



Application No: CH/18/366

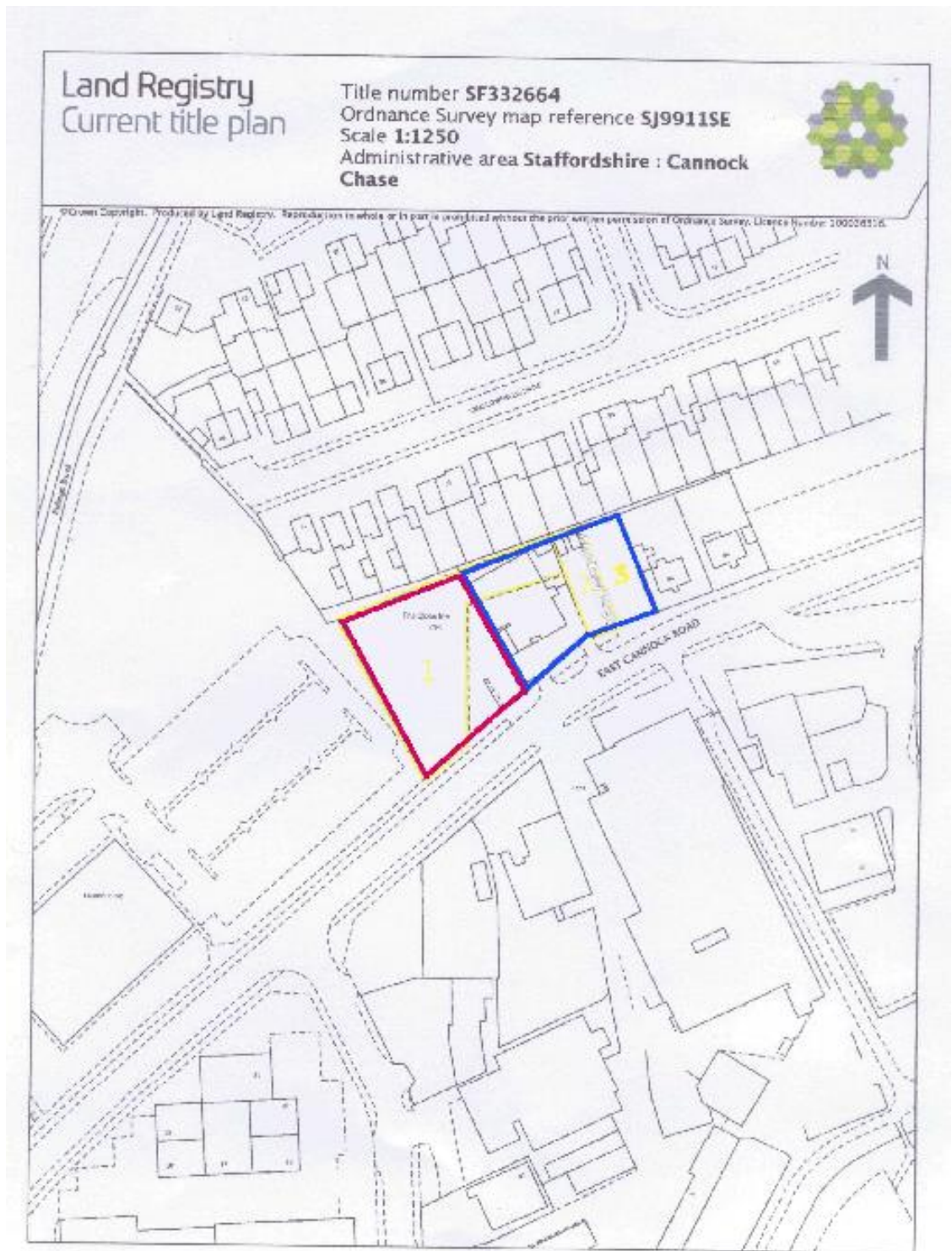
Location: Car Park to former Globe Inn, (car park to former Globe Inn), The Globe Site, East Cannock Road, Cannock, Hednesford, WS12 1LZ

Proposal: Proposed Car Wash on former Public House Car Park

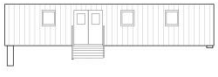
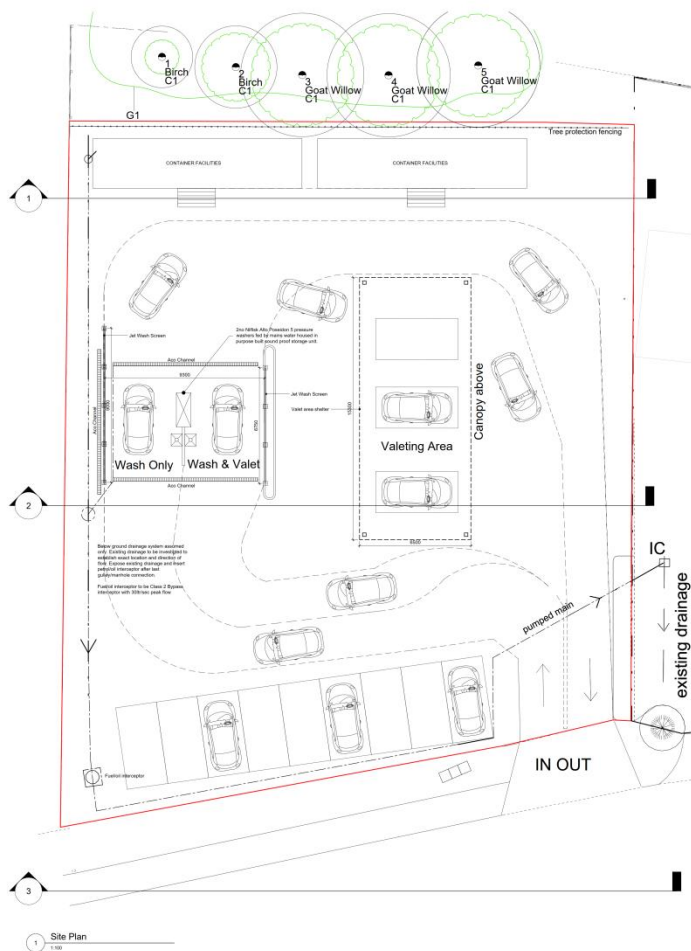
Item no. 6.1



Location Plan



Site Plan and Elevations



2 Site Cabin Front Elevation
1:100



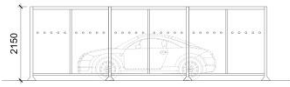
3 Rear Elevation
1:100



4 Side Elevation
1:100



5 Side Elevation
1:100



7 Jet Wash Screen Elevation
1:100



6 Jet Wash Screen Product Image
N/A



8 Site Cabin Manufacturer Images
N/A

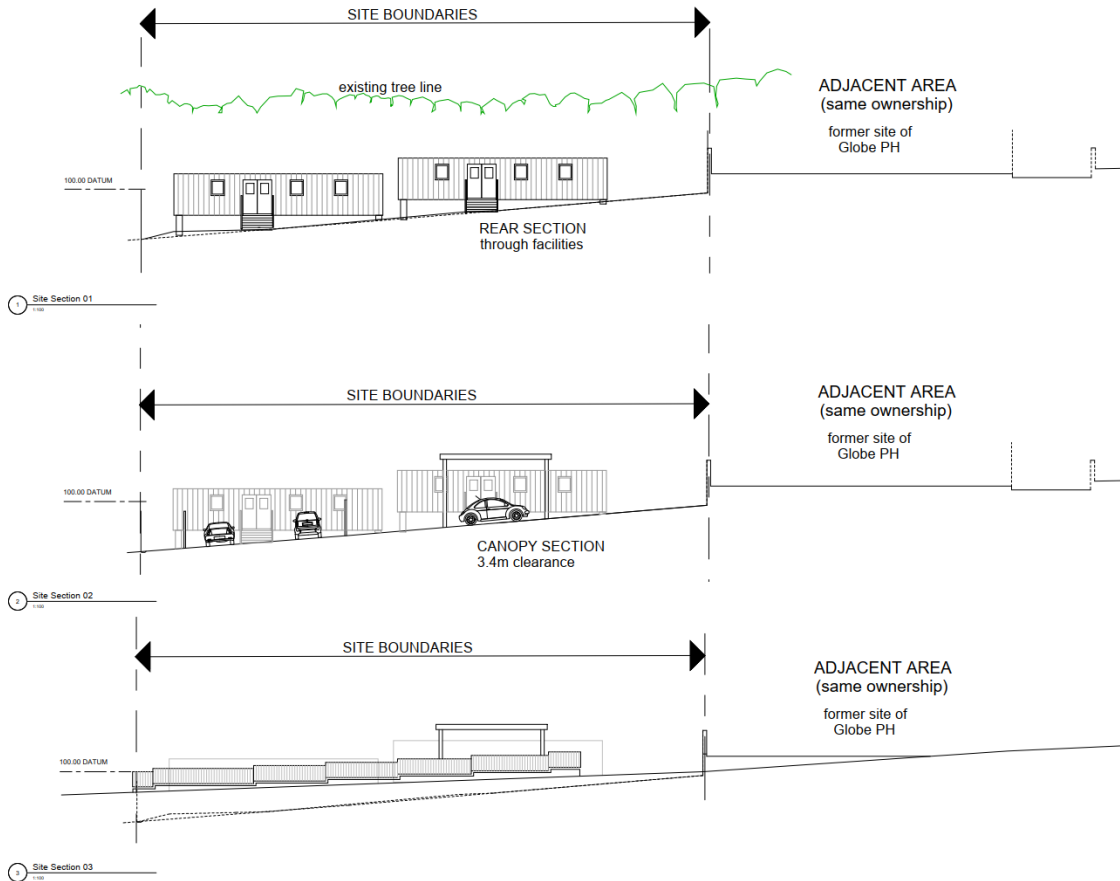
Item	Description	Quantity	Unit Price	Total Price
1	Container unit (10m x 2m x 2.5m)	1	\$80,000	\$80,000.00
2	Jet Wash Screen (10m x 2m)	1	\$100,000	\$100,000.00
3	Site Cabin (10m x 2m)	1	\$150,000	\$150,000.00
4	Site Cabin (10m x 2m)	1	\$150,000	\$150,000.00
5	Site Cabin (10m x 2m)	1	\$150,000	\$150,000.00
6	Site Cabin (10m x 2m)	1	\$150,000	\$150,000.00
7	Site Cabin (10m x 2m)	1	\$150,000	\$150,000.00
8	Site Cabin (10m x 2m)	1	\$150,000	\$150,000.00
9	Site Cabin (10m x 2m)	1	\$150,000	\$150,000.00
10	Site Cabin (10m x 2m)	1	\$150,000	\$150,000.00

J Mason Associates

Steven Singh
 East Canook Road, Cur Wash
 2297
 18.01.2019
 JMA-ZZ-SI-A-2101

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Site Sections



Site Plan
1:100

NO.	DATE	BY	CHKD BY
1	10.05.2019	SS	SS

USE DIMENSIONS IN PREFERENCE TO SCALES - IF IN DOUBT USE DIMENSIONS

J Mason Associates
 1/100
 2297
 10.05.2019
 As Noted
 JMA-ZZ-SE-A-2102

Contact Officer:	Claire Faulkner
Telephone No:	01543 464 337

PLANNING CONTROL COMMITTEE

10 JULY 2019

Application No:	CH/18/366
Received:	03-Oct-2018
Location:	Car Park to Former Globe Inn, The Globe Site, East Cannock Road, Cannock, Hednesford
Parish:	Hednesford
Description:	Proposed Car Wash on Former Public House Car Park
Application Type:	Full Planning Application

Background:

This application was presented to Planning Committee on 26 June 2019 when it was deferred for a Members' site visit.

RECOMMENDATION:

Approve subject to 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) 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.

- 2) No trees or hedges shown as retained on Dwg No.JMA-ZZ-SI-A-2101A shall be cut down, topped, lopped, uprooted or removed without the prior written permission of the Local Planning Authority nor shall they be wilfully damaged or destroyed.

Any trees or hedges which, within a period of 5 years from completion of the development are cut down, topped, lopped or uprooted without permission of the Local Planning Authority or become seriously damaged or diseased or die shall be replaced in the next planting season with similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason

The existing vegetation makes an important contribution to the visual amenity of the area. In accordance with Local Plan Policies CP3, CP14, CP12 and the NPPF.

- 3) Prior to the commencement of any construction or site preparation works including any actions likely to interfere with the biological function of the retained trees and hedges, approved protective fencing shall be erected in the positions shown on the approved Tree & Hedge Protection layout drawing Ref Dwg. No. JMA-ZZ-SI-A-2101 A.

Within the enclosed area known as the Tree Protection Zone, no work will be permitted without the written consent of the Local Planning Authority. No storage of material, equipment or vehicles will be permitted within this zone. Service routes will not be permitted to cross the Tree Protection Zones unless written consent of the Local Planning Authority is obtained. The Tree Protection Zone will be maintained intact and the vegetation within maintained until the cessation of all construction works or until the Local Planning Authority gives written consent for variation.

Reason

To ensure the retention and protection of the existing vegetation which makes an important contribution to the visual amenity of the area. In accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

- 4) Should the use, hereby approved, cease for a period in excess of 12 months all materials, equipment and waste associated with the use shall be removed from the site within a period of 2 months of that date.

Reason

To ensure that the site is restored to a suitable standard in the interest of preventing crime and anti-social behaviour and in the interest of protecting the amenity of the area in accordance with Local Plan Policy CP3 and paragraph 127(f) of the NPPF.

- 5) The site shall not be open for business outside the hours of 08:00hrs to 18:00hrs Monday to Saturday and 09:00hrs to 13:00hrs on Sundays and Public and Bank Holidays.

Reason

To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy CP3 - Chase Shaping, Design and the NPPF.

- 6) The use of the site hereby permitted shall not commence until details for the water treatment and recycling systems to be installed for the drainage of the site have been submitted to and approved by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details before the development is first brought into use.

Reason:

This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

- 7) No means of illumination to the car wash shall be brought into use until a scheme for external illumination has been submitted to and approved in writing by the Local Planning Authority. Any means of external illumination employed shall be in accordance with the approved scheme.

Reason

In the interests of protecting the amenity of neighbouring occupiers from light pollution.

- 8) No development shall commence until a detailed statement for the removal / eradication of Japanese Knotweed on the site has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include proposed measures to prevent the spread of Japanese Knotweed during any operations such as mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds / roots / stems of any invasive plant covered under the Wildlife & Countryside Act 1981. The approved details shall thereafter be implemented.

Reason

To ensure a satisfactory standard of environment for existing and future occupiers of the land

- 9) Prior to the first use of the approved development the circulation lanes and individual parking bays shall be clearly marked out and delineated as indicated on the submitted drawing A120 (proposed site plan) and shall thereafter be retained for the life of the development.

Reason

To minimise the likelihood of vehicles queuing onto the East Cannock Road highway.

- 10) Prior to the first use of the approved development a scheme for the surface materials of the site shall be submitted to and approved in writing by the Local Planning Authority and the works comprising the approved scheme shall be implemented. The works shall thereafter be retained for the lifetime of the development.

Reason

To ensure that the development is provided with a satisfactory means of drainage and to protect the water environment.

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

A120

A100

A110

JMA-ZZ-SI-A-2101 A

JMA-ZZ-SI-A-2102

Arboricultural Survey

Reason

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

Notes to the Developer:

It is recommended that regard is paid to good practice guidance previously provided by the EA (Guidelines for vehicle washing & cleaning given in PPG 13, now withdrawn) or joint Scottish / Welsh / Northern Irish guidance document (GPP 13: Vehicle washing and cleaning).

It is likely that the Japanese knotweed will be disturbed during development. Waste containing Japanese knotweed is classified as controlled waste, and will require disposal to a suitably registered waste site. It is also recommended that a management plan is drawn up to control or remove the growth to avoid future liabilities. The INNSA Code of Practice, Managing Japanese Knotweed is a widely acknowledged document to refer to. Such management plan would best be coordinated with the adjacent land owner.

Consultations and Publicity***External Consultations***Clerk to Hednesford Town Council**Objection**

The Town Council object to the application as the proposed use for a car wash is inappropriate in this location with another car wash immediately opposite on the industrial estate.

The potential for nuisance and disturbance to be caused to adjoining residential properties in East Cannock Road and Swallowfields Drive.

There is concern for highway safety and traffic movement. East Cannock Road at this location can become very congested. This is due to traffic to the KFC restaurant and the industrial premises on the south east side of East Cannock Road. Drivers of heavy vehicles have difficulty manoeuvring their vehicles onto the industrial estate road.

Note the application does not specify opening hours.

Approval of the application could prejudice a comprehensive development of the entire site of the former Globe Inn which is currently in a derelict condition and very unsightly.

County Highways

No objection subject to conditions

Internal Consultations

Environmental Health.

There are residential properties to the northern side of the proposal site. Appropriate screening will therefore be required to ensure that adjacent uses do not experience nuisance from noise and are fully protected against overspray and spray drift from the use of jet washers.

The hours have not been specified. Given the sensitivity of the site location, I would recommend that hours are restricted to 08:00 to 18:00 Monday to Saturday and 09:00 to 13:00 Sundays. Should floodlighting of the site during winter months be required, this should be installed in such a manner so as to ensure that there is no glare or lighting overspill outside the site boundary.

Waste water from vehicle cleaning can contain detergents, oil and fuel, suspended solids, grease and antifreeze which must not be allowed to enter surface water drains, surface water or ground waters. Details of water treatment / recycling systems to be installed should be subject to prior approval by the local water and sewage undertakers.

It is recommended that regard is paid to good practice guidance previously provided by the EA (Guidelines for vehicle washing & cleaning given in PPG 13, now withdrawn) or joint Scottish / Welsh / Northern Irish guidance document (GPP 13: Vehicle washing and cleaning).

The site currently has established stands of Japanese Knotweed growth:

- i) Adjacent the entrance, where car parking is planned,
- ii) At the location where plans show the inceptor, filter & pumps and parking is planned. This growth is noted to be extending onto adjacent car park planting areas.

It is likely that the Japanese knotweed will be disturbed during development. Waste containing Japanese knotweed is classified as controlled waste, and will require disposal to a suitably registered waste site. It is also recommended that a management plan is drawn up to control or remove the growth to avoid future liabilities. The INNSA Code of Practice, Managing Japanese Knotweed is a widely acknowledged document to refer to. Such management plan would best be co-ordinated with the adjacent land owner.

Trees, Landscape and Countryside

No response to the amended plans.

An objection was raised to the initial plans due to the lack of a detailed tree survey.

A full tree survey was submitted with the revised plans.

Response to Publicity

Site notice displayed and adjacent occupiers notified with three letters of representation received. The comments are summarised below:-

- The site drainage. Adequate details have not been provided with the application as to how water runoff and chemicals from the washed vehicles will be dealt with. The existing and proposed tarmac of the application site is unsuitable for the proposed car wash use. We are aware that the chemicals used in car wash process are particularly corrosive of tarmac surfaces, which will quickly erode away and allow contaminated water to soak into the ground and potentially percolate into and contaminate surrounding water courses.
- There is no noise assessment accompanying the application to assess the noise impact of the car wash equipment on the adjacent properties. Equipment such as jet washes and vacuums can generate high levels of noise.
- The applicant does not provide any details such as lighting or hours of operation, both of which have potential implications for causing nuisance to the residents at the rear.
- The application does not provide adequate assessment of the vehicle access, nor does it include a transport assessment of the likely traffic movements associated with the proposed use.
- The application is bound on two sides by trees and hedgerows. The proposed use is likely to have a serious detrimental impact on this vegetation and the application should therefore be accompanied by an arboricultural impact assessment to establish the impact of the use.
- The extent of the parking provision proposed is not required for such a use.
- The proposal will only provide three low skilled jobs so there is no economic benefit.

Four letters of representation have been received as a consequence of the revised plans and additional information:-

- There are already car wash facilities in the area, no further uses are required in this location.
- I fear that the site will be used for more than car wash provision, with uses extended to other vehicle uses such as vehicle repairs and / or sales.
- Land ownership query.

Relevant Planning History

CH/14/0022: Demolition of the existing public house and erection of a two storey care home and erection of a two storey building with retail (A1) on the ground floor and 5 flats on the first floor. Approved

1 Site and Surroundings

- 1.1 The application relates to part of the parking area associated with the former Globe Public House, located on Cannock East Road.
- 1.2 The application site is broadly rectangular shaped and lies between the pub and the car park of the adjacent health and fitness centre.
- 1.3 To the east of the site is land which previously accommodated the Globe Public House. This land is also in the applicant's ownership and benefits from planning permission for a care home.
- 1.4 There is a row of two storey residential properties to the north in Swallowfields Drive that abut the rear boundary of the site. These dwellings back onto the application site at a distance of 16m and are separated from the application site by private gardens and a band of semi-mature willow and silver birch trees. To the west the site abuts the car park for a health centre which is sited on lower ground than the application site and separated by a semi-mature landscape buffer. Across the road to the south opposite the site is a fast-food restaurant and an industrial estate which is described in the Hednesford Neighbourhood Plan as having an unattractive frontage where there is potential for environmental improvement.
- 1.5 The streetscene primarily comprises of commercial properties with the exception of the two dwellings to the east of the site, separated by the land which formerly accommodated the Globe Public House building. The properties in the locale are a mix of single and two storey buildings. East Cannock Road rises in level from west to east, giving the site a levels difference of 2.4m from the western boundary to the eastern boundary.
- 1.6 Five of the trees located between the application site and the properties within Swallowfields Drive are covered by a Tree Preservation Order (TPO).
- 1.7 The application site is located within a minerals safeguarding area and considered to be an area of low risk development by the Coal Authority. The application site is covered by Hednesford Neighbourhood Plan.

