

Council/Committee:	Planning Committee
Date of Meeting	22 October 2025
Application Reference	DC/23/68819
Application Description	Demolition of former public house and construction of two storey mixed-use building comprising of one retail unit, six apartments, new access to residential parking area on Thornwood Close and associated works.
Application Received	2 November 2023
Application Address	The Merrivale, Vicarage Road, Oldbury B68 8HT
Report Author	Carl Mercer carl_mercer@sandwell.gov.uk
Lead Officer	Tammy Stokes
Ward	St Pauls
Appendices (if any)	<ol style="list-style-type: none"> 1. Location plan - 0106 A-000 2. Block plan - 0106 A-002 REV T 3. Floor plans - 0106 A-003 REV L, 0106 A-004 REV K 4. Elevation plans - 0106 A-005 REV N, 0106 A-008 REV B 5. Section plan - 0106 A-006 REV F 6. Concept plan

1. Application Summary

1.1 The application is being reported to Planning Committee because six material planning objections have been received.

1.2 To assist members with site context, a link to Google Maps is provided below:

[The Merrivale, Vicarage Road, Oldbury](#)

2. Recommendations

That planning permission is granted subject to conditions relating to:

- i) External materials;
- ii) Contamination;

- iii) Landscaping;
- iv) Boundary treatments;
- v) Cycle parking;
- vi) Waste storage;
- vii) Lighting;
- viii) Drainage;
- ix) Construction environmental management plan (CEMP);
- x) Restricted demolition/construction delivery hours;
- xi) Noise mitigation (glazing);
- xii) Restriction of opening/delivery hours for retail unit;
- xiii) Retail floor space limited to 256 sqm;
- xiv) No amalgamation, subdivision or mezzanine floor;
- xv) Installation of directional signage and traffic flow plates to access and exit; and
- xvi) Parking to be laid out and retained.

3. Reasons for the recommendation and conditions

The proposal raises no significant concerns from a policy, design or highway perspective and would regenerate a dilapidated site with a mixed-use development in a sustainable location.

4. Key Considerations

- 4.1 The site is not allocated in the development plan.
- 4.2 Material planning considerations (MPCs) are matters that can and should be taken into account when making planning decisions. By law, planning decisions should be made in accordance with the development plan unless MPCs indicate otherwise. This means that if enough MPCs weigh in favour of a development, it should be approved even if it conflicts with a local planning policy.
- 4.3 The material planning considerations which are relevant to this application are:
 - Government policy (NPPF)
 - Development plan policy
 - Design
 - Amenity concerns – overlooking/loss of privacy, loss of light and/or outlook and overshadowing
 - Highways considerations - traffic generation, access, highway safety, parking and servicing

5. The Application Site

- 5.1 The site is prominent, situated on a traffic roundabout at the junction of Vicarage Road and Dog Kennel Lane, Oldbury. The character of the area is

mixed with commercial units and residential evident in the immediate area. Thornwood Close to the rear of the site is a cul-de-sac of predominantly semi-detached dwellings.

5.2 Planning History

The site operated as public house until its closure and was subsequently fire damaged. There is no planning history akin to the scheme that is now before members; however, an application to change the use of the site prior to it being fire damaged was withdrawn in 2019 due to concerns over parking impact.

DC/18/62287	Proposed change of use at ground and first floors from public house (A4 use) to place of worship (D1 use) with residential use to part of first floor.	Withdrawn 27.02.2019
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6. Application Details

- 6.1 The application initially proposed a larger development comprising of demolition of existing and construction of a four-storey building comprising of two ground floor retail units and 12 self-contained apartments. Due to policy and design concerns, the development has been reduced to two storeys with one retail unit and six apartments. The retail unit would operate from 6am until 11pm, seven days a week.
- 6.2 The unit would be served by 23 car parking spaces with an additional two electric vehicle charging bays. Servicing to the unit would be to the rear of the unit and the site would operate a one-way traffic system, accessed from Dog Kennel Lane, leading behind the building and exiting on to Vicarage Road.
- 6.3 The six apartments would have a dedicated parking area of eight spaces located beyond the commercial parking area to the east at a higher land level, accessible via a new access from Thornwood Close.

7. Publicity

The application was initially publicised in November 2023 by 35 neighbour notification letters and by site and press notice. Given the time that has passed since the application was first submitted, and to take account of the changes to the initial proposal, neighbours were again consulted by letter in September of this year. Six objections have been received and the matters raised are summarised below:

- i) Loss of light and privacy.

- ii) Design and loss of existing building/heritage.
- iii) Parking and highway safety issues.
- iv) Impact on existing retailers.
- v) Anti-social behaviour and security.
- vi) Land level of residential car park.
- vii) Noise.
- viii) Lack of affordable housing and renewable energy provision.
- ix) Loss of trees, badgers noted on site and lack of biodiversity net gain.

