

# Planning Committee

3 October 2022

## Agenda Item 4

Contact Officer: Claire Billings

Telephone: 01543 308171

## Report of Chief Executive

### LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT, 1985

All documents and correspondence referred to within the report as History, Consultations and Letters of Representation, those items listed as 'OTHER BACKGROUND DOCUMENTS' together with the application itself comprise background papers for the purposes of the Local Government (Access to Information) Act, 1985.

Other consultations and representations related to items on the Agenda which are received after its compilation (and received up to 5 p.m. on the Friday preceding the meeting) will be included in a Supplementary Report to be available at the Committee meeting. Any items received on the day of the meeting will be brought to the Committee's attention. These will also be background papers for the purposes of the Act.

### FORMAT OF REPORT

Please note that in the reports which follow

- 1 'Planning Policy' referred to are the most directly relevant Development Plan Policies in each case. The Development Plan comprises the Lichfield District Local Plan Strategy 2008-2029 (2015), Lichfield District Local Plan Allocations 2008-2029 (2019), any adopted Neighbourhood Plan for the relevant area, the Minerals Local Plan for Staffordshire 2015-2030 (2017) and the Staffordshire and Stoke on Trent Joint Waste Local Plan 2010-2026 (2013).
- 2 The responses of Parish/Town/City Councils consultees, neighbours etc. are summarised to highlight the key issues raised. Full responses are available on the relevant file and can be inspected on request.
- 3 Planning histories of the sites in question quote only items of relevance to the application in hand.

**ITEM 'A'** Applications for determination by Committee - **FULL REPORT**

**ITEM 'B'** Lichfield District Council applications, applications on Council owned land (if any) and any items submitted by Members or Officers of the Council.

**ITEM 'C'** Applications for determination by the County Council on which observations are required (if any); consultations received from neighbouring Local Authorities on which observations are required (if any); and/or consultations submitted in relation to Crown applications in accordance with the Planning Practice Guidance on which observations are required (if any).

## **AGENDA ITEM NO. 4**

### **ITEM A**

#### **APPLICATIONS FOR DETERMINATION BY COMMITTEE: FULL REPORT**

**3 October 2022**

#### **CONTENTS**

Case No.	Site Address	Parish/Town Council
22/01047/COU	76 Giles Road Lichfield	Lichfield
22/01081/COU	78 Giles Road Lichfield	Lichfield

 <b>Lichfield</b> district council <a href="http://www.lichfielddc.gov.uk">www.lichfielddc.gov.uk</a> District Council House Frog Lane Lichfield Staffs WS13 6YY  Telephone: 01543 308000 <a href="mailto:enquiries@lichfielddc.gov.uk">enquiries@lichfielddc.gov.uk</a>	<h1>LOCATION PLAN</h1> <p>76 Giles Road Lichfield Staffordshire WS13 7JY</p>	Scale: 1:750	Dated: October 2022	
		Drawn By:		
		Drawing No:		
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## **22/01047/COU**

**Retention of change of use from scrub verge to residential garden and new boundary fence**

**76 Giles Road, Lichfield, WS13 7JY**

**For: Cheryl Rooke**

Registered **18/07/2022**

**Parish: Lichfield**

**Note:** This application is being reported to the Planning Committee due to the application being called in by Councillor Colin Ball, elected member for Curborough Ward on the following grounds:

- Design- the boundary treatment is not in keeping.
- Ecology- loss of a tree and mature bramble hedge have led to a reduction in biodiversity. Compensation should be agreed.
- Highways- impact on St Catherine's Road.
- Planning Policy- the height of the fence may breach SPD guidance.
- Probity- This is a retrospective application for unauthorised work and boundary change on land originally not owned by the applicant and should not be supported, as it gives the green light for other unauthorised works.
- Residential Amenity- Residents of 2, 4, 6 and 8 St. Catherine's Road now have a loss of privacy because of the removal of the mature bramble hedge.

**Note:** This report should be read in conjunction with the report for 22/01081/COU as the two applications are for neighbouring properties and are intrinsically linked.

**RECOMMENDATION: Approve, subject to the following conditions:**

### **CONDITIONS**

1. The development authorised by this permission shall be retained in complete accordance with the approved plans and specification, as listed on this decision notice, except insofar as may be otherwise required by other conditions to which this permission is subject.

