

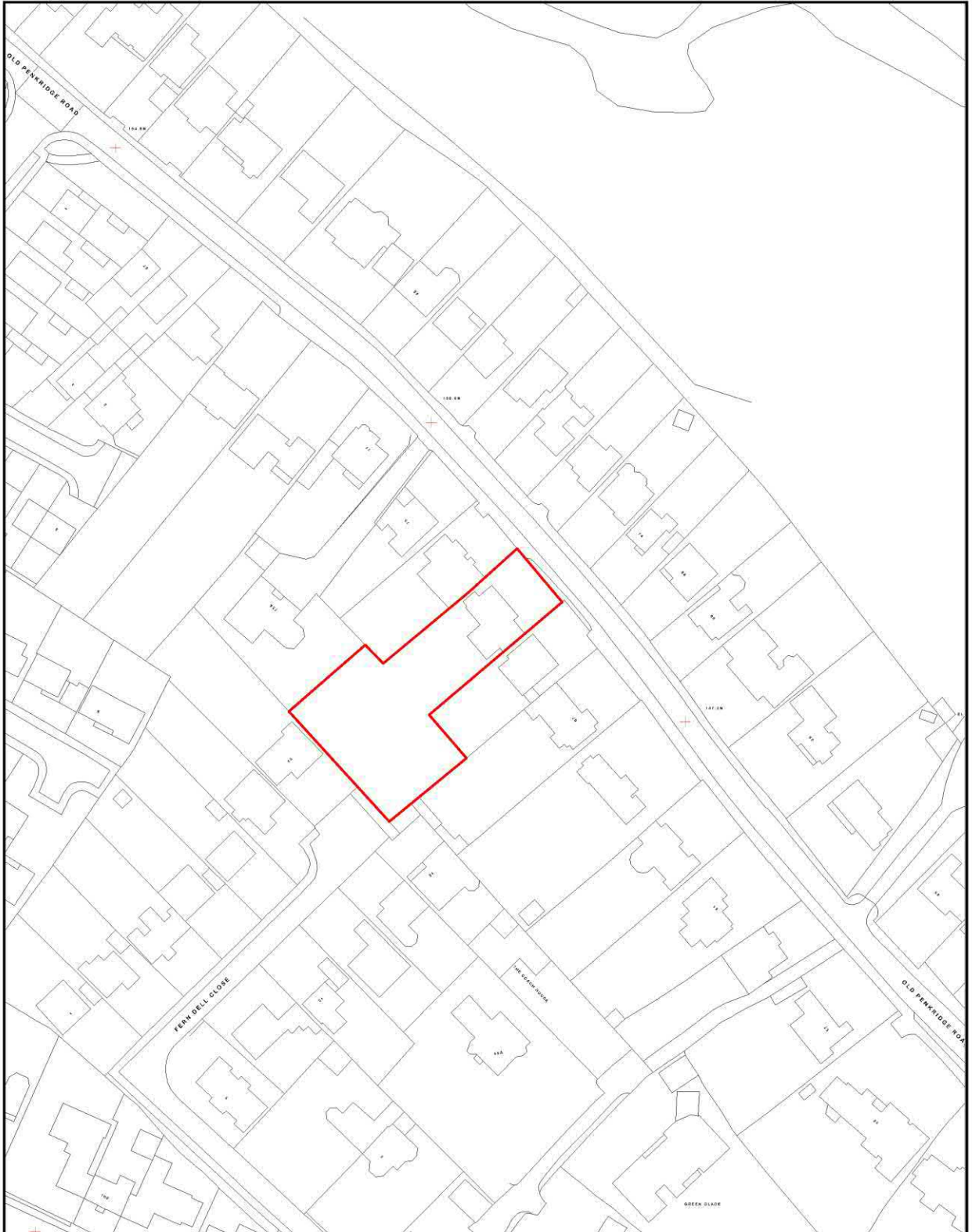


Application No: CH/19/411

Location: 71 Old Penkrige Road, CANNOCK, WS11 1HY

Proposal: Demolition of existing two storey house and erection of 2No. houses and associated works. (Resubmission of CH/19/015)

ITEM NO. 6.255



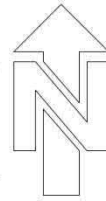
Location Plan

NOTES:

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REV.	AMENDMENT:	INT.	DATE:
A	Do not scale omitted from notes	SC	11.01.19



PROJECT:
 Proposed Residential Development at:
 71 Old Penkridge Road,
 Cannock,
 Staffordshire

TITLE:
 Location Plan

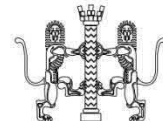
CLIENT:
 Mr & Mrs J P Salmon

SUTTON AND WILKINSON

CHARTERED ARCHITECTS

Victoria House, 13 New Penkridge Road,
 Cannock, Staffs, WS11 1HW

Telephone: 01543 466441
 Facsimile: 01543 462469
 e-mail: office@suttonwilkinson.co.uk



SCALE	DRAWN	DATE	SIZE
1:1250	SC	Jan '18	A4
DRAWING NUMBER	REVISION		
2411 - 08	A		

Site Plan



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LANDSCAPING LEGEND

- 1.8m high closed boarded fencing
- Existing Trees to be retained
- Proposed Trees
- Areas of turf / soft landscaping to L.A. approval - design and spec by others
- Macadam access drive
- 450x450x35mm concrete slabs. Suitable sloping to all roadways
- Permeable block paved parking bays

DRAINAGE LEGEND

- Indicates storm water drainage discharging into soakaways
- Indicates foul water drainage linked to existing mains sewer
- Proposed location of inspection chamber
- Approximate location of existing inspection chamber

PLANNING

REV	DESCRIPTION	DATE
1	Issue for L.A. and Environmental Services	10/11/19
2	Issue for L.A. and Environmental Services	10/11/19
3	Issue for L.A. and Environmental Services	10/11/19
4	Issue for L.A. and Environmental Services	10/11/19
5	Issue for L.A. and Environmental Services	10/11/19
6	Issue for L.A. and Environmental Services	10/11/19
7	Issue for L.A. and Environmental Services	10/11/19
8	Issue for L.A. and Environmental Services	10/11/19
9	Issue for L.A. and Environmental Services	10/11/19
10	Issue for L.A. and Environmental Services	10/11/19

PROJECT
 Proposed Residential Development at:
 71 Old Penkridge Road,
 Cannock,
 Staffordshire

CLIENT
 Mr & Mrs J. Salmon

TITLE
 Proposed Site Layout

SUTTON AND WILKINSON
 CHARTERED ARCHITECTS

100a St. Michaels, 11 New Penkridge Road,
 Cannock, Staffs, SP11 1YH

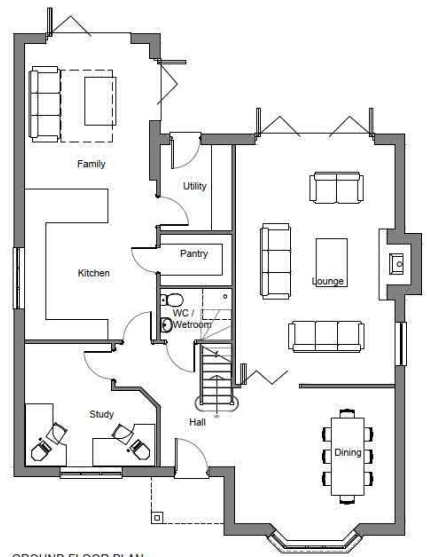
Telephone: 01542 46641
 Facsimile: 01542 46648
 e-mail: office@suttonwilkinson.co.uk

