

Please ask for: Mrs. W. Rowe
Extension No: 4584
E-Mail: wendyrowe@cannockchasedc.gov.uk

24 November, 2020

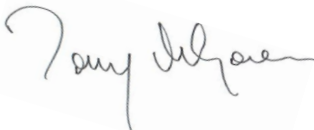
Dear Councillor,

**PLANNING CONTROL COMMITTEE
3:00 PM, WEDNESDAY 2 DECEMBER, 2020
MEETING TO BE HELD REMOTELY**

You are invited to attend this remote meeting for consideration of the matters itemised in the following Agenda. The meeting will commence at 3.00pm via Zoom. Details on how to access the meeting will be issued separately.

Instructions on how the public can watch the meeting will be posted on the Council's website.

Yours sincerely,



**T. McGovern
Managing Director**

To Councillors:-

Cartwright, Mrs. S.M. (Chairman)

Startin, P. (Vice-Chairman)

Allen, F.W.C.	Pearson, A.R.
Dudson, A.	Smith, C.D.
Fisher, P.A.	Stretton, Mrs. P.Z.
Fitzgerald, Mrs. A.A.	Thompson, Mrs. S.
Jones, Mrs. V.	Todd, Mrs. D.
Layton, A.	Witton, P.
Muckley, A.	

A G E N D A

PART 1

1. Apologies

2. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members

To declare any personal, pecuniary or disclosable pecuniary interests in accordance with the Code of Conduct and any possible contraventions under Section 106 of the Local Government Finance Act 1992.

3. Disclosure of details of lobbying of Members

4. Minutes

To approve the minutes of the meeting held on 11 November, 2020 (enclosed).

5. Members' Requests for Site Visits

6. Report of the Development Control Manager

Members wishing to obtain information on applications for planning approval prior to the commencement of the meeting are asked to contact the Development Control Manager.

Finding information about an application from the website

- On the home page click on planning applications, listed under the 'Planning & Building' tab.
- This takes you to a page headed "view planning applications and make comments". Towards the bottom of this page click on the text View planning applications. By clicking on the link I agree to the terms, disclaimer and important notice above.
- The next page is headed "Web APAS Land & Property". Click on 'search for a planning application'.
- On the following page insert the reference number of the application you're interested in e.g. CH/11/0001 and then click search in the bottom left hand corner.
- This takes you to a screen with a basic description - click on the reference number.
- Halfway down the next page there are six text boxes - click on the third one - view documents.
- This takes you to a list of all documents associated with the application - click on the ones you wish to read and they will be displayed.

PLANNING APPLICATIONS

<u>Application Number</u>	<u>Application Location and Description</u>	<u>Item Number</u>
1. CH/20/269	<i>Land adjacent to 69 Meadow Way, Heath Hayes, Cannock WS12 3YG – Change of use to a private domestic garden</i>	6.1 – 6.19
2. CH/17/279	<i>Land between A460/Eastern Way and Mill Green Nature Reserve, Mill Green, Eastern Way, Cannock – Request to vary opening hours in relation to planning application CH/17/279 - Mill Green Designer Outlet</i>	6.20 – 6.26

CANNOCK CHASE COUNCIL

**MINUTES OF THE MEETING OF THE
PLANNING CONTROL COMMITTEE**

HELD ON WEDNESDAY 11 NOVEMBER 2020 AT 3:00 P.M.

VIA REMOTE ACCESS

PART 1

PRESENT: Cartwright, Mrs. S.M. (Chairman)
Councillors Startin, P. (Vice-Chairman)

Allen, F.W.C.	Pearson, A.R.
Dudson, A. (<i>not in attendance when the meeting commenced</i>)	Smith, C.D.
Fitzgerald, Mrs. A.A.	Stretton, Mrs. P.Z.
Jones, Mrs. V.	Thompson, Mrs. S.L.
Layton, A.	Todd, Mrs. D.M.
Muckley, A.	Witton, P.

54. Apologies

No apologies for absence were received.

55. Disclosure of Lobbying of Members

Nothing declared.

56. Minutes

RESOLVED:

That the Minutes of the meeting held on 21 October, 2020 be approved as a correct record.

57. Members requests for Site Visits

None.

58. Application CH/20/305, Land at Lime Lane, Pelsall, WS3 5AT, Change of use of the land to a Gypsy and Traveller residential site with the siting of up to ten caravans of which no more than five would be static caravans, the construction of a utility block, and the creation of a new vehicular access and the laying of hard standing

(The Chairman delayed consideration of this application in order to allow Councillor A. Dudson to join the meeting as he was having difficulty connecting. However, as he was not able to join the Chairman decided to continue to determine the application in his absence).

Consideration was given to the report of the Development Control Manager (Item 6.1 – 6.49 of the Official Minutes of the Council).

The Development Control Manager advised that an update had been circulated to Members in advance of the meeting. The update was as follows: -

“Response of Natural England

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your authority has concluded that the evidence provided with the proposal and confirmed by the LLFA demonstrates that the proposal would not have a significant impact on the integrity of Cannock Extension Canal SAC.

Having considered the assessment Natural England advises that we concur with the assessment conclusions”.

He then provided a presentation to the Committee outlining the application showing photographs and plans of the proposals.

Prior to consideration of the application representations were made by Councillor J. Newbury (Ward Councillor) speaking in favour of the application. Further representations were made by Nial Casselden and Michael Hargreaves (representing the applicant) who both spoke in support of the application and shared the ten minutes between them.

RESOLVED:

That, as no objections have been received from Natural England, the application be approved subject to the conditions contained in the report for the reasons outlined therein and the completion of a unilateral undertaking to secure mitigation against the impacts of visitor pressure on Cannock Chase SAC.

(Councillor A. Dudson joined the meeting as some point during the determination of the above application. Therefore, he did not take part in the vote on this application).

59. Application CH/20/247, Land on North-East side of A5 (Turf Roundabout), Watling Street, Cannock, WS11 9ND – Planning application for the retention of gates, fencing and groundworks

Consideration was given to the report of the Development Control Manager (Item 6.50 – 6.66 of the Official Minutes of the Council).

The Development Control Manager provided a presentation to the Committee outlining the application showing photographs and plans of the proposals.

RESOLVED:

That the application be approved subject to the conditions contained in the report for the reasons stated therein.

60. Changes to the Enforcement Protocol

Consideration was given to the report of the Development Control Manager (Item 6.67 – 6.69 of the Official Minutes of the Council).