Reason:

For the avoidance of doubt and in accordance with the applicant's stated intentions, in order to meet the requirements of Policies CP2, CP3, BE1 and NR7 of the Lichfield Local Plan Strategy, the Sustainable Design SPD, the Biodiversity and Development SPD, the Trees, Landscaping and Development SPD and Government Guidance contained in the National Planning Practice Guidance and the National Planning Policy Framework.

### **NOTES TO APPLICANT:**

1. The Development Plan comprises the Lichfield District Local Plan Strategy (2015) and Lichfield District Local Plan Allocations (2019) and the Lichfield City Neighbourhood Plan (2018).
2. The applicant's attention is drawn to The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2017, which requires that any written request for compliance of a planning condition(s) shall be accompanied by a fee of £34 for a householder application or £116 for any other application including reserved matters. Although the Council will endeavour to deal with such applications in a timely manner, it should be noted that legislation allows a period of up to 8 weeks for the Local Planning Authority to discharge conditions and therefore this timescale should be borne in mind when programming development.

3. The development is considered to be a sustainable form of development which complies with the provisions of paragraph 38 of the NPPF.
  4. Severn Trent Water standard advise is that there may be a public sewer located within the application site. Even where statutory sewer records do not show any public sewers within the application area, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact Severn Trent Water at the earliest opportunity to discuss the implications of their assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.
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## **PLANNING POLICY**

### **National Planning Policy**

National Planning Policy Framework

National Planning Practice Guidance

### **Local Plan Strategy**

Core Policy 1: The Spatial Strategy

Core Policy 2: Presumption in Favour of Sustainable Development

Core Policy 3: Delivering Sustainable Development

Policy BE1: High Quality Development

### **Supplementary Planning Document**

Sustainable Design SPD

Biodiversity & Development SPD

Trees, Landscaping and Development SPD

### **Lichfield City Neighbourhood Plan (2018)**

No relevant policies.

### **Lichfield District Local Plan 2040**

The emerging Lichfield District Local Plan 2040 has completed its Regulation 19 public consultation stage (August 2021) and the draft Local Plan has been submitted to the Secretary of State for the Department for Levelling Up, Housing and Communities. Planning Inspectors have been appointed, however no date for public examination has been set. At this stage limited weight is given to the draft Emerging Local Plan Policies.

## **CONSULTATIONS**

**Lichfield City Council** - Object as the applicant has failed to demonstrate the development will provide a net gain for biodiversity. In fact the removal of the established blackberry bushes is a loss in biodiversity and loss of habitat for invertebrates and small birds and animals. (12.08.2022)

## **LETTERS OF REPRESENTATION**

Seven letters of representation were received, 5 raising objections to the proposals and 2 in support. The objections raised are summarised as follows:

- The area of land in question was not overgrown scrubland but contained a blackberry bush maintained and enjoyed by local residents.
- Residents of St Catherine's road now look out on the industrial, cheap fencing that has been constructed in the place of the bushes.
- Concerns over the privacy and outlook of no.2 and no.8 St Catherine's Road as a result of the works completed.
- Works were conducted early in the morning on a bank holiday weekend.
- Concerns about a change of levels being proposed and the structural security of the fencing that has been installed.
- Object to the installation of a gate access onto St Catherine's Road.
- The existing area was well maintained and did not impede the footpath.
- Residents of St Catherine's Road were not consulted and consideration was not given to the local community.
- Approving this retrospective application would set a bad precedent and encourage bad behaviours.

The comments received in support are summarised as follows:

- The changes are in keeping with other properties in close proximity and sympathetic to the local area.
- They are an improvement on the accumulated weeds, debris and unhygienic refuse deposited by members of the public over the course of many years.
- Any privacy derived from trees to the rear of No.76 only occurred during the summer months as they were deciduous trees.

