obtrusive
- No respite on Sundays and Bank/Public holidays

7.2 A request has been made by the Deputy Leader of the Council that this application be considered by the Planning Committee due to its planning history.

8. Internal Consultees

8.1 Environmental Health – The service has received several complaints relating to cooking odours, litter and premises opening outside of the permitted hours. The odour emitted from the premises causing disturbance to nearby neighbours was believed to be due to the low level vent, it is anticipated that the fitting of the flue regular maintenance and cleaning of a new flue would reduce the disturbance from odours.

8.2 The history of cooking odours problems at the premises was such that the extension to the opening hours was refused on appeal. The provision of the external extract flue must therefore be fitted prior to the extension of the hours being granted. It is also strongly advised that the odour is monitored once the flue is fitted prior to granting the extension of hours.

9. Legal Implications

9.1 The application is made under Section 73 of the Town and Country Planning Act 1990 and is therefore an application “*for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted*”. If the proposed condition is acceptable, in this case to extend the opening hours of the take away, permission should be granted with the new condition and any conditions on the original permission, which remain relevant and any other conditions required that would make the proposals acceptable. KR/25102012/D.

10. Appraisal

10.1 The key issues are: -

- Impact on residential amenity
- Character and appearance

Impact on residential amenity

- 10.2 An application to vary the hours of opening for the subject premises was made in 2010. This was refused and dismissed on appeal. In the decision the inspector concluded that the occupiers of 2A Mandale Road already suffered from cooking odours and therefore extending the hours of opening would prolong this occurrence. The appeal was dismissed because of the adverse impact cooking odours were having on residential amenity.
- 10.3 The proposed installation of a new external flue seeks to address the level of disturbance suffered by the occupiers of 2A Mandale Road in terms of cooking odours. It is anticipated that the installation of the flue and its regular maintenance would reduce the level of disturbance suffered by cooking odours. It is therefore considered that the flue should be installed before an extension of the opening hours is agreed. It is recommended that a condition is applied restricting the extension of opening hours until the flue has been installed.
- 10.4 In the inspectors appeal decision consideration was given to the potential for noise disturbance from an extension of opening hours. It was concluded that although the takeaway would create some additional noise by opening later into the evening this would be against the existing background noise of traffic and other street activity on Raynor Road and Cannock Road. Therefore in this context the additional noise created would not be excessive and would generally be limited.
- 10.5 The inspector also concluded that the proposed extension of hours may result in additional on-street parking but that this would not amount to a highway safety problem for drivers or pedestrians. In terms of noise disturbance and highway safety it is not considered that any of these circumstances have changed to warrant drawing an alternative conclusion to that made by the Planning Inspector.
- 10.6 Subject to the inclusion of a condition requiring the installation of the flue to the satisfaction of the Local Planning Authority before the premises can extend the hours of opening, the proposal would be satisfactory in respect of UDP policy EP5, SH14 and AM15.

Character and appearance

- 10.7 The flue has been located to the rear of the premises and would not be visible from the public realm. The flue would follow the line of the chimney breast extending up the rear elevation of the building. It is acknowledged that the flue would be visible from the rear of 2A Mandale Street. However it is not considered that it would unduly impact on visual amenity to an unacceptable degree. Despite this it is recommended that the flue is painted a dark colour to improve its appearance. This detail can be conditioned. On this basis the proposal is satisfactory in respect of UDP policy D8 and D9.