The Development Control Manager advised that the recommendation would be amended to read:-

“Members should note the report to the Head of Economic Prosperity in consultation with the Portfolio Leader for Economic Development and Planning and the subsequent temporary changes to the Planning Enforcement Protocol.”

RESOLVED:

That the report to the Head of Economic Prosperity in consultation with the Portfolio Leader for Economic Development and Planning and the subsequent temporary changes to the Planning Enforcement Protocol be noted.

The meeting closed at 3.58pm.

CHAIRMAN

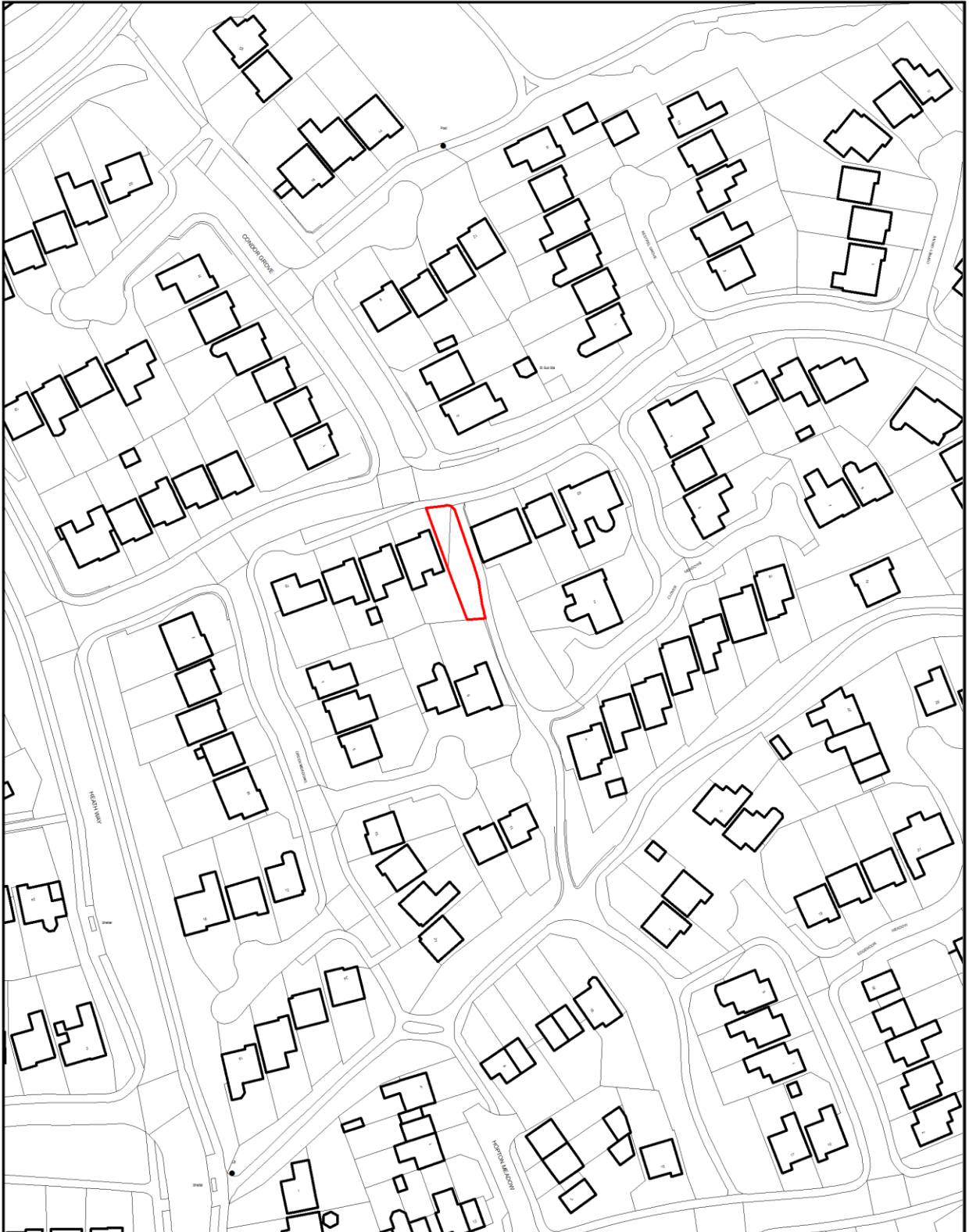


Application No: CH/20/269

Location: Land adjacent to 69 Meadow Way, Heath Hayes, Cannock, WS12 3YG

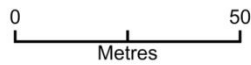
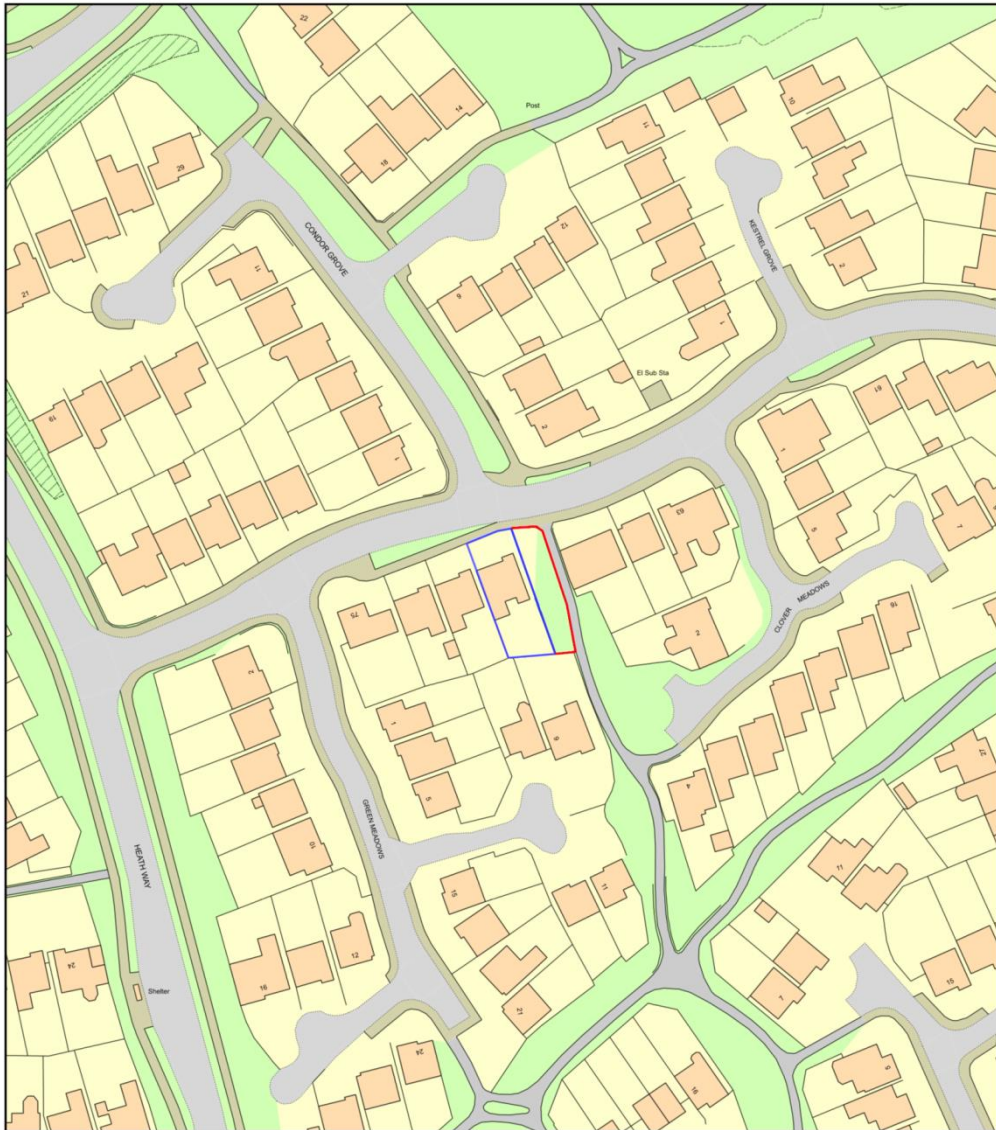
Proposal: Change of use to a private domestic garden