SCALE	ORIGIN	DATE	REV
1:200	SC	Sept 19	A2
DRAWING NUMBER			REVISION
2411 - 13			H

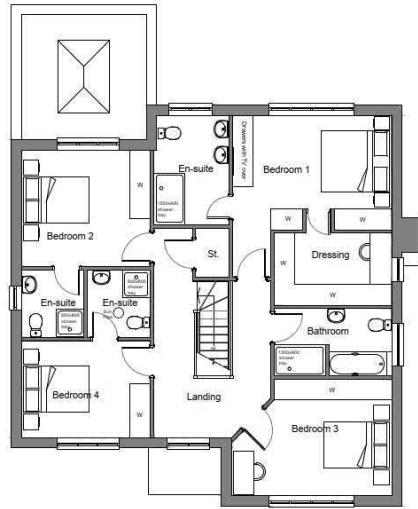
Plans and Elevations



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GROUND FLOOR PLAN



FIRST FLOOR PLAN

- MATERIALS LEGEND:**
- ① Facing Brickwork to LA Approval
 - ② PVCu Double Glazed Windows
 - ③ Steel Core GFR Door
 - ④ Concrete Interlocking Roof Tiles to LA Approval
 - ⑤ PVCu Rainwater Gutters & Down Pipes
 - ⑥ PVCu Facias & Soffit Boards

Gross Internal Floor Area	
net	223.28
gr	240.9

PLANNING

NO.	REVISION	BY	DATE
1	Final plan submitted to Planning Authority	AS	14/07/18
2	Final plan submitted to Local Planning Authority	AS	14/07/18
3	Final plan submitted to Local Planning Authority	AS	14/07/18

PROJECT:
 Proposed Residential Development at:
 71 Old Pennington Road,
 Canford,
 WIS11 1HY

CLIENT:
 Mr & Mrs J P Sulmon

TITLE:
 PROPOSED FLOOR PLANS & ELEVATIONS

SUTTON AND WILKINSON
 CHARTERED ARCHITECTS

100000 Road, 17 New Pennington Road,
 Canford, Dorset, WIS11 1HY
 Telephone: 01564 666661
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 e-mail: info@suttonandwilkinson.co.uk



Scale	Drawn	Check	Date	Sheet
1:50 (1:100)	SD	AS	July 18	A1
Drawing Number				Sheet
2411 - 11				F

Plans and Elevations



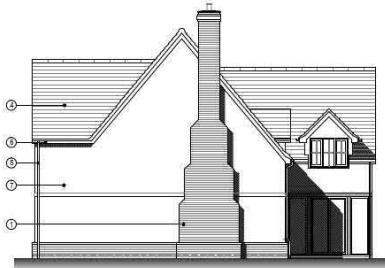
FRONT ELEVATION



SIDE ELEVATION



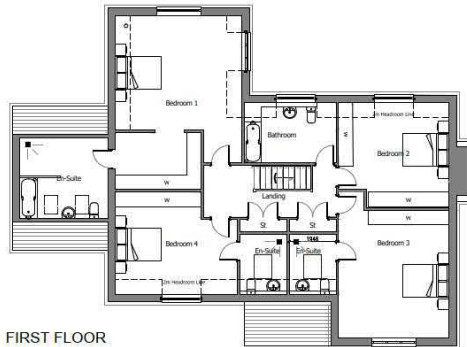
REAR ELEVATION



SIDE ELEVATION



GROUND FLOOR



FIRST FLOOR

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MATERIALS LEGEND:

- ① Facing Brickwork to LA Approval
- ② Aluminium Double Glazed Windows
- ③ Steel Core GRP Door
- ④ Plain Roof Tiles to LA Approval
- ⑤ PVCu Rainwater Gutters & Down Pipes
- ⑥ PVCu Facias & Soffit Boards
- ⑦ Through Colour Render to LA Approval
- ⑧ Timber Cladding

PLANNING

REV.	AMENDMENT	INT.	DATE
A	Layout altered in line with comments from Council with Client.	SC	14.11.15
B	Layout altered in line with comments from Client.	SC	08.11.16
C	Material legend added and Chimney location altered.	SC	28.11.15
D	Revised to Planning Dept.	SC	07.01.16
E	Do not scale unless from notes.	SC	17.01.16

PROJECT:
 Proposed Residential Development at:
 Land rear of 71 Old Penkridge Road,
 Cannock, Staffordshire
 WS11 1HY

CLIENT:
 Mr & Mrs N. Hunt

TITLE:
 PROPOSED FLOOR PLANS & ELEVATIONS

SUTTON AND WILKINSON
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 Cannock, Staffs, WS11 1HY
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 e-mail: office@suttonwilkinson.co.uk

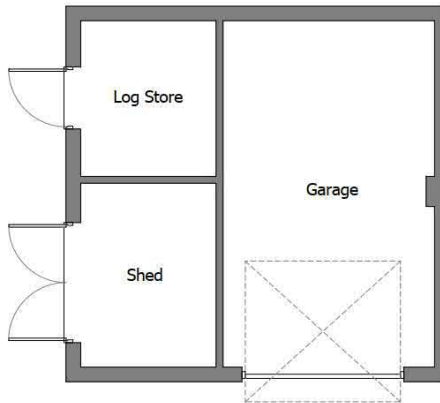
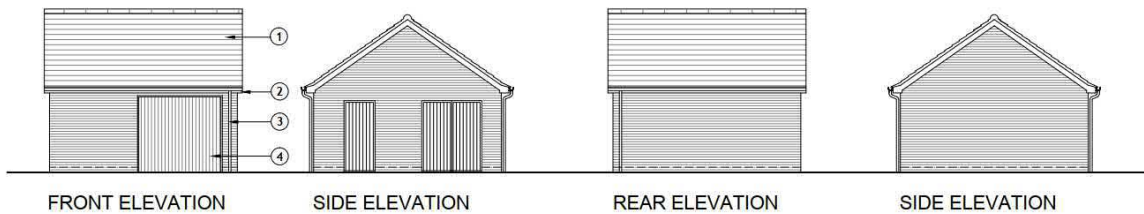


SCALE	DRAWN	DATE	SIZE
1:100	SC	Oct 16	A2
DRAWING NUMBER: 2411 - 14			REVISION: E

Detached Garage Plans and Elevations

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MATERIALS LEGEND:

- ① Concrete interlocking roof tiles to Local Authority approval.
- ② UPVC fascias & soffit boards.
- ③ UPVC rainwater gutters & downpipes.
- ④ Facing brickwork to Local Authority approval.

PLANNING ISSUE			
REV.	AMENDMENT	INT.	DATE
0	Original issue issued from notes. Garage door to front elevation revised to suit floor plan.	SC SD	11.01.15 17.08.19

PROJECT:
 Proposed Residential Development at
 71 Old Penkridge Road
 Cannock
 Staffordshire

CLIENT:
 Mr & Mrs J. Salmon

TITLE:
 Detached Garage / Shed / Wood Store - No. 71
 Floor Plan & Elevations

SUTTON AND WILKINSON
 CHARTERED ARCHITECTS

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 Cannock, Staffs, WS11 1HW
 Telephone: 01543 466411
 Facsimile: 01543 462469
 e-mail: office@suttonwilkinson.co.uk

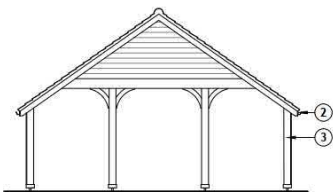


SCALE	DRAWN	DATE	SIZE
1:50 / 1:100	SC	Jan 18	A3
DRAWING NUMBER			REVISION
2411 - 16			B

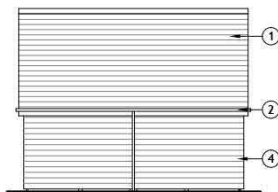
Detached Car Port Plans and Elevations

NOTES:

