

## Planning Committee

Report of Head of Planning and Building Control on 20 July 2023

Plans List Item Number: 2

### Reason for bringing to committee

Council owned land with uplift in the value of the land

### Application Details

**Location:** THE ALLENS CENTRE, HILTON ROAD, WILLENHALL, WV12 5XB

**Proposal:** OUTLINE: RESIDENTIAL DEVELOPMENT OF UP TO 59 DWELLINGS, WITH ALL MATTERS RESERVED (NEAR TO PROW NDA151)

**Application Number:** 23/0106

**Case Officer:** Peter Gittins

**Applicant:** C/O Agent

**Ward:** Willenhall North

**Agent:** Lauren McCullagh

**Expired Date:** 17-May-2023

**Application Type:** Outline Permission: Major Application

**Time Extension Expiry:**



Crown Copyright and database rights 2022 Ordnance Survey 100019529

## Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to Conditions and a S106 agreement to secure open space contributions, affordable housing, and mitigation payments towards the Cannock Chase SAC and subject to;

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

## Proposal

This is an outline planning application for a residential development of up to 59 dwellings with all matters reserved. Whilst an indicative layout has been submitted with the application, it is the principle of the development for housing that is to be considered, with layout, scale, appearance, landscaping and access to be considered at the reserved matters stage.

## Site and Surroundings

The site is located in Willenhall and is surrounded by residential houses and gardens. The current access point is situated to the east off Hilton Road. The site is some 3.27 acres in area and was previously occupied by the Allens Centre, a demolished community building and school. Some hardstanding remains after the site clearance.

In the vicinity of the site, there is a tree-covered mound known as "Allens Rough" to the south.

Various local services are available in the area, with Coppice Farm Local Centre offering a health centre, pharmacy, and supermarket within a seven-minute walk to the west. Additional amenities can be found at the Lichfield Road Local Centre to the south. Willenhall District Centre is approximately 3km away and provides further shopping options, while Walsall Town Centre is located approximately 5km southeast.

There are several schools in close proximity, including Beacon Primary School, Bloxwich Academy, and Coppice Performing Arts School. Recreational areas such as New Invention Community Green, Coppice Farm Park and Field, and Short Heath Park are all within walking distance.

The nearest bus stops are within 300m on Essington Road, Dorchester Road, and Hilton Road, with the half-hourly no. 41 bus service operating between Willenhall and Walsall. Bloxwich North railway station provides railway connections, and the anticipated opening of Willenhall Station in 2024 will further enhance rail accessibility to Birmingham, Walsall, and Wolverhampton.

The site comprises a single parcel of land, all of which is within the ownership of the applicant Walsall Council. The site is within the Zone of Influence of the Cannock Chase SAC.

## Relevant Planning History

C50118P, School House, Hilton Road, Willenhall, Change of use to education and training centre including creche Granted Permission Subject to Conditions 10/11/1997

03/1841/FL/W1, Allens Rough School (including caretakers house), Hilton Road, Walsall, Willenhall, West Midlands, Change of use to community facility, council offices and employment training, Granted Permission Subject to Conditions 9/12/2003.

15/1404, The Allens Centre, Hilton Road, Willenhall, Prior Notification for demolition of the Allens Centre, Prior Approval: Granted 19/10/2015

## Relevant Policies

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/national-planning-policy-framework)

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

**Key provisions** of the NPPF relevant in this case:

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

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

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

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

### **National Planning Policy Guidance**

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

### **Reducing Inequalities**

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

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

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

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

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

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

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

- ENV9: Environmental Improvement Initiatives
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H1: Renewal of Existing Residential Areas
- H4: Affordable Housing parts g, h, i and j
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- 8.3 Urban Open Space

### **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- ENV1: Nature Conservation
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

### **Walsall Site Allocation Document 2019**

HC1: Land allocated for New Housing Development  
 HC2: Development of Other Land for Housing  
 HC3: Affordable Housing and Housing for People with Special Needs  
 OS1: Open Space, Sport and Recreation  
 EN3: Flood Risk  
 T4: The Highway Network  
 T5: Highway Improvements  
 EQ2 - Cannock Chase Special Area of Conservation

### **Supplementary Planning Document**

## Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

## Designing Walsall

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

## Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications

## Affordable Housing

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

## Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures

- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

## Consultation Replies

**Clean and Green** – no comment

**Coal Authority** – no objections subject to conditions relating to address land instability arising from shallow coal mining legacy