Item no. 6.1



Location Plan

Land Adj to 69 Meadow Way - Location Plan



Plan Produced for: Mr & Mrs Moore

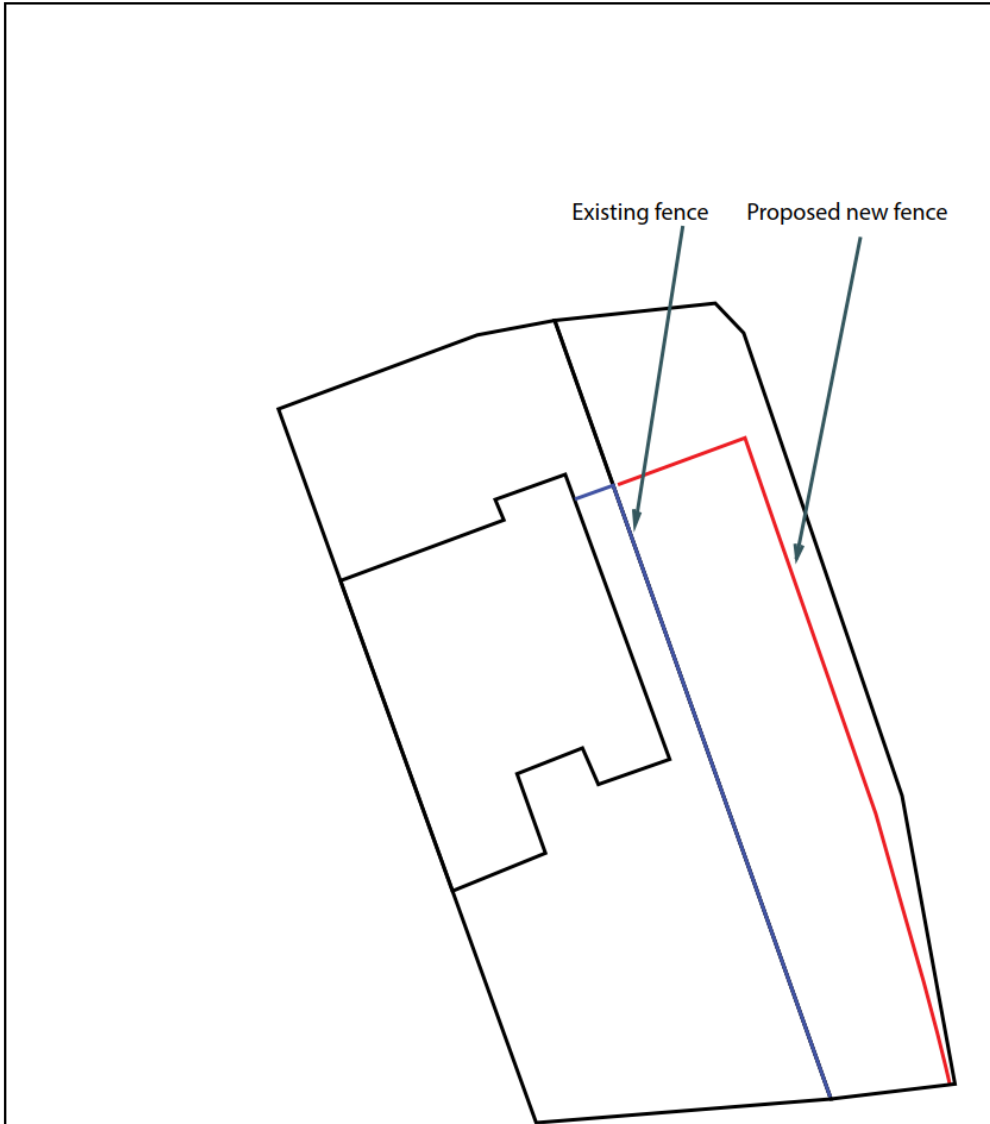
Date Produced: 22 Jul 2020

Plan Reference Number: TQRQM20204194936568

Scale: 1:1250 @ A4

Site Plan

Land Adj to 69 Meadow Way



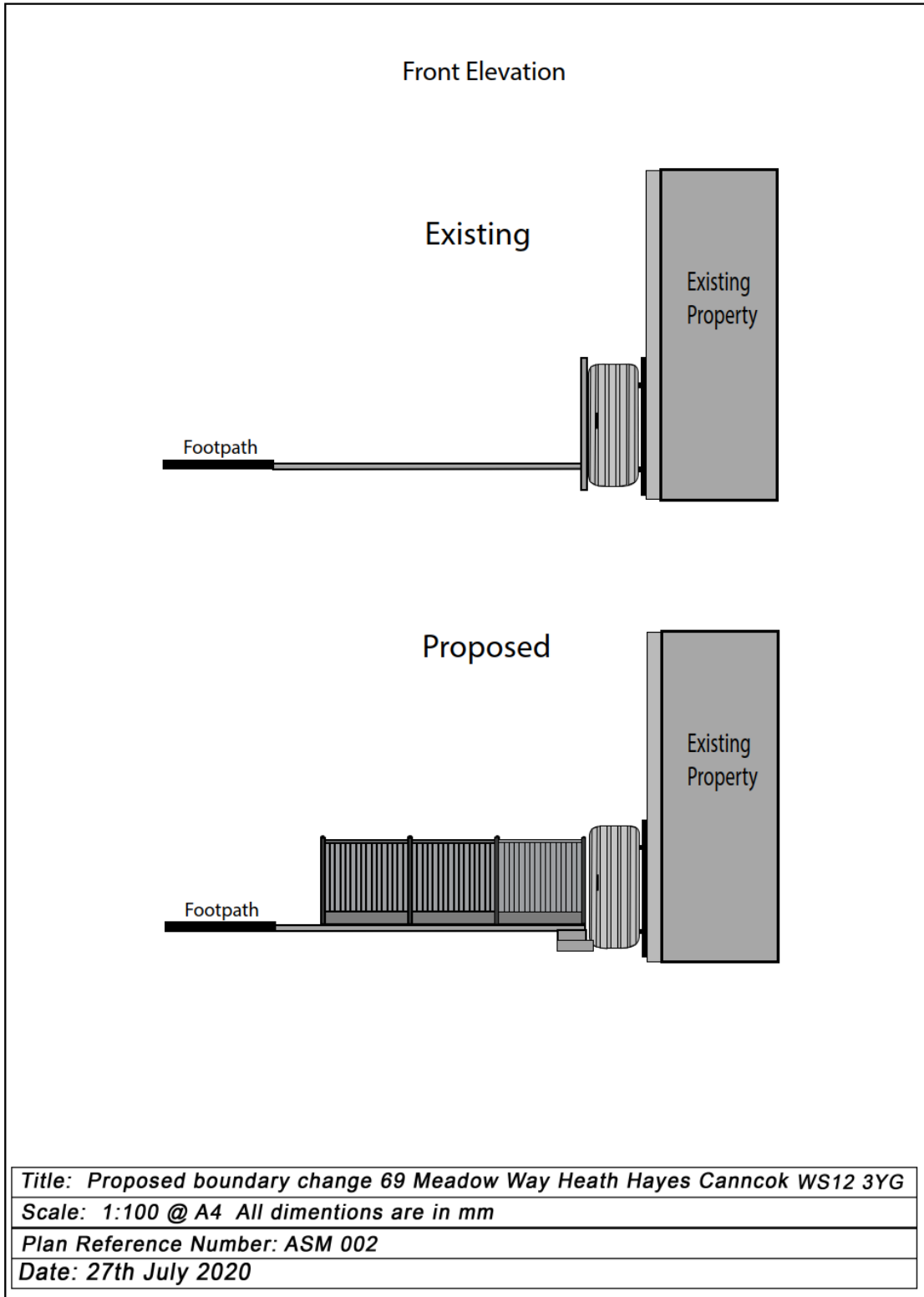
Title: Proposed boundary change 69 Meadow Way Heath Hayes Cannock WS12 3YG