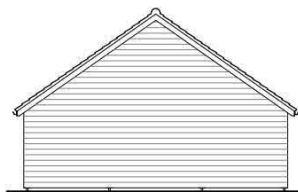
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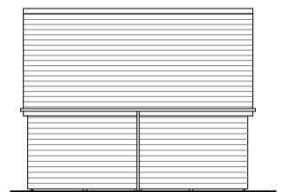
FRONT ELEVATION



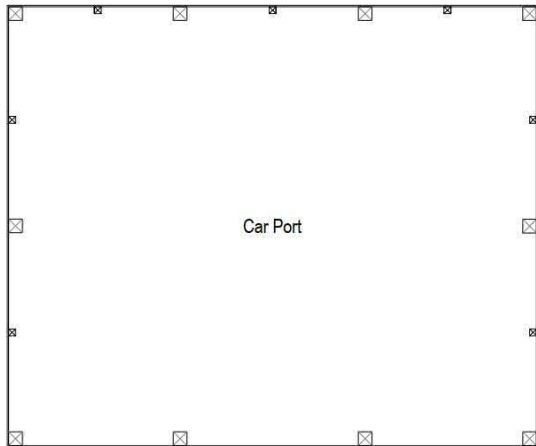
SIDE ELEVATION



REAR ELEVATION



SIDE ELEVATION



CAR PORT FLOOR PLAN
1:50

MATERIALS LEGEND:

- ① Plain roof tiles to match house tiles.
- ② UPVC rainwater gutters & downpipes.
- ③ Oak Posts.
- ④ Timber Cladding.

PLANNING ISSUE			
REV	AMENDMENT	INT.	DATE
A	Do not scale unless from notes	SC	11.01.18

PROJECT:
Proposed Residential Development at:
Land Rear of 71 Old Penkridge Road
Cannock
Staffordshire

CLIENT:
Mr & Mrs N. Hunt

TITLE:
Detached Car Port
Floor Plan & Elevations

SUTTON AND WILKINSON
CHARTERED ARCHITECTS

Victoria House, 13 New Penkridge Road,
Cannock, Staffs, WS11 1HJ
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e-mail: office@suttonwilkinson.co.uk



SCALE	DRAWN	DATE	SIZE
1:50 / 1:100	SC	Jan '18	A3
DRAWING NUMBER			REVISION
2411 - 17			A

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Contact Officer:	Claire Faulkner
Telephone No:	01543 464 337

PLANNING CONTROL COMMITTEE

15 JANUARY 2020

Application No:	CH/19/411
Received:	19-Nov-2019
Location:	71 Old Penkridge Road, Cannock
Parish:	Non-Parish Area
Description:	Demolition of existing two-storey house and erection of 2no houses and associated works (Resubmission of CH/19/015)
Application Type:	Full Planning Application

RECOMMENDATION:

S106 then approve with conditions.

Reason(s) for Recommendation:

In accordance with paragraph 38 of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and the National Planning Policy Framework.

Conditions (and Reasons for Conditions):

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason

To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

2. No materials shall be used for the external surfaces of the development other than those specified on the application, except with the written approval of the Local Planning Authority.

Reason

In the interests of visual amenity and to ensure compliance with Local Plan Policies CP3, CP15, CP16, RTC3 (where applicable) and the NPPF.

3. The approved landscape works shown on Dwg. No. 2411-13 G shall be carried out in the first planting and seeding season following the occupation of any buildings or the completion of the development whichever is the sooner.

Reason

In the interest of visual amenity of the area. In accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

4. Notwithstanding the approved plans, new fencing shall be erected to the boundaries to the rear of No.73 Old Penkrige Road. The style, size and location of the fencing to be erected shall first be submitted to and approved in writing by the Local Planning Authority. Thereafter, the fencing shall be erected in the approved location and retained for the life of the development.

Reason

In order to retain the privacy of the neighbouring occupiers in accordance with Policy CP3 of the Cannock Chase Local Plan.

5. The development hereby permitted shall not be brought into use until the access, parking and turning area have been provided in accordance with Drawing No.2411-13 Revision G and shall thereafter be retained for the lifetime of the development.

Reason

To comply with the objectives and policies contained within paras 108 – 110 of the NPPF and in the interests of highway safety

6. The garages indicated on proposed Drawing Number: 2411 – 13 Rev G, shall be retained for the parking of motor vehicles and cycles. They shall at no time be converted to living accommodation without the prior express permission of the Local Planning Authority.

Reason

To comply with the objectives and policies contained within paras 108 – 110 of the NPPF and in the interests of highway safety

7. No development (including demolition works) shall take place until a Demolition & Construction Vehicle Management Plan (CVMP) has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period.

The statement shall include:

- Arrangements for the parking of site operatives and visitors.
- Loading and unloading of plant and materials.
- Storage of plant and materials used in constructing the development
- Construction & demolition hours
- Delivery hours

- Measures to remove mud or debris carried onto the highway
- Measures to control dust

Reason

To comply with the objectives and policies contained within paras 108 – 110 of the NPPF and in the interests of highway safety

8. No part of the development hereby approved shall be undertaken above ground level until:
- i) details the precautionary gas protection measures to be used on the proposed development, or,
 - ii) a ground gas survey to ascertain the extent to which gas protective measures may be required, and
 - iii) details of any gas protection measures identified in (ii) have been submitted to and approved by the Local Planning Authority.

Thereafter, the approved details shall be implemented and retained for the life of the development.

Reason

In order to enable the development to proceed in a safe environment and to protect the health and safety of its occupiers and to ensure compliance with Local Plan Policy CP3 and the NPPF.

9. The demolition hereby permitted shall not be undertaken before a contract for the carrying out of the works of redevelopment of the site in accordance with the planning permission has been made and written confirmation of this has been received by the Local Planning Authority.

Reason

To safeguard the character and appearance of the Main Road, Brereton Conservation Area and the setting of the Listed Buildings.

10. The development hereby permitted shall be carried out in accordance with the following approved plans:

2411-13 G
2411-14 E
2411-11 F
2411-17 A
241116 A

Reason

For the avoidance of doubt and in the interests of proper planning.

Notes to the Developer:

Severn Trent advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area specified, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Call Severn Trent on 01902 793851.

Prior to the access being constructed you require Section 184 Notice of Approval from Staffordshire County Council. The link below provides a further link to 'vehicle dropped crossings' which includes a 'vehicle dropped crossing information pack' and an application form for a dropped crossing. Please complete and send to the address indicated on the application form which is Staffordshire County Council at Network Management Unit, Staffordshire Place 1, Wedgwood Building, Tipping Street, STAFFORD, Staffordshire, ST16 2DH. (or email to nmu@staffordshire.gov.uk)
<http://www.staffordshire.gov.uk/transport/staffshighways/licences/>

Any demolition should pay regard to BS 6187:2011 Code of Practice for full and partial demolition.

Consultations and Publicity***External Consultations***Travel Management and Safety

No objection subject to conditions

Severn Trent Water Ltd

No objections

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

Internal ConsultationsEnvironmental Health

No objection

I understand the site to include an existing building. which will require demolition. If so, the usual full suite of standard conditions should be applied to these works and regard paid to BS 6187:2011 Code of practice for full and partial demolition. If not already undertaken, a survey of the premises by a competent person for the presence of asbestos containing materials will be necessary prior to the commencement of works.

Any such materials identified should be removed and disposed of in an appropriate manner using licensed contractors as necessary. It is recommended that working hours should be restricted to between 08.00 to 18.00 weekdays and 08:00 to 13:00 Saturdays only and suitable steps shall be put in place to reduce dust.