**Environmental Protection** - no objections subject to conditions relating to a construction environmental management plan and contaminated land

**Local Access Forum** - Support

**Local Highways Authority including Public Rights of Way** – support , some noted queries regarding access arrangements, however these will be considered at reserved matters stage

**Police** – No objection, suggestions provided regarding security based on the submitted indicative layout

**Public Health** – No objection

**Severn Trent Water** – No objections subject to conditions relating to the submission of a drainage scheme

**Strategic Planning Policy** – support, the current and evolving Development Plan supports the principle of residential development on this site and this is despite the councils no longer proceeding with the Black Country Plan.

**Local Flood Authority** – no comment.

## Representations

There have been 10 letters in objection from local neighbours in relation to this proposal and one letter of objection from a local councillor.

**In summary the residents' object on the grounds that:**

The proposed development does not include any designated green space, and to accommodate the new dwellings, the existing green space would need to be removed.

The area is known to be habitat for protected species such as bats and other wildlife, so an Ecological Impact Assessment should be conducted to assess the ecological impact of the development.

There are issues with the proposed layout, including potential dwellings being situated over public sewers and the possibility of old mine workings in the area, as well as a coal seam beneath the site. Proof drilling and grouting should be carried out to ensure the safety and viability of the development.

The surrounding areas experience flooding during heavy rainfall, and with a high-water table and no apparent provision for soakaways, there are concerns about how the water will be effectively drained from the proposed site without causing adverse effects on surrounding homes and streets. Photographic evidence of previous flooding incidents supports these concerns.

Overall, these objections raise concerns about the lack of designated green space, potential safety issues related to infrastructure and mining, and inadequate drainage plans for the proposed development.

### **In summary the local councillor objects on the grounds of:**

The reliance on the scrapped "Black Country Plan" and the lack of clarity in informing residents about the removal of designated green space. The Councillor disputes the claim that the site is inaccessible, highlighting its regular use by the public and arguing that policies protecting open spaces should still apply. They express frustration at the absence of assessments on protected species and suggests a combination of residential development and the preservation of green space, considering the high population density in the area. There are also concerns about the proposed layout, potential issues with public sewers and mine workings, and the drainage of water from the site during heavy rain.

## **Determining Issues**

- Principle of Development
- Highway safety
- Ecology
- Flood Risk / Drainage
- Ground Conditions and Environment
- Planning Obligations
- Cannock Chase SAC and HRA
- Local Finance Considerations
- Consideration of the local objections to the proposal

## **Assessment of the Proposal**

### **Principle of Development**

The site is divided into two areas in the adopted development plan: one for housing and the other as open space. The draft Black Country Plan suggests allocating both areas for housing. Although the council decided not to proceed with the draft plan, it carries some weight due to having undergone public consultation. Proposals affecting open space must adhere to relevant policies in the National Planning Policy Framework (NPPF), Black Country Core Strategy (BCCS), and Unitary Development Plan (UDP). Open space should only be developed if an assessment demonstrates surplus or equivalent replacement provision, as stated in NPPF paragraph 99.

However, the open land on the site was previously playing fields associated with a primary school and, whilst the buildings on the land have now been demolished, the area is secure and is not considered to be public open space. Given the weighting afforded to housing development as a result of the draft Black Country Plan and that the Council currently faces a shortage in 5-year housing land supply and has failed the Housing Delivery Test, there is a presumption in favour of sustainable

development, and it is considered that the whole site is suitable for a housing development. Nonetheless contributions for off-site public open space and affordable housing will be required.

Therefore, the proposal is considered acceptable in principle and accords with the development plan.

## Highways

The outline application has received no objections from the local highway authority and a Transport Statement (TS) has been included with this planning application. Whilst details of the proposed access are reserved for a future reserved-matters planning application it is envisaged that the site access for both vehicles and pedestrians will be located on Hilton Road, south of the site. The access road will have a width of 5.5m, with footways of 2m on each side. Measures will be taken to ensure a maximum vehicle speed of 20mph within the development, including the use of road geometry and other features. It is also envisaged that the proposed main access junction will be relocated, improving access to the site, and providing 2m wide footways on both sides of the junction.