The above issues will be discussed under paragraph 10 'Material Considerations'.

8. Consultee Responses

- 8.1 Planning Policy – No objection. Whilst the principle of residential was always accepted, the retail use initially raised concerns as it failed to meet the requirements of development plan policy as 558 sqm of out of centre retail floorspace was proposed. This is above the 200 sqm threshold set out in policy CEN6 for out of centre retail development. Through several amendments, the sales floorspace has been reduced to 256sqm. Whilst the floor area remains greater than the policy requirement, a sequential test has been submitted in line with local and national policy, and the council accepts that there are no sequentially preferable sites that are suitable and available to accommodate the proposal. Furthermore, the council accept the findings of the applicant's 'retail impact assessment' which concludes that the proposal would not result in a significant adverse impact. The policy team caveats their final comments by recommending conditions which limit the amount of retail floor space to 256sqm.
- 8.2 Highways – No objection subject to conditions requiring provision and retention of parking and the installation of directional signage and traffic flow plates to enforce the one-way system.
- 8.3 Urban Design – The development has been much reduced in scale and massing via several amendments, but some concerns remain over the presence of the building and how it addresses street frontages as well as the separation of residential car parking off Thorncroft Close. These issues will be discussed further below.
- 8.4 Public Health (Contaminated land) – No objection subject to standard condition.
- 8.5 Public Health (Noise) – No overall objection to the impact of the scheme on the surrounding area but some concerns regarding the noise impact on future residents of the apartments. The comments relate to the larger proposal

which has been much reduced. I consider it appropriate in this instance to require the noise mitigation scheme suggested in the Noise Assessment which in effect requires specified glazing to be ensured by condition. The appropriateness of noise separation of the ground floor and first floor residential accommodation would have to comply with building regulations under Approved Document E: *Resistance to the passage of sound*. The regulations establish performance standards for separating walls and floors, which are verified by a professional sound test. I note that the officer is accepting of the hours of operation, which can be ensured by condition, and has asked for construction and delivery hours to be conditioned as well as the submission of a Construction management plan (CEMP).

- 8.6 Public Health (Air Quality) – Electric vehicle charging points and low NOx boilers are now a requirement under building regulations. Further detail can be requested in respect of demolition dust as part of a CEMP. The officer refers to the potential for poor area quality for residents of the development due to the proximity to the traffic junction and the circular parking arrangement. However, the proposal is a minor development and there is a negligible impact on the air quality of the surrounding area. Furthermore, any other layout would have design implications which would not be desirable as excessive frontage parking would be required. In any case, with reference to the NPPF, the focus of planning decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions where these are subject to separate pollution control regimes (i.e. the government's commitment to reducing vehicle emissions).
- 8.7 Lead Local Flood Authority – Further detail required. As this information is technical in nature and there is no indication that drainage issues would be insurmountable, a condition is recommended to ensure further detail.
- 8.8 Severn Trent Water – No objection subject to condition requiring further detail of foul drainage.
- 8.9 West Midlands Police – No objection. General design comments raised including the need for lighting and CCTV, and the requirement for separation of residential and commercial elements.

9. Relevant Planning Policy Considerations

9.1 National Planning Policy Framework (NPPF)

The NPPF sets out government's planning policies for England and how these are expected to be applied.

Ensuring the vitality of town centres – Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main

town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. As a sequential test and retail impact assessment for the retail use has been accepted by the council, the proposal is considered to be compliant with the framework.

Design - The framework refers to development adding to the overall quality of the area by achieving high quality design, achieving good architecture and layouts. Taking into account the views of the council's urban design officer, and discussed further below, I am of the opinion that the scheme is of an acceptable design and would assimilate into the overall form and layout of the site's surroundings; in accordance with the design principles of the NPPF.

Highway safety - The framework promotes sustainable transport options for development proposal and states that developments should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. No significant highway concerns are noted.

9.2 Development Plan Policy

The following policies of the council's development plan are relevant:

Black Country Core Strategy (BCCS)

CSP4 – Place Making – The development would contribute to the local distinctiveness of the area due to the scale, proportions, design and materials proposed.

DEL1 – Infrastructure Provision – The development is liable for community infrastructure levy which supports infrastructure and community projects in the borough.

HOU1 - Delivering Sustainable Housing Growth - Whilst land is identified and allocated in the development plan to meet the borough's sustainable housing growth, under policy HOU1 additional housing capacity will also be sought elsewhere through planning permissions on suitable sites. As such, this proposal would assist with providing much needed housing within the borough.

HOU2 – Housing Density, Type and Accessibility - The proposal meets the requirements in that it proposes a type of accommodation which would be accessible by sustainable transport to residential services. The proposal would also achieve good quality design with minimal amenity impact.