Ground Gas

The site is within 250 metres of a former landfill site. I advise that no part of the development hereby approved shall be undertaken above ground level until details of the precautionary gas protection measures to be used on the proposed development, or a ground gas survey to ascertain the extent to which gas protective measures may be required have been submitted to and approved by the Authority. Thereafter, the approved details shall be implemented and retained for the life of the development. Validation of the works undertaken shall also be submitted to the LPA.

Development Plans and Policy Unit

No objection.

The site is in the Cannock urban area within a residential estate and is not protected for a specific use on the Local Plan (Part 1) Policies Map.

The Cannock Chase Local Plan (part 1) 2014 policy CP1 supports sustainable development, while policy CP6 permits new housing on urban sites within Cannock Chase District.

Policy CP3 advocates appropriate design and cohesion with adjacent uses in new development, including the protection of amenity. The Design SPD provides additional guidance and Appendix B (p91) should be consulted to ensure that the minimum garden sizes and distances from neighbouring dwellings are taken into account when considering the application.

The Cannock Chase Local Plan (Part 1) 2014 was adopted more than five years ago; it is therefore the subject of a review. This review is at an early stage in the process with consultation on 'Issues and Options' being undertaken recently (May-July 2019). Therefore limited weight can be afforded to it. The starting point for the determination of planning applications remains the adopted development plan (Local Plan (Part 1)).

If it is a market housing residential development scheme the proposal may be CIL liable. Given that a net increase in dwellings is proposed the development also needs to mitigate its impacts upon the Cannock Chase SAC (Local Plan Part 1 Policy CP13). Should the development be liable to pay CIL charges then this will satisfy the mitigation requirements, as per Local Plan Part 1 Policy CP13, the Developer Contributions SPD (2015) and the Council's Guidance to Mitigate Impacts upon Cannock Chase SAC (2017). However, should full exemption from CIL be sought then a Unilateral Undertaking would be required to address impacts upon the Cannock Chase SAC in accordance with the Council's policy/guidance. Any site specific requirements may be addressed via a Section 106/278 if required, in accordance with the Developer Contributions and Housing Choices SPD (2015) and the Council's most up to CIL Infrastructure list.

Waste and Engineering Services

No objection.

All waste containers will be collected from the kerbside on Old Penkrigde Road.

Landscape

No response to date.

Ecology

No response to date.

CIL Officer

The replacement dwelling would not provide any additional floorspace and being a replacement would not be a net increase in dwellings.

The new dwelling to the rear would be a self build property and therefore would require a S106 for SAC mitigation. A signed S106 has been submitted with the application.

Response to Publicity

The application has been advertised by site notice and neighbour letter with 4 letters of representation received. The comments received are summarised below:-

- Confirmation is requested that Ferndell Close can not be used in connection with the supply of materials or services.
- The Council considered this application to be inappropriate development for the location and the national inspector considered it inappropriate due to the closeness of the Special Area of Conservation (SAC).
- The last application for a two storey dwelling on this site was rejected. The relatively small fee to enable this application to be passed would make a mockery of the whole planning system.
- Should the applicant have submitted a bat survey?
- This example of garden grabbing seems to remove the natural water course and drainage that is currently there and the removal of trees also means less absorption of ground water. There appears to be a large area of garden lost to construction of the dwellings / garages and driveway. The new garage behind No.71 seems excessively large again removing natural drainage. The garage would have a detrimental impact to No.69 due to its imposing size. If essential can it be reduced in height?
- In the Planning Inspectorate Appeal response, it quotes that: The proposed development would introduce additional vehicle movement along the boundary with No 73, and close to the boundary with No 75a. Although from time to-time the sounds of vehicular activity and the visual implications of car headlights could be noticeable from those adjacent properties, existing planting would serve to soften and screen these effects to some extent. Moreover, were other aspects of the proposal acceptable in planning terms, conditions could be

attached requiring any further planting or boundary treatments necessary to mitigate fully any adverse effects in these regards. In the application a significant amount of the existing planting between 73 and the service road to parking for 71 and the proposed 71A is to be removed according to the plans due to the closeness of the proposed road to the border of 73. Considering this, could the comments of the Planning Inspectorate be considered to move the service road away from the border of N073 to allow existing planting to be retained and insist upon further planting as suggested?

- The application was declined at Planning Committee and the appeal was dismissed by The Planning Inspectorate. To conclude the proposed two storey building in this Character Area backland location and the service road to it would have an overbearing and dominant impact on the surrounding 7 properties and would result in a consequential loss of amenities, in particular garden privacy and importantly, security, will be unfairly reduced. This view to decline was fully supported at Planning Committee and by the Planning inspector as above.

Relevant Planning History

The most relevant case in the determination of this application is planning application CH/19/015 for the demolition of an existing house, erection of 2 no. detached dwellings. This application was refused by Planning Committee for the following reasons: -

"The proposed two storey dwelling to rear, by virtue of its size and scale, the location of the windows within it and their juxtaposition in respect to neighbouring properties, the difference in ground levels between the site compared to that of neighbouring properties, and the back-land nature of the site would result in unacceptable levels of overlooking and loss of privacy and outlook and therefore fail to protect the residential amenities of the occupiers of the neighbouring properties and to retain a high standard of amenity for those occupiers contrary to Policy CP3 of the Cannock Chase Local Plan and paragraph 127(f) of the National Planning Policy Framework."

The applicant took the case to appeal. The appeal was subsequently dismissed for the following reason: -

"There is no legally enforceable mechanism associated with the proposal which would secure the mitigation measures necessary to address its adverse effects to the SAC. For these reasons, I conclude on this main issue that the proposed development would be likely to have a significant effect on the integrity of the Cannock Chase SAC. It would therefore conflict with Policy CP13 of the Local Plan insofar as, amongst other matters, it seeks to ensure that the integrity of Cannock Chase SAC is retained. "

However, although the case was dismissed it should be noted that the Council's reasons for refusal were not upheld by the Inspector. Indeed the Inspector concluded in respect to the impact on living conditions for existing occupiers, in terms of privacy, outlook, noise pollution and disturbance that:-

" the proposal would not cause material harm to the living conditions of the occupants of neighbouring dwellings".

In order to address the Inspector's sole reason for refusal the applicant has submitted the 'Heads of Term' within the submitted Unilateral Agreement which would act as a legally enforceable mechanism to secure the mitigation measures necessary to address the proposed developments adverse effects to the SAC. As such, the proposal now accords with Policy CP13 of the Local Plan insofar as, amongst other matters, it seeks to ensure that the integrity of Cannock Chase SAC is retained.

Based on the above, the applicant has addressed the Planning Inspectorate's reason for dismissal.

Other Applications

CH/19/289 Demolition of existing house and erection of replacement 4 bed detached house, detached garage & vehicular access to housing development at rear of site. Approved.

CH/19/236 Approval of reserved matters pursuant to CH/17/234 for the appearance, landscaping and scale. Approved.

CH/17/234 Residential Development: - 2 detached dwellings (outline including access and layout). Committee approval.

1 Site and Surroundings

- 1.1 The application site comprises the rear garden of 71 Old Penkridge Road.
- 1.2 The application site lies along Old Penkridge Road within a row of large, mainly detached dwellings of differing form and appearance, occupying wide and deep plots. The deep plots allow the dwellings to be set back from the highway which creates an attractive spacious residential frontage.
- 1.3 The existing dwelling is set within a generous curtilage to the front of the plot and comprises of a generous 'T' shaped rear garden. Road. The plot to the host property is generally wider and deeper than surrounding plots. The width of the plot comprises of approx. 17.5m and a depth 44m before the site opens up to a width of 38m and a further depth of 25m.
- 1.4 There are a number of trees on and around the site that contribute to a verdant environment. A number of trees were removed prior to the submission of the current application however, none of the trees are/ were protected by a Tree Preservation Order.
- 1.5 The topography of the application site is reasonably flat however, the adjacent dwelling (No.69 is sited on lower ground. The application site backs onto Ferndell Close to the rear.
- 1.6 There is a single storey dwelling to the north of the site, accessed via a private drive off Old Penkridge Road that was granted approval in 1980's.
- 1.7 The application site is located within a Mineral Safeguarding Area and is also within the Coal Authority Low Risk Boundary.