2 Proposal

- 2.1 The application seeks consent for a car wash and valeting service.
- 2.2 The application includes the siting of container units sited to the rear of the site to provide facilities for customers and staff.
- 2.3 The proposal would operate a one way system within the site and would provide customer parking for 9 vehicles. The wash area would accommodate two vehicles at any one time and would be bound by a 2.15m high perspex screen to restrict spray. An aco-drain would be positioned to the entrance and exit of the wash area to take additional water away.

- 2.4 A separate valeting area for three vehicles would also be provided which would be covered by an open canopy at a height of 4.3m at the highest point.
- 2.5 The proposal would employ 3 members of staff on a full time basis. No hours have been specified however, the applicant is aware of the hours suggested by your Environmental Health Officers.

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) and the Hednesford Neighbourhood Plan.
- 3.3 Relevant Policies within the Local Plan Include:
- CP1 - Strategy – the Strategic Approach
 - CP2 - Developer contributions for Infrastructure
 - CP3 - Chase Shaping – Design
- 3.4 The relevant policies within there Minerals Plan include:
Policy 3.2 Mineral Safeguarding
- 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.
- vi) Drainage and flood risk
- vii) Mineral safeguarding

4.2 The Principle of 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 vacant plot in an established mixed use location. The application site is located within the main urban area of Cannock and is not subject to any planning allocation or designation that would preclude the proposed use.

4.2.2 Furthermore, the application site has been vacant for a number of years with the former pub building since demolished. The application site is situated on part of a former public house site and is surrounded by industrial, leisure, residential and commercial uses. Therefore in principle, the proposal would be generally compatible with the surrounding uses.

4.2.3 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 in so much as these issues relate to scale and means of access.

4.3 Scale 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 The application site is devoid of any significant feature. However, there is a row of trees, outside of the site but abutting the rear boundary of the site (west) comprising of two Birch trees and three Goat Willow trees all of which are covered by protection orders (TPO) and which help to screen the site in views from the adjacent residential properties. This strip of land also a thick, dense layer of laurel understorey however this under-layer is not protected. The comments of an objector are noted in respect to the impact on the existing trees. However, the applicant has submitted a tree survey within which to inform the application.

4.3.6 The tree report identifies the trees as being class C1 which means they are of low quality and value. Notwithstanding this, the trees are to be retained with no works proposed to facilitate the proposal. The existing hardstanding on the site extends to within approx..1-2m of the trees. The proposed container facilities are shown on the submitted plan as being sited on the existing hardstanding and would not involve disturbance of the soil underneath the tarmac.

4.3.7 The change of use of the site would involve the siting of containers, a jet wash compound and a valeting canopy all of which are single storey and functional in nature. In addition to the above the proposed structures would be seen from the highway within the context of the former Globe Pub site, the industrial estate, the leisure centre car park and the roofline of the adjacent residential dwellings interspersed by the trees. In this respect the proposed structures and buildings would reflect the modern, functional character of the surrounding sites along Hednesford Road. As seen from the dwellings along Swallowfields Drive the containers would not appear over-dominant due to their single storey nature and the impact would be further reduced (particularly in spring-summer) due to the screening provided by the intervening trees.

4.3.8 It is therefore considered that the proposed unit, by virtue of its scale, would be well-related to the existing buildings and their surroundings in the immediate and

wider area and sympathetic to the local character of the area and would therefore comply with Policy CP3 of the Local Plan and paragraph 127 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".
- 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 Although the Design SPD sets out guidance in respect to space about dwellings it does not contain guidance in respect to space about other uses. Of particular significance in this respect is the relationship between the application site and the residential properties to the rear. On the basis of the proposed layout the distance between the main washing / valeting areas of the site and the adjacent residential dwellinghouses would be 32m. Furthermore, the proposed development would be screened to a degree by the existing landscaping and the siting of the container facilities.
- 4.4.4 The comments from an objector are noted in respect to the potential nuisance to neighbouring occupiers. In this instance, Environmental Health Officers were consulted on the application and raised no objection to the proposal in principle and have not requested a noise survey in order to assess the proposal.
- 4.4.5 However, the Environmental Health Officer did recommend appropriate screening to ensure adjacent uses did not experience nuisance from noise and are fully protected against overspray and spray wind drift from the use of the jet washers. The trees along the rear boundary of the site are not considered to be of a sufficient density to act as a noise barrier and the gaps between the containers would allow noise to pass through. As such, a condition for additional screening is recommended. It is noted on the proposed plan, that the applicant proposes to use purpose built sound proof units to house the jet washers. It is recommended that details of these are also required via an appropriately worded condition.
- 4.4.6 It is noted that no lighting provision has been proposed. Given the close proximity to the residential properties to the rear, a condition preventing any lighting from being installed without prior approval of the Planning Authority has been recommended.
- 4.4.7 It is noted that the hours of operation have not been specified. Given the sensitivity of the site location, Environmental Health Officers recommend that hours are restricted to 08.00 to 18.00 Monday to Saturday and 09.00 to 13.00 on Sundays. A condition for the restricted hours in line with EHO Officers has been recommended. This is considered sufficient to protect the adjacent residents from noise and general disturbance.
- 4.4.8 As such it is concluded that the proposal would protect the "amenity enjoyed by existing properties" and maintain a high standard of amenity for existing and

future users and therefore comply with Policy CP3 of the 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.

4.5.2 The comments of an objector are noted in terms of the potential highway implications however, the Highway Authority has no objections to the means of access and has expressed no concerns regarding the capacity of the wider network to accommodate the traffic generated by the proposal.

4.5.3 As such it is concluded that the proposal in respect to use, scale of the use and means of access would not have an unacceptable impact on highway safety and that the residual cumulative impacts on the road network would not be severe. As such the proposal would not be contrary to paragraph 109 of the NPPF.

4.6 Impacts of Cannock Chase Special Area of Conservation

4.6.1 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. Given the size and nature of the proposal and its location in respect to Cannock Chase SAC and Pasturefields, the connectivity of the wider highway network and particularly the fact that the proposal in itself would not generate traffic but cater for existing traffic, it is considered that the proposal would have no significant impacts, directly or indirectly on the SACs.

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, and therefore is in the zone of least risk from flooding.

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 Given that the site is located within Flood Zone 1 there is no need to apply a sequential test.

4.7.4 The comments of both the Environmental Health Officer and an objector are noted in respect to the waste water from vehicle cleaning can contain detergents, oil and fuel, suspended solids, grease and antifreeze and that these must not be allowed to enter surface water drains, surface water or ground waters. In this instance, the applicant proposes a drainage channel to run along the western boundary of the application site (lowest level) that would filter and pump the water to existing drainage. A condition requiring the details of water

treatment/ recycling systems to be installed has been recommended to enable the planning authority to fully assess the facilities proposed.

- 4.7.5 Subject to the attached conditions it is considered that the proposal would be acceptable in respect of drainage and flood risk in accordance with paragraph 155 of the NPPF.

4.8 Mineral Safeguarding

- 4.8.1 The site falls within a Mineral Safeguarding Area (MSAs) for Brick Clay. 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 site is located within the site of a former public house and associated car park within an urban area of Cannock. As such the proposal would not prejudice the aims of the minerals plan to safe guard minerals.

4.9 Ground Conditions and Contamination

- 4.9.1 The site is located in a general area considered to be low risk for development by the Coal Authority. However there are established stands of Japanese Knotweed growth within the curtilage of the site. It is likely that the japanese knotweed will be distrurbed during development. Waste containing japanese knotweed is classified as controlled waste.

- 4.9.2 In this respect paragraph 170 of the NPPF states: -

“Planning policies and decisions should contribute to and enhance the natural and local environment by [amongst other things]:

- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

4.9.3 In addition to the above paragraph 178 of the NPPF states: -
Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

4.9.4 Finally paragraph 179 of the NPPF makes it clear that where 'a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'.

4.9.5 In this respect the comments of the Environmental Health officer are noted and accepted in respect to the Japanese knotweed growing within the application site. Your Environmental Health Officers indicate that the proposed change of use of the site would likely disturb the knotweed. Your Officers therefore recommend the submission of a management plan is drawn up to control or remove the Japanese knotweed. As such, a suitably worded condition has been recommended to cover this issue. It is therefore considered that subject to the attached conditions the proposal would be acceptable in respect of the requirements of paragraph 170 of the NPPF.

4.10 Objections received not already covered above:-

4.10.1 An objector has stated that the extent of the parking provision proposed is not required for such a use. Your Officers confirm that the proposed use would require adequate provision for 5 queuing spaces. Notwithstanding this, whilst the proposal provides 4 additional spaces for waiting, the East Cannock Road is a very busy highway and therefore the additional spaces would be beneficial in this instance.

4.10.2 Objectors state that the proposal will only provide three low skilled jobs so there is no economic benefit. Your Officers confirm the applicant envisages that three workers will be employed at the site. However, your Officers confirm that application site is not currently designated as an employment site and that three jobs on a dilapidated site would be of some, if only slight, benefit to the wider economy.

4.10.3 Objectors have raised the fact there are already car wash facilities in the area and no further uses are required in this location. Your Officers confirm that there are car wash facilities within the wider area however in this instance the market will dictate whether there is an unnecessary amount or if the application is responding to a demand and it is not for the planning system to stifle competition.

4.10.4 An objector has raised concern that the site will be used for more than car wash provision, with uses extended to other vehicle uses such as vehicle repairs and / or sales. Your Officers confirm that the application seeks consent for a change of use to car wash only and any other use would require the benefit of planning permission. Any such proposal would be considered on its own merits at that time.

- 4.10.5 An objector has queried the land ownership of the site, stating the land to the rear containing the trees is within the ownership of the properties within Swallowfields Drive. Your Officers have asked the applicants agent to confirm the land within the red line is within the ownership of the applicant. This has resulted in the red line being revised accordingly. Notwithstanding this, no development is proposed on the land pertaining to this section of the site and any issues arising relating to land ownership would be a civil matter.
- 4.10.6 The parish council has stated that the approval of the application could prejudice a comprehensive development of the entire site of the former Globe Inn which is currently in a derelict condition and very unsightly. However, officers would respond that this matter is merely conjecture, it is for the landowner to come forward for a residential scheme and that there is no policy basis for refusing the application on this ground. As such it is considered that no weight should be given to this issue.

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 In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.
- 6.2 It is therefore recommended that the application be approved subject to the attached conditions.



Application No: CH/18/145

Location: 1, Brindley Heath Road, Cannock, WS12 4DR

Proposal: Residential development:- Erection of 4no. 2 bed houses and 3no. 3 bed houses (outline application with all matters reserved except access and layout)

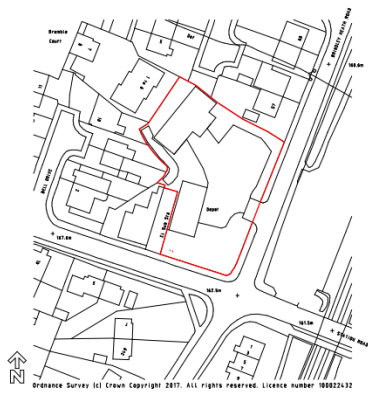
Item no. 6.21



Location and Site Plan



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Location Plan

- 4no Type A 2b4p 72m²
- 2no Type B 3b5p 85m²
- 1no Type C 3b5p 82m²
- 14no car parking

REVISIONS	

 JMASON ASSOCIATES ST THOMAS HOUSE 83 WOLVERHAMPTON ROAD CANNOCK, STAFFS, WS11 1AS T: 01543 467788 F: 01543 467755 e: enquiry@jmasonassociates.co.uk w: www.jmasonassociates.com	

CLIENT Mr N Dunford		
PROJECT Residential Development 1 Brindley Heath Road Hednesford		
DRAWING Feasibility Layout		
SCALE 1:500@A3	DATE 01-12-17	DRAWING NO. 2194-01F
<small>The copyright of this drawing is reserved for the client and is not to be used for any other project without the written consent of the Designer.</small>		

Contact Officer:	Claire Faulkner
Telephone No:	01543 464 337

PLANNING CONTROL COMMITTEE

10 JULY 2019

Application No:	CH/18/145
Received:	10-Apr-2018
Location:	1 Brindley Heath Road, Cannock, WS12 4DR
Parish:	Hednesford
Description:	Residential development – Erection of 4no. 2 bed houses and 3no. 3 bed houses (outline application with all matters reserved except access and layout)
Application Type:	Outline Planning Application

RECOMMENDATION:

Approve subject to 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.

Officer Update

At the meeting of Planning Committee held on 26th June 2019 Members resolved to defer the determination of the application, in order to allow the applicant further consideration of parking provision off Bradbury Lane. In response the applicant has re-sited the two parking spaces to the rear of the site off the single access from Brindley Heath Road.

Your Officers advise Committee Members that there are no planning reasons for refusing the application based on the above update. The original report presented to Planning committee on 2nd January 2019 is set out below with the addition of a condition to assess the stability of the slope to the rear of the site. The update to Planning Committee on 26th June 2019 is given in Appendix 1 at the rear of this report.

Conditions (and Reasons for Conditions):

1. In the case of any reserved matters, application for approval must be made not later than the expiration of three years beginning with the date on which this permission is granted ; and

The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matters to be approved.

Reason

To comply with the requirements of Section 92 of the Town & Country Planning Act 1990.

2. No part of the development hereby permitted shall be commenced until approval of the details of appearance, landscaping and scale ('the reserved matters') has been obtained from the Local Planning Authority.

Reason

The permission is in principle only and does not authorise development to commence until all 'the reserved matters' have been approved. To ensure compliance with the requirements of Section 92 of the Town & Country Planning Act 1990.

3. The development hereby permitted shall not be commenced until:-

(a) a site investigation for ground gases including recommendations for remedial treatment has been undertaken;

(b) the Local Planning Authority has given approval in writing to the method of remedial treatment;

(c) the approved remedial treatment has been carried out in full.

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.

4. The development hereby permitted shall not be brought into use until the existing access to the site within the limits of the public highway has been reconstructed and completed.

Reason

In the interests of highway safety

5. The development hereby permitted shall not be brought into use until the new access to the site within the limits of the public highway has been completed.

Reason

In the interests of highway safety

6. The development hereby permitted shall not be brought into use until the access drive, parking and turning areas have been provided in accordance with the approved plans.

Reason

In the interests of highway safety

7. The development hereby permitted shall not be brought into use until the visibility splays shown on drawing 2194-01 E have been provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 600mm above the adjacent carriageway level.

Reason

In the interests of highway safety.

8. No development shall commence until a detailed statement for the removal / eradication of Japanese Knotweed on the site has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include proposed measures to prevent the spread of Japanese Knotweed during any operations such as mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds / roots / stems of any invasive plant covered under the Wildlife & Countryside Act 1981. The approved details shall thereafter be implemented.

Reason

To ensure a satisfactory standard of environment for existing and future occupiers of the land

9. Prior to the commencement of the development hereby approved, a full slope stability assessment for the embankment to the rear of the site shall be submitted to and approved by the planning authority. The assessment should include any remediation required as a consequence of the proposed development. Thereafter, the approved remedial treatment shall be carried out in full prior to the commencement of the development.

Reason

To ensure a satisfactory standard of environment for existing and future occupiers of the land

10. The development hereby permitted shall be carried out in accordance with the following approved plans:
2194-01F

Reason

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

Notes to the Developer:

Demolition works should be undertaken in accordance with Building Act Controls and in accordance with BS 6187:2011 Code of Practice for full & partial demolition with the appropriate necessary attention being paid to the removal and disposal of any asbestos containing materials.

The existing and proposed dropped crossing to the site shall be constructed in accordance with the submitted drawing No.2194-01D. Please note that the prior accesses 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.

No part of the development hereby approved shall be adopted as public highway.

Consultations and Publicity***External Consultations***Hednesford Town Council

Objection

There is concern regarding the access to the site and its close proximity to the junction with Bradbury Lane / Brindley Heath Road and Station Road. No comments have been received to date regarding the amended plans.

Staffordshire County Highways

No objection subject to conditions

School Organisation

This development falls within the catchments of West Hill Primary School and Kingsmead School. The development is scheduled to provide 8 dwellings. A development of this size could add 2 Primary School aged children and 1 Secondary School aged child.

Due to the pressure for primary school places in West Hill Primary School this application would previously have been subject to a request for a S106 contribution of £22,062 for education. However in light of the implementation of CIL in June 2015 in Cannock Chase we understand that contributions towards additional infrastructure will be recognised through the allocation of CIL funding through the Regulation 123 list which we have submitted to the district. The 123 List includes a project to increase the capacity at West Hill Primary School.

Whilst the 1/2FE expansion project at West Hill has recently been delivered to ensure there are sufficient places for the additional children generated through new housing, it is hoped that some of the costs will be recovered through the CIL mechanism.

Kingsmead School are projected to have sufficient space to accommodate the likely demand from pupils generated by the development and therefore no request will be made towards High School provision.

Internal Consultations

Environmental Health

No adverse comments offered.

It is possible that there could be ground gas issues associated with this site, accordingly an appropriate site investigation will be necessary to determine whether gas protection measures will be required or if there is residual ground contamination from the electrical sub station or tanks previously situated on the site. Any remediation proposals identified should be submitted for prior approval purposes. Should the development proceed then suitable and adequate arrangements for the storage and disposal of waste materials will be required.

Planning Policy

No objection.

The site is within the Hednesford urban area and is not protected for a specific use on the Local Plan (Part 1) Policies Map. It is a light industrial site surrounded largely by residential properties.

The National Planning Policy Framework (NPPF)(p4, March 2012) states that development proposals should be approved where they accord with the development plan and there are no policy restrictions. The Cannock Chase Local Plan (part 1) policy CP1 also 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.

It should be noted that the site is located within the Hednesford Neighbourhood Area and that the Town Council are preparing a Neighbourhood Plan for their Parish area, which has been submitted for Examination.

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 Regulation 123 list.

Crime Prevention Design Advisor

There is no surveillance for the parking bays relating to house type C and all properties should achieve Secured by Design

Response to Publicity

The application was advertised by neighbour letter and site notice. Two letters of representation have been received. These are summarised below:-

- There is some contamination of Japanese Knot Weed along the rear boundary of the site next to the fencing belonging to the flats.
- The site has a very large mature Willow tree and other trees on the site. The site has mature hedgerows along the boundary with the footpaths on both Bradbury Lane and Brindley Heath Road.
- A previous planning was refused in 2016 because access to and from the site is in too close a proximity of the traffic light controlled junction. With the amount of properties proposed it will mean increased traffic movement on and off the site at peak times, this junction has already had collisions in the past due to vehicles approaching the lights too fast.
- High soil banking to the rear of properties on Bell Drive are in danger of collapse should any ground works be undertaken on or near, this has the potential to also damage and de value the properties.
- The sheds on the site are roofed in asbestos which requires specialist removal to comply with current legislation.
- There are Bats seen regularly flying at dusk around the sheds, there could possibly be a colony roosting in them
- The amount of properties planned needing 16 parking spaces required will be directly next to our rear garden, we already have a car park next to the side of our house belonging to the flats in Bramble Close, another car park on the proposed development will effectively mean we will be surrounded on two sides of our house bringing yet more noise and disturbance than we already have from vehicles belonging to the flats.
- One of 3 bed houses on the plan are immediately to the side of my house, where the windows are some 15ft tall. The tops of 2 of the 3 windows are on the mezzanine floor, where the bedroom is located. I am extremely concerned about privacy and the right of light which will be blocked out and also the view.
- The car parking spaces are immediately adjoining the boundary of my building and am concerned that any interference by building works will damage and may destroy the walls which are over 100 years old, although it is not clear from the plan how near this would be.
- There will be a need, I would imagine, for all trees to be removed and I understand that the willow tree on Dunford's has a protection order placed on it.

Relevant Planning History

CH/15/0241 Skip Storage. Refused for the following reasons:

1. *The area used for skip storage is near to existing dwellings. As such the noise and disturbance associated with the skip storage use results in an adverse impact on the amenity of nearby residents. Therefore, the proposal is contrary to Local Plan Policy CP3 and the NPPF, both of which seek to safeguard the amenity of existing occupiers from incompatible uses.*
2. *The skip storage area is accessed via a narrow entrance and is in close proximity to an existing junction. Consequently, it is considered that large vehicles using a narrow entrance near to a junction would be detrimental to highway safety. As such, the proposal is contrary to Local Plan Policy CP3 and the NPPF.*

1 Site and Surroundings

- 1.1 The application site comprises part of a commercial yard and associated buildings north-west of the junction of Station Road, Bradbury Lane with Brindley Heath Road, Hednesford.
- 1.2 The site is generally bound by fencing and hedges along its boundaries. There are trees within the application site; two to the Bradbury Lane frontage and one within the site itself. None of the trees are protected by a TPO. The site measures approx. 2200m².
- 1.3 The wider site is occupied by a long established landscape contractors business. There are residential areas to the north and west of the site with open land in the Green Belt to the east. The properties to the west of the application site are located on significantly higher ground than the application site.
- 1.4 The application site benefits from an existing access off Brindley Heath Road.
- 1.5 The existing building is of an industrial appearance being two storey in height and of a brick and corrugated metal construction. Further structures within the site are open sided units in a dilapidated condition sited along the western boundary. Several skips are sited within the curtilage of the site and two large metal containers are sited adjacent the eastern boundary.
- 1.6 The site is in part unallocated and undesignated in the Cannock Chase Local Plan (Part 1).