Scale: 1:200 @ A4 All dimensions are in mm

Plan Reference Number: ASM 003

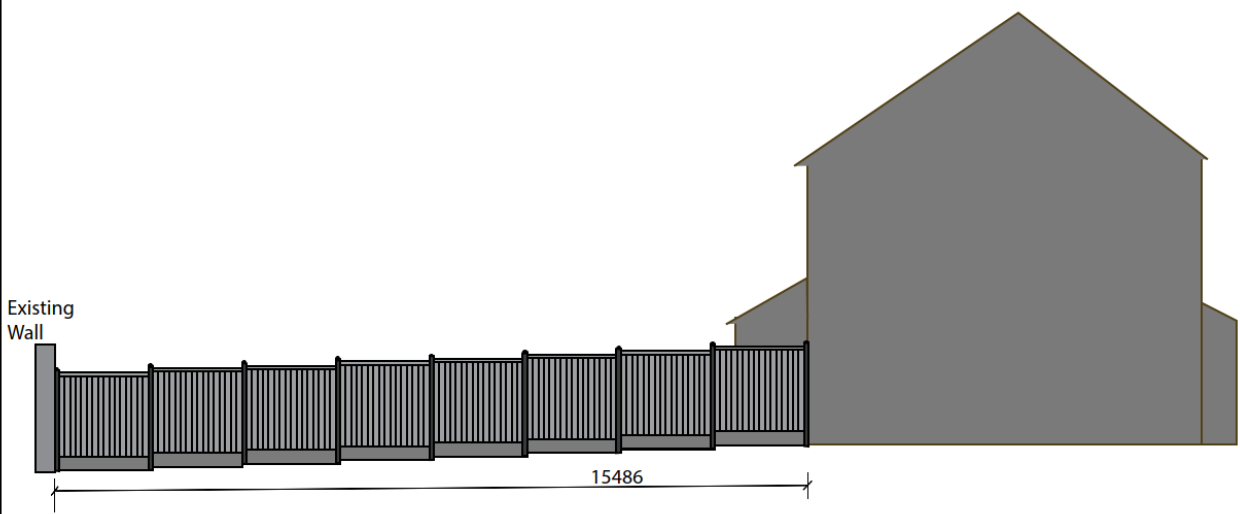
Date: 27th July 2020

Elevations Showing Boundary Fence



Elevations Showing Boundary Fence

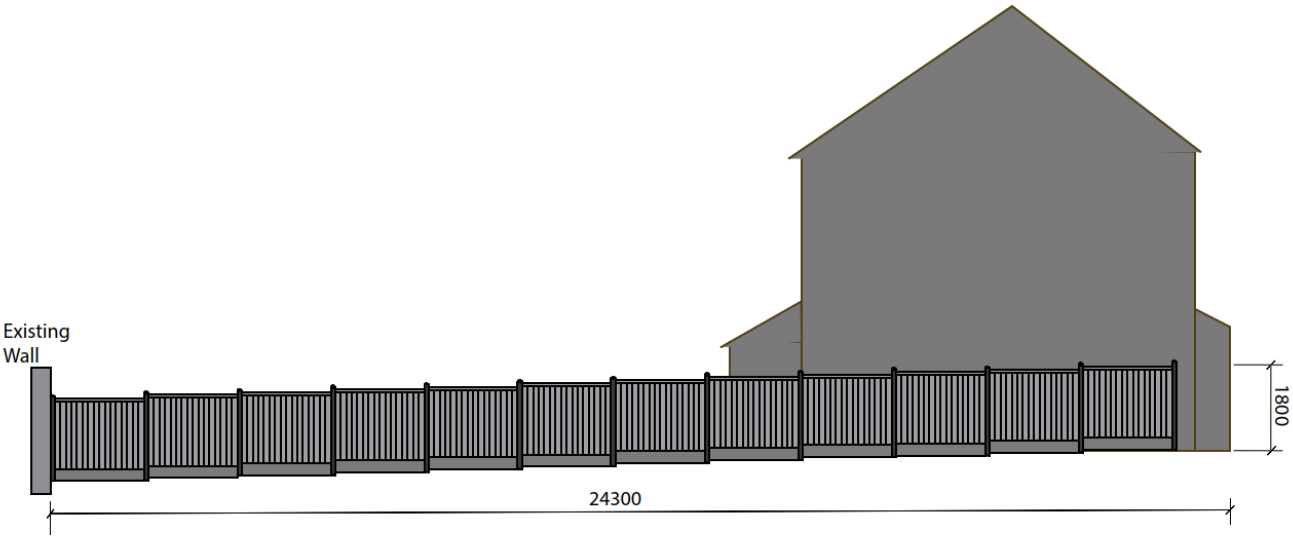
Existing Side Elevation



<i>Title: Proposed boundary change 69 Meadow Way Heath Hayes Cannock WS12 3YG</i>
<i>Scale: 1:100 @ A4 All dimensions are in mm</i>
<i>Plan Reference Number: ASM 004</i>
<i>Date: 27th July 2020</i>

Elevations Showing Boundary Fence

Proposed Side Elevation



<i>Title: Proposed boundary change 69 Meadow Way Heath Hayes Cannock WS12 3YG</i>
<i>Scale: 1:100 @ A4 All dimensions are in mm</i>
<i>Plan Reference Number: ASM 001</i>
<i>Date: 27th July 2020</i>

Contact Officer:	Samuel Everton
Telephone No:	4514

PLANNING CONTROL COMMITTEE	
2nd December 2020	
Application No:	CH/20/269
Received:	27-Jul-2020
Location:	Land adjacent to 69 Meadow Way, Heath Hayes, Cannock, WS12 3YG
Parish:	Heath Hayes
Description:	Change of use to a private domestic garden.
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 hereby permitted shall be retained out in accordance with the following approved plans:

Location Plan

Block Plan
 Drawing No. ASM 001
 Drawing No. ASM 002
 Drawing No. ASM 003

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

Notes to Developer:

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Consultations and Publicity

External Consultations

Heath Hayes & Wimblebury Parish Council

Object to the fence and the erection of the shed on the land. They consider that it closes the alley way in and makes it feel dark and unsafe to walk down.

Footpath Officer

No response received.

The Ramblers Association

Object to the proposal on the grounds that when the housing estate was built the developer followed DEFRA Circular 1/09 which requires footpaths to be in a green corridor and not become alleyways. The path is a green corridor running from Tesco across the estate and at No. 69 the path has become an alleyway which is considered to now not be safe.

Internal Consultations

Parks & Open Spaces

Objection on the grounds that the garden encroachment and subsequent loss of the wide access corridor and open space has had an overall negative impact, both physically and visually on the area. The narrow confined route creates a negative aspect that dissuades the user, the solid fence creates a negative visual impact by adding a hard vertical side which heightens this affect. The development also has a safety implication by creating such a narrow route and the blind corner when walking northwards along the path is also a major safety issue. The removal of vegetation has reduced the visual quality of the corridor and also the biodiversity/ habitat value of the site.

Response to Publicity

The application has been advertised by site notice and neighbour letter. 7 letters of representation have been received raising the following concerns:-

- The change of use would result in the loss of a public open space which is not in the best interests of the community and would set a precedent for others to do the same.
- The application is retrospective and should be considered on the basis of what the land looked like prior to the works commencing.