2 Proposal

- 2.1 The Applicant is seeking consent for the demolition of existing house and erection of 2 no.detached dwellings.
- 2.2 The proposed access would be from Old Penkrige Road and would provide access for the proposed new dwelling at No. 71 and the proposed dwelling to the rear.
- 2.3 The layout of the proposed development would provide 2 x two storey dwellings with associated outbuildings, parking and amenity spaces.
- 2.4 The proposed frontage dwelling would be sited in a similar position to the existing dwelling of a similar scale to the existing. The bespoke design of the proposed dwelling would incorporate a walk in bay, cills and header details, finished in brickwork and tile. The frontage would be used for parking and a secondary access to the rear for additional parking and garage / store outbuilding. A private garden is proposed to the rear comprising of approx. 270m². The proposed outbuilding would provide a garage and store and would be sited in the rear garden. The proposed outbuilding would be 4.7m in height with a width of 5.5m.
- 2.5 A second dwelling is proposed to the rear of the site on an area comprising approx. 1000m². The proposed dwelling would be of a two storey design with the first floor accommodation in the roofspace in order to provide a low profile. The proposal would incorporate dormer windows, front and rear projecting gables and finished in a combination of brickwork, render and wooden cladding. The parking area would be to the front of the proposed dwelling with an area of 300m² of private amenity space. The proposed outbuilding would provide car port parking with an open frontage facing into the application site. The outbuilding would be constructed using timber cladding.
- 2.6 The existing access off Old Penkrige Road would be used and extended along the side of No.73. The proposed extended driveway would provide access to the proposed rear dwelling and further parking provision for the frontage dwelling.

3 Planning Policy

- 3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.
- 3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014) and the Minerals Local Plan for Staffordshire (2015-2030).
- 3.3 Relevant Policies within the Local Plan Include:
 - CP1 - Strategy – the Strategic Approach
 - CP2 - Developer contributions for Infrastructure
 - CP3 - Chase Shaping – Design

- CP6 - Housing Land
- CP7 - Housing Choice
- CP13 - Cannock Chase Special Area of Conservation (SAC)
- CP14- Landscape Character

3.4 The policies within there Minerals Plan are:-

Policy 3.2

3.5 National Planning Policy Framework

3.6 The NPPF (2019) 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 states that there should be “presumption in favour of sustainable development” and sets out what this means for decision taking.

3.7 The NPPF (2019) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

3.8 Relevant paragraphs within the NPPF include paragraphs: -

- 8: Three dimensions of Sustainable Development
- 11-14: The Presumption in favour of Sustainable Development
- 47-50: Determining Applications
- 124, 127, 128, 130: Achieving Well-Designed Places
- 212, 213 Implementation

3.9 Other relevant documents include: -

Design Supplementary Planning Document, April 2016.
Cannock Chase Local Development Framework Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport.

4 Determining Issues

4.1 The determining issues for the proposed development include:-

- i) Principle of development
- ii) Design and impact on the character and form of the area
- iii) Impact on residential amenity.
- iv) Impact on highway safety.
- v) Impact on nature conservation
- vi) Drainage and flood risk
- vii) Mineral safeguarding
- viii) Crime and the fear of crime
- ix) Waste and recycling facilities
- x) Ground conditions and contamination
- xii) Affordable Housing

4.2 Principle of the Development

4.2.1 Both the NPPF and Cannock Chase Local Plan 2014 Policy CP1 advocate a presumption in favour of sustainable development unless material considerations indicate otherwise. The site is a windfall site located within the urban area of Cannock. Although the Local Plan has a housing policy it is silent in respect of its approach to windfall sites on both greenfield and previously developed land. As such in accordance with Policy CP1 of the Local Plan the proposal falls to be considered within the presumption in favour of sustainable development, outlined in paragraph 11 of the NPPF.

4.2.2 However, paragraph 177 of the NPPF makes it clear: -

‘The presumption in favour of sustainable development does not apply where development requiring appropriate assessment (under habitat Regulations) because of its potential impact on a habitats site is being planned or determined’.

4.2.3 Policy CP13 of the Local Plan recognises that any project involving net new dwellings will have an impact on the SAC and as such should be subject to an appropriate assessment under the Habitat Regulations. This being the case it can only be concluded that the presumption in favour of sustainable development does not apply to the current application and that the proposal should be considered having regard to the development plan and other material considerations.

4.2.4 In respect to the principle of the proposal it is noted that the site is within the curtilage of a residential use and is located within the Old Penkridge Road area which is approximately 1km from the town centre of Cannock, close to the local primary school and served by bus routes giving access by public transport. As such the site has good access by public transport, walking and cycling to a range of goods and services to serve the day to day needs of the occupiers of the proposed development.

4.2.5 However, although a proposal may be considered to be acceptable in principle it is still required to meet the provisions within the development plan in respect to matters of detail. The next part of this report will go to consider the proposal in this respect.

4.3 Design and the Impact on the Character and Form of the Area

4.3.1 In respect to issues in relation to design Policy CP3 of the Local Plan requires that, amongst other things, developments should be: -

- (i) well-related to existing buildings and their surroundings in terms of layout, density, access, scale appearance, landscaping and materials; and
- (ii) successfully integrate with existing trees; hedges and landscape features of amenity value and employ measures to enhance biodiversity and green the built environment with new planting designed to reinforce local distinctiveness.

4.3.2 Relevant policies within the NPPF in respect to design and achieving well-designed places include paragraphs 124, 127, 128 and 130. Paragraph 124 makes it clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

4.3.3 Paragraph 127 of the NPPF, in so much as it relates to impacts on the character of an area goes on to state: -

Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

4.3.4 Finally Paragraph 130 states planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision taker as a valid reason to object to development.

4.3.5 In this respect it is noted that Appendix B of the Design SPD sets out clear expectations and guidance in respect to extensions to dwellings. Whilst the title of the document makes specific reference to extensions it also sets out the spaces about dwellings and separations distances expected for new development.

4.3.6 The site is located within the South and West Cannock Character Area, the character of which is described in Appendix A of the Design SPD. Key Local Design Principles [amongst others] are that development should

- Safeguard/ enhance 'leafy character' of Old Penkridge Road area with density of development, green views over and between buildings and householder permitted development rights controlled as appropriate. Promote retention and use of front garden boundary hedging to reinforce 'leafy' feel.

4.3.7 Specific Design Guidance for the 'Mature Suburb' of Old Penkridge Road is provided on pages 79 -80 of the Design SPD. Particular Key Features of the character of this area are that: -

- They usually consist of substantial houses and bungalows on large plots within well established gardens along roads leading to the open countryside of the Chase or Shoal Hill.
- The spacious nature and lower density of these areas has led to pressure for intensification of development, particularly on the larger plots with impacts on/ loss of mature trees and shading effects on the new development itself. Whilst such development can have benefits by increasing housing stock and making efficient use of land, it can also affect local character, amenity and privacy unless development is designed to be sympathetic to the main features which makes these areas unique.

4.3.8 The applicant has submitted a Tree Survey Report with which to inform the submission. This outlines that the quality of trees is categorised as follows: -A (high quality and value), B (moderate quality and value), C (low quality and value) and U which are considered as unsuitable for retention. In this respect it is noted that the trees within the application site are category C to U. It is noted that a number of trees referred to within the Tree Report have since been removed. However, your Officers confirm that these trees were not protected by Protection Orders and could have been removed at any time by the applicant. Notwithstanding this, the removed trees are identified within the Tree Report as being Category B, C and U and therefore no objection would have been raised to their removal. The comments of the neighbour regarding previous planning conditions are noted, however, Officers can confirm that the previous planning permission was not implemented and therefore the conditions referred to by the neighbour have not come into force.