2 Proposal

- 2.1 The proposal is seeking outline consent with all matters reserved except access and layout.

- 2.2 The proposal seeks permission for the siting of 7 dwellings three sited to the corner of the site where Brindley Heath Road meets Station Road and Bradbury Lane and four dwellings in the form of 2 pairs of semi-detached buildings fronting Brindley Heath Road. The parking is proposed to the front and side with private gardens to the rear.
- 2.3 Three new access points would be introduced to the site; one along Bradbury Lane and two along Brindley Heath Road. The access from Bradbury Lane would be in the form of a single drive and would provide two parking spaces for one plot. The access off Brindley Heath Road would be located in a similar position to the existing access and would provide vehicle access and parking for two of the proposed dwellings. The third access would be sited to the north of the existing access and would lead to a shared parking area for four proposed dwellings.
- 2.4 The existing buildings within the application site would be demolished.

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). Relevant policies within the Local Plan include
- CP1 - Strategy – the Strategic Approach
 - CP3 - Chase Shaping – Design
 - CP6 – Housing Land
 - CP7 – Housing Choice
- 3.3 National Planning Policy Framework
- 3.4 The NPPF(2018) 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.
- 3.5 The NPPF (2018) 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.
- 3.6 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

3.7 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.

Hednesford Neighbourhood Plan

Manual for Streets.

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) Affordable Housing
- vii) Drainage and Flood risk

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 appears to be a Greenfield site located within the urban area of Cannock. It is a 'windfall site' having not been previously identified within the Strategic Housing Land Availability Assessment (SHLAA) as a potential housing site. 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 a residential location approximately 0.6km from Hednesford district centre, close to the schools 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. The site is not located within either Flood Zone 2 or 3 and it is not designated as a statutory or non- statutory site for nature conservation nor is it located within a Conservation Area (CA) nor does it affect the setting of a designated or undesignated heritage asset.

4.2.5 As such it would be acceptable in principle at this location. 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 There are trees sited within the application site and a mature hedgerow around the street boundaries with a gap for the access. It is likely that all the trees and the hedgerow would need to be removed to accommodate the proposed dwellings. The hedgerow and the planting currently screen the light industrial use of the site within what is a predominantly residential location. This degree of screening would not be required if planning permission is granted for the proposed dwelling as these would sit comfortably within the residential street scene. Whilst the loss of the existing vegetation is unfortunate, the landscaping is not covered by TPOs and could be removed at any stage by the applicant without the benefit of planning permission. It is noted that there is sufficient scope within the site to include a tree replacement planting scheme with the submission of the Reserved Matters application subject to this application being approved.
- 4.3.6 The layout of the application site is logical and addresses both street scenes within Bradbury Lane and Brindley Heath Road. The submitted plan demonstrates how two pairs of semi-detached dwellings would be set behind a short parking forecourt with gardens to the rear. A further three terraced dwellings are proposed to the corner of the site in a design that turns the corner with parking provided on individual drives to the sides and rear.
- 4.3.7 Within the wider street scene dwellings occupy similar plot sizes; with modest frontages and varied rear gardens. Opposite the application site the dwellings are designed to turn the corner from Bradbury Lane onto Station Road. In line with this established urban grain, the proposed dwellings would be set back behind a short frontage with the private amenity space to the rear.
- 4.3.8 The proposed development of the application site would also remove the light industrial use immediately adjacent residential dwellings and replace it with a more compatible use of the land.
- 4.3.9 Therefore, having had regard to Policy CP3 of the Local Plan and the above mentioned paragraphs of the NPPF it is considered that the proposal would be well-related to existing buildings and their surroundings, successfully integrate with existing features of amenity value, maintain a strong sense of place and visually attractive such that it would be acceptable in respect to its impact on the character and form of the area.

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 The layout plan demonstrates a separation distance of 21m+ to the dwelling to the rear within Bell Drive. It is also noted that these properties are sited on significantly higher ground than that of the application site.
- 4.4.4 The nearest dwelling within Bradbury Lane is a former chapel building which has been converted to provide residential accommodation. This dwelling does not benefit from principle windows in the front elevation but does instead have windows in the side elevation which lead to habitable rooms. The nearest proposed dwelling to this property would have a side elevation facing sited 12.5m from the side elevation of the former chapel. The Design SPD seeks separation distances of 12.2m. In this instance the proposed dwelling is sited on lower ground than the former chapel and therefore complies with the requirements of the Design SPD. Furthermore, it is noted that the existing two storey industrial building (whilst set back into the site by 9m) is located immediately adjacent the boundary 6m from the side elevation of the former chapel, separated only by the sub station. Therefore whilst the comments of the neighbour are noted, the proposed demolition of the light industrial building and the erection of seven dwellings would result in a betterment in terms of overbearing, outlook and privacy.
- 4.4.5 In conclusion, the separation distances to neighbouring properties are appropriate for the proposal and over and above the requirement of those set out within the Council's Design SPD.
- 4.4.6 With regard to the proposed dwellings, the amenity spaces to the rear of the dwellings would provide between 60m² and 265m² of private garden space. The Design SPD requires an area of 44m² per two bedroom dwelling and 65m² per 3 bedroom dwelling. Two parking spaces per dwelling would also be provided.
- 4.4.7 Overall, the proposed development would comply with the Council's Design SPD in terms of protecting the amenity of existing occupiers as well as any future occupiers of the site.

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.

4.5.2 In this respect the comments of the Town Council are noted. Staffordshire County Highways Department were consulted on the proposal and raised no objections subject to the attached conditions in terms of highway safety.

4.5.3 The proposed dwelling would provide two spaces per dwelling either in the form of individual drives or within a shared parking area.

4.5.4 As such, it is considered that there would be no adverse impact upon highway safety and the proposal would be in accordance with the Parking SPD.

4.6 Impact on Nature Conservation Interests

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 is given special protection or which is of particular conservation interest. As such the site has no significant ecological value and therefore the proposal would not result in any direct harm to nature conservation interests.

4.6.2 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. The proposal would lead to a net increase in dwellings and therefore is required to mitigate its adverse impact on the SAC. Such mitigation would be in the form of a contribution towards the cost of works on the SAC and this is provided through CIL.

4.6.3 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 Affordable Housing and other Developer Contributions

4.7.1 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.

4.8 Drainage and Flood Risk.

4.8.1 In this respect the application site is located in a Flood Zone 1 which is at least threat from flooding. Although the applicant has not indicated the means of drainage it is noted that the site immediately abuts main roads and is on the edge of a predominantly built up area. As such it is in close proximity to drainage infrastructure that serves the surrounding area and is considered acceptable. A condition has been recommended that drainage details are submitted to and approved by the Local Planning Authority to ensure adequate drainage is provided.

4.9 Comments received not covered above:-

- 4.9.1 Concern has been raised that there is some contamination of Japanese Knot Weed along the rear boundary of the site next to the fencing belonging to the flats. Your Environmental Health Officers have recommended a condition to ensure the Japanese Knotweed is dealt with appropriately.
- 4.9.2 Concern has been raised in relation to the high soil banking to the rear of properties on Bell Drive is in danger of collapse should any ground works be undertaken on or near, this has the potential to also damage and de value the properties. Your Officers confirm that the Reserved Matters application would consider the external environment including any retaining structures that may be required as a consequence of the proposed works. Also, any development approved on the site would need to comply with building regulations which considers how development is constructed.
- 4.9.3 A neighbour has referred to the sheds on the site are roofed in asbestos which requires specialist removal to comply with current legislation. Your officers confirm that a note would be included on any decision notice making the applicant aware of the possible use of asbestos.
- 4.9.4 A neighbour has commented that there are Bats seen regularly flying at dusk around the sheds, there could possibly be a colony roosting in them. No evidence has been submitted in support of this claim. However, the Council Ecologist has advised that the buildings on site are of a construction type that would not automatically trigger a bat survey. There are bat roosts close to this location and it is probable that they use the site to a limited extent for foraging.
- 4.9.5 The amount of properties planned needing 16 parking spaces required will be directly next to our rear garden, we already have a car park next to the side of our house belonging to the flats in Bramble Close, another car park on the proposed development will effectively mean we will surrounded on two sides of our house bringing yet more noise and disturbance than we already have from vehicle belonging to the flats. Your Officers note the concerns raised and confirm that the playout of the proposal has been amended from rear courtyard parking to parking to the frontage and on individual driveways.
- 4.9.6 Concern has been raised regarding the car parking spaces immediately adjoining the boundary of the former chapel building and potential damage by the building works damaging / destroying the walls which are over 100 years old, although it is not clear from the plan how near this would be. Your officers confirm that the nearest parking spaces / development would remain approx.5m from the rear wall of the chapel building and any works approved would be covered by Building Regulations.

5 Human Rights Act 1998 and Equalities Act 2010
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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

5.3 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.

5.4 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

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

5.6 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 make a neutral contribution towards the aim of the Equalities Act.

6 Conclusion

6.1 In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.

6.2 It is therefore recommended that the application be approved subject to the attached conditions.

Appendix 1**Previous Officer Update presented to Members on 26th June**

At the meeting of Planning Committee held on 2nd January 2019 Members resolved to defer the determination of the application, in order to allow the applicant further consideration for alternative options with regards to the access into the site and to allow consideration of the stability of the bank to the rear of the site.

With regard to the access; the land to the rear that would allow access from Bramble Drive is not within the ownership of the applicant. Therefore the likelihood of an implementable scheme being presented at this stage is highly unlikely.

The applicants agent has however, revised the proposed scheme that now utilises one access from Brindley Health Road to give vehicle access to 7 of the 8 plots. A separate driveway access would be retained off Bradbury Lane for one of the plots. Parking would be provided on a frontage courtyard area for four plots with individual curtilage parking from the shared access for two plots. Staffordshire County Highway Authority raised no objections to this revision.

With regard to the stability of the bank; the applicants agent has confirmed that he has contacted a Geotechnical Engineer regarding the slope stability report, but unfortunately this can't be done at the moment. The assessment requires access to the embankment for an excavator and the existing building prohibits this access. The applicants agent has confirmed that they would be happy for this to be included as a pre-commencement condition. A condition for an assessment has been recommended in the report below.

Your Officers advise Committee Members that there are no planning reasons for refusing the application based on the above update. The original report presented to Planning committee on 2nd January 2019 is set out below with the addition of a condition to assess the stability of the slope to the rear of the site.

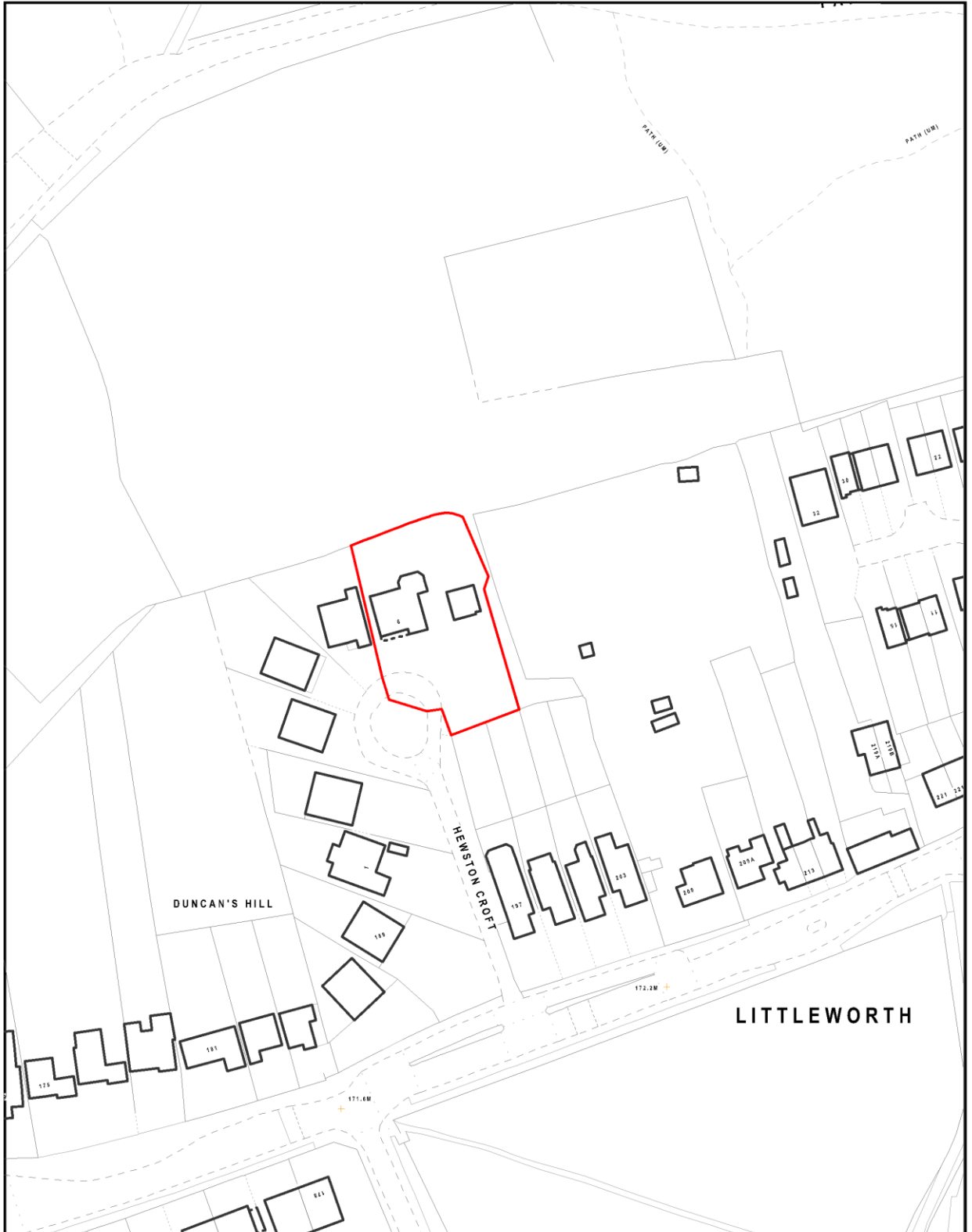


Application No: CH/18/428

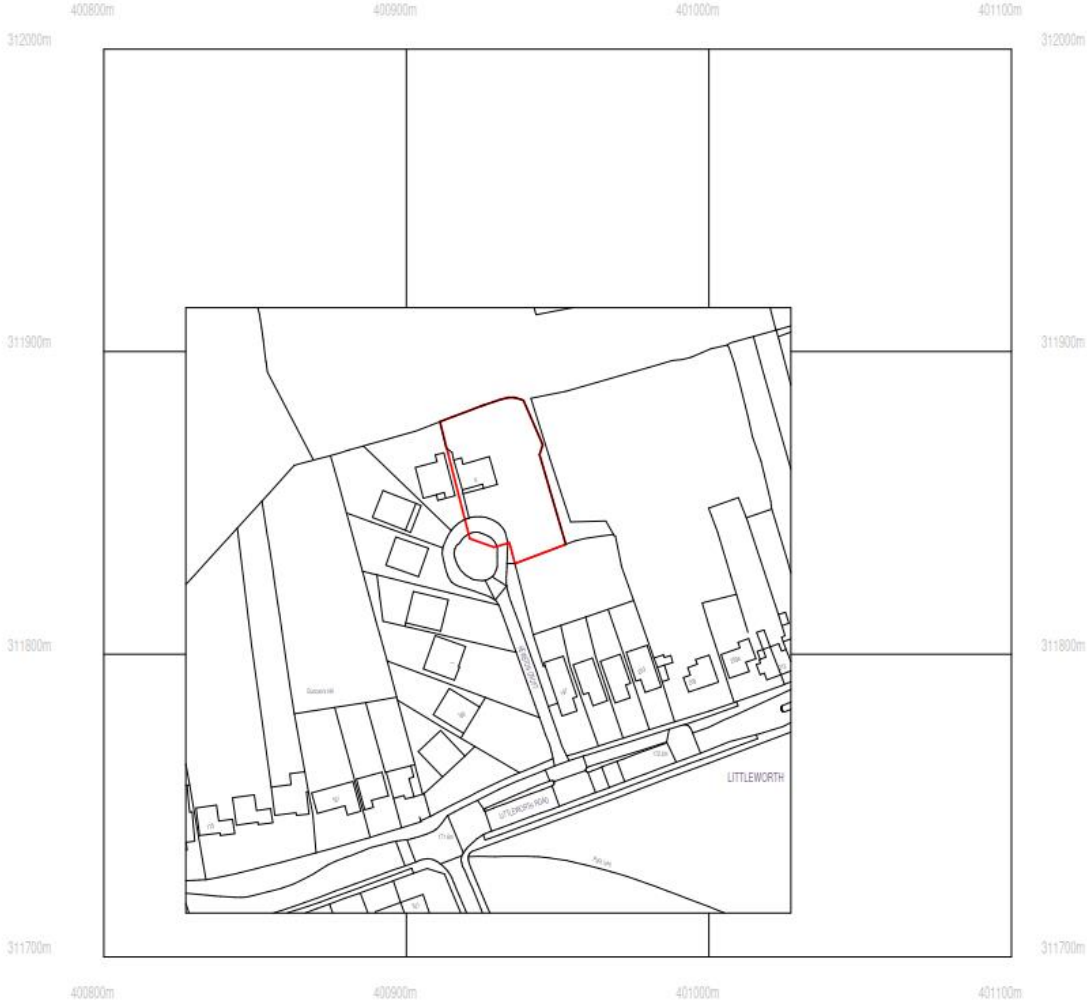
Location: 6, Hewston Croft, Littleworth, Cannock, WS12 1PB