The site access would have adequate visibility splays in both directions, suitable for a 30mph speed limit on Hilton Road. The road layout of the development will be accessible to a refuse collection vehicle.

Regarding pedestrian and cycle connectivity, the proposal aims to maintain and enhance existing traffic-free pedestrian routes, which are also accessible to cyclists. It is envisaged that the route between Hilton Road and Sherringham Drive, passing through the site, will be retained and improved.

## Ecology

The applicant conducted an ecological appraisal as part of their application, which involved a desk study and field surveys. The desk study identified important conservation sites and species records within specific radii. The field surveys, including an Extended Phase 1 Habitat Survey, assessed the existing habitats and potential presence of protected species. The significance of the site features was evaluated in relation to the geographical context, and species assessments followed best practice guidelines.

Based on the findings, the applicant is advised to perform Biodiversity Impact Calculations to demonstrate a net gain in biodiversity according to the NPPF. During the design phase, efforts should be made to avoid disturbing root protection zones of woodland and scattered broadleaved trees, while following British Standard guidelines near these zones during construction. Planting new trees and increasing native wildflower planting are recommended to replace lost vegetation and enhance invertebrate habitat. Nesting bird checks should be conducted before vegetation clearance during the breeding bird season. Species-specific bird boxes and bat boxes should be installed on retained trees and incorporated into the building design. Precautionary working methods and checks should be implemented to protect reptiles, amphibians, and invertebrates. A badger check is advised before construction begins.

Overall, the proposed works are not expected to impact any designated conservation sites within a 5 km radius. The site contains important ecological features such as

broadleaved woodland, scattered trees, scrub, hardstanding areas, and semi-improved grassland, supporting a variety of wildlife including birds, bats, badgers, reptiles, and invertebrates. To compensate for habitat loss in an urban area, the applicant will be required to enhance the site's ecological value after construction and achieve a net gain in biodiversity. This will be effectively controlled through the planning process and by condition on any reserved matters application when further details of the layout and landscaping are known. It should be noted that the applicant's preliminary ecological appraisal is to be conditioned as an approved document as part of this application and it specifically highlights the principle of achieving a net gain in biodiversity, in line with The Environment Act 2021 which is welcomed.

## **Flood Risk / Drainage**

The applicant has submitted a flood risk assessment as part of their outline application, which complies with the National Planning Policy Framework (NPPF) and its accompanying Planning Practice Guidance. The NPPF outlines guidelines for development in flood-prone areas, emphasising the avoidance of inappropriate development in high-risk areas. If development is necessary, it should be conducted in a way that does not increase flood risk elsewhere. The flood risk assessment for the proposed development considers all potential sources of flooding.

The site is located in Flood Zone 1, an area designated as such by the Environment Agency (EA). According to the NPPF, a Sequential Test should be applied, giving preference to development within Flood Zone 1. The applicant's flood risk assessment demonstrates that the Sequential Test requirements have been satisfied, as the site is within Flood Zone 1. Consequently, the development of the site should not be restricted based on flood risk considerations.

It is noted that Severn Trent Water have no objections to the proposal. It will be necessary to condition that foul and surface water drainage details are submitted and approved prior to the commencement of the development.

## **Ground Conditions and Environment**

The application site is located in a Development High Risk Area with coal mining features and hazards. Coal mining has occurred beneath the site at shallow depths, and there may be additional unrecorded mining activities, which can lead to ground instability and mine gas emissions.

The application includes a Geo-Environmental Desk Study Report and a Geo-Environmental Investigation Report. These reports recommend conducting a borehole investigation and implementing stabilisation works to address the land instability caused by coal mining and it is noted that the Coal Authority supports these recommendations.

Specific conditions will be proposed to ensure the site's safety and stability.

## **Planning Obligations**

A planning legal agreement under Section 106 of the Act will be required to secure payments towards off site open space, which based on the indicative layout will be in the region of £83,000 to be spent in the local area; and the provision of affordable housing as part of the development, in line with the Supplementary Planning

Document for Affordable Housing with a 25% affordable element provided on the site. It is noted that the scheme should not differentiate between affordable and private houses in terms of design, location, or material specification.

No viability assessment has been submitted so assumed that the payment and provision of affordable housing will not be challenged.