- The land was a beautifully landscaped piece of land and was maintained by the local authority and was an asset to the local population. It offered space to walk, to play, to enjoy and for wellbeing, however the land has been bordered off by a large imposing fence which has stopped anyone from being able to access the land.
- The mature trees and established landscaping have been cut down and the fencing has denied access to the land. The trees that were removed provided shelter for wildlife and helped the environment.
- The proposal has created an alleyway that is darker and less secure than before. This is in breach of secure by design principles.
- The application does not mention part of the land being used as a driveway which is in very close proximity to the path and therefore concerns in regards to highways safety.
- Loss of privacy and overlooking concerns due to the trees being removed which provided a screening between neighbouring properties and the application property.

- A bar has been erected in the garden and concerns that it will be used for hosting and entertaining large numbers of guests and due to the position of the bar there are concerns that neighbours can be directly overlooked.
- The land was a natural soakaway for storm water, however since the land was enclosed, any storm water is now channelled further down the footpath into properties at Green Meadows, causing neighbours to suffer water ingress/flooding.
- The applicant has used the COVID-19 lockdown to acquire this land and enclose it.
- That covenants attached to the purchase of a property in the estate stipulate that no fences, hedges, caravans etc. were permitted on the front of the property and all front gardens were to be kept open and unenclosed to protect the open nature of the area.
- A selling point of the estate was that pieces of land would be left open all throughout the estate for all people to enjoy and to provide corridors alongside the footpaths to prevent them from becoming alleyways. The proposal has now created an alleyway.
- The proposal reduces the amount of recreational land and diminishes the quality of the area, contrary to planning application CH/18/484 and the Local Plan.
- The applicant has attached a section of decking to the back of the neighbours wall which is so high that they can be seen walking on it.
- A neighbours garage has flooded twice this year since the erection of the fence and has not been contacted by the Council.

Relevant Planning History

CH/06/0794

First storey extension above existing garage. Approved 11/01/2007

CH/93/0068

First floor domestic extension over existing garage. Approved 25/03/1993

CH/42/85

Reserved Matters application comprising details of the siting, design and external appearance of buildings, the layout of roads, footpaths, accesses and parking areas, the provision of walls and fences. Granted 27/03/1985.

CH/184/84

Residential development on 164.25 acres, and unloading facilities, public house and petrol filling station, together with public open space on land at Hawks Green, Heath Hayes, Cannock. Outline permission granted 17/01/1985.