11. Conclusion

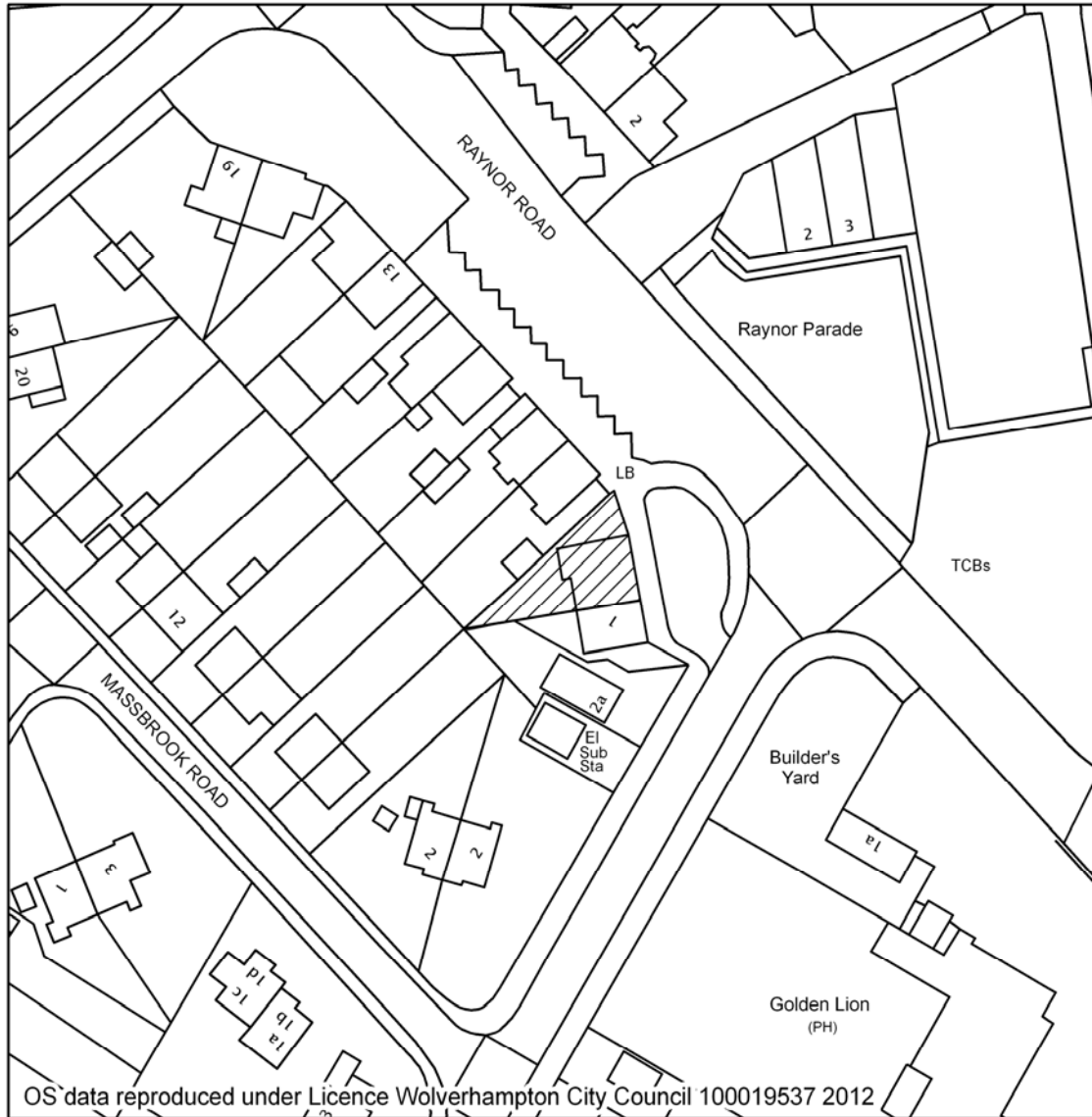
- 11.1 The proposed installation of the flue would reduce the level of disturbance suffered by the occupiers of 2A Mandale Road in terms of cooking odours.

- 11.2 It is considered that the proposed extension of opening hours would not lead to a significant degree of disturbance that would harm residential amenity to an unacceptable degree nor adversely impact on highway safety.
- 11.3 The proposed flue would be satisfactorily located to the rear of the building. Although visible from the rear of 2A Mandale Road its appearance would not adversely impact on visual amenity to an unacceptable degree. Nevertheless it shall be conditioned that the flue is painted a dark colour to reduce its visual prominence.
- 11.4 Once the flue has been installed the extended opening hours shall be agreed as proposed in writing.

12. Recommendation

- 12.1 That Planning Application 12/00924/FUL be granted subject to all previous and relevant conditions relating to planning approval 09/00179/FUL and the following conditions;
- Extended opening hours 0800-2300 hours Monday to Sunday subject to the flue being installed and operational and confirmed in writing by the local planning authority. With such written authority also agreeing to the commencement of the extended opening hours;
 - Flue to be painted a dark colour

Case Officer : Mr Mark Elliot
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Head of Planning – Stephen Alexander



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Planning Application No: 12/00924/FUL

Location	3 Raynor Road, Wolverhampton, WV10 9QY		
Plan Scale (approx)	1:1000	National Grid Reference	SJ 392938 300774
Plan Printed	24.10.2012	Application Site Area	189m ²