#### **PLANS CONSIDERED AS PART OF THIS RECOMMENDATION**

A101 Location Plan dated as received 11 July 2022

A201 Existing Plans and Elevations dated as received 11 July 2022

A301 Proposed Plans and Elevations dated as received 11 July 2022

#### **OBSERVATIONS**

##### **Site and Location**

The application property is located in a residential area to the south of Giles Road, Lichfield. The rear garden of the property slopes down to the rear and backs onto St Catherine's Road. There is an area of land that stretches approximately 2 meters beyond the original southern boundary of the rear garden of the property and borders the highway of St Catherine's Road. This area of land was originally separated from the garden of the application property by a dwarf wall with brick pillars and a timber fence over along the original rear boundary of the application site. The original boundary treatment has been removed and has now been replaced by a new 2m high close board fence that envelopes the area of land to the rear into the existing garden. The rear boundary of the new fence abuts St Catherine's Road. The area of land which has been enclosed is now in the ownership of the applicant.

The site is within the 15km area of the Zone of Influence for Cannock Chase Special Area of Conservation

##### **Proposals**

This application seeks permission for the retention of the change of use from a scrub verge to residential garden and a new boundary fence with a pedestrian gate onto St Catherine's Road.

The application follows the erection of a fence on an area of land approximately 2 meters beyond the existing southern boundary of the rear garden of the property, effectively enveloping this parcel of land into the boundary of the existing garden. A similar development has been carried out to the adjacent property No.78 Giles Road, which is subject to a separate report elsewhere on this agenda.

The application is supported by a planning statement.

### **Determining Issues**

1. Policy & Principle of Development
2. Design and Impact on the Character of the Area
3. Residential Amenity
4. Biodiversity
5. Cannock Chase SAC
6. Other Matters
7. Human Rights
8. Conclusion

#### **1. Policy & Principle of Development**

- 1.1 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan, unless material considerations indicate otherwise. The Development Plan for Lichfield District comprises the Local Plan Strategy (2008-2029), adopted in February 2015, the Local Plan Allocations Document (2008-2029), adopted in July 2019 and the Lichfield City Neighbourhood Plan (2018). The Local Plan Policies Maps form part of the Local Plan Allocations Document.
- 1.2 The NPPF sets out a presumption in favour of sustainable development and this is echoed in the Lichfield District Local Plan Strategy Core Policy 2.
- 1.3 The application relates to residential development to an existing dwelling house located within a predominantly residential area. The application site is sustainably located within the settlement boundaries for Lichfield as identified in the Local Plan and as such, the principle of the proposal is considered to be acceptable. However, proposals that are acceptable in principle are subject to all other policy tests which will now be discussed in turn.

#### **2. Design and Impact on the Character of the Area**

- 2.1 The NPPF attaches great importance to design of the built environment and sets out that high quality and inclusive design should be applied to all development, including individual buildings, private spaces and wider area development schemes. It also states that development should respond to local character and history, and reflect the identity of local surroundings. This sentiment is echoed in Core Policy 3 of the Local Plan Strategy which states that development should: “protect and enhance the character and distinctiveness of Lichfield District”; “be of a scale and nature appropriate to its locality” and “encourage the re-use of previously developed land”. Policy BE1 of the Local Plan Strategy states ‘development will be permitted where it can be clearly and convincingly demonstrated that it will have a positive impact on new development in terms of layout, size, scale, design and public views’. The policy continues to expand on this point advising that good design should be informed by “appreciation of context, as well as plan, scale, proportion and detail”.
- 2.2 The replacement boundary treatment that has been installed contains timber fencing, gravel boards at the base and a timber gate to the rear of the property. It is noted that objections have been made regarding the materials that have been used with the fencing referred to as ‘cheap and industrial’. However, it is the case that timber fencing with gravel boards is prevalent in the local area with examples found on Giles Road and Francis Road. Furthermore,

the design is consistent with a residential boundary treatment, ensuring a satisfactory appearance.

- 2.3 Given the above it is considered that the development is acceptable. In terms of overall design and impacts on the character of the area, it is considered that the proposals meet the design requirements of Policy BE1 and Core Policy CP3 of the Lichfield Local Plan Strategy.

### 3. Residential Amenity

- 3.1 Paragraph 130(f) of the NPPF states 'planning policies and decisions should ensure that developments [amongst other things] 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. Similarly, Core Policy 3 of the Lichfield Local Plan Strategy states that development should "protect the amenity of our residents".