1 Site and Surroundings

- 1.1 The application site is comprised of a small area of land adjacent to No. 69 Meadow Way, Heath Hayes, which has recently been fenced off and incorporated into the front and rear garden of the aforementioned property. The land in question is understood to have previously formed a landscape verge to the adjacent public footpath which facilitates pedestrian movement across the wider estate, as shown within the Hawks Green Landscape Brief and the Outline and Reserved Matters planning permissions for the estate (Ref No's. CH/184/84 & CH/42/85).
- 1.2 The land now incorporated into the rear garden is bound by 1.8m closeboarded fencing, with a 0.2-1m wide strip of land remaining between the fence and the adjacent footpath. The fence extends along the total length of the garden adjoining to a 1.8m wall at No.9 Clover Meadows which also borders the footpath. The front portion of the land now incorporated into the front garden is open and has been surfaced in gravel.
- 1.3 The wider street scene is residential and is comprised of traditional detached and semi-detached two storey dwellings of similar styles and proportions to No. 69. It is noted that many of the front garden areas comprise a mix of open lawn and landscaped areas with adjacent driveways, with some featuring low level walling or hedges.

- 1.4 The site is unallocated in the Local Plan, however the site is located within the Forest of Mercia, a Mineral Safeguarding Area and a Coal Mining Low Risk Boundary.

2 Proposal

- 2.1 The application seeks retrospective planning permission for the change of use of the land to residential (Use Class C3) to enable its use as a private domestic garden.
- 2.2 The works to incorporate the land into the private garden of No. 69 were carried out and completed in April.
- 2.3 For the avoidance of doubt the application does not seek approval for the erection of the fence. The fence that has been erected constitutes permitted development under Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 which allows the construction of a wall, fence or other means of enclosure up to 2m high provided that it is not adjacent to highway used by vehicular traffic.
- 2.4 In addition the owner of the land is also entitled to remove trees, shrubs and other vegetation on land within his ownership provided that those trees, shrubs and other vegetation are not protected either by Tree Preservation Order or specifically by condition. Officers would advise that no such protection existed and the removal of the vegetation does not form part of this planning application.

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

Relevant policies within the minerals plan include: -

Policy 3 - Safeguarding Minerals of Local and National Importance and Important Infrastructure

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) Minerals safeguarding.

4.2 Principle of the Development

4.2.1 The land in question does not have any formal designation within the Local Plan, however it did form part of a network of open greenspace and footpaths that run throughout the estate. Indeed, this is stipulated within the Section 52

agreement that was completed prior to the grant of the outline permission that the areas intended for use as greenspace including the corridors throughout the estate would be transferred from the developer to the Council's ownership.

4.2.2 However, there is no evidence within the Council's records or subsequent applications that confirm that this piece of land was transferred to the Council and it has remained in the ownership of Taylor Wimpey.

4.2.3 Further, irrespective of whether the land should have been transferred to the Council or not, the Council's Legal Officer has advised that given the length of time that has elapsed since the construction of the estate (35 years) the Council would not be able to enforce the transfer of the land from Taylor Wimpey to itself.

4.2.4 Therefore, the land should be treated as undesignated private land for the purposes of this assessment. As such the change of use of this to domestic garden to form part of an existing residential unit within a residential estate is acceptable in principle

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 The change of use in itself does not have any impact on the character or form of the area. Though, the concerns raised in respect to the fence are noted, particularly in regard to the loss of the openness of the footpath and the wider estate, it should also be noted that the fence constitutes permitted development under Schedule 2, Part 2 Class A of the Town and Country Planning General Permitted Development (England) Order 2015 and therefore does not require planning permission from the Council. The erection of the fence does not form part of the application. Therefore, the members of Planning Control Committee are advised that they should not consider any of the impacts that the fence may have had on the character and form of the area as it falls outside of the scope of this application.

4.3.7 As such the change of use is in accordance with Policy CP3 of the Local Plan and the above mentioned paragraphs of the NPPF.

4.4 Impact on Residential Amenity

- 4.4.1 Policy CP3 of the Local Plan states that the following key requirements of high quality design will need to be addressed in development proposals and goes on to include [amongst other things] the protection of the "amenity enjoyed by existing properties".
- 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 change of use of the land to residential, would not have any detrimental impacts on neighbours over or above that of the existing domestic garden. The concerns raised by neighbours in respect to flooding are noted, however the concerns raised relate to the fence which is permitted development as discussed earlier and therefore, any issues of flooding relating to the fence are a private civil matter between the land owner and the affected parties and therefore not a matter for the local planning authority to resolve.
- 4.4.4 The concerns raised in respect to the loss of the mature trees and vegetation on this land are also noted, however officers would advise that there are no Tree Preservation Orders on the land and as such the trees which would have been in private ownership could be removed at anytime by the land owner or with the land owner's permission. Therefore, any concerns raised in respect to impacts caused by the loss of the trees fall outside the scope of the determination of this application.
- 4.4.7 As such, it is considered that the change of use does not have a significant adverse impact on the amenity for occupiers of the surrounding dwellings and meets the requirements of the NPPF and Policy CP3 of the Cannock Chase Local Plan.

4.5 Impact on Highway Safety

- 4.5.1 Paragraph 109 of the 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 neighbours concerns in respect to highways safety are noted, and indeed it is evident that the front portion of the land has been surfaced in gravel which may be used for additional parking provision. However, it should also be

noted that the application is for a change of use to residential and officers would add that permitted development rights do allow for the laying of gravel or similar permeable surfaces as hardstanding. Further, the applicant could apply to the County Council for a dropped kerb permit to enable vehicular access to that land without requiring planning permission from the District Council. As such, the change of use does not have any adverse impact on highways safety and would be in accordance with Paragraph 109 of the NPPF.

4.6 Mineral Safeguarding

4.6.1 The site falls within a Mineral Safeguarding Area (MSAs). 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 change of use of an existing development and is therefore permitted. As such the proposal is compliant with Policy 3 of the Minerals Local Plan.

4.7 Other Issues Raised Not Already Considered Above

4.7.1 objectors have stated that a bar has been erected in the garden and concerns that it will be used for hosting and entertaining large numbers of guests and due to the position of the bar there are concerns that neighbours can be directly overlooked.