Proposal: Detached garage with gymnasium over

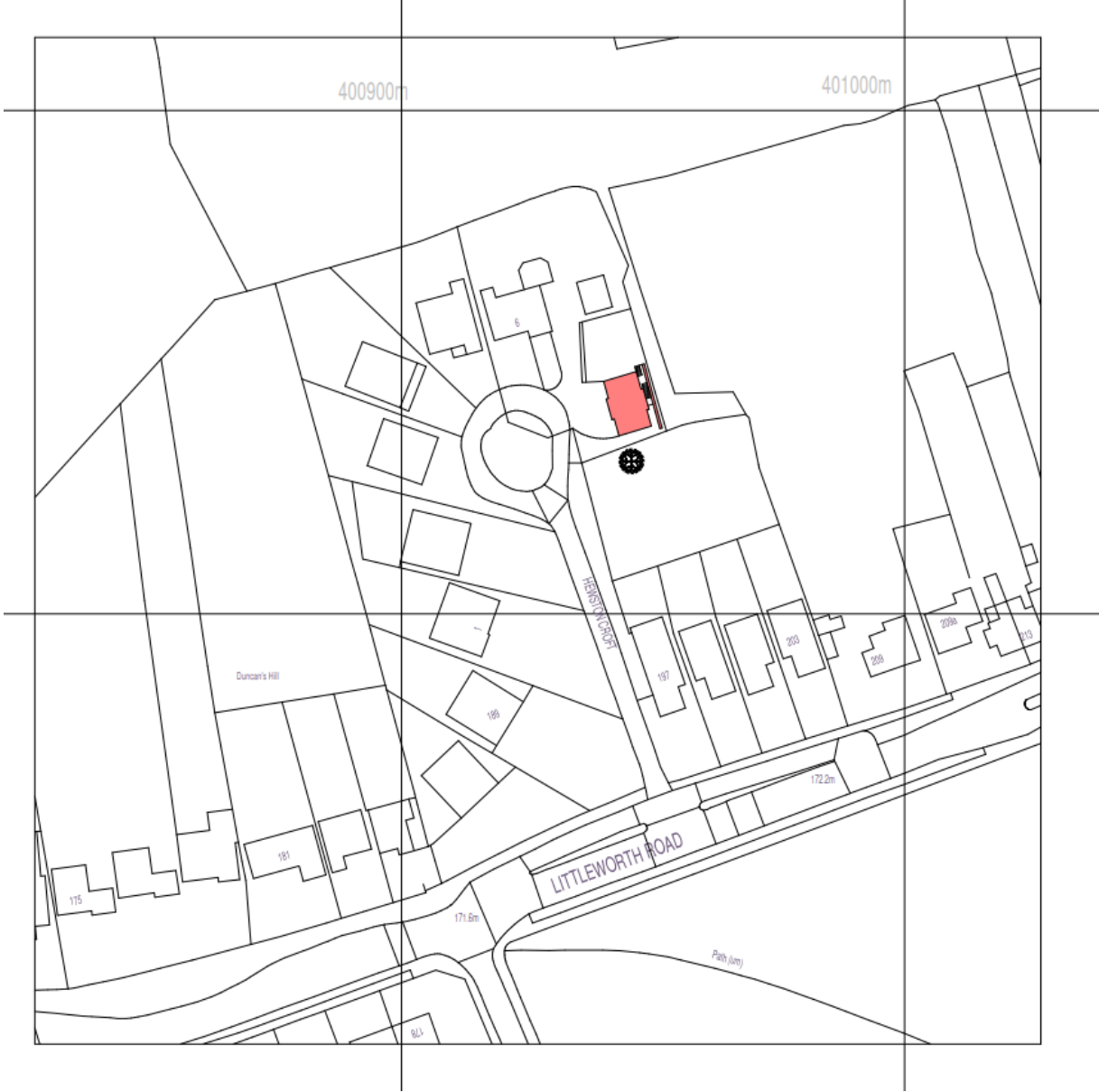
Item no. 6.39



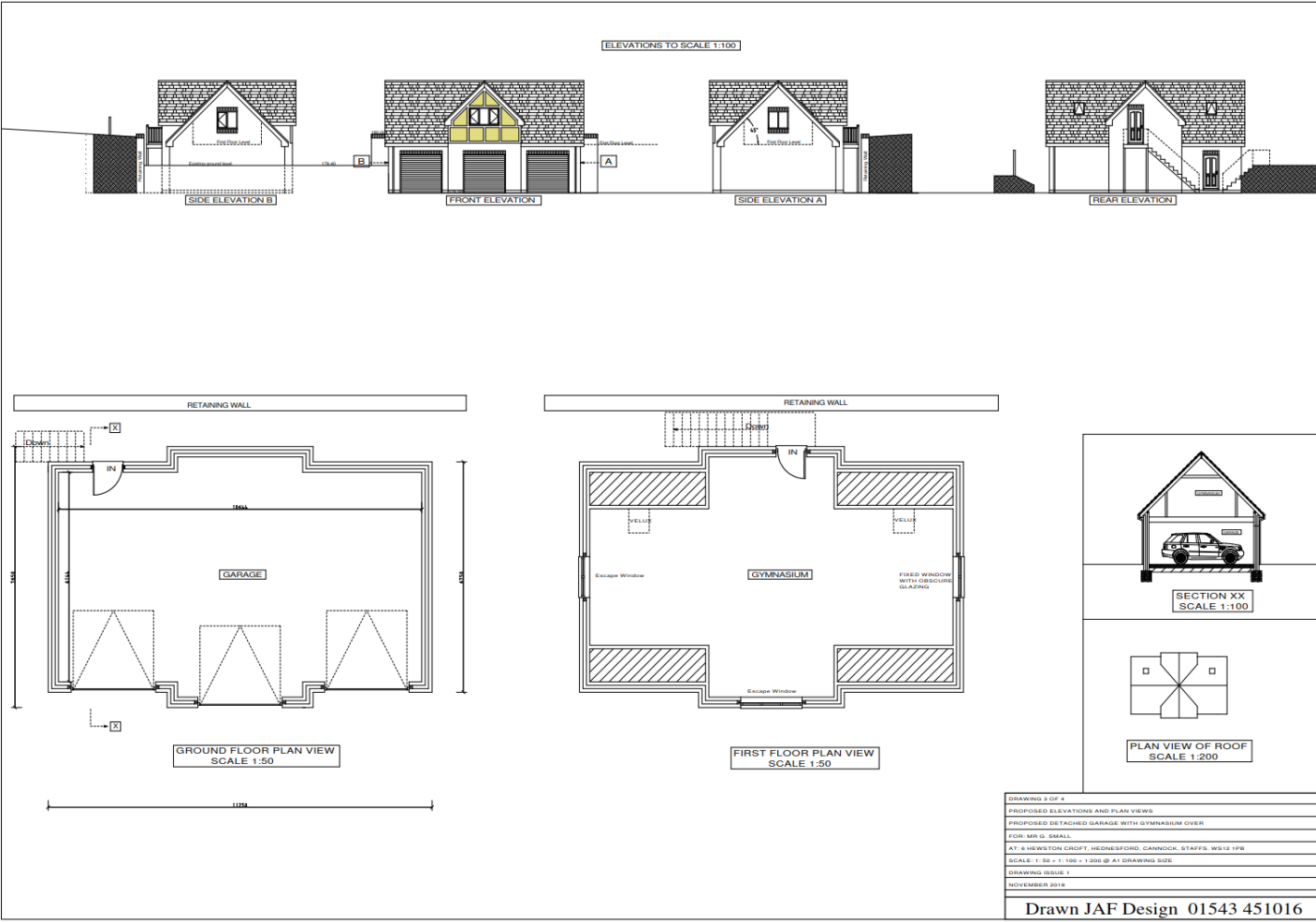
Location Plan



Block Plan



Plans and Elevations



Contact Officer:	Audrey Lewis
Telephone No:	01543 464 528

PLANNING CONTROL COMMITTEE

10 JULY 2019

Application No:	CH/18/428
Received:	03-Dec-2018
Location:	6 Hewston Croft, Littleworth, Cannock, WS12 1PB
Parish:	Hednesford
Description:	Detached Garage with Gymnasium
Application Type:	Full Planning Application

RECOMMENDATION:

Refuse for the following reasons:-

Reason(s) for Recommendation:

1. The proposed garage with gymnasium above would be poorly related and out of keeping with the character of the area due its size, scale and location. The development would be visually prominent from the street and unsympathetic to the character of the host dwelling and suburb setting. The proposal is therefore contrary to Policy CP3 of the Cannock Chase Local Plan, the Cannock Chase Design Supplementary Planning Document (April 2016) and Paragraphs 124, 127 and 130 of the NPPF.
2. The proposed development does not provide sufficient detail to determine the impact of the proposal on the protected trees, which may result in unacceptable works to and loss of protected trees, which form an important landscape feature of significant visual amenity.

Consultations and Publicity

External Consultations

Historic England
No comments.

Hednesford Town Council

No objection.

Internal ConsultationsLandscaping Team:

The site sits adjacent to the Hednesford Hills SSSI.

There are several large mature trees and shrubs on and adjacent the site, and on the access road - most of which are protected via TPO 1/1979.

Street scene is that of large detached properties with private access roads, surrounded by large mature protected trees and off-road parking.

The application is lacking the following detailed information:

- All landscape details including:
- All Retaining walls
- Boundary details
- Hard surfacing details
- Soft landscape proposals
- Existing and proposed services to include storm water

Trees:

All trees on the access road are protected with a TPO 1/1979. This road is currently not suitable for heavy or large vehicles as it stands, due to uneven road surface, low hanging tree branches and compaction of road surface from heavy vehicles. As such will be restricted. How will access be achieved?

Hard works:

- Drainage details are required for the driveway as well as surface water run off. A porous construction should be considered and / or soak-away. Details are required.
- Details of retaining walls and steps need to be submitted, as these will be essential in the development of this site.

Summary

Objection due to:

- Potential detrimental impact to existing protected trees.
- Lack of detailed information as per SPG 'Trees, landscape and development' (As noted above)
- No objection in principle to a development on this site. However due to protected trees and site levels, careful consideration and thought needs to go into how the scheme will be constructed whilst maintaining the character and appearance of the estate, as a whole.

Response to Publicity

The application has been advertised by site notice and neighbour letter. Six letters of representation have been received, objecting to the proposal on the following grounds:

- Hewston Croft is a private development comprising 6 No. dwellings, the proposal is not in keeping with the rest of the development, as it would appear as a large commercial building.
- The site is already being used as a commercial car park by a 3.5 ton van.
- The applicant has previously constructed a large double garage and extended without permission on land adjacent to No.6, which would bring the number of garages to 6.
- Site is adjacent to the common – a Site of Special Scientific Interest (SSSI).
- Loss of outlook over the hills.
- Loss of privacy & light.
- Increased noise from the proposed development.
- What is in place for the storage of materials and vehicles.
- Hewston Croft is only wide enough to accommodate one vehicle, has a risk assessment and method statement been put in place to safeguard pedestrians, etc?
- Proposal would cause damage to TPO trees.
- Utilities and drainage issues, previous flooding and raw sewerage to the bottom of Hewston Croft.
- Insufficient consultation with neighbours and consultation period not taking into account Christmas holiday period.
- Hewston Croft is a private road, which is in a poor state of repair and further heavy vehicles would worsen its condition. What is in place for the repair of the service road, if damaged?
- Red line is incorrect on the site plan, as it does not show parcels of land owned by other parties, which would reduce the access to the site, as the agent is fully aware from previous applications.
- Land ownership & rights of access over the private road owned by other residents have not been addressed.
- Trespass into private road by planning officer, when displaying the green site notice.

Relevant Planning History

CH/18/155 - Erection of detached garage with gymnasium over withdrawn on 28 July 2018.

CH/15/0429 - Erection of detached garage with gymnasium over withdrawn on 15 April 2016.

CH/15/0413 - Proposed balcony to side and Juliette Balcony to rear elevation. Alterations to front elevation. Approved 4 April 2016.

CH/12/0408 - Erection of 4 Bedroom Detached Dwelling, Withdrawn 02 June 2015.

CH/06/0001 - Retention of 2.2 metre high boundary fence, canopy to front elevation and single storey extension to rear. Approved 8 March 2006.

1 Site and Surroundings

- 1.1 The application dwelling is a large detached two storey house, which is located at the end of a private road forming a cul-de-sac. The 6 No. houses within this housing development comprise individually designed executive two storey detached buildings.
- 1.2 There is a levels difference between the floor level of No.6 Hewston Croft and the land beyond to the north, with the land being situated at higher ground level. Several trees have been cleared from the site.
- 1.3 The application property has a pitched roof with a forward projecting gable. It also has a 25m long driveway, side garage and integral garage. A separate parcel of land to the southeast of the house has been acquired by the applicant's wife. The applicant has served Certificate B on his wife providing the requisite notice (21 days).

2 Proposal

- 2.1 The applicant seeks planning permission for the erection of a triple garage with gymnasium over. The garage would be 11m wide x 7.5m deep to a height of 6.5m (2.7m to eaves). The internal dimensions (minimum) would be 6.1m long x 10.6m wide.
- 2.2 The building design would comprise brick and tile construction with a pitched roof, front gable end forward projecting feature, rear velux windows and rear external staircase positioned between the rear wall of the garage and rear retaining wall. There would be side facing UPVC windows at first floor level, one on each side elevation – one would be obscure glazed facing south towards Littleworth Road.
- 2.3 The proposed building would be set 8m back from the private road and accessed via the existing dropped kerb serving No.6 Hewston Croft.
- 2.4 The application states that no trees are within falling distance on the development and no trees would be removed to enable the proposed development to take place.

- 2.5 The application is accompanied with a tree report and structural calculations for the retaining wall shown on plan to be incorporated at the rear of the proposed garage.

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), the Hednesford Neighbourhood Plan and the Minerals Local Plan for Staffordshire (2015 – 2030). Relevant policies within the Local Plan include:-

CP1 - Strategy – the Strategic Approach
 CP3 - Chase Shaping – Design

There are no relevant policies in the Hednesford Neighbourhood Plan that relate to this proposal.

3.3 National Planning Policy Framework

- 3.4 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.

- 3.5 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.

- 3.6 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

- 3.7 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.

Manual for Streets.

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.

4.2 Principle of the Development

4.2.1 The site is located on unallocated and undesignated land containing a dwelling within the built up urban area of Cannock-Hednesford . The proposal is for a triple garage with gym above. There are no restrictive policies in place that would relate to the development of a free standing building within the garden of a dwelling and therefore the proposal is considered to be acceptable in principle.

4.2.2 However, proposal that are acceptable in principle are also required to meet other policy requirements set out in the Development Plan unless material considerations indicate otherwise. These will now be considered.

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 space about dwellings.
- 4.3.6 The character of the area comprises a private development of 6 detached two storey houses of bespoke design, which demonstrate a circular staggered building line, arranged around the central island situated at the head of the cul-de-sac location. The front gardens of the dwellings in the locality have no built form of development other than low level front boundary treatments. The dwellings are set well-back from the pavement and the frontages of the dwellings provide a high level of visual amenity, being predominantly open and landscaped with trees, hedges and lawns.
- 4.3.7 The proposed garage would be positioned 12m forward of the associated host dwelling, which would make it appear visually prominent within the streetscene. This would be further exacerbated by the height, scale and design of the triple garage with gym over, combined with additional frontage hardsurfacing necessary in order to access the new garage. This would result in a bland brick built structure with parking dominated road frontage that would detract from the visual amenity of the established landscaped character of the immediate suburban area.
- 4.3.8 As such, it is considered that the proposed garage would be poorly related to and out of keeping with the established dwellings in Hewston Croft, due to its size, scale, appearance and location. The development would be visually prominent from the street and unsympathetic to the character of the streetscene and suburban setting. The proposal is therefore contrary to Policy CP3 of the Cannock Chase Local Plan, the Cannock Chase Design Supplementary Planning Document (April 2016) and Paragraphs 124, 127 and 130 of the NPPF.
- 4.3.9 There are several large mature trees and shrubs on and adjacent the site, and on the access road, most of which are protected via TPO 1/1979. As such the applicant has submitted a tree report.
- 4.3.10 The Council's Tree Officer has assessed the tree report and has objected to the application on the grounds that it contains insufficient detail to ensure tree protection of the TPO trees. Of particular concern to the Tree Officer is that the application fails to provide details in respect to retaining walls, boundary details and hard surfacing details all of which could potentially have impacts on the surrounding trees and could result in premature loss of protected trees, which

are an important landscape feature of significant visual amenity. This is accepted and as such it is considered that the applicant has failed to provide sufficient information to allow a full and proper assessment of the proposal against the requirements of Policy CP3 of the Local Plan.

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 There have been a number of objections received on the grounds of loss of residential amenity. The proposed building would be situated at least 25m away from the nearest neighbouring dwellings. The proposed development would therefore comply with the requirements of the 45/25 standard and distance policies of the Design SPD, measured from the nearest habitable room windows of the neighbouring dwellings. As such, there would be no demonstrable harm to privacy, or the receipt of light/sunlight to the neighbouring dwellings.
- 4.4.4 In addition the garage would sit at lower ground level than the host dwelling, surrounded to the rear and a side elevation with a retaining wall and 2m high closed board fencing with gravel board retainers. The intervening central island is also covered with large mature evergreen trees and shrubs, therefore, the proposed development would be at least partly screened from the windows of the surrounding neighbouring dwellings. It is considered that there would be some impact on the visual amenity of the area by the introduction of built form instead of landscaping that it replaces, as previously noted. However, no significant harm would be caused to the immediate outlook of the neighbouring residents, therefore this would not be sufficient to form a refusal reason on this basis.
- 4.4.5 It is therefore concluded that the proposal would maintain a high standard of amenity for all existing occupiers of neighbouring properties in accordance with Policy CP3 of the 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.
- 4.5.2 The triple garage proposed would exceed the maximum parking requirements of the Parking SPD which requires 3 off-street parking spaces for dwellings with four or more bedrooms. There is ample parking on the existing driveways,

integral and existing detached garage to accommodate at least 10 cars and the proposal would not alter any access arrangements or visibility splays.

- 4.5.3 As such, it is considered that the proposal would not have an unacceptable impact on highway safety or that the residual cumulative impacts on the road network would be severe.

4.6 Other Matters:

4.6.1 Retaining Wall/ Stability of Land

- 4.6.2 Issue have been raised in respect to the stability of the retaining walls associated with the development.

4.6.3 Paragraph 178 of the NPPF states

“Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination”.

- 4.6.4 Structural calculations have been submitted by the applicant to demonstrate that the retaining walls would be stable. These have been verified by an independent structural engineer appointed by officers to ensure that the retaining wall proposed as part of the development would be satisfactory in order to ensure the stability of the adjacent land to the rear of the garage is protected.

4.6.5 Land Ownership

- 4.6.6 Officers are satisfied that the current application includes all land required to carry out the development. Certificate B is considered to be the correct certificate within the application form. There is some separate dispute regarding rights of access over other land close to the application site. The Council does not adjudicate upon land ownership matters. Such matters are a civil issue and are not judged material to the current submission.

4.6.7 Impact on Hednesford Hills SSSI

- 4.6.8 Issues have been raised in respect to impacts on Hednesford Hills SSSI.

- 4.6.9 Officers note that the proposed building would be wholly within the confines of the garden to the host property. It would not cast shade on the SSSI nor would run off from the site enter the SSSI. In addition the building is small scale and its use as a gym or garage would not result in any significant impacts over the current use of the site. As such it is considered that there is no evidence to suggest that the proposal would have a significant impact on the SSSI.

4.6.10 Insufficient Consultation

- 4.6.11 Neighbours have stated that there has been insufficient consultation with neighbours and consultation period not taking into account Christmas holiday

period. Officer can confirm that the application has been advertised in accordance with current legislation and in accordance with the Council's procedures. In addition given the time that has transpired between the advertisement of the application and the current time it is considered that ample time has been allowed for neighbours to make representations.

4.6.12 Storage of Materials

4.6.13 Neighbours have asked what is in place for the storage of materials and vehicles. Officers interpret this has meaning what is in place for the storage of materials and vehicles during the construction process. Officers also note that construction method statements are not normally required for small scale developments such as this. It is also noted that the granting of planning permission does not confer permission to block public or private ways and that sufficient space would be retained on site to allow storage of construction materials and vehicles. As such there is no reason why a construction method statement should be imposed in this particular instance.

4.6.14 In respect to risk assessment and method statement officers note that the responsibility for safe development and secure occupancy of a development rests primarily with the developer. As such there is no requirement under the planning system for such a small scale development of this scale and nature.

4.6.15 Neighbours have raised the issues in respect to utilities, drainage and previous flooding and raw sewerage to the bottom of Hewston Croft. In this respect it is noted that as a gym and garage incidental to the main dwelling at Hewston Croft the proposal would not generate significant additional amounts of foul. In respect to the disposal of surface water this could be attenuated by underground tank under the forecourt and as such there is a technical solution which could be controlled via condition.

4.6.16 Neighbours have stated that Hewston Croft is a private road, which is in a poor state of repair and further heavy vehicles would worsen its condition and have therefore asked what is in place for the repair of the service road, if damaged? Officers would comments that this is a private civil matter between the respective parties.

4.6.17 Neighbours have stated that there has been trespass into private road by planning officer, when displaying the green site notice. Officers would respond that this is not a material planning consideration.

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 The application is refused for the following reasons:

1. The proposed garage with gymnasium over would be poorly related and out of keeping with the character of the area due its size, scale and location. The development would be visually prominent from the street and unsympathetic to the character of the host dwelling and suburban setting. The proposal is therefore contrary to Policy CP3 of the Cannock Chase Local Plan, the Cannock Chase Design Supplementary Planning Document (April 2016) and Paragraphs 124, 127 and 130 of the NPPF.
2. The proposed development does not provide sufficient detail to determine the impact of the proposal on the protected trees, which may result in unacceptable works to and loss of protected trees, which are an important landscape feature of significant visual amenity.