### **Cannock Chase Special Area of Conservation (SAC)**

Pursuant to the Habitats Directive (92/43/EEC), where a plan or project is not connected with the nature conservation management of a European designated site, the competent authority must determine whether the plan or project is likely to have a significant effect on the site, either alone or in combination with other plans or projects. This is reflected in national law in the Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations"), which place a duty upon competent authorities to consider the potential for effects upon sites of European importance prior to granting consent. This is referred to as a screening assessment. If likely significant effects are identified by the screening assessment, the competent authority must then undertake an Appropriate Assessment of the implications.

Approximately 20% of Cannock Chase falls within the Cannock Chase Special Area of Conservation ("SAC"), allocated primarily for its dry heathland. Council areas in the vicinity of the SAC have formed a Partnership and commissioned reports to assess impacts upon the SAC and how they arise. The evidence indicates that development which would increase visitors within 15km of the SAC may have a significant impact.

Walsall Council joined the Cannock Chase SAC Partnership on 17th October 2022 and has implemented Black Country Core Strategy Policy EQ2 which enables the collection of payments to mitigate against impacts arising from new relevant development falling within the 15km Zone of Influence of the Cannock Chase SAC. The mitigation payment of £329.83 per each net new dwelling is non-negotiable. Permission must be refused where appropriate mitigation is not provided pursuant to the Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations").

The applicant has submitted a Habitat Regulation Assessment (HRA). The Project has been screened to identify whether potential effect pathways between the Project and the SAC are present which are likely to result in significant effects upon the SAC. The screening exercise carried out on April 1st 2022 by the SAC Partnership authorities found likely significant effects on the SAC arising as a result of increased recreational activity from new residential development and related population growth that is likely to disturb the ground. A 21/12/12 Cannock Chase SAC Visitors Survey investigating visitor access patterns found that the majority (75%) of visitors originated from within a 15km distance of the SAC (also supported by 2018 visitor survey data) and The Cannock Chase SAC Planning Evidence Base Report Stage 2 (12/07/21) determined that within this 15km 'zone of influence', measures to reduce recreational pressure would be most effective.

The applicant's submitted HRA information stated that that indicated that the development is within the zone of influence of the Cannock Chase Special Area of Conservation (SAC) that the development will have an impact on the Cannock Chase SAC, and mitigation will be required.

The Habitat Regulation Assessment Stage 1: Screening Assessment has been undertaken using the available information associated with this planning application.

The screening assessment is designed to check if an application is likely to have a significant effect on Cannock Chase SAC's conservation objectives, based on available evidence. Should it be determined that no significant effects are likely, no further assessment in respect to the SAC is required. Please note as per guidance and CJEU ruling (case C323/17), mitigation measures cannot be taken into account at the screening stage of the HRA assessment.

The proposed application is situated 12km from Cannock Chase SAC and proposes a net increase of up to 59 dwellings. This development would result in an increase in recreational disturbance resulting in significant harm of the SAC and should progress directly to Stage 2 the undertaking of an Appropriate Assessment.

While Walsall Council, as the Competent Authority, will carry out HRA Stage 2: Appropriate Assessment, which will include the consultation of key stakeholders including Natural England, it will be the responsibility of the applicant to provide and secure suitable mitigation on which to base the Appropriate Assessment. Suitable mitigation should be in the form of the necessary mitigation payment of £ 329.83 per each net new dwelling which in this case will be secured within a Section 106 Agreement as other obligations are also required.

The applicant has agreed to provide the SAC mitigation payment via Unilateral Undertaking / S106 which will need to be completed prior to planning approval being granted.

### **Local Finance Considerations**

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes up to 59 new homes.

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

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

### **Consideration of the local objections to the proposal**

While the proposed development may not include designated green space, it is important to note that the site is not classified as public open space and was previously used as playing fields associated with a school. The decision to allocate the area for housing is supported by the draft Black Country Plan, which carries weight due to public consultation. Contributions for off-site public open space will be required to compensate for the loss of green space.

Regarding the ecological impact, the applicant has conducted an ecological appraisal as part of the application. While further assessment, such as an Ecological Impact Assessment, may be necessary, the appraisal followed best practices and guidelines.

Measures such as Biodiversity Impact Calculations, precautionary working methods, and enhancements to support wildlife have been recommended to mitigate any potential ecological impacts.