- 3.2 Policy BE1 of the Local Plan Strategy states that development should have a positive impact upon amenity by avoiding development which causes disturbance through unreasonable traffic generation, noise, light, dust, fumes or other disturbance. When assessing the impact of development on the neighbouring properties reference should be made to Appendix A of the Sustainable Design SPD which contains guidelines to assess the impact of development on the amenities of neighbouring dwellings.

- 3.3 The potential for the proposal to impact on the privacy and amenity enjoyed by the occupiers of the residents of St Catherines Road has been given full consideration. The Sustainable Design SPD requires at least 21m between dwellings where primary principal habitable windows face each other. In this case there is a 34m separation between the rear elevations of 76 and 78 Giles road and the front elevations of the facing properties on St Catherines Road. Therefore, although the works may have resulted in a loss of vegetative screening, the separation distances would be met with respect to principal windows and it is therefore considered that an acceptable level of outlook, light and privacy would be retained for the occupiers of the application site and the properties to the rear.

- 3.4 It is noted that concerns were raised regarding a change of levels being included as part of the application with potential implications for neighbouring amenity and the structural soundness of the fencing. However, a change of levels is not proposed as part of this application and any approval given would not include any permissions relating to a change in levels of the rear garden.

- 3.5 It is therefore considered that a high standard of residential amenity would be maintained for all existing and future occupiers of the host property and those of neighbouring properties in accordance with policies CP3 and BE1 of the Lichfield Local Plan Strategy and paragraph 130(f) of the NPPF.

### 4. Biodiversity

- 4.1 Policy NR3 of the Local Plan Strategy states that development will only be permitted where it "Protects, enhances, restores and implements appropriate conservation managements of the biodiversity and/or geodiversity value of the land and buildings". It further requires that all development deliver a net gain for biodiversity.

- 4.2 In this respect it is noted that objections were made regarding the biodiversity implications of the development. Neighbours contended the submitted description of the site as 'scrubland' was incorrect and that the site was actually well maintained, containing blackberry bushes. However, the area was not known to support any species or habitat that has special conservation status or ecological value. In respect to the issue of the provision of net gain, this should be proportionate to the scale of the proposal. The proposal in question would generally fall below the threshold for what would be considered proportionate to provide a net gain for biodiversity when dealing with a new development. It is noted that the area



would be retained as garden area which is likely to include planting and grass areas. It is therefore concluded, on balance, that although the proposal would not be in strict accordance with Policy NR3 of the Local Plan on balance the proposal is acceptable without requiring any net gain for biodiversity.

5. Cannock Chase SAC

- 5.1 Policy NR7 of The Lichfield Local Plan Strategy states that before development is permitted it must be demonstrated that either alone or in combination with other developments the proposal will not be likely to lead directly or indirectly to an adverse effect on the integrity of the Special Area of Conservation (SAC).
- 5.2 The provisions of the Conservation of Habitats and Species Regulations 2017, require that the Local Planning Authority, as the competent authority, must have further consideration, beyond planning policy matters, to the impacts of the development on the Cannock Chase SAC.
- 5.3 A Habitat Regulation Assessment has been completed which has screened out the requirement for an Appropriate Assessment as the development will not increase the number of dwellings within the defined zone of influence for the Cannock Chase SAC. Where the number of dwellings does not increase through the development proposals there is no requirement for mitigation through a financial contribution. It is therefore considered that the proposals will not have an adverse impact on the Cannock Chase SAC.

6. Other matters

- 6.1 Other concerns have been raised by the occupiers of neighbouring properties which have not been addressed in the main body of the report. These will now be addressed.
- 6.2 In respect to the timing of works and works being completed on a bank holiday weekend. This is not a material planning consideration.
- 6.3 In respect to the opposition to the new pedestrian access from the rear garden to St Catherine's Road in the form of a gate, Officers would advise that this does not breach any local or national planning policy. It is not considered that the development raises any issues in respect of highway safety.
- 6.4 It is noted that concerns have been raised that residents of St Catherine's Road were not consulted and consideration was not given to the local community. The publicity requirements for a planning application, which includes notification by individual letter to neighbouring residents has been complied with.
- 6.4 In respect to the assertion that if permission was granted it would set a precedent for future development Officers advise that as the application is policy compliant and acceptable in planning terms it is not considered that the precedent argument is material in this case. Consequently, the issue of precedence should be given very little weight in these circumstances.

7. Human Rights