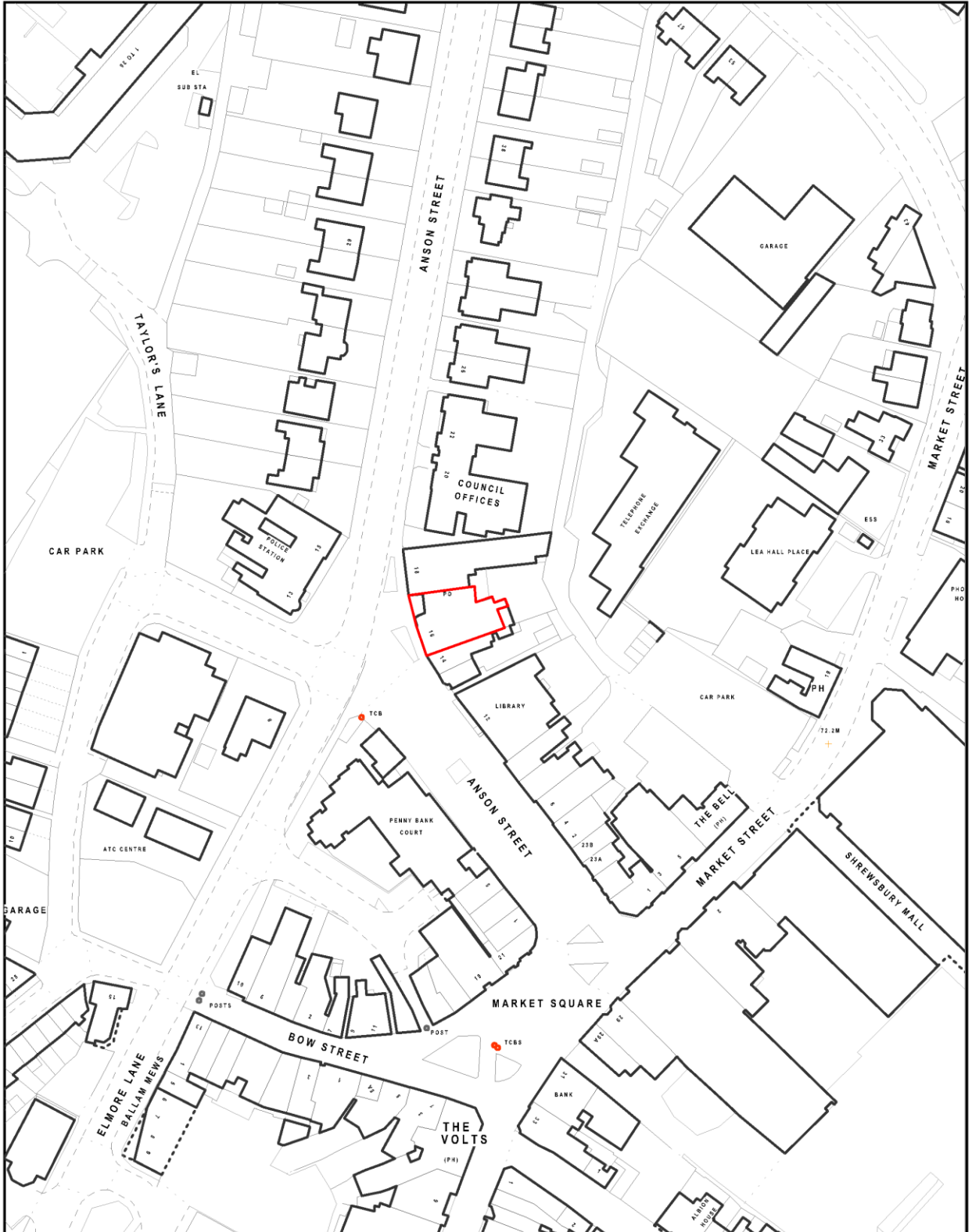


Application No: CH/19/139

Location: 18 Anson Street, Rugeley, WS15 2BE

Proposal: Proposed change of use from (A1) post office to (A4) drinking establishment

Item no. 6.54



Location Plan

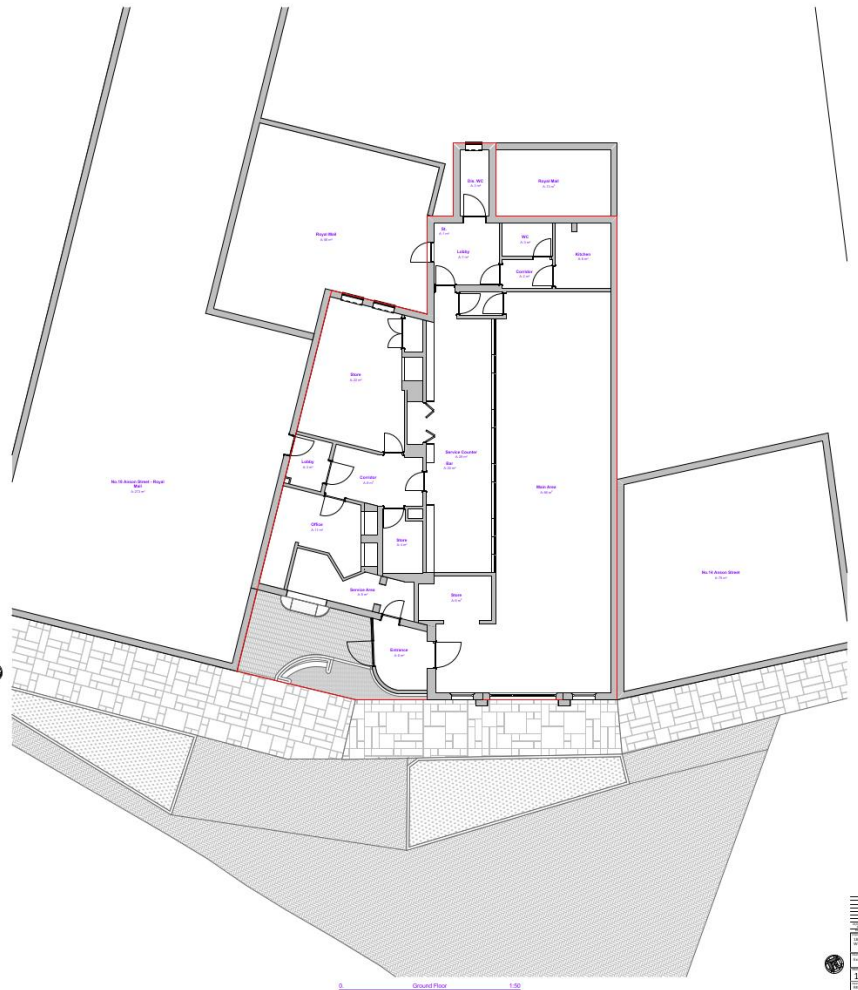
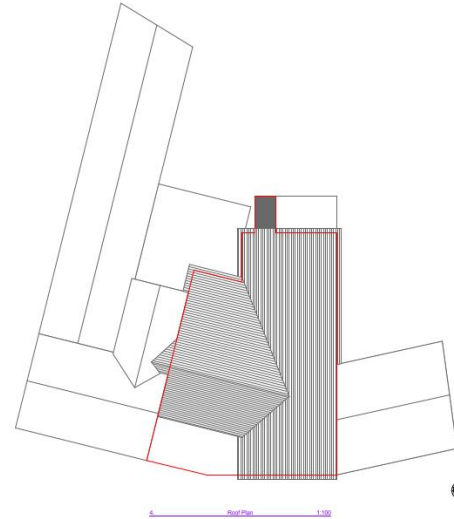


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Existing Site Plan

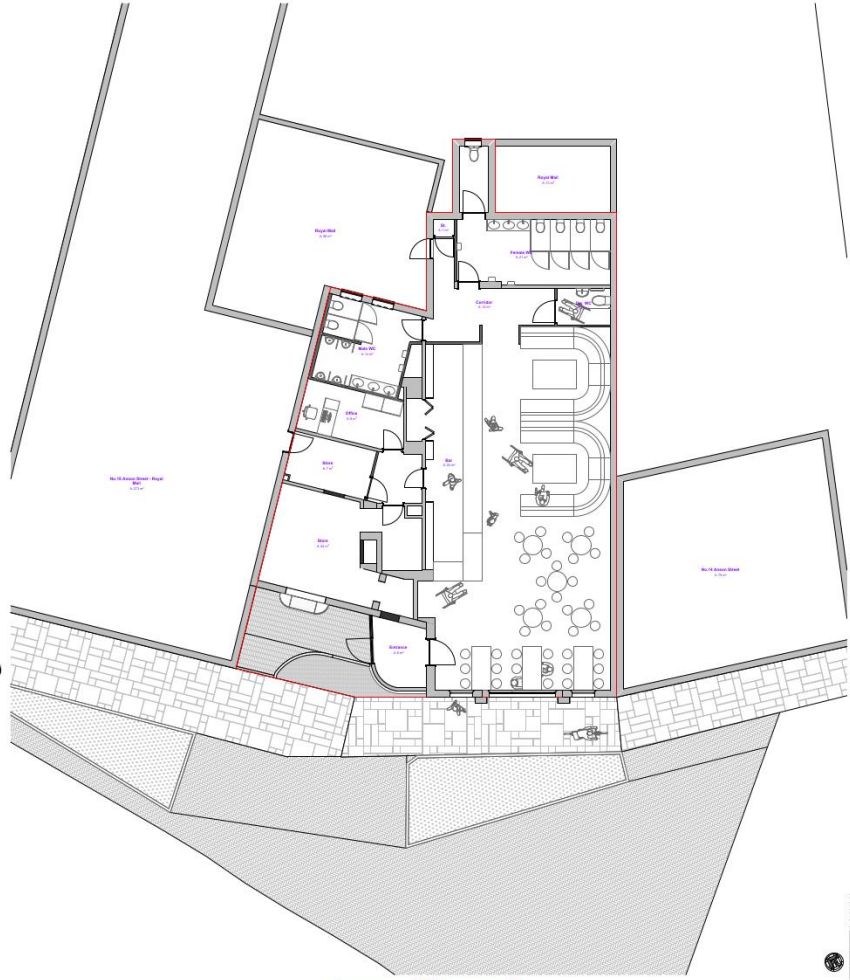
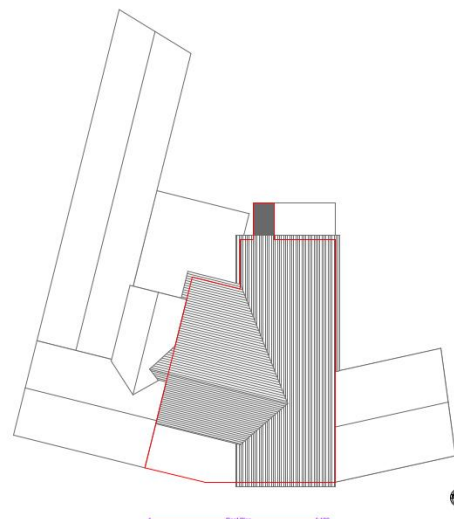
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Existing Plans



Project	15 1862 001
Client	15 1862 001
Scale	1:50
Date	2015
Author	
Checker	
15 1862 001	01

Proposed Plans



Project Name	
Client	
Architect	
Scale	1:500
Date	19/06/2023
Sheet No.	02

Existing Elevations



Ex Existing Street View_001

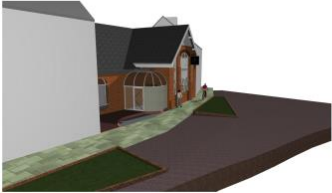


Ex Existing Street View_002

Date	ID	Description	Rev.	By
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project: 18 Anson Street, Rugeley, W515 2BE				
drawing: Existing Elevations			discipline of house: Planning	
drawing no: 19 1862 002			sheet no: 01	
drawn: RK		date: 13/03/19		
checked: @A2				

R Design
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Proposed Elevations



Pr Proposed Street View_001



Pr Proposed Street View_002

Date	By	Description	Scale	Rev.
19/03/20	19	Planning	01	RK
	20	Description		RK

Project		18 Anson Street, Rugeley, WS15 2BE	
Drawing		Proposed Elevations	
Drawing No.		19_1862_004_01	
Drawn	Scale	Date	13/03/19
RK	@A2		

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ITEM NO. XX.1

Contact Officer:	Claire Faulkner
Telephone No:	01543 464 337

PLANNING CONTROL COMMITTEE

10 JULY 2019

Application No:	CH/19/139
Received:	04-Apr-2019
Location:	18 Anson Street, Rugeley, WS15 2BE
Parish:	Rugeley
Description:	Proposed change of use from (A1) post office to (A4) drinking establishment
Application Type:	Full Planning Application

RECOMMENDATION:

Approve subject to 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. The premises shall not be open for business outside the hours of 12:00hrs to 00:00hrs Sunday to Friday and 12:00hrs to 01:00 on Saturdays.

Reason

To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy CP3 - Chase Shaping, Design and the NPPF.

3. Prior to the commencement of the use hereby approved, a scheme of sound insulation measures to protect existing nearby residential dwellings from noise generated from the new drinking establishment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall include the likely impact and subsequently the degree of noise insulation works necessary to ensure that there is no adverse effect from music should levels arising from the use of the drinking establishment. Any insulation works found to be necessary shall be implemented and completed prior to the commencement of the use.

Reason

To protect the amenity of neighbouring residents.

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

19.1862.003 Proposed Plan

19.1826.04 Proposed Elevations

Reason

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

Consultations and Publicity

External Consultations

Landor Society

No response to date

Rugeley Town Council

Objection

Councillors had concerns over the application as detailed elements of the application were missing. Concern was raised regarding the close proximity of the sheltered persons accommodation opposite. There is already a number of drinking establishments in the town centre.

Crime Prevention Design Advisor

Thank you for the above consultation document, I ask that Cannock Chase District Council consider my comments, which are site specific, and made in accordance with;

Section 17 of the 'Crime and Disorder Act 1998':

- places a duty on each local authority (Parish, District & County Council): **'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 to**

prevent crime and disorder in its area to include anti-social behaviour, substance misuse and behaviour which adversely affects the environment’.

National Planning Policy Framework:

- Paragraph 91(b).
This paragraph looks towards healthy and safe communities. The paragraph includes:-

“Planning policies and decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion”

- Paragraph 127(f) includes;
‘create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience’.
- Paragraph 95 (a&b) includes;
“Planning policies and decisions should promote public safety and take into account wider security and defence requirements by:
 - a) anticipating and addressing possible malicious threats and natural hazards, especially in locations where large numbers of people are expected to congregate. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security; and
 - b) recognising and supporting development required for operational defence and security purposes, and ensuring that operational sites are not affected adversely by the impact of other development proposed in the area.

Cannock Chase District Council Local Plan Part 1 & Design SPD Designing Out Crime Policy Local Plan (Part 1) Policy CP3

- Policy CP3 includes key design principles that includes;-
“Good design will give careful thought to how appropriate safety and security measures can be accommodated in a way sympathetic to the amenity of the local area.”
“The need to enhance crime prevention as part of new developments including building security and attractive design of surroundings (car parking etc.) to deter crime”

The Human Rights Act Article & Protocol 1, Safer Places: The Planning System and Crime Prevention and PINS 953.

In addition, the four main licensing objectives must be adequately addressed, these are;

- a) The prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance
- d) The protection of children from harm

Therefore crime reduction is an issue that must be addressed.

All security equipment installed should be to the relevant British Standard and/or Loss Prevention Certification Board Standard. Installers should be certified to install such equipment to obtain the maximum crime resistance from the product.

Having considered the proposed layout of the drinking establishment I note that there are two connecting doors that open directly into the Royal Mail sorting office and post reception area;

The door located within the store behind the bar provides access to the sorting office; this should be closed permanently with reinforced brickwork to prevent burglary.

The fire exit door opposite the proposed ladies toilets actually opens into the Royal Mail delivery area which is a locked, roofed extension to the main building used to accept mail deliveries, in addition there are a fire door/ escape opening into it and another pair of doors that open out into a locked yard that are not shown on the drawings provided connecting the reception area to the sorting office, this poses a significant burglary risk of to the Royal Mail sorting office and theft of fuel from vehicles left within the yard overnight.

In addition to the crime risks highlighted any emergency necessitating evacuation of the licenced premise through this "exit" when the Royal Mail building is closed would simply corral customers initially into a locked room then a locked yard. For these reasons Staffordshire Police object to this proposal in its current form.

Staffordshire Fire Safety

I refer to your consultation received on 20 June 2019 regarding the above premises. The drawings have been examined and it is considered that, subject to your recommendations being implemented the proposal complies with Part B of Schedule 1.

Internal Consultations

Conservation Planning Officer

The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the local planning authority's duties in regard to Conservation Areas:-

- S.72 the local planning authority has a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. While the duty may only require that no harm should be caused, it nonetheless creates a special presumption and considerable weight and attention should be given to any harm found to arise regarding the character or appearance of the Conservation Area.

The NPPF 2018 sets out the process for considering the conservation and enhancement of historic environment in paras 184-202, and the potential impacts of development proposals. Of particular relevance:

Para 189:

In determining application local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. As a minimum the relevant historic environment record should have been consulted and the heritage asset assessed using appropriate expertise where necessary.

Para 190:

the Local Authority should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset). They should take this into account when considering the impact of a proposal on a heritage asset to avoid or minimise any conflict between the heritage assets conservation and any aspect of the proposal.

Para 192:

in determining applications, local planning authorities should take account of:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability
- The desirability of new development making a positive contribution to local character and distinctiveness.

Paras 193 and 194:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm to, or loss of, the significance of a designated asset (including from development within its setting) should require clear and convincing justification. The NPPF then sets out the process for consideration of different levels of harm to different heritage assets (paras 195-7).

Para 199:

if any heritage asset to be lost then the local planning authority should require developers to record and advance understanding of the significance of the heritage asset and to make this evidence/archive publicly accessible (refer matter to SCC County Archaeologist for advice on building recording condition; archive to be deposited in County Historic Environment Record (HER)).

Para 200:

Local planning authorities should look for opportunities for new development within conservation areas and within the setting of heritage assets to enhance or better reveal their significance (can be by requiring interpretation/info panel about the site).

Local Plan Policy CP15 seeks the safeguarding of historic buildings, areas and their settings from developments harmful to their significance in order to sustain character,

local distinctiveness and sense of place. Proposals including new developments that are sensitive to and inspired by their context and add value to the existing historic environment, landscape and townscape character will generally be supported, with planning standards applied in a flexible manner to maintain historic continuity.

The applicant has submitted a Design and Access Statement within which is a section that constitutes a Heritage Statement. This draws upon the evidence contained within the Conservation Area Appraisal Rugeley Town Centre (2016) which identifies, amongst other things, that -

“The townscape of Rugeley town centre is defined by its informal street pattern complemented by the diversity of building types with which it is lined, this diversity being generally harmonised by their continuity and appropriate mass, height, scale and materials in relation to one another.”

Adding

“The building materials which characterise the area are dark orange red brick, cream/white ‘stucco’ and painted render/ bricks. Brick predominates and the majority of the historic buildings are built in Flemish bond-alternate ‘headers’ and ‘stretchers’ on each course.”

Given that the application is primarily for a change of use with minimal changes to the structure of the building which keep the proportions of the front windows it is considered that it would have no significant impact on the character and appearance of the building and the contribution that it makes to the character, appearance and significance of the wider conservation area. Furthermore, it would bring back into use a building which has not been used for some time and hence would facilitate to safeguard the building in the future.

As such there are no objections from a building conservation perspective.

Environmental Health

No adverse comments are offered from Environmental Protection regarding this change of use in principle.

I note that the proposed opening hours are from midday to midnight Sunday to Friday and midday to 1am on Saturdays. It is recommended that these hours are conditioned by consent.

No details have been provided in respect of any intended use of live or amplified music. If it is intended that such activities are to form a significant aspect of the business then arrangements should be put into place to incorporate appropriate sound insulation measures as part of the refurbishment work to ensure that the amenity of residents in the vicinity of this establishment is protected.

Development Plans and Policy Unit

The National Planning Policy Framework (NPPF)(2019) sets out that development proposals should be approved where they accord with the development plan and there are no policy restrictions. The Cannock Chase Local Plan (part 1) 2014 - Policy CP1 also supports sustainable development.

Policy CP3 defines the high design standards that will need to be addressed in relation to the development proposal including the expectation that buildings will reflect local identity and enhance the character of the local area. It also aims to protect the amenity of existing properties including supporting mixed uses whilst avoiding incompatible ones.

Policy CP9 gives priority to employment uses which strengthen and add value to the local economy to aid economic resilience and supports a range of proposals to ensure a broad diversification of users. Proposals which include employment generation and higher job density will be supported.

Policy CP11 seeks to maintain the roles of the District centres including the town centre retail uses and that Town Centre uses including retail, commercial and leisure uses will take a sequential approach to give priority to the regeneration of the town centre.

Policy CP15 aims to protect the special character in conservation areas by requiring new development to be of the highest standard. Policy CP3 also requires high quality design and integration with the existing historic environment.

Rugeley Town Centre Area Action Plan (2014) Policy RTC2 states that there will be a presumption of retaining a high proportion of A1 uses at ground floor level within the primary shopping area and that other A class uses will only be supported where they would not result in an adverse impact on the primary retail function and vitality of the retail blocks or centre overall.

In conclusion the retail unit is located within the Rugeley Town Centre Boundary, Primary Retail Area and the Rugeley Town Centre Area Action Plan. It is also located within a Conservation Area and the Conservation Area Appraisal and Management Plan should be consulted for further information.

The proposed use is supported by national policy and the Local Plan CP11 Centres Hierarchy policy for leisure uses in town centres. However, the Rugeley Town Centre Area Action Plan aims to protect A1 retail uses on ground floor premises within the Primary Retail Area (PRA) and limit the number of other A uses. Therefore a decision will have to be made taking into account that the unit has been vacant and marketed for over 6 years and considering other nearby uses. As the unit has been vacant for an extended period of time the proposed use could provide an active use and provide additional employment opportunities for new employees within a peripheral area of the PRA

Building Control

The fire safety strategy would be covered / assessed under Building Regulations BS:9999. As part of the Building regulations process the Fire Service would be consulted.

Response to Publicity

Site notice displayed and adjoining neighbours notified. Three letters of representation have been received. The comments are summarised below:-

- There is an existing lack of parking around the application site and residents will have even less parking for themselves if the proposal is approved as users of

the A4 establishment will park along Anson Street where some of the residents parking is on street parking only,

- The opening times are late, there are residents who live along Anson Street and opposite in Penny Bank Court.
- The potential noise levels of loud music, external smoking areas and generally persons leaving the premises at unsociable hours,
- Anson Street is busy and people using the premises may be dropped off and picked up from immediately outside which would cause a hazard,
- There are already a sufficient number of drinking establishments within the town centre, there is no need for a further one,
- There is only one access point into the premises, surely this would be a safety risk?