4.3.9 Replacement trees are proposed within the curtilage of the application site to mitigate the loss of the removed trees. There is adequate room within the site to plant new trees in locations that would benefit the visual amenity of this location. The comments of the neighbours are noted in respect to the views and visual amenity value of the trees both existing and those that have already been removed. Your Officers confirm however that neighbours do not have a right to a view over third party land and it is not for the applicant to provide vegetation for the enjoyment of neighbouring land owners. The applicant's agent has confirmed that there will be no further trees lost as a consequence of the proposal.

4.3.10 In respect to the proposed dwellings, part of the proposal would be constructed to the rear behind a frontage dwelling with access provided to the side. The proposed dwellings would sit next to the existing and varied houses against which context they would be viewed. The proposed scheme would retain the appearance of a main frontage house and the remaining landscape within the grounds. As such any harm to the form and character of the area through loss of semi-natural vegetation would be slight when viewed within this context. Notwithstanding this, where there has been a loss of trees, the applicant has proposed replacement planting. Furthermore, it is considered that the proposed dwellings would be a bespoke and traditional design and would sit comfortably within its semi-rural setting. As such the proposed is considered to preserve the character and form of the street scene and wider area.

4.3.11 Furthermore, it is noted that Planning Control Committee, in determining the previous identical proposal had no objections to it on the grounds of its impact on the character and form of the area. Officers can confirm that there have been no material changes in circumstances that would support a contrary view to be taken

4.3.12 As such the proposal is considered acceptable in respect to its impact on the character and form of the area and the proposal is considered to accord with Policy CP3 of the Local Plan and the relevant paragraphs of the NPPF.

4.4. Impact on Residential Amenity

4.4.1 Policy CP3 of the Local Plan states that the following key requirements of high quality design will need to be addressed in development proposals and goes on to include [amongst other things] the protection of the "amenity enjoyed by existing properties". This is supported by the guidance as outlined in Appendix B of the Design SPD which sets out guidance in respect to space about dwellings and garden sizes.

4.4.2 Paragraph 127(f) of the NPPF states that planning policies and decisions should ensure that developments [amongst other things] create places with a high standard of amenity for existing and future users.

4.4.3 In general the Design SPD sets out guidance for space about dwellings, stating that for normal two storey to two storey relationships there should be a minimum distance of 21.3m between principal elevations (front to front and rear to rear) and 12m between principal elevations and side elevations. Furthermore, the Design SPD sets out minimum rear garden areas, recommending 40-44sqm for 1 or 2 bed dwellings, 65sqm for 3 bed dwellings and 80sqm for 4 bed dwellings.

4.4.4 However, it should always be taken into account that these distances are in the nature of guidance. When applying such guidance consideration should be given to the angle of views, off-sets and changes in levels.

Proposed Dwelling to Front

4.4.5 In this respect it is noted that the proposed frontage property would be constructed in line with neighbouring properties and would occupy a similar footprint to the existing dwelling. The proposed frontage dwelling would comply with the guidance for 'space about dwellings' as set out in the Design SPD.

Proposed Dwelling to Rear

4.4.6 The proposed dwelling to the rear would remain at least 26m from the principle rear elevations of the properties fronting Old Penkrige Road (Nos 69-73). Whilst No.69 does sit on a lower level than the application site, the proposal would retain the existing hedgerow that runs to the rear boundary of No.69. Notwithstanding this, the proposed dwelling to the rear of No.69 would be orientated with a side elevation facing No.69 at a distance of more than 25m. The Design SPD seeks new development to retain a separation distance of 13.7m between principle and side elevations. There are no windows within the

side elevation of the proposed dwelling that would give rise to overlooking the rear garden of No.69.

- 4.4.7 In order to retain a low profile, the proposed dwelling has been designed with first floor accommodation in the roof space. Windows are proposed in the rear elevation of the proposed dwelling that would face the shared boundary with No.67. These windows would be over 13m from this shared boundary which is in excess of the 10m recommended in the Design SPD and therefore are considered acceptable.
- 4.4.8 The front of the proposed dwelling would face towards No.75A Old Penkrigde Road. However, the two dwellings would have a separation distance of 29m between their respective principle elevations and a distance of 24.8m when taking into account the conservatory to the south elevation of 75a. This would exceed the minimum separation distance of 21.3m set out in the Design SPD. Furthermore, the proposed dwelling would retain a separation distance of 13m to the shared boundary with No.75a which again is in excess of the required 10m within the Design SPD. Therefore, although the comments of the neighbour in respect to impacts on privacy are noted, in this instance the proposed dwelling would provide in excess of the required standards for space about dwelling and separation distances and any impact on the neighbouring occupiers would not be significant to warrant refusal.
- 4.4.9 The occupiers of No. 73 have raised concern regarding views into their property. However, No.73 is located on an angle to the proposed rear dwelling. As such, the angle of any views onto this property as a consequence of the proposed dwelling would be oblique and at a distance of 12m. The trees to the rear of No.73 within the application site are identified on the proposed plan as being retained. Furthermore, a condition has been recommended to the effect that the shared boundary with No.73 be retained in order to protect the neighbour's privacy.
- 4.4.10 The proposal would use the existing access and driveway off Old Penkrigde Road before extending the drive for a further 34m along the side of No.73, running the full depth of the neighbouring property. The objections from the occupiers of neighbouring properties are noted. There is the potential for disturbance due to engine noise, fumes, manoeuvres into and out of the proposed parking area and general human activity associated with parking areas. Whilst there is already a driveway and garage to the side of the host dwelling, as a consequence of the proposal it will be extended further into the plot where vehicle manoeuvring does not currently exist. Notwithstanding this, the one dwelling proposed to the rear would not significantly prejudice the peace and enjoyment of the rear gardens for existing occupiers.
- 4.4.11 Furthermore, it should be noted that the Inspector, in considering the previous, identical, proposal concluded that the proposal was acceptable in respect to its impact on the standard of amenity of existing and future users.
- 4.4.12 Given the above, it is concluded that the proposal by virtue of the distance from the nearest dwellings, the proposal would attain a high standard of amenity for all existing and future occupiers of both the proposed dwellings and the

neighbouring properties in accordance with Policy CP3 of the Cannock Chase Local Plan and paragraph 127(f) of the NPPF.

4.5 Impact on Highway Safety

- 4.5.1 Paragraph 109 of NPPF states that development 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 adding at paragraph 110: -

Within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second so far as possible to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

- 4.5.2 In this respect, the proposed access to the site would be via the existing drive which currently serves No.71 Old Penkrigde Road. The Council's Supplementary Planning Document: Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport, states that new two or three bedroom dwellings should provide two off-street parking spaces and three spaces should be provided for four or more bedroomed dwellings. The proposal demonstrates parking for 3+ vehicles for the frontage dwelling and adequate room and turning space provided for the rear dwelling.

- 4.5.3 The proposed access arrangements have been reviewed by County Highways Officers, who have raised no objections but have recommended conditions. It is therefore concluded, on balance, that the proposal provides adequate parking and access provision such that it would not create problems in respect to the capacity of the surrounding highway network to accommodate the additional movements generated by the proposed development. In this respect the proposal is considered to be in accordance with Policy CP16 (a) and (c) of the Local Plan and paragraphs 29, 30, 32 and 36 of the NPPF.