Officers would point out that the application does not include a bar, however it is noted that there is an outbuilding structure within the garden that may be used as such. Officers would therefore advise that permitted development rights do allow for the erection of outbuildings in the curtilage of residential properties provided that they do not exceed 2.5m in height amongst other things and that the building is incidental to the use of the dwellinghouse. The building appears to be within these tolerances. However, should it transpire that the building is being used on a commercial basis or of a nature outside what would normally be expected as being incidental to the enjoyment of a dwellinghouse then this may require planning permission. However, what an applicant may or may not do in the future is not material to the determination of an application.

- 4.7.2 Objectors have stated that the applicant has used the COVID-19 lockdown to acquire this land and enclose it.

Officer would respond that there is no evidence to substantiate this claim and in any case officers would add that the means of how the applicant has acquired the land is not material to the determination of this application.

- 4.7.3 Objectors have stated that covenants attached to the purchase of a property in the estate stipulate that no fences, hedges, caravans etc. were permitted on the front of the property and all front gardens were to be kept open and unenclosed to protect the open nature of the area.

Officers would advise that whilst that may be the case, any covenants or legal agreements that exist on any private land in the estate between private parties are not material to the determination of the application. The granting of planning permission does not negate or override any legal covenant on the land. And it is matter for the private parties involved to enforce that covenant.

- 4.7.4 Objectors have stated that the applicant has attached a section of decking to the back of the neighbours wall which is so high that they can be seen walking on it.

Officers would advise that this is a separate matter to the change of use of the land for which permission is being sought. Furthermore officers would advise that this matter is being pursued as a separate enforcement case.

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, does 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.

CH/17/279

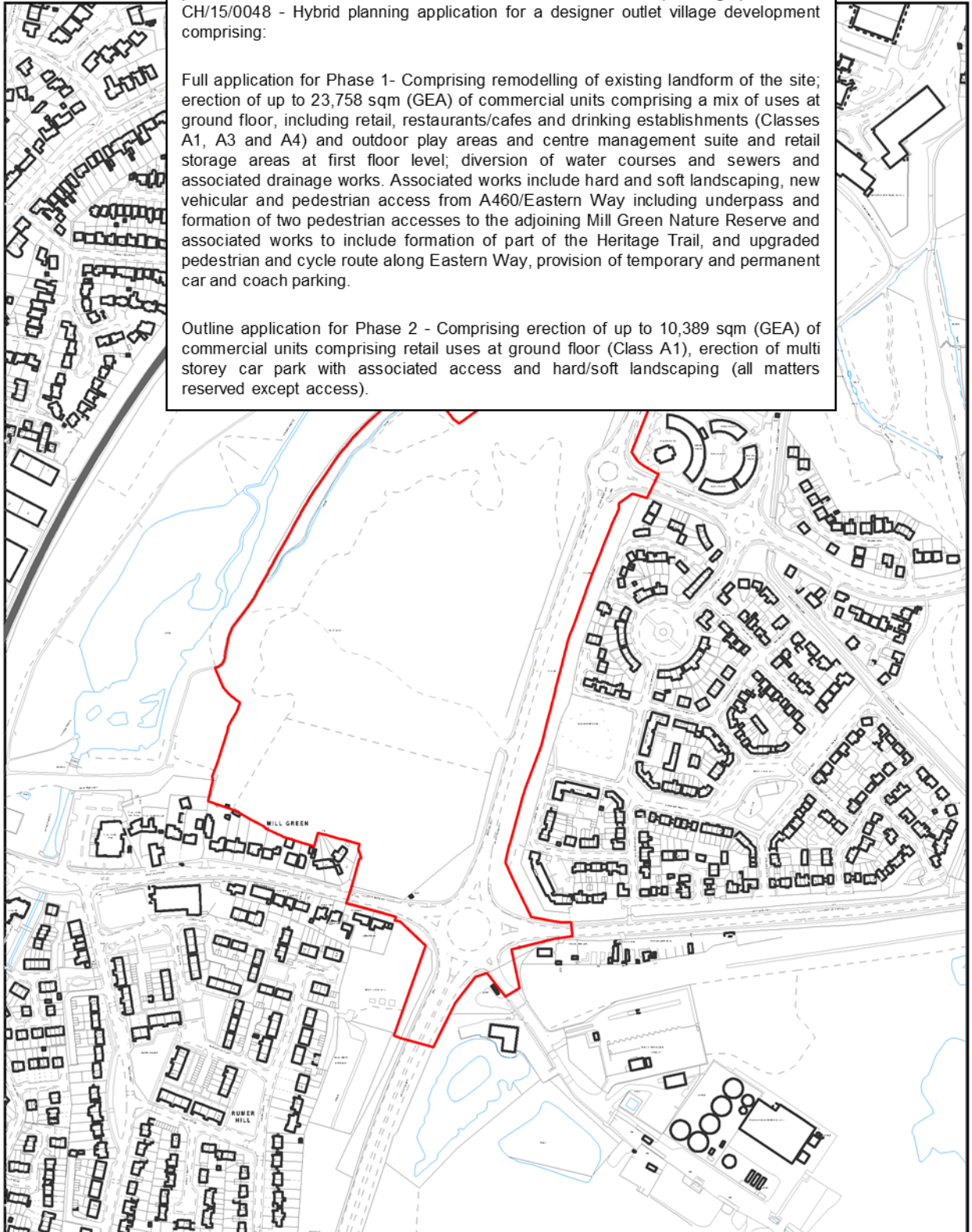
Mill Green, Eastern Way, Cannock

Application (under Section 73 of the Town and Country Planning Act 1990 (as amended)) to vary conditions 33 (control of mezzanine floorspace), 36 (control of A1 & A3 floorspace) & 44 (approved plans) to permit minor material amendments to Phase 1 in terms of elevation treatment, place-making, layout, form and services provision and Addendum to Environmental Statement of planning permission CH/15/0048 - Hybrid planning application for a designer outlet village development comprising:

Full application for Phase 1 - Comprising remodelling of existing landform of the site; erection of up to 23,758 sqm (GEA) of commercial units comprising a mix of uses at ground floor, including retail, restaurants/cafes and drinking establishments (Classes A1, A3 and A4) and outdoor play areas and centre management suite and retail storage areas at first floor level; diversion of water courses and sewers and associated drainage works. Associated works include hard and soft landscaping, new vehicular and pedestrian access from A460/Eastern Way including underpass and formation of two pedestrian accesses to the adjoining Mill Green Nature Reserve and associated works to include formation of part of the Heritage Trail, and upgraded pedestrian and cycle route along Eastern Way, provision of temporary and permanent car and coach parking.