Relevant Planning History

CH/08/0372 Proposed installation of external ATM machine - Approved

CH/02/0153 Variation of condition 5 on planning permission 88/407 – Refused

1 Site and Surroundings

- 1.1 The application site comprises a former post office building sited along Anson Street, Rugeley. The application site was last used as a post office.
- 1.2 The application site is located toward the end of a pedestrian area adjacent a main vehicle highway. There are several carparks within the immediate vicinity of the application site. The part of the highway nearest the application site comprises parking restrictions and a pedestrian crossing.
- 1.3 The site relates to the Post Office on the ground floor of a 2 storey building which has been closed for a period of time (approx..6 years).
- 1.4 There is a variety of building styles in the location from Georgian, Victorian, Edwardian and more recent Edwardian replicates. The surrounding palette is primarily brick and render with some buildings retaining original features. The application site building comprises of a brickwork frontage with tall feature windows under a tiled roof. The main entrance into the building is via the front and would lead to the main area set out with tables and the bar. The rooms to the rear of the building would be used for toilets and storage. A door to the rear leads out to an enclosed yard then through to an open yard both owned by the Royal Mail.
- 1.5 The application site is located between the Royal Mail sorting office and a hot food takeaway (with first floor flat). There are residential buildings opposite in the form of Penny Bank Court which offers accommodation for elderly residents and faces out onto the pedestrian section of Anson Street. A further detached dwelling is sited opposite at the junction of Anson Street and Elmore Lane. This

residential property faces onto Anson Street with a side elevation onto Elmore Road. Other surrounding buildings include the police station and the former Rugeley Council building with further retail uses.

- 1.6 The application site is located within the Rugeley Town Council Conservation Area and within the Primary Shopping Area within the Rugeley Town Centre Boundary.
- 1.7 The application site lies immediately adjacent, but not within Flood Zone 2 & 3 and is located within a low risk boundary as designated by the Coal Authority.
- 1.8 The application building is leased from Royal Mail.

2 Proposal

- 2.1 The application seeks consent for the change of use of the former post office to an A4 drinking establishment.
- 2.2 The proposal seeks to operate between the hours of midday to midnight Sunday to Friday and midday to 1am on Saturdays.
- 2.3 The proposal would employ 6 full time members of staff and 3 part time members of staff.
- 2.4 The applicant has confirmed that music would be played at a low volume through the week. It is anticipated that live music would be played on a monthly basis in the form of a band or musical instruments only on a Saturday night and it would be finished by 11:00pm.
- 2.5 The applicant confirms that the building would use sound proving materials for example plasterboard to limit the noise. The proposed use and internal alterations would be subject to Building Regulations BS:9999.

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). Relevant policies within the Local Plan include: -
 - CP1 - Strategy – the Strategic Approach
 - CP3 - Design
 - CP9 - A Balanced Economy
 - CP11 - Centres Hierarchy
 - CP15- Historic Environment

3.3 Relevant Policy in the Minerals Plan include:-

Policy 3.2 Safeguarding Minerals.

National Planning Policy Framework

3.4 The NPPF (2018) 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.

3.5 The NPPF (2018) 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.

3.6 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
80, 81, 82:	Building a strong, competitive economy
85, 86:	Vitality of Town Centres
124, 127, 128, 130:	Achieving Well-Designed Places
180, 182	Ground conditions and pollution
212, 213	Implementation
189, 190, 191, 192, 193, 194, 196,	Heritage Assets

3.7 Other relevant documents include: -

Design Supplementary Planning Document (2016).

Cannock Chase Local Development Framework Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport (2005).

Rugeley Town Centre Area Action Plan (2014) Policy RTC2

Rugeley Town Centre Conservation Area Appraisal

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 Conservation Area and wider location
- iii) Impact on amenity of adjacent uses.
- iv) Impact on highway safety.

4.2 Principle of Development

- 4.2.1 The general thrust of the Local Plan is to promote competitive town centres through the provision of customer choice and a diverse range of services and facilities including leisure, residential and commercial uses.
- 4.2.2 Paragraphs 85 and 86 of the NPPF seeks to maintain vitality and viability of town centres and requires a sequential test to be applied for main centre uses that are proposed in out of centre locations. The proposal is for a town centre use and the application site is located within the Rugeley Town Centre Boundary and as such the proposal does not engage the need to apply a sequential test.
- 4.2.3 Local Plan Policy CP11 seeks to maintain the roles of district centres and seeks to encourage a vibrant local economy and work force. Main town centre uses including retail, office, commercial, leisure and cultural facilities should take a sequential approach that gives priority to the regeneration of the town centre within this boundary. The policy continues that a lack of investment in the town centre has led to deterioration in the attractiveness of the town centre. The policy continues that non-retail uses will only be permitted where they do not detract from the primary retail function of the town centre.
- 4.2.4 The Rugeley Town Centre Conservation Area Appraisal states that the evening economy in Rugeley is served by a relatively small number of licensed premises, mainly around the edge of the town centre, attracting the relatively few, mainly younger, drinkers. One or two restaurants, together with the nearby Rugeley Rose, exist on the periphery but overall there are few attractors to generate any significant evening activity in the Conservation Area. The Conservation Area was placed on the English Heritage 'At Risk' Register in 2009 as a result of the deterioration of building fabric and public realm areas over recent years together with underlying economic decline resulting in empty shop units and loss of vitality. Consideration of how best to deal with future change in Rugeley to aid the town's regeneration and benefit the local economy whilst enhancing its special architectural and historic qualities is being given through the preparation of an Area Action Plan.
- 4.2.5 The Rugeley Area Action Plan (RAAP) Policy RTC2 states that there will be a presumption in favour of retaining a high proportion of A1 uses at ground level within the primary shopping area. Other A Class uses will be supported only where they would not result in an adverse impact on the primary retail functioning and overall viability of individual blocks of units and the centre as a whole. Other uses will only be supported at first floor level. The policy continues that proposals will be supported for the creation of new or enhancement of existing facilities that will add diversity to the cultural scene such as a cinema, bowling alley, or other leisure and cultural attractions.
- 4.2.6 In this instance the proposed A4 use would replace an existing A1 use. Currently the majority of units within Rugeley Town Centre benefit from retail (A1) uses, with several other units being vacant. Local Plan Policy CP5 seeks to encourage social inclusion through well managed environments and includes public houses (A4 uses) as being an important factor in this.

- 4.2.7 In this instance, the application site is located on the periphery of the primary shopping area within which there is a healthy proportion of A1 uses, as well as some vacant units. The proposal is for a change of use to a leisure use which is considered acceptable under policy CP11. Furthermore, the last use of the site was for a post office (A1) however it has been vacant for approx..6 years.
- 4.2.8 In addition to the above it is noted that since the adoption of the Local Plan in 2014 there has been significant loss of retail from high streets across the nation as a result of a move towards buying on line. This has fostered much debate into the role of the high street and the need for a more flexible approach to main town centre uses to ensure that vibrancy and vitality is maintained.
- 4.2.9 Having had regard to the above your officers consider, on balance, the proposed change of use from A1 to A4 would not result in a significant adverse impact on the primary retail functioning and overall viability of individual blocks of units and the centre as a whole. As such the proposed change of use to A4 would accord with both local Plan policies CP1, CP5 and CP11 and is therefore acceptable in principle subject to the considerations set out below.
- 4.3 Impact on the Character and Form of the area and the Rugeley Town Centre Conservation Area
- 4.3.1 In respect to the impact on the conservation area it is noted that section 72(i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a general duty on a local planning authority in the exercise, with respect to any buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
- 4.3.2 The NPPF requires the applicants to describe the significance of any heritage assets affected including any contribution made by their setting. When considering the impact of a proposal on the significance of a designated asset great weight should be given to the assets conservation. Significance can be harmed or lost through alteration or destruction of a heritage asset or development within its setting.
- 4.3.3 To this effect the Local Plan contains Policy CP15 does not preclude development in Conservations areas. However, it does seek development proposals to be sensitive to and inspired by their context and add value to the existing historic environment, landscape and townscape character by virtue of their use, layout, scale, appearance and landscaping and materials to ensure that the historic environment acts as a stimulus to high quality design based upon guidance set out within the Design SPD. Opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance will be considered.
- 4.3.4 The Rugeley Town Centre Conservation Area Appraisal states that the evening economy in Rugeley is served by a relatively small number of licensed premises, mainly around the edge of the town centre, attracting the relatively few, mainly younger, drinkers. One or two restaurants, together with the nearby Rugeley Rose, exist on the periphery but overall there are few attractors to generate any

significant evening activity in the Conservation Area. The Conservation Area was placed on the English Heritage 'At Risk' Register in 2009 as a result of the deterioration of building fabric and public realm areas over recent years together with underlying economic decline resulting in empty shop units and loss of vitality. Consideration of how best to deal with future change in Rugeley to aid the town's regeneration and benefit the local economy whilst enhancing its special architectural and historic qualities is being given through the preparation of an Area Action Plan.

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

- (i) Conserve and enhance the local historic environment including reuse of buildings and sympathetic repair, using the historic environment as a stimulus to high quality design and enhancing local character and distinctiveness.

4.3.6 The application seeks to reuse the existing building with minimal changes to the fabric of the building to facilitate the A4 use. The introduction of an A4 use in this location would, bring into use a currently long term vacant building with a use that would assist with the local economy whilst preserving its special architectural and historic qualities. For these reasons, the proposal is considered to preserve, the character and appearance of the conservation area and its significance as an historic townscape. Therefore it is concluded that the proposal would be acceptable having had regard to Policy CP15 of the Local Plan and the guidance contained within Section 12 of the NPPF.

4.4 Impact on Residential Amenity

4.4.1 Policy CP3 of the Local Plan requires that, amongst other things, developments should: -

- (i) protect the amenity enjoyed by existing properties including supporting mixed uses whilst avoiding incompatible ones and have regard to existing uses with potential to generate pollution which could have an unacceptably detrimental impact on proposed development.

4.4.2 Furthermore, paragraph 180 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the effects of pollution on health and living conditions (amongst others). In doing so they should (amongst others);

- a) mitigate and reduce to a minimum the potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

4.4.3 The application site is located within a town centre location, where the adjacent units operate on a variety of uses. The units immediately adjacent the application site comprise of the Royal Mail sorting office and a hot food takeaway neither of which would be impacted by the proposed use.

- 4.4.4 There is scope for a residential flat to be located above the adjacent hot food take away. Opposite the application site lie further residential dwellings, Penny Bank Court approximately 20m distant. Penny Bank Court comprises of sheltered accommodation for the elderly. A detached dwelling is sited on the opposite side of Anson Street some 40m distant.
- 4.4.5 Environmental Health Officers were consulted on the application and raised no objection to the proposal subject to conditions. Environment Health Officers recommend a condition detailing the sound insulation measures to protect existing nearby residential dwellings from noise generated from the new drinking establishment.
- 4.4.6 The hours proposed have been considered by Environmental Health Officer who raised no concern. It has been recommended that the hours are conditioned to protect the amenity of adjacent residents.
- 4.4.7 On balance, given the degree of separation of the application site to the adjacent residential properties, and the small scale use proposed it is considered that the proposal would not result in any significant detrimental impact to the occupiers of the residential properties that are located within the town centre and therefore subject to higher levels of noise and activity during evening hours than if they were sited wholly within a residential location.

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.
- 4.5.2 The comments of the objectors are noted in terms of impact on residents' parking along Anson Street and highway safety implications from potential drop off points. In this respect it is noted that the majority of Anson Street has double yellow lines along one side which accommodates residents parking.

As the application site is located within the Town Centre there are a number of pay and display car parks within close proximity (Taylors Lane approx..72m and rear of Morrisons approx..155m) .

- 4.5.3 In this instance, the Parking SPD requires A4 uses to provide 1 parking space per 5m² of and 1 space per 2 staff. Notwithstanding this, the proposal is located within Rugeley Town Centre and therefore does not benefit from curtilage parking. Furthermore, the Parking SPD refers to maximum standards within its guidance. The application site is located within a sustainable location, in close proximity to public car parks and public transport.
- 4.5.4 As such, there would be no cumulative impact on the road network.
- #### 4.6 Objections received not already addressed above
- 4.6.1 An objector has raised concern that as Anson Street is busy, people using the premises may be dropped off and picked up from immediately outside which

would cause a hazard. Your Officers confirm that whilst Anson Street is a busy highway, there are double yellow lines on the highway immediately adjacent the application site, which are designed to prevent vehicles from stopping in this location.

4.6.2 Concern has been raised over the access to and from the building should there be a fire. In this instance, your officers confirm that the applicant has an agreement with Royal mail to use the access to the rear of the building. Your Officers also confirm that a fire safety strategy would be covered and assessed under Building Regulations BS:9999 and, as part of the Building regulations process the Fire Service would be consulted.

4.6.3 Your Officers also advise on the most recent advice in respect of the responsibility for fire safety during the development application process in England has been provided by the Royal Town Planning Institute which has been produced in the aftermath of the Grenfell fire and which summarises the roles of the different players (planning, building control and the fire service) in the wider development control process. In respect to planning the advice note states: -

"The planning system is tasked with promoting sustainable development. This is development that delivers social, economic and environmental value. In practice this means considering things like jobs, environmental impacts, community needs and heritage. Planning takes a 'spatial' view deciding what should go where, an aesthetic view regarding how things should look, and a community view concerning the relevant planning needs and desires of the local community and stakeholders.

Planning does not have powers to assess the fire safety of building materials nor most elements of building design. Fire precautions covered by building regulations are not part of material planning considerations on which planning decisions must be based. For the Grenfell Tower refurbishment, the LPA gave permission for the cladding, but this decision was correctly made only on information about the aesthetics.

Moreover building control professionals have expertise and information that makes them better placed to assess fire safety than planners. At planning permission stage there would rarely be enough information in the application and submitted plans to make informed decisions on planning conditions regarding fire safety. Over many years, Government has repeatedly emphasised that consenting regimes (such as planning and building control), should avoid overlap wherever possible:

- English planning policy is collected in the National Planning Policy Framework (NPPF), which states LPAs should assume other regimes will operate effectively.
- Paragraph 206 of NPPF says: "Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects".

- National Planning Practice Guidance says: "conditions requiring compliance with other regulatory requirements will not meet the test of necessity and may not be relevant to planning".
- The Pretty Review recommended that "there needs to be a clearer recognition of the limits of the planning system" and that government should "remove duplication with other regulatory regimes".

However, there is some overlap between planning's spatial and consultative approach and fire safety. This means planning has a limited set of responsibilities around fire safety, and a larger set of considerations that might be considered best practice:

- LPAs must assess provisions for emergency fire service access, and water supply. These are material planning considerations. This assessment may require or benefit from consultation with the fire service.
- It is good practice for planning to work with building control, for example where decisions made regarding the fire safety of certain materials will have planning implications, such as changing the look of the development. This might involve early or even pre-application consultation where useful, and where the information is available. This may be less practical where compliance with Building Regulations is to be provided by an approved inspector (more below).
- Due to the public consultation built into planning it is often perceived as the public face of the whole process of development management. Thus, although it has no legal powers around fire safety, some LPAs and especially councillors might still feel the need to address local concerns. One example would be encouraging developers to set out their plans for fire safety from an early stage or putting a note on the application reiterating the need for full plans building control approval. Planners ideally need to be able to access expertise from other stakeholders and help coordinate responses to concerns raised by the public. However this will not extend to basing permissions or refusals on fire safety."

4.6.4 Officers therefore note that the issues raised by the objector are adequately covered by the building regulations and that there is basis within the planning system to refuse the application on fire safety issues.

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.
- 5.3 By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:
- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it
- 5.4 It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.
- 5.5 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 Equality Act.

6 Conclusion

- 6.1 In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.
- 6.2 It is therefore recommended that the application be approved subject to the attached conditions.

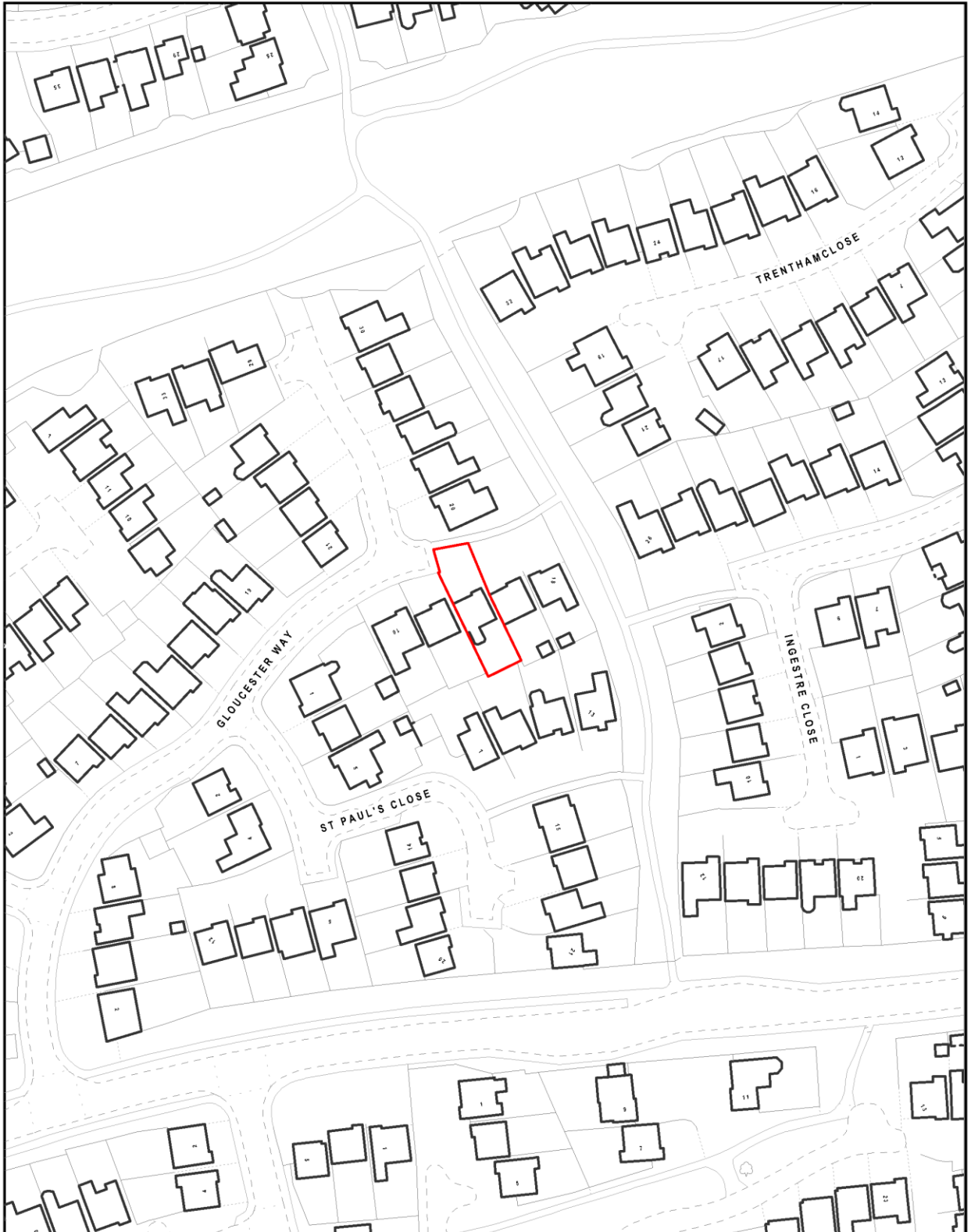


Application No: CH/19/161

Location: 14, Gloucester Way, Heath Hayes, Cannock, WS11 7YN

Proposal: Single storey rear extension to replace existing conservatory

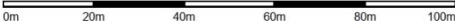
Item no. 6.77



Location Plan



This Plan includes the following Licensed Data: OS MasterMap Black and White PDF Location Plan by the Ordnance Survey National Geographic Database and incorporating surveyed revision available at the date of production. Reproduction in whole or in part is prohibited without the prior permission of Ordnance Survey. The representation of a road, track or path is no evidence of a right of way. The representation of features, as lines is no evidence of a property boundary. © Crown copyright and database rights, 2019. Ordnance Survey 0100031673