4.6 Impacts of Cannock Chase Special Area of Conservation

- 4.6.1 The application site is not subject to any formal or informal nature conservation designation and is not known to support any species that are given special protection or which are of particular conservation interest.

- 4.6.2 As such the site is not known to have significant ecological value and therefore no obvious direct harm to nature conservation interests is considered to result.
- 4.6.3 Under Policy CP13 development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site network and the effects cannot be mitigated. Furthermore, in order to retain the integrity of the Cannock Chase Special Area of Conservation (SAC) all development within Cannock Chase District that leads to a net increase in dwellings will be required to mitigate adverse impacts. There is a net increase in dwellings of 1 No. such that SAC mitigation contributions are required. Such contributions will be secured by CIL where applicable to the development. However, in this instance the application indicates the proposal would be CIL exempt. As such, the application is required to enter into a S106 for SAC mitigation for the additional dwelling. It is noted that the applicant has submitted the 'Heads of Terms' for the legal agreement. As such it is considered that subject to the completion of the S106 agreement, there would be no impact on the SAC as a consequence of the proposed development.
- 4.6.4 Given the above it is considered that the proposal would not have a significant adverse impact on nature conservation interests either on, or off, the site. In this respect the proposal would not be contrary to Policies CP3, CP12 and CP13 of the Local Plan and the NPPF.

4.7 Drainage and Flood Risk

- 4.7.1 The site is located in Flood Zone 1 on the Environment Agency's Flood Zone Maps.
- 4.7.2 In this respect it is noted that paragraph 155 of the NPPF states 'inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future)' adding 'where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere'.
- 4.7.3 In addition to the above it is paragraph 165 of the NPPF states 'Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:
- a) take account of advice from the lead local flood authority;
 - b) have appropriate proposed minimum operational standards;
 - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development;
- 4.7.4 It is noted that the site is within close proximity to a main road and is within a built up area. As such it is in close proximity to drainage infrastructure that serves the surrounding area and is considered acceptable. The applicant has demonstrated that soakaways would be incorporated in the scheme and links through to existing drainage. Severn Trent was consulted on the application and is satisfied that the proposal would not impact on the public sewerage system.

4.8 Mineral Safeguarding

4.8.1 The site falls within a Mineral Safeguarding Area (MSAs) for Coal and Fireclay. Paragraph 206, of the National Planning Policy Framework (NPPF) and Policy 3 of the Minerals Local Plan for Staffordshire (2015 – 2030), both aim to protect mineral resources from sterilisation by other forms of development.

4.8.2 Policy 3.2 of the new Minerals Local Plan states that:

'Within a Mineral Safeguarding Area, non-mineral development except for those types of development set out in Appendix 6, should not be permitted until the prospective developer has produced evidence prior to determination of the planning application to demonstrate:

- a) the existence, the quantity, the quality and the value of the underlying or adjacent mineral resource; and
- b) that proposals for non-mineral development in the vicinity of permitted mineral sites or mineral site allocations would not unduly restrict the mineral operations.

4.8.3 The application site is located within a Mineral Safeguarding Area. Notwithstanding this, the advice from Staffordshire County Council as the Mineral Planning Authority does not require consultation on the application as the site falls within the development boundary of an urban area and is not classified as a major application.

4.8.4 As such, the proposal would not prejudice the aims of the Minerals Local Plan.

4.9 Crime and the Fear of Crime

4.9.1 Section 17 of the Crime and Disorder Act 1998 places a duty on each local authority 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can do to prevent crime and disorder in its area to include anti-social behaviour, substance misuse and behaviour which adversely affects the environment'.

4.9.2 In addition to the above paragraph 127(f) of the NPPF states planning policies and decisions should ensure that development create places which [amongst other things] create places that are safe and where crime and disorder, and the fear of crime, do not undermine quality of life, social cohesion and resilience.

4.9.3 Officers can confirm that there is nothing within the submission that would suggest that the proposal would be vulnerable to crime or anti-social behaviour.

4.10 Waste and Recycling Facilities

4.10.1 Policy CP16(1) (e) 'Climate Change and Sustainable Resource Use' of the Cannock Chase Local Plan states that development should contribute to national and local waste reduction and recycling targets according to the waste hierarchy'. One of the ways of achieving this is by ensuring development can be

adequately serviced by waste collection services and that appropriate facilities are incorporated for bin collection points (where required).

4.10.2 Officers can confirm that there is adequate provision within the site for the storage of waste and recycling facilities.

4.11. Ground Conditions and Contamination

4.11.1 The site is located in a general area in which Coal Authority consider to be a development low risk area. As such, the Coal Authority does not require consultation on the application and the proposal is considered acceptable in this respect.

4.11.2 However, the comments from the Environmental Health Officer regarding ground gas are noted. However, this issue could be adequately dealt with by condition. It is therefore recommended that any permission granted is subject to a condition requiring mitigation of the impacts of ground gas.

4.12 Affordable Housing

4.12.1 Under Policy CP2 the proposal would be required to provide a contribution towards affordable housing. However, given the order of the Court of Appeal, dated 13 May 2016, which give legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014, and the subsequent revision of the PPG it is considered on balance that the proposal is acceptable without a contribution towards affordable housing.

4.13 Objections raised not already covered above:-

4.13.1 Neighbours seek confirmation that Ferndell Close cannot be used in connection with the supply of materials or services. Your Officers confirm that the application does not include links through to Ferndell Close. A Construction Vehicle Management Plan has been recommended for condition which would allow Officers to control how construction vehicles access the site.

4.13.2 An objection has been received raising concern that No.69 would be compromised by the new house being built on the land to the rear of No.71, blocking light to the garden and create significant shade in late afternoon. Your Officers consider that given the east – west orientation of the sun, the light to the garden of the eastern neighbour would not be so significant that it would warrant refusal.

4.13.3 Concern has been raised that the proposal seems to remove the natural water course and drainage that is currently there and the removal of trees also means less absorption of ground water. In the first instance your Officers note that such an assertion has not be supported with any evidence to support it and in the second instance your officers confirm that the application site is located in Flood Zone 1 which is the least likely to flood. Whilst the proposal does incorporate a large area of hardstanding, the proposed driveway materials are porous and soakaway drainage proposed within the site.

- 4.13.4 The comments from neighbours in respect of land ownership are noted. Officers confirm that the applicant was requested to revise the red line accordingly and as a consequence, The redline denoting the boundary of the application was amended. The neighbour still raises concern with regard to the position of the red line as revised however both parties refer to land registry plans as evidence. The applicant was requested to confirm land ownership and has signed certificate 'A' stating all land within the red line falls within their ownership. Any further landownership disputes would be a civil matter between both parties involved.
- 4.13.5 One of the representations received queries whether a bat survey should have been submitted with the application. Your Officers confirm that in accordance with the validation criteria a bat survey is required if the dwelling to be demolished was constructed pre-1914 or the site is within an area identified as having bat roosts. The dwelling is not pre-1914 and the application site is not located within an area identified as having bat roosts. As such, no bat survey was required.
- 4.13.6 An objector states that in the Planning Inspectorate Appeal response, it quotes that:

"The proposed development would introduce additional vehicle movement along the boundary with No 73, and close to the boundary with No 75a. Although from time to time the sounds of vehicular activity and the visual implications of car headlights could be noticeable from those adjacent properties, existing planting would serve to soften and screen these effects to some extent. Moreover, were other aspects of the proposal acceptable in planning terms, conditions could be attached requiring any further planting or boundary treatments necessary to mitigate fully any adverse effects in these regards."

The objector continues that in the application a significant amount of the existing planting between 73 and the service road to parking for 71 and the proposed 71A is to be removed according to the plans due to the closeness of the proposed road to the border of 73. Considering this, could the comments of the Planning Inspectorate be considered to move the service road away from the border of NO.73 to allow existing planting to be retained and insist upon further planting as suggested? Your Officers confirm that the plans are the same as previously considered by the Planning Inspectorate.