CEN6 - Meeting Local Needs for Shopping and Services - New small-scale local facilities outside defined centres of up to 200 sqm gross will be permitted subject to certain requirements are met. The floor space of the unit is larger

than that permitted under CEN6 and therefore this should be considered in conjunction with CEN7.

CEN7 Controlling Out-of-Centre Development - There is a clear presumption in favour of focusing development in centres. Any out-of-centre proposal which is considered to fall within the catchment area of a relevant centre will be required to include that centre in any sequential test.

TRAN4 - Creating Coherent Networks for Cycling and for Walking - Sufficient amenity space is provided to allow for cycle parking provision.

ENV3 – Design Quality - Refers to well-designed schemes that provide quality living environments. The building would appear proportionate to its surroundings and adequately addresses street frontages. Internal residential space would comply with the national standard (NDSS). The proposed layout and design are considered to be acceptable with no concerns being raised.

ENV5 – Flood Risk, Sustainable Drainage Systems / Urban Heat Island - Drainage can be addressed by the submission of further information and a compliance condition.

Site Allocations and Delivery Development Plan Document – (SADDPD)

SAD H2 - Housing Windfalls - The proposed residential would be a windfall, subject to SAD H2. The proposal meets the requirement of the policy as it is previously developed land, suitable for residential development, and capable of meeting other plan policies.

SAD EOS 9 - Urban Design Principles – The proposal is appropriate to the location in terms of scale and design.

SAD DC 6 - Contaminants, Ground Instability, Mining Legacy - Land contamination issues can be addressed by the imposition of suitably worded conditions requiring further intrusive investigation, reporting of any unpredicted contamination and submission of a validation certificate following any required mitigation.

10. Material Considerations

10.1 Loss of light and privacy

The proposal was initially much larger than the amended scheme which is now before members. The three-storey height would have impacted on properties to the rear on Thorncroft Road. In my opinion, the reduction in scale to two storeys addresses this concern and the separation between the nearest property to the rear and the rear elevation of the two-storey element of the proposed building exceeds the separation distance required by council design guidance. The lower land level of the site also lessens the concern.

10.2 Design and loss of existing building/heritage

The design of the building has been much debated since the proposal was originally submitted. As noted above, the reduced height, massing and scale has enabled the proposal to sit more easily in the streetscene and the over-dominance which was previously proposed has largely been addressed. Whilst the loss of the existing building is regrettable, it is in a poor state and does not benefit from national or local heritage listing. I note urban design concerns regarding the separation of the residential parking bays; however, it does provide an opportunity for residents to benefit from dedicated parking, not muddled within the retail parking at the lower land level. I view this more as a compromise for the applicant to realise the development potential of the site rather than a significant impediment to the design quality of the scheme.

10.3 Parking and highway safety issues

Highways raise no objection to the amount or location of parking. In respect of the retail parking, the one-way system would ensure coherence in operation and ensure greater highway safety. The junctions and roundabouts are already traffic controlled with yellow lines clearly visible to deter unsafe and illegal parking. With regard to the residential parking area, the increase in comings and goings along Thorncroft Road would be negligible considering the access is near the head of the close, meaning proposed residents would have no need to travel further into the cul-de-sac, and the number of proposed units is relatively modest. The junction of Thorncroft Close and Dog Kennel Lane also has double yellow lines and visibility when exiting the close is good.

10.4 Impact on existing retailers

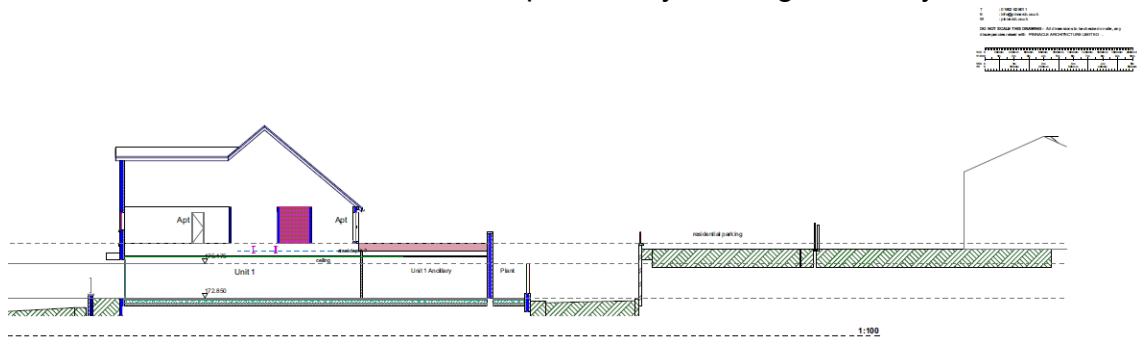
The applicant's Retail Addendum dated May 2024 concludes that it can be said that retailers in proximity of the site represent a different type of retail format to the application proposal which will take the form of a local community needs store rather than discount orientated provision focused on convenience namely confectionary and alcohol, etc. The report asserts that the respective retail offers are not directly comparable. As such, there is no reason to believe that significant adverse impacts would occur.