Outline application for Phase 2 - Comprising erection of up to 10,389 sqm (GEA) of commercial units comprising retail uses at ground floor (Class A1), erection of multi storey car park with associated access and hard/soft landscaping (all matters reserved except access).

Item no. 6.20



Contact Officer:	Richard Sunter
Telephone No:	

PLANNING CONTROL COMMITTEE	
Application No:	CH/17/279
Received:	18-Feb-2020
Location:	Land between A460/Eastern Way and Mill Green Nature Reserve, Mill Green, Eastern Way, Cannock
Parish:	Heath Hayes Norton Canes Non Parish Area
Description:	Request to (i) Extend opening hours on Public Holidays by 3 hours to match those permitted on Mondays to Friday; (ii) Allow extended opening hours from 9.00am to 10.00pm on a maximum of 5 Promotion Days on Mondays to Friday; and (iii) Allow extended opening hours from 9.00am to 10.00pm on a maximum of 2 Promotion Days on a Saturday; to Planning Permission CH/17/279; Mill Green Designer Outlet
Application Type:	Not Applicable

RECOMMENDATION:

Approve the written request made pursuant to condition 42 of planning permission CH/17/279 to amend the opening hours of the store to: -

- (i) Extend opening hours on Public Holidays by 3 hours to match those permitted on Mondays to Friday;
- (ii) Allow extended opening hours from 9.00am to 10.00pm on a maximum of 5 Promotion Days on Mondays to Friday; and
- (iii) Allow extended opening hours from 9.00am to 10.00pm on a maximum of 2 Promotion Days on a Saturday;

Reason(s) for Recommendation:**Conditions (and Reasons for Conditions):**

Not applicable.

Notes to Developer:**Consultations and Publicity****External Consultations**

None.

Internal ConsultationsEnvironmental Health

No objections.

Response to Publicity

This request has not been subject to publicity.

Relevant Planning History

An application “

(under Section 73 of the Town and Country Planning Act 1990 (as amended)) to vary conditions 33 (control of mezzanine floorspace), 36 (control of A1 & A3 floorspace) & 44 (approved plans) to permit minor material amendments to Phase 1 in terms of elevation treatment, place-making, layout, form and services provision and Addendum to Environmental Statement of planning permission CH/15/0048 - Hybrid planning application for a designer outlet village development comprising:

Full application for Phase 1- Comprising remodelling of existing landform of the site; erection of up to 23,758 sqm (GEA) of commercial units comprising a

mix of uses at ground floor, including retail, restaurants/cafes and drinking establishments (Classes A1, A3 and A4) and outdoor play areas and centre management suite and retail storage areas at first floor level; diversion of water courses and sewers and associated drainage works. Associated works include hard and soft landscaping, new vehicular and pedestrian access from A460/Eastern Way including underpass and formation of two pedestrian accesses to the adjoining Mill Green Nature Reserve and associated works to include formation of part of the Heritage Trail, and upgraded pedestrian and cycle route along Eastern Way, provision of temporary and permanent car and coach parking.

Outline application for Phase 2 - Comprising erection of up to 10,389 sqm (GEA) of commercial units comprising retail uses at ground floor (Class A1), erection of multi storey car park with associated access and hard/soft landscaping (all matters reserved except access)";

was subsequently approved by Planning Control Committee and issued on 11 October 2017 following the completion of an Agreement under Section 111 of the Local Government Act 1972 which required the completion of an Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). That was completed on 12 February 2018.

The planning permission is subject to several conditions including condition 42 which states:

"The premises shall not be open for business outside the hours of 10.00a.m. to 8.00pm on Mondays to Friday, 9.00am to 8.00pm on Saturdays and 10.00am to 5.00pm on Sundays and public holidays, unless otherwise agreed in writing with the Local Planning Authority."

1 Site and Surroundings

- 1.0 The application site is the West Midlands Designer Outlet Village, situated off Eastern Way Cannock. Phase 1 of the Village is nearing completion although has not opened to the public yet.

2 Proposal

- 2.1 When one seeks to vary a condition an applicant would normally be required to submit an application under either section 96A (if it relates to a non material amendment to the condition) or section 73 (if it relates to a material minor amendment). However, some conditions are so constructed that they do

allow for some variation within the wording of the condition, usually under the caveat “unless otherwise agreed in writing with the Local Planning Authority”.

2.2 Condition 42 is one such condition and reads

“The premises shall not be open for business outside the hours of 10.00a.m. to 8.00pm on Mondays to Friday, 9.00am to 8.00pm on Saturdays and 10.00am to 5.00pm on Sundays and public holidays, **unless otherwise agreed in writing with the Local Planning Authority.**”

2.3 As such under terms of the condition the applicant is seeking permission to

- Extend opening hours on Public Holidays by 3 hours to match those permitted on Mondays to Friday;
- Allow extended opening hours from 9.00am to 10.00pm on a maximum of 5 Promotion Days on Mondays to Friday; and
- Allow extended opening hours from 9.00am to 10.00pm on a maximum of 2 Promotion Days on a Saturday.

3 Planning Policy

3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014) and the Minerals Local Plan for Staffordshire (2015-2030).

3.3 Relevant Policies within the Local Plan Include:

CP3: - Design

3.5 National Planning Policy Framework

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 Planning Applications
127:	Standard of Residential Amenity

180:
212, 213

Noise
Implementation

4 Determining Issues

4.1 The sole determining issue for the proposed development is the impact of the proposed extension of opening hours in the standard of amenity of the occupiers of surrounding neighbouring properties through noise and general disturbance.

4.2 Impact on Residential Amenity

4.2.1 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.

4.2.2 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.

4.2.3 Having had regard to the above policy it is noted that the Environmental Health Officer has no objections to the extended hours of opening.

4.2.4 Given that the extended hours would only relate to a limited number of days a year it is considered that the proposal would still maintain a high standard of residential amenity for the occupiers of the neighbouring residential properties in accordance with Policy CP3 of the Cannock Chase Local Plan and Paragraph 127(f) of the NPPF.

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 and would be a positive step in advancing the equality of opportunity in respect to accommodation provision for the traveller community

6 Conclusion

- 6.1 Given that the extended hours would only relate to a limited number of days a year it is considered that the proposal would still maintain a high standard of residential amenity for the occupiers of the neighbouring residential properties in accordance with Policy CP3 of the Cannock Chase Local Plan and Paragraph 127(f) of the NPPF.
- 6.2 It is therefore recommended that the extended hours are approved.