5 Human Rights Act 1998 and Equalities Act 2010

Human Rights Act 1998

- 5.1 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application accords with the adopted policies in the Development Plan which aims to secure the proper planning of the area in the public interest.

Equalities Act 2010

- 5.2 It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.

Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case officers consider that the proposal would not conflict with the aim of the Equalities Act.

6 Conclusion

- 6.1 Residential development on this unallocated site within a sustainable location in a predominantly residential area within the urban area of Cannock is considered acceptable under current local and national policy.
- 6.2 It is concluded that the proposal, subject to the attached conditions and completion of a section 106 agreement, is acceptable in respect to its impacts on acknowledged interests and therefore is in accordance with the development plan and the NPPF.

ITEM NO. 6.

Copy of the Inspectors Report to planning application CH/19/015



The Planning Inspectorate

Appeal Decision

Site visit made on 2 October 2019

by **G J Fort BA PGDip LLM MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 November 2019

Appeal Ref: APP/X3405/W/19/3231228
71 Old Penkrige Road, Cannock WS11 1HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Salmon against the decision of Cannock Chase District Council.
 - The application Ref CH/19/015, dated 10 January 2019, was refused by notice dated 10 April 2019.
 - The development proposed is the demolition of the existing two-storey house and erection of 2 No. houses and associated works.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. In the interests of clarity, in the banner heading above I have used a truncated version of the description of development that appears on the application form¹.
3. In its submitted material the Council indicated that the proposed development is anticipated to be a self-build project. I sought the relevant documentation² from the Council to confirm that this is the case, which was duly provided. As the relevant documentation was submitted with the original application, and signed on behalf of the appellant, no prejudice would occur as a result of my consideration of this material in my assessment of the appeal's planning merits.
4. Whilst not cited by the Council as a reason for refusal, I note reference to the Cannock Chase Special Area of Conservation (SAC), which is an area defined by the Conservation of Habitats and Species Regulations 2017 (the Regulations) and has been given special protection as a nature conservation site. I have also been supplied with Policy CP13 of the Cannock Chase Local Plan Part 1 (adopted 2014) (the Local Plan) which relates to the SAC. Due to these considerations, taken together with the scope of the proposal and the location of the appeal site, I consulted with Natural England in accordance with s.63(3) of the Regulations, and sought the comments of the parties on Natural England's response. On this basis, I consider that the interests of parties

¹ Which is "Demolition of existing two storey house and erection of 2No. houses and associated works. (Previous planning application number CH/17/234)"

² Community Infrastructure Levy (CIL)- Determining whether a development may be CIL liable planning application additional information form dated 8 January 2019

would not be prejudiced either as a result of taking this material into account in my consideration of the appeal, or as a consequence of my dealing with the proposed development's effects on the SAC as a main issue.

Main Issues

5. I consider the main issues to be firstly, the effect of the proposed development on the Cannock Chase SAC; and secondly, the effects of the proposed development on the living conditions of the occupants of neighbouring dwellings with particular regard to privacy, outlook, noise and disturbance.

Reasons

Site, surroundings and proposed development

6. Set within broadly residential environs, the appeal site comprises a detached house and its large rear garden. The proposed development, as described above would see the demolition of the dwelling near the front of the site, and its replacement by another house. This demolition would also facilitate extending the existing access to the rear of the site where a detached dwelling would be developed, incorporating accommodation at its ground floor and in its roof-space.

Cannock Chase SAC

7. Cannock Chase SAC is principally an area of lowland heathland, one of twelve European dry heaths in Britain, and the most extensive such habitat in the Midlands. The SAC contains the main British population of the hybrid bilberry, a plant of restricted occurrence; and important populations of butterflies and beetles. Also found within the SAC are the European Nightjar and five species of bats. As the appeal site is in close proximity to the SAC, and residential development is of a type that is likely to result in recreational visits to the protected habitat, it is necessary for me, as the competent authority for the purposes of the Regulations, to conduct an appropriate assessment in relation to the effect of the development on the integrity of the SAC.
8. The appeal site is situated close to Cannock Chase SAC, and its residential development both of itself, and in combination with other developments in the area is likely to give rise to additional recreational activity within the SAC, which would materially increase the risk of disturbance to the protected habitat. Such disturbance could include the creation of new paths, path widening, erosion and nutrient enrichment. As a result, the proposal would be likely to cause significant adverse impacts to the integrity of the SAC.
9. Policy CP13 of the Local Plan sets out that all development within the District that leads to a net increase in dwellings would be required to mitigate adverse effects on the integrity of the SAC. Whilst the Council usually collects contributions to mitigate adverse effects by means of the Community Infrastructure Levy (CIL), the proposed development would be a 'self-build' project and thus exempt from payment of CIL.
10. In such a circumstance mitigation could be secured by means of a planning obligation pursuant to s.106 of the Town and Country Planning Act 1990 (as amended). An obligation that sought mitigation would be directly related to the adverse effect that the appeal scheme would cause to the SAC and would be proportionate to the scale of the development proposed. Consequently, I

consider that such an obligation would be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to it, and thus meet the requirements of the Community Infrastructure Levy Regulations 2010 (as amended)³ in these regards. However, no such obligation has been entered into in the current case.

11. Moreover, the Government's Planning Practice Guidance⁴ (PPG) sets out that planning conditions limiting development that can take place until a planning obligation has been entered into are unlikely to be appropriate in the majority of cases. Although the PPG advises that such a condition may be appropriate in exceptional circumstances, it sets out that such exceptions may apply in the case of particularly complex development schemes- which due to the limited extent of the appeal proposal is clearly not the case in this instance. For these reasons, I consider that the imposition of a condition requiring a planning obligation would run contrary to the advice of the PPG. Furthermore, even if I were to conclude otherwise, I have been supplied with no details of agreed heads of terms or principal terms for an obligation which the PPG advises would be required, in the interests of transparency, before the grant of any planning permission bound by such a condition.
12. Consequently, there is no legally enforceable mechanism associated with the proposal which would secure the mitigation measures necessary to address its adverse effects to the SAC. For these reasons, I conclude on this main issue that the proposed development would be likely to have a significant effect on the integrity of the Cannock Chase SAC. It would therefore conflict with Policy CP13 of the Local Plan insofar as, amongst other matters, it seeks to ensure that the integrity of Cannock Chase SAC is retained.

Living Conditions

13. Although I saw the variations in ground levels between the rear of the appeal site and adjacent properties and plots, the area is generally well-vegetated with mature trees and hedges present particularly along and adjacent to boundaries. Moreover, the front and rear elevations of the dwelling that would be located to the rear of the appeal site would be set well in from the plot's boundaries- and even further from surrounding dwellings which are all situated in reasonably generous plots. Furthermore, due to the proposed dwelling's orientation combined with the positioning of existing trees and hedges in its surroundings, its windows would avoid direct inter-visibility with those of adjacent dwellings, and would only facilitate limited and partial views of portions of adjacent gardens. In combination, these aspects of the proposed development lead me to the conclusion that it would neither infringe the privacy of the occupants of adjacent dwellings, nor unduly restrict the outlook available to them from their houses or gardens.
14. Although noise and disturbance considerations did not form part of the Council's reason for refusal on living conditions grounds, I have taken into account the comments of the occupants of neighbouring properties on these matters in my overall assessment. The proposed development would introduce additional vehicle movement along the boundary with No 73, and close to the boundary with No 75a. Although from time-to-time the sounds of vehicular

³ At Regulation 122(2)

⁴ Use of Planning Conditions Paragraph: 010 Reference ID: 21a-010-20190723 Revision date: 23 07 2019