The issues raised concerning the layout and potential safety hazards related to infrastructure and mining are valid concerns. It is crucial that the proposed development undergoes rigorous investigations, including proof drilling and grouting, to address any potential risks associated with old mine workings and public sewers. The safety and viability of the development will be ensured through appropriate planning conditions and at the reserved matters planning application stage. It should be noted that the layout submitted is indicative at this stage and that it is the principle of the development that is to be considered as all other matters are reserved.

Flooding is another valid concern, especially if the surrounding areas experience flooding during heavy rainfall. The proposed development should include adequate provisions for drainage and consideration of the high-water table. It is essential that the drainage plans address these concerns and ensure that the water is effectively managed without causing adverse effects on neighbouring properties and streets.

Overall, these objections raise significant considerations that will be thoroughly addressed through the planning process and at the reserved matters stage. Adequate measures will be implemented to mitigate potential safety issues, ensure ecological protection, and manage drainage effectively to address the concerns raised.

## **Conclusions and Reasons for Decision**

In conclusion, the proposed development is in line with the development plan and suitable for housing. While the draft Black Country Plan is not proceeding, it still carries weight and supports housing development. The site's previous use as playing fields does not classify it as public open space. Given the housing shortage and failed Housing Delivery Test, there is a presumption in favour of sustainable development. Contributions for off-site public open space and affordable housing will be required.

The local highway authority has no objections to the proposed access, and a Transport Statement has been provided. The access for vehicles and pedestrians will be on Hilton Road, with measures to ensure a maximum vehicle speed of 20mph within the development. Visibility splays and road layouts suitable for refuse collection vehicles are planned. Pedestrian and cycle connectivity, particularly between Hilton Road and Sherringham Drive, will be maintained and improved.

The ecological appraisal follows best practices, and Biodiversity Impact Calculations are recommended to achieve a net gain in biodiversity. Precautionary measures should be taken to protect wildlife during construction, and enhancements like tree planting and habitat creation are advised. Such matters will be dealt with at the reserved matters stage by planning condition. The proposed development is not expected to impact nearby designated conservation sites.

The flood risk assessment complies with the National Planning Policy Framework, showing that the site is within Flood Zone 1 without increasing flood risk elsewhere. Severn Trent Water has no objections, but foul and surface water drainage details need approval before development starts.

Due to the site's location in a Development High Risk Area, coal mining features and hazards exist. The Geo-Environmental reports suggest a borehole investigation and

stabilisation works to address land instability caused by coal mining. The Coal Authority supports these recommendations and specific conditions will be attached to an approval to ensure site safety and stability.

Overall, the proposal is deemed acceptable in principle and aligns with planning policies and guidelines, with the inclusion of recommended conditions.

Taking into account the above factors it is considered that the application should be recommended for approval subject to the applicant entering into a Section 106 legal agreement for the provision of off-site open space, onsite affordable housing and mitigation in relation to the Cannock Chase Special Area of Conservation.

### **Positive and Proactive Working with the Applicant**

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

### **Recommendation**

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to Conditions and a S106 agreement to secure open space contributions, affordable housing, and mitigation payments towards the Cannock Chase SAC and subject to:

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

### **Conditions and Reasons**

1a. Application for the approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission.

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

1b. The development to which the permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters application, or the last reserved matters approval.

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

1c. This development shall not be commenced until details of the following, hereafter named 'the Reserved Matters', have been submitted to and approved by the Local Planning Authority:-

- i. Layout
- ii. Scale & appearance
- iii. Landscaping
- iv. Access

Reason: Pursuant to Town & Country Planning (Development Management Procedure) Order 2015.

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

- Site location plan SK05 revision A, dated 25/04/2023
- Special area of conservation, habitat regulation assessment, received 10/03/2023
- Air quality assessment, received 07/02/2023
- Arboricultural report, received 07/02/2023
- Design and access statement, received 07/02/2023
- Flood risk assessment and surface water drainage assessment, reference 680535 R1 (02) FRA dated January 2023.
- Geo environmental desk study report, received 07/02/2023
- Geo environmental investigation report, received 07/02/2023
- Planning statement, received 07/02/2023
- Preliminary ecological appraisal, received 07/02/2023
- Transport statement, received 07/02/2023

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

3a. Prior to the commencement of the development hereby approved a scheme of intrusive site investigations for past coal mining activity shall be submitted to and approved in writing by the Local Planning Authority;

3b. The approved intrusive site investigations shall be fully undertaken and a report of findings arising from the intrusive site investigations, including the results of any monitoring shall be submitted to the Local Planning Authority;

3c. A scheme of remedial works shall be submitted to and approved in writing by the Local Planning Authority;

3d. Prior to first occupation of the development the approved scheme of remedial works shall be carried out;

3e. The development hereby approved shall not be carried out otherwise than in accordance with the approved scheme.

Reason: To safeguard the amenities of occupants and to comply with saved policies GP2 and ENV10 of Walsall's Unitary Development Plan

4a. Prior to the commencement of the development hereby approved, drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

5a. Prior to the commencement of development, including demolition, no works shall take place until a Construction Environmental Management Plan has been submitted for written approval of the Local Planning Authority. The plan shall include:

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

5b. The approved Construction Environmental Management Plan shall be implemented upon commencement of works and shall be maintained until the site is completed.

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

6a. Prior to commencement of the development hereby permitted details of the proposed parking and vehicle manoeuvring areas serving each dwelling shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall demonstrate how the area will be consolidated, surfaced and drained so that surface water run-off from these areas does not discharge onto the public highway or into any public highway drain.

6b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the access, turning and parking areas shall thereafter be retained for the lifetime of the development for the use of the occupiers of the hereby permitted residential development and for no other purposes.

Reason: To reduce the need for on street parking in the interest of highway safety and ensure surface water does not run onto the highway and to avoid increased surface flooding to comply with Walsall's Unitary Development Plan saved policies GP2 and ENV40.

7a. Prior to commencement of any building or engineering operations above the damp proof course of the development hereby approved a scheme setting out full details, including heights, extent of the boundary treatment, materials and finishes of the proposed boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of any internal site divisions.

7b. The development shall not be carried out otherwise than in accordance with the approved scheme and shall thereafter be retained.

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

8. No boilers shall be installed and used in any of the units hereby approved, save for

- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh
- Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

9a. Prior to first occupation of the dwellings hereby approved details of an electric vehicle charging point, to be provided for each dwelling shall have first been submitted to and agreed in writing of the Local Planning Authority.

9b. Prior to first occupation of the development the approved electric vehicle charging points shall be installed in accordance with the approved details and shall be retained and maintained for the life of the development.

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

## Notes for Applicant

### Highway Authority

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

Any flattened elements shall have covered, secure and illuminated cycle shelter facilities and adequately sized and accessible Recycling / Refuse Bin Storage facilities.

Any flattened elements parking areas shall provide at least one disabled parking bay (10%).

Any 'Shared Space' elements shall have segregated footway linking all dwellings to the adoptable footway network.

The access road and associated footways and link footpath should be offered for adoption as Publicly Maintainable Highways via a S38/278 highways agreement.

### Severn Trent Water

Severn Trent Water has identified several public sewers on the site, including a 150mm foul sewer, a 225mm foul sewer, a 375mm surface water sewer, and a 525mm surface water sewer. These public sewers have legal protection and cannot be built close to, directly over, or diverted without consent. It is recommended to contact Severn Trent Water to discuss the proposed development and find a solution that safeguards both the public sewers and the building.

When submitting a Building Regulations application, the building control officer must review the sewer maps provided by Severn Trent Water and inform them of any proposals located over or within 3 metres of a public sewer. Under the Building Regulations 2000 Part H4, Severn Trent Water can instruct the building control officer to refuse approval if necessary.

It's important to note that there is no guarantee that building near or over Severn Trent sewers will be allowed, and if diversion is required, there is no guarantee that self-lay works will be permitted. Each case is assessed individually based on the risk to the sewer asset and the surrounding area it serves. Therefore, it is crucial to contact Severn Trent Water as soon as possible to discuss the implications of their sewers crossing the site. Failure to do so may significantly impact the project's costs and timelines if diversionary works need to be carried out by Severn Trent Water.

### **Fire Officer**

Building Control approval will be necessary to comply with Part B of the Building Regulations 2010. It is advised to have early communication and coordination with Building Control regarding fixed firefighting facilities, early fire suppression systems, and access requirements as outlined in ADB Vol 2, Section 8.

### **Police Comments**

Recommend security using the principles of Secured By Design.

**END OF OFFICERS REPORT**