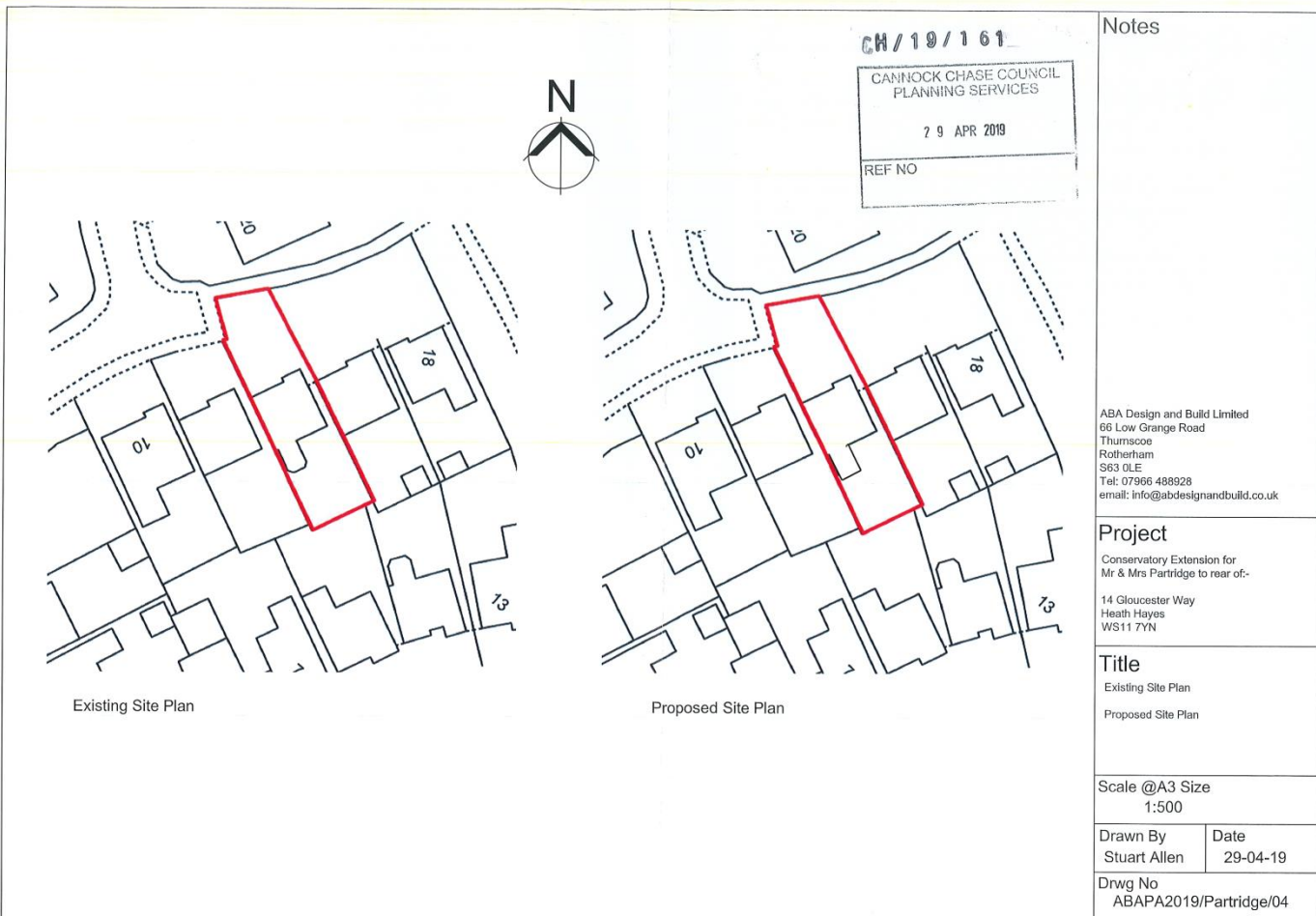


Scale: 1:1250, paper size: A4

ABAPA2019Partridge03
 Partridge WS11 7YN
 Proposed Conservatory Extension to Rear of Property



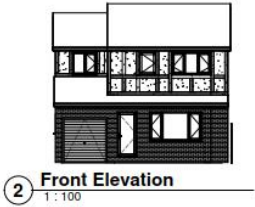
Site Plan



Plans and Elevations



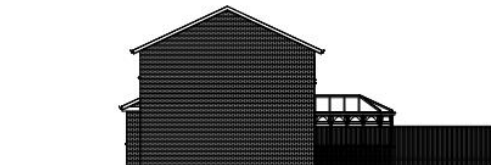
1 **Ground Floor**
1 : 100



2 **Front Elevation**
1 : 100



3 **Side Elevation**
1 : 100



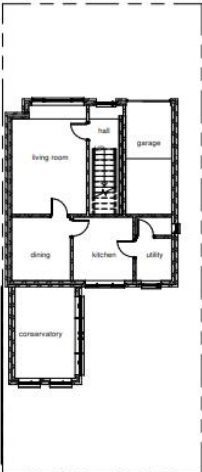
4 **Side Elevation**
1 : 100



5 **Rear Elevation**
1 : 100



6 **Site Plan**
1 : 200



7 **Ground Floor Proposed**
1 : 100



8 **Proposed Front Elevation**
1 : 100



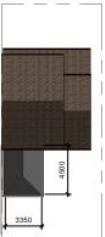
9 **Proposed Side Elevation**
1 : 100



10 **Proposed Side Elevation**
1 : 100



11 **Proposed Rear Elevation**
1 : 100



12 **Site Proposed**
1 : 200

3D Visualisation



1 3D Existing



2 3D Proposed

Notes

66 Low Grange Road
 Thurnscoe
 Rotherham
 S63 0LE
 Tel: 07956 488928
 email:
 info@abdesignandbuild.co.uk



Project

Conservatory Extension for Mr & Mrs
 Partridge to rear of:-
 14 Gloucester Way
 Heath Hayes
 WS11 7YN

Title

Existing 3D View
 Proposed 3D View

Scale

1:100

Drawn By	Date
Stuart Allen	9/4/19

Drwg No	ABAPA2019/Partridge/02
---------	------------------------

Contact Officer:	Sam Everton
Telephone No:	01543 464 514

PLANNING CONTROL COMMITTEE

10 JULY 2019

Application No:	CH/19/161
Received:	01-May-2019
Location:	14 Gloucester Way, Heath Hayes, Cannock, WS11 7YN
Parish:	Heath Hayes
Description:	Single storey rear extension to replace existing conservatory
Application Type:	Full Planning Application

Background:

This application was taken to the Planning Control Committee held on 26th June 2019 for the reason that the applicant is an employee of the Council. However, since the meeting it has come to light that the report incorrectly stated "no letters of representation have been received". This was incorrect as one letter of representation had been received and was not included in the original report.

Therefore this application has been brought to this meeting to rectify this error and to ensure that the Committee are aware of all concerns raised by neighbours before making a decision on the application.

RECOMMENDATION:

Approve subject to 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. The materials to be used for the external surfaces of the development shall be of the same type, colour and texture as those used on the existing building.

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

Location Plan

ABAPA2019/Partridge/01

ABAPA2019/Partridge/02

ABAPA2019/Partridge/04

Reason

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

Consultations and Publicity***External Consultations***Heath Hayes & Wimblebury Parish Council

No objection.

Internal Consultations

None.

Response to Publicity

The application has been advertised by site notice and neighbour letter. One letter of representation has been received and is set out below:-

The comments below are in relation to the bordering property No: 12. Dated 12th May 2019.

Regarding the Application:

The proposed extension is far in excess of the existing floor plan resulting in further diminished daylight, sunlight, view and aesthetics.

No drainage/ guttering is detailed on the proposed plans released. No protrusion onto the neighbouring property is accepted.

There are two drains in close proximity of the dividing line which have not been considered on the plans and need protecting.

Consideration and liability of neighbouring block paving and patios, which lies up to the dividing line, needs to be made and agreed.

The plans show the current fence arrangement remaining, this needs confirmation.

Work, site, builders traffic have limited access to No 10 property due to cul de sac location and there is potential for obstruction to neighbouring properties.

Plans to reduce noise, smell and air pollution surrounding the build need to be considered and communicated

Regarding the vulnerability and type of occupants at the above address:

No access will be granted through or onto the bordering property to ensure the safeguarding and safety of all parties.

The dividing line must be secured at all times to ensure building site and neighbouring occupant safety, without encroaching the bordering property.

Regarding the proposed build:

Liability for any potential damage to property, any resulting subsidence, the clean up of mortar debris and building materials and the protection of all occupants at the neighbouring property lies with the applicant.

Awaiting in anticipation for the response to the above.

Neighbouring Occupier

Relevant Planning History

CH/87/203	The erection of 87 residential dwellings	Approved 19/08/1987
CH/87/204	The erection of 87 residential dwellings	Approved 19/08/1987
CH/87/386	Extension of existing distributor road	Approved 19/08/1987
CH/88/089	House type substitution residential	Approved 09/03/1988

1 Site and Surroundings

- 1.1 The application site is comprised of a two storey detached dwelling located on Gloucester Way, Heath Hayes.
- 1.2 The dwelling is of a contemporary design and is constructed of brick under a gable roof. The dwelling is finished in brick, cream render, UVPC fenestration brown roof tiles.
- 1.3 To the front of the dwelling is a paved driveway which can accommodate at least two vehicles. To the rear is an existing conservatory and garden area, bound by 1.8m close-board fencing.
- 1.4 The street scene is residential and is comprised of two storey detached dwellings of various finishes.
- 1.5 The site is unallocated in the Local Plan, however the site is located within a Mineral Safeguarding area, the Forest of Mercia and a Coal Authority Low Risk area.

2 Proposal

- 2.1 The application seeks planning permission for the erection of a conservatory to rear to replace the existing conservatory.
- 2.2 The proposed conservatory would project 4.5m off the rear elevation and would measure 3.4m in width, 3.2m to the ridge and 2.4m to the eaves.
 - 2.2.1 The conservatory would have a dual pitched roof and would be constructed using matching brickwork, roof tile and fenestration.

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). Relevant policies within the Local Plan include: -
 - CP1 - Strategy – the Strategic Approach
 - CP3 - Chase Shaping – Design
- 3.3 Relevant policies within the minerals plan include: -
 - Policy 3 - Safeguarding Minerals of Local and National Importance and Important Infrastructure

3.4 National Planning Policy Framework

3.5 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.

3.6 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.

3.7 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

3.8 Other relevant documents include: -

Design Supplementary Planning Document (2016).

Cannock Chase Local Development Framework Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport (2005).

Manual for Streets (2007).

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) Minerals Safeguarding.

4.2 Principle of the Development

4.2.1 The site is on unallocated land and contains an existing dwelling house. The proposal is for an extension to the dwelling and is therefore acceptable in principle subject to the considerations set out below.

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. In addition the comments from the neighbour in regards to aesthetics are noted.

4.3.6 The proposed design, scale and materials would ensure that the conservatory would read as subservient with the host dwelling and as such the proposal would assimilate well with the design and character of the host dwelling and its surrounding. Furthermore, it is similar in size and scale to many such extensions that are commonly found on the rear elevations of dwellings.

4.3.7 Therefore, having had regard to Policy CP3 of the Local Plan and the above mentioned paragraphs of the NPPF it is considered that the proposal would be well-related to existing buildings and their surroundings, successfully integrate with existing features of amenity value, maintain a strong sense of place and visually attractive such that it would be acceptable in respect to its impact on the character and form of the area.

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".

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 The Design SPD sets out guidance in respect to space about dwellings which includes the application of the 45/25° daylight test. The neighbour's concerns in respect to daylight, sunlight and view are noted and in regards to loss of light, the proposed conservatory would obstruct some light to a rear door at No. 12. However this door serves a kitchen which is also served by another rear facing window that would remain unaffected by the proposal and therefore it is considered that the proposed conservatory would not cause any significant loss of light to neighbouring properties.

4.4.4 In respect to the impact on a view, officers would advise that loss or impact on a view is not a material planning consideration.

4.4.5 The Design SPD recommends a minimum separation distance of 21.3m between front and rear facing principal windows. The proposed conservatory would be approximately 8m from the rear garden of No. 9 St Pauls Close. However, it would not directly face any windows and the proposal is single storey. As such the proposal would not cause any overlooking that could be considered significant and to the detriment to the amenity of neighbouring properties.

4.4.6 It is therefore considered that the proposal would not have an adverse impact on residential amenity and therefore would meet the requirements of the NPPF, Policy CP3 of the Cannock Chase Local Plan and the Council's Design SPD.

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.

4.5.2 The Council's Parking Standards require parking provision for at least two vehicles for two and three bedroom dwellings. The property has on-site parking provision for two vehicles on the drive to the front which remain unaltered.

Further, the proposal would not increase the number of bedrooms within the host property and as such parking provision would remain adequate.

4.5.3 The proposal would not alter any access arrangements or visibility splays.

4.5.4 The proposal therefore would not have an adverse impact on highways safety.

4.6 Mineral Safeguarding

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

4.6.2 Policy 3.2 of the 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.

4.6.3 The development would fall under Item 2 within the exemption list as an application for an extension to an existing building and is therefore permitted. As such the proposal is compliant with Policy 3 of the Minerals Local Plan.

4.7 Issues Raised by Neighbours Not Covered Above

4.7.1 The neighbour has stated that no drainage/guttering is detailed on the proposed plans released. No protrusion onto the neighbouring property is accepted.

Officers would respond that in the first instance it is clear that guttering is shown on the drawings and that in the second instance this would not protrude over the dividing fence. This is clearly demonstrated on the submitted plans.

4.7.2 The neighbour has stated that there are two drains in close proximity of the dividing line which have not been considered on the plans and need protecting.

Officers would advise that the protection of foul drains is covered under approved Document H of the Building Regulations and therefore it is not necessary to duplicate the existing controls via the planning process.

4.7.3 The neighbour has stated that consideration and liability of neighbouring block paving and patios, which lies up to the dividing line, needs to be made and agreed.

Officers would advise that grant of planning permission does not confer any right to access third party land or to damage third party property. Furthermore, the responsibility for safe development rests primarily with the developer.

- 4.7.4 The neighbour has stated the plans show the current fence arrangement remaining and that this needs confirmation.

Officers would advise that the fence is shown as retained in the proposed plans and that the applicant could remove or replace the fence without requiring planning permission.

- 4.7.5 The neighbour has stated that work, site, builders traffic have limited access to No 10 property due to cul de sac location and there is potential for obstruction to neighbouring properties.

Officers would advise that the site is accessible via road and no evidence has been presented to suggest otherwise. Any obstruction caused by construction vehicles accessing the site would be temporary. The granting of planning permission does not confer any right to a developer to illegally block a road. It would be for the Highway Authority or police to enforce against obstruction of the highway.

- 4.7.6 The neighbour has stated that plans to reduce noise, smell and air pollution surrounding the build need to be considered and communicated.

Officers would advise that some disruption is to be expected as with any construction work and there is nothing in the application to suggest any significant degree of noise, smell or air pollution would occur as a result of the development. Furthermore it is noted that many developments of this scale take place under permitted development right without any requirement for a construction method statement. As such the imposition of such a condition would be disproportionate to the development.

- 4.7.7 The neighbour has stated that no access will be granted through or onto the bordering property to ensure the safeguarding and safety of all parties.

Officers note the comments but again would reiterate that the grant of planning permission does not confer any rights of access onto third party property.

- 4.7.8 The dividing line must be secured at all times to ensure building site and neighbouring occupant safety, without encroaching the bordering property.

Officers would advise that the previous comments apply and that the issue raised are primarily civil in nature and not material planning considerations.

- 4.7.9 Liability for any potential damage to property, any resulting subsidence, the clean up of mortar debris and building materials and the protection of all occupants at the neighbouring property lies with the applicant.

Officers would advise that this is a civil matter between the applicant and the neighbour and is therefore not a material planning consideration.

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 In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.
- 6.2 It is therefore recommended that the application be approved subject to the attached conditions.

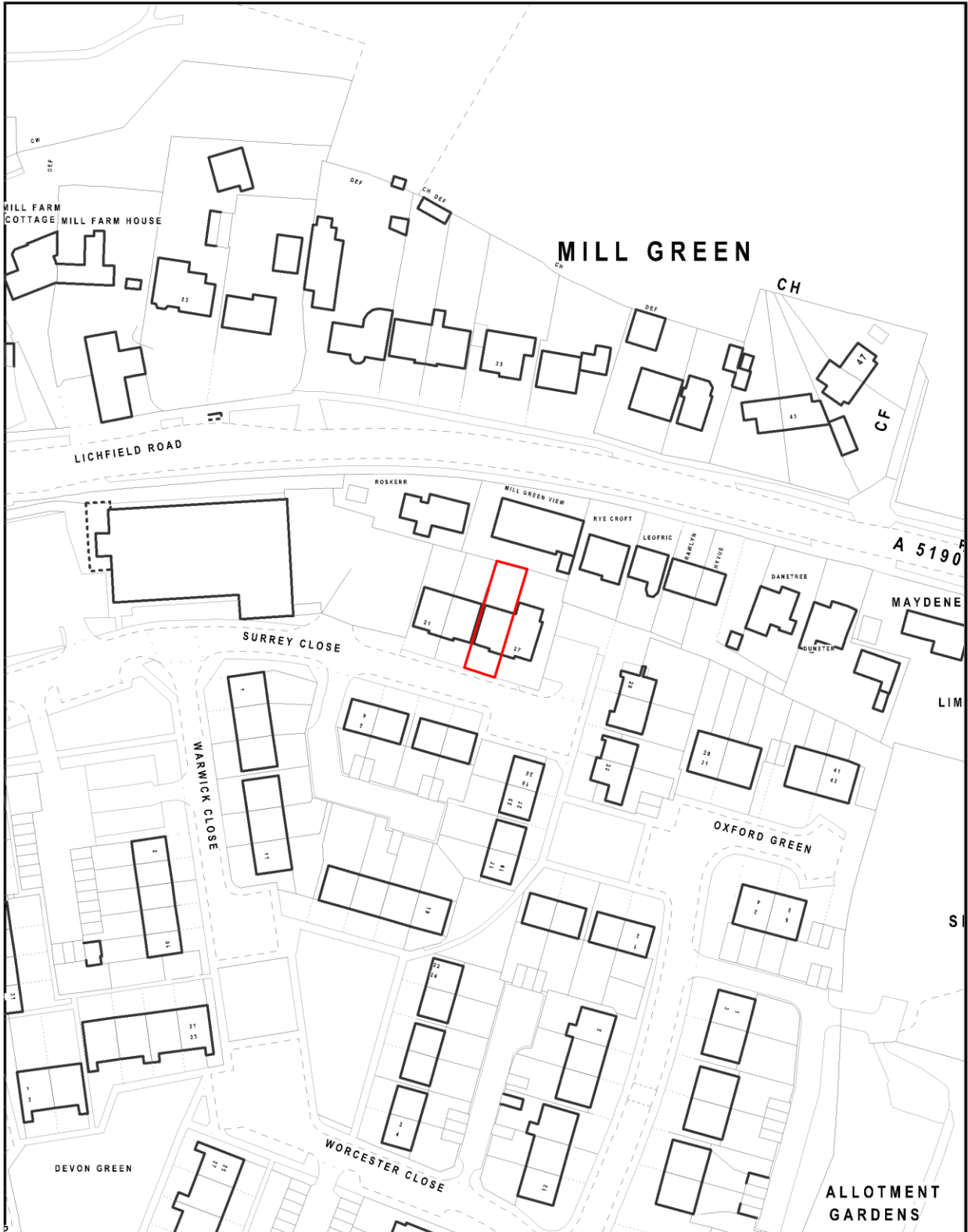


Application No: CH/18/398

Location: 25, Surrey Close, Cannock, WS11 8UF

Proposal: Retention of Conservatory & alterations to rear garden levels

Item no. 6.92




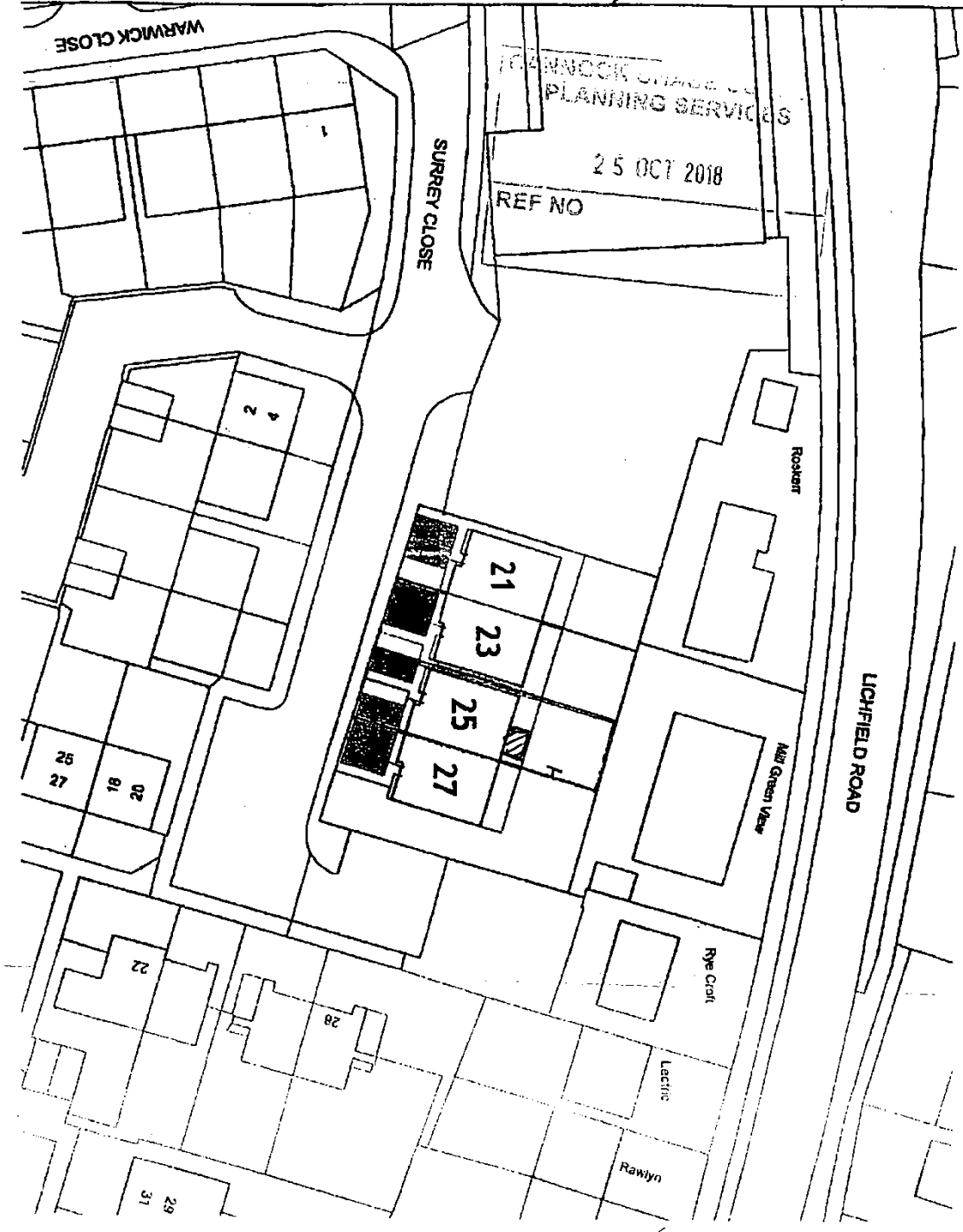
Block Plan

GH/18/398

PROPOSED BLOCK PLAN AT 1:500 SCALE



 - PROPOSED CONSERVATORY

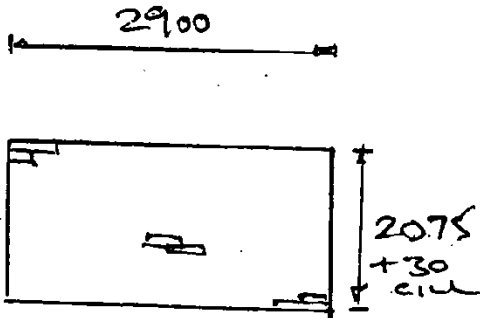


Elevations

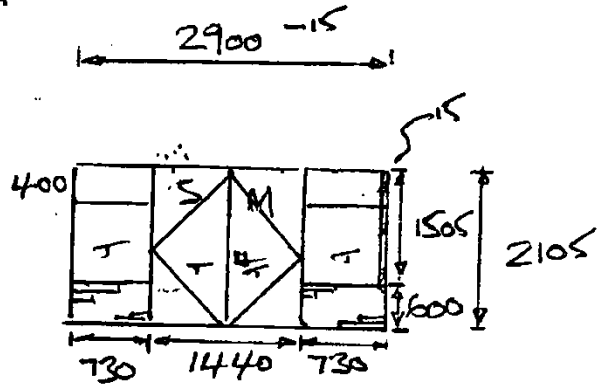
INTERNAL SIZES - EXTERNALLY VIEWED - DEDUCTIONS TO BE MADE FOR CORNER POSTS/POLES