10.5 Anti-social behaviour and security

There is no evidence to suggest that the development would encourage anti-social behaviour or compromise security to surrounding residents. Indeed, developing the site is preferable in this regard, considering its existing condition, and the 24/7 surveillance provided by the residents of the development would create a safer and more secure environment.

10.6 Land level of residential car park

The residential car park would be level with the adjacent residential property on Thorncroft Road and would be separated by existing boundary treatments:



10.7 Noise

Considering the previous use was a public house, the noise levels omitted by the development are not likely to be excessive, subject to a condition restricting opening hours and deliveries. The noise officer raises no significant concerns regarding the retail use and the impact on potential residents can be mitigated by compliance with the recommendations of the Noise Report. I note the retail parking area was previously proposed to be more expansive and wrapped around the rear of the residential property on Thorncroft Close. This is no longer the case, and it would be a sufficient distance away from this property to raise no significant concerns regarding the noise impact caused by the comings and goings of apartment residents.

10.8 Lack of affordable housing and renewable energy provision

The application has been amended to the point that it no longer constitutes major development, and therefore policies related affordable housing and renewable energy no longer apply.

10.9 Loss of trees, badgers noted on site and lack of biodiversity net gain

Whilst trees would be removed to enable the development, those along Thorncroft Close would remain. The trees benefit from no specific protection and have limited wider amenity value. A landscaping plan is proposed which would ensure new planting and green areas. It should be noted that the application was submitted prior to the requirement for biodiversity net gain and therefore it is not a requirement in this instance. In regard to the presence of wildlife, the applicant is obligated to abide by the wildlife act, and it is an offence to kill or disturb protected animals and their habitats, which transcends the planning regime. The site and its surroundings are not

designated in the development plan for any specific ecological protection and as such the matter has limited weight in this instance.

10.10 Presumption and the ‘tilted balance’

The ‘tilted balance’ is similar to the normal planning balance but it is only engaged in exceptional circumstances. As the council has less than a five-year housing land supply, relevant local policies are out-of-date. In the most basic sense, the tilted balance is a version of the planning balance that is already tilted in an applicant’s favour. If the tilted balance applies, planning permission should normally be granted unless the negative impacts ‘significantly and demonstrably’ outweigh the positive impacts.

11 Conclusion

- 11.1 All decisions on planning applications should be based on an objective balancing exercise. This is known as applying the ‘planning balance’. To summarise: the proposal should be approved unless any adverse impacts of granting the permission would significantly and demonstrably outweigh the benefits when assessed against development plan policies or, where those policies are out of date, the NPPF as a whole. Where national policy takes precedence over the development plan, this has been highlighted in paragraph 11 (National Planning Policy Framework).
- 11.2 With the above in mind, the council cannot currently meet its five-year housing need as it has a shortfall of deliverable housing sites. With reference to the NPPF, this means that all local policies concerned with the supply and location of new housing must be considered out-of-date and the ‘tilted balance’ is engaged. If the tilted balance applies, planning permission should normally be granted unless the negative impacts ‘significantly and demonstrably’ outweigh the positive impacts.

On balance the proposal accords with the provisions of relevant development plan policies and there are no significant material considerations which warrant refusal that could not be controlled by conditions.

12. Legal and Governance Implications

The Planning Committee has delegated powers to determine planning applications within current Council policy. Section 78 of the Town and Country Planning Act 1990 gives applicants a right to appeal when they disagree with the local authority’s decision on their application, or where the local authority has failed to determine the application within the statutory timeframe.

13. Other Relevant Implications

None.

14. Background Documents

None.

15. How does this deliver the objectives of the Strategic Themes?

- a. The development will provide good homes that are well connected and will contribute towards improving the local environment with a focus on cleanliness, ensuring that the community takes pride in its surroundings.
(new residential accommodation)
- b. Encourage a positive environment where businesses and our community and voluntary organisations are supported to grow; and investment into the borough is maximised, creating job opportunities for local residents.
(employment uses)

To be completed if you do not need an Equality Impact Assessment. (I do not consider that planning applications would require this, the only factor when it may be applicable would be if it provides additional accommodation for an individual with disabilities.

Relevance Check

Budget Reduction/Service Area:

Service Lead Tammy Stokes

Date: 8 October 2025

In what ways does this Budget reduction have an impact on an outward facing service? How will the service feel different to your customers or potential customers?

N/A

If not, how does it impact on staff e.g. redundancies, pay grades, working conditions? Why are you confident that these staff changes will not affect the service that you provide?

N/A

Is a Customer Impact Assessment needed? No