GH/18/399

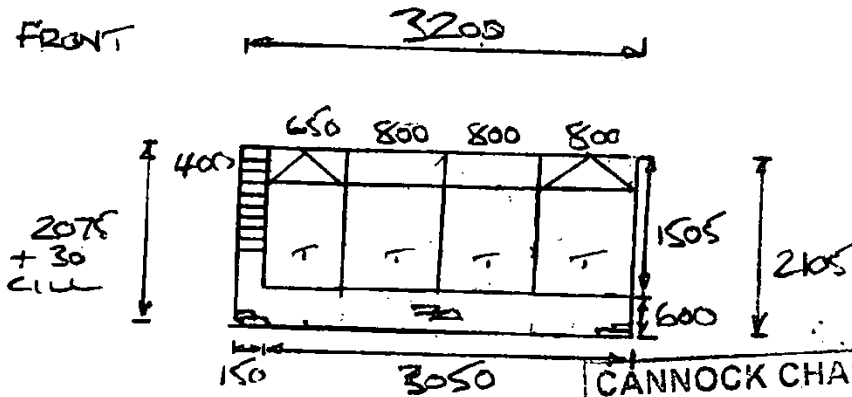
LEFT



RIGHT



FRONT



Right

CANNOCK CHASE COUNCIL
PLANNING SERVICES
16 OCT 2018
REF NO

Roof Plan

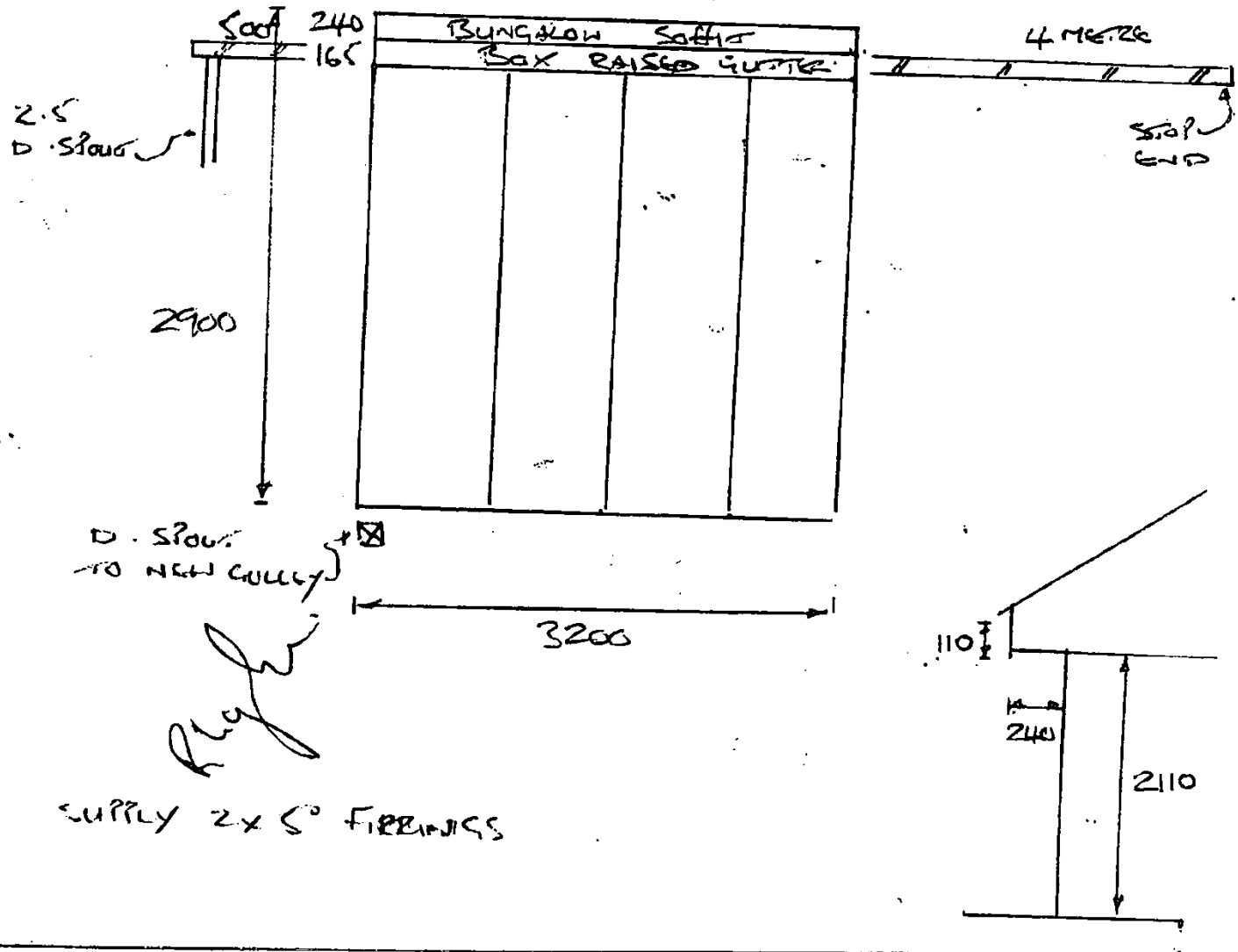
CONSERVATORY ROOF LAYOUT - INTERNAL SIZES SHOWING GLAZING BAR POSITIONS

CANNOCK CHASE CONCRETE
PLANNING SERVICES

CH/18/398

16 OCT 2018

REF NO



Existing Levels

CH/18/398
16 OCT 2018

SECTION DRAWING OF REAR GARDEN

EXISTING LEVELS

FENCE TO REAR OF PROPERTY

REAR OF BUNGALOW



SCALE
2cm = 1m
(1/50)

Proposed Levels

SECTION DRAWING OF REAR GARDENS

16 OCT 2018

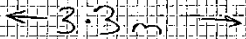
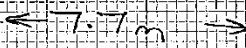
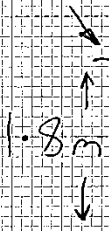
PROPOSED LEVELS

~~CH/18/398~~

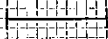
FENCE TO REAR OF PROPERTY

ADDITIONAL FENCE

REAR OF BUNGALOW



SCALE
2cm = 1m (1:50)



Contact Officer:	Audrey Lewis
Telephone No:	01543 464481

PLANNING CONTROL COMMITTEE

10 JULY 2019

ENFORCEMENT CASE

Location:	25, Surrey Close, Cannock, WS11 8UF
Ward:	Cannock South Ward
Description:	Enforcement Case

RECOMMENDATION:

It is recommended that:

- (a) An enforcement notice is served to remedy the situation by requiring:-
 - (i) The erection of a 1.8 metre high fence added to the edge of the top patio area; and
 - (ii) The reduction in ground level of the lower patio by 0.3m which would result in a rear fence height of 1.8m as measured from the inside of the lowered patio.
- (b) No enforcement action is taken in respect to the conservatory

Reason(s) for Recommendation:

A complaint has been received that a conservatory to rear had been constructed and the rear garden regraded to form two tiers at 25 Surrey Close. A site inspection by officers confirmed that this had been the case and that the works had been undertaken without planning permission.

Although an application had been submitted to regularise the position but has subsequently been withdrawn.

As such the issue arises as to whether the Local Planning Authority should take enforcement action in respect to the unauthorised works.

The Planning Practice Guidance states "local planning authorities should usually avoid taking formal enforcement action where:

there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;

development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;

Given the particulars of the case it is considered that the conservatory would be acceptable on its planning merits and that the purpose of formal enforcement action would solely be to regularise the development. As such it is considered that it would not be expedient to take enforcement action.

However, it is considered that the regrading of the rear garden into two tiers has resulted in material harm by virtue of loss of privacy to the neighbour. As such it is considered that it would be expedient to take enforcement action to remedy the harm caused.

Background

A complaint was received that a conservatory to rear had been constructed and the rear garden had been regraded to form two tiers at 25 Surrey Close. A site inspection by officers confirmed that this had been the case and that the works had been undertaken without planning permission. The applicant was therefore invited to submit an application in order to regularise the situation.

The applicant submitted an application seeking permission for the retention of conservatory and alteration of rear garden levels. The proposal also made provision for the lowering of the lower patio area which was proposed to be excavated from a depth of 0.36m to 0.66m, which would result in the rear fence height of 1.8m measured from the inside of the lowered patio. It also made provision for a fence to be added to the edge of the top patio to a height of 1.7m. The two alterations were deemed necessary to reduce the level of overlooking to acceptable levels.

At the meeting of Planning Committee held on 20th March 2019 Members resolved to defer the determination of the application, in order to allow the applicant further consideration for alternative options with regards to the erection of an internal 1.7m high fence shown on plan to enclose the upper patio area. The reason given for Members deferring the decision was because the applicant would be restricting his own rear garden amenity area, so that he could protect the surrounding neighbour amenity.

The application was taken back to Planning Committee on 10th April 2019 when it was again deferred to enable officers to discuss potential solutions with the applicant and objector. A meeting was subsequently held between the applicant and the neighbour on 23rd April 2019. However, no agreement was reached on potential solutions.

The applicant has subsequently withdrawn the application.

As such the issue arises as to whether the Local Planning Authority should take enforcement action in respect to the unauthorised works.

1 Purpose of the Report

- 1.1 The purpose of this report is to investigate and set out the details and context of the breaches of planning control at 25 Surrey Close, namely
- (i) The erection of the conservatory to rear which projects 2.1m to a width of 3.2m and height of 2.1m with a flat roof and a solid brick wall to the boundary with No.27; and
 - (ii) The regrading of the rear garden to form two tiers;
- and recommend whether or not to pursue enforcement action.

2 Site and surroundings

- 2.1 The application site comprises a modern semi detached bungalow of brick and tiled pitched roof construction that was approved under the permission CH/14/0283. The permission includes a condition that removes permitted development rights, however a conservatory has been added to the rear of the dwelling without first obtaining the necessary planning consent. The rear garden has also been hard-surfaced with paving slabs and retaining walls, providing 2 No. areas of patios stepping down along the length of the rear garden.
- 2.2 The 4 No. semi detached bungalows are built on a common building line in Surrey Close. Ground levels increase west to east and levels decrease from south to north across the site.
- 2.3 No 27 is at approximately 0.5m higher level than the application site while No.23 is at approximately 0.5 m lower level.
- 2.4 No 27 has a rear conservatory addition, with obscure glazed windows to the side boundary with the application site. There is a 1.6-2.5m high fence to the common boundary that steps down in height to the meet the rear fence of the application site (1.5m). The rear garden has been recently regraded to form two level tiers which have been paved. The conservatory and the regrading of the rear garden have been undertaken without the benefit of planning permission.
- 2.5 No.23 has a rear facing kitchen window located closest to the common boundary with the application site. There is a 2m high fence to the common boundary.
- 2.6 Mill Green View is a detached bungalow, which is located at lower ground level at approximately 5m from the rear boundary of the application site. It has a bedroom and kitchen window facing the rear of the application site boundary.

3 Policy and Guidance

3.1 National Planning Policy Framework (NPPF)

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

3.3 On the matter of enforcement Paragraph 58 of the NPPF states:

"Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."

3.4 Planning Practice Guidance (PPG)

3.5 The Planning Practice Guidance was issued on the 14th March 2014 and is regularly updated. As the title suggests this provides practical guidance to support the NPPF. It contains a section on enforcement entitled 'Ensuring Effective Enforcement'. This provides an overview of enforcement, enforcement advice and enforcement remedies available to Local Planning Authorities.

3.6 Extracts that are of particular relevance are set out below:

Who can take enforcement action?

Local planning authorities have responsibility for taking whatever enforcement action may be necessary, in the public interest, in their administrative areas.

Paragraph: 002 Reference ID: 17b-002-20140306

Revision date: 06 03 2014.

When should enforcement action be taken?

There is a range of ways of tackling alleged breaches of planning control, and local planning authorities should act in a proportionate way.

Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations. This includes a local enforcement plan, where it is not part of the development plan.

In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework, in particular paragraph 58:

Can breaches of planning control be addressed without formal enforcement action, such as an enforcement notice?

Addressing breaches of planning control without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy. For example, a breach of control may be the result of a genuine mistake where, once the breach is identified, the owner or occupier takes immediate action to remedy it. Furthermore in some instances formal enforcement action may not be appropriate.

It is advisable for the local planning authority to keep a record of any informal action taken, including a decision not to take further action.

Paragraph: 010 Reference ID: 17b-010-20140306

Revision date: 06 03 2014

When might formal enforcement action not be appropriate?

Nothing in this guidance should be taken as condoning a willful breach of planning law. Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case.

In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;

development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;

in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.

Paragraph: 011 Reference ID: 17b-011-20140306

Revision date: 06 03 2014.

4 Assessment

4.1 The substantive issues in respect to the determination as to whether it is expedient to take enforcement action are: -

- (i) Whether the unauthorized development causes harm to acknowledged interests, in this case to residential amenity and to the character of the area; and
- (ii) How the situation can be remedied.

4.2 Impact on the Character of the Area

4.2.1 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.

4.2.2 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.

4.2.3 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;

4.2.4 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.

- 4.2.5 The immediate character of the area comprises bungalows, some of them with small scale rear extension and gardens that decrease in ground levels both across the width and down the length of the rear gardens. As a consequence all of their rear gardens are either stepped, or sloping downwards in a north westerly direction.

Conservatory

- 4.2.6 The conservatory is modest in design, size, scale and the materials relate well to both the host dwelling and surrounding dwellings. It is typical of such structures that are commonly found built onto rear elevations, often through the exercise of permitted development rights. As such the conservatory is considered to be well-related to the existing building and its surroundings and sympathetic to local character. As such the conservatory is acceptable when assessed against the policy tests set out in Policy CP3 of the Local Plan and paragraph 127 of the NPPF.

Regrading of the Rear Garden

- 4.2.7 The top patio has been levelled to create level access to the rear of the bungalow, while the lower patio area would be dug down 0.3m to the original level and the original height of the fencing to 1.8m. The proposed fence would be 1.8m in height and of the type of materials and design that normally form permitted development at this location. It is therefore considered that the proposal would be sympathetic in design to the host dwelling and character of the area.
- 4.2.8 Therefore, having had regard to Policy CP3 of the Local Plan and the above mentioned paragraphs of the NPPF it is considered that the proposal would be well-related to existing buildings and their surroundings, successfully integrate with existing features of amenity value, maintain a strong sense of place and visually attractive such that it would be acceptable in respect to its impact on the character and form of the area.

4.3 Impact on Residential Amenity

- 4.3.1 Policy CP3 of the Local Plan states that the following key requirements of 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'.
- 4.3.2 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.

Conservatory

- 4.3.3 The rear conservatory has a solid wall to the boundary with the neighbour at No.27, while other side adjacent to No. No.23 is screened by 1.8m high fencing. The rear of the conservatory is screened by the rear fence from the rear neighbour at Mill Green view. In addition the intervening distance would be approximately 15m. As such, it is considered the conservatory by virtue of its

design and juxtaposition has not given rise to any significant additional degree of overlooking.

Regarding of the Rear Garden

- 4.3.4 The regrading of the rear garden has changed the relationship of the ground level in respect to the height of the fence that runs along the rear boundary separating No. 25 Surrey Close from the neighbouring property at Mill Green View. This has increased the ability of the occupiers of No25 Surrey Close to overlook the neighbouring garden and windows at Mill Green View and ultimately has resulted in the original complaint. In particular it allows views close up views of windows in Mill View Green from the lower patio and in more distant views form the edge of the top patio.
- 4.3.5 As such the current situation fails to secure a high standard of amenity for the existing occupiers at No 25 Surrey Close and therefore is contrary to Policy CP3 of the Local Plan and paragraph 127(f) of the NPPF.
- 4.3.6 Having had regard to the above it is considered that it would not be expedient to take enforcement action against the conservatory as it does not result in significant harm to acknowledged interests.
- 4.3.7 However, it is considered that it would be expedient to take enforcement action against the regarding of the garden in order to reduce the level of overlooking to the neighbouring property at Mill Green View.

4.4 How the Situation can be Remedied

- 4.4.1 The current levels of overlooking can be remedied by
- (i) The erection of a 1.8 metre high fence added to the edge of the top patio area; and
 - (ii) The reduction in ground level of the lower patio by 0.3m which would result in a rear fence height of 1.8m as measured from the inside of the lowered patio.

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.

- 5.3 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

- 5.4 It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.
- 5.5 In this particular instance it is noted that the occupier of No25 Surrey Close is disabled and a wheel chair user. It is also recognised that it was the occupier's intention to regrade the garden to provide better access for a wheelchair user. However, the advancement of equality has to be weighed against any harm to other interests which exist, in this case the harm to the residential amenity of the neighbour. To this effect officers had sought to work with the occupier of No25 Surrey Close to come up with a design solution which promoted equality but which also protected the residential amenity of neighbours.
- 5.5 As such consideration of the duties of the Equalities Act has been balanced along with other material planning considerations and it is considered that the proposal, on balance, is not acceptable.

6 Conclusion

- 6.1 This report has arisen from a complaint that has been received that a conservatory to rear had been constructed and the rear garden regraded to form two tiers at 25 Surrey Close. A site inspection by officers confirmed that this had been the case and that the works had been undertaken without planning permission.
- 6.2 Although an application had been submitted to regularise the position but has subsequently been withdrawn.
- 6.3 As such the issue arises as to whether the Local Planning Authority should take enforcement action in respect to the unauthorised works.
- 6.4 The Planning Practice Guidance states "local planning authorities should usually avoid taking formal enforcement action where:
- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
 - development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;

- 6.5 Given the particulars of the case it is considered that the conservatory would be acceptable on its planning merits and that the purpose of formal enforcement action would solely be to regularise the development. As such it is considered that it would not be expedient to take enforcement action.
- 6.6 However, it is considered that the regrading of the rear garden into two tiers has resulted in material harm by virtue of loss of privacy to the neighbour. As such it is considered that it would be expedient to take enforcement action to remedy the harm caused.
- 6.7 As such it is recommended that
- (a) an enforcement notice is served to remedy the situation by requiring: -
 - (iii) The erection of a 1.8 metre high fence added to the edge of the top patio area; and
 - (iv) The reduction in ground level of the lower patio by 0.3m which would result in a rear fence height of 1.8m as measured from the inside of the lowered patio.
 - (b) No enforcement action is taken in respect to the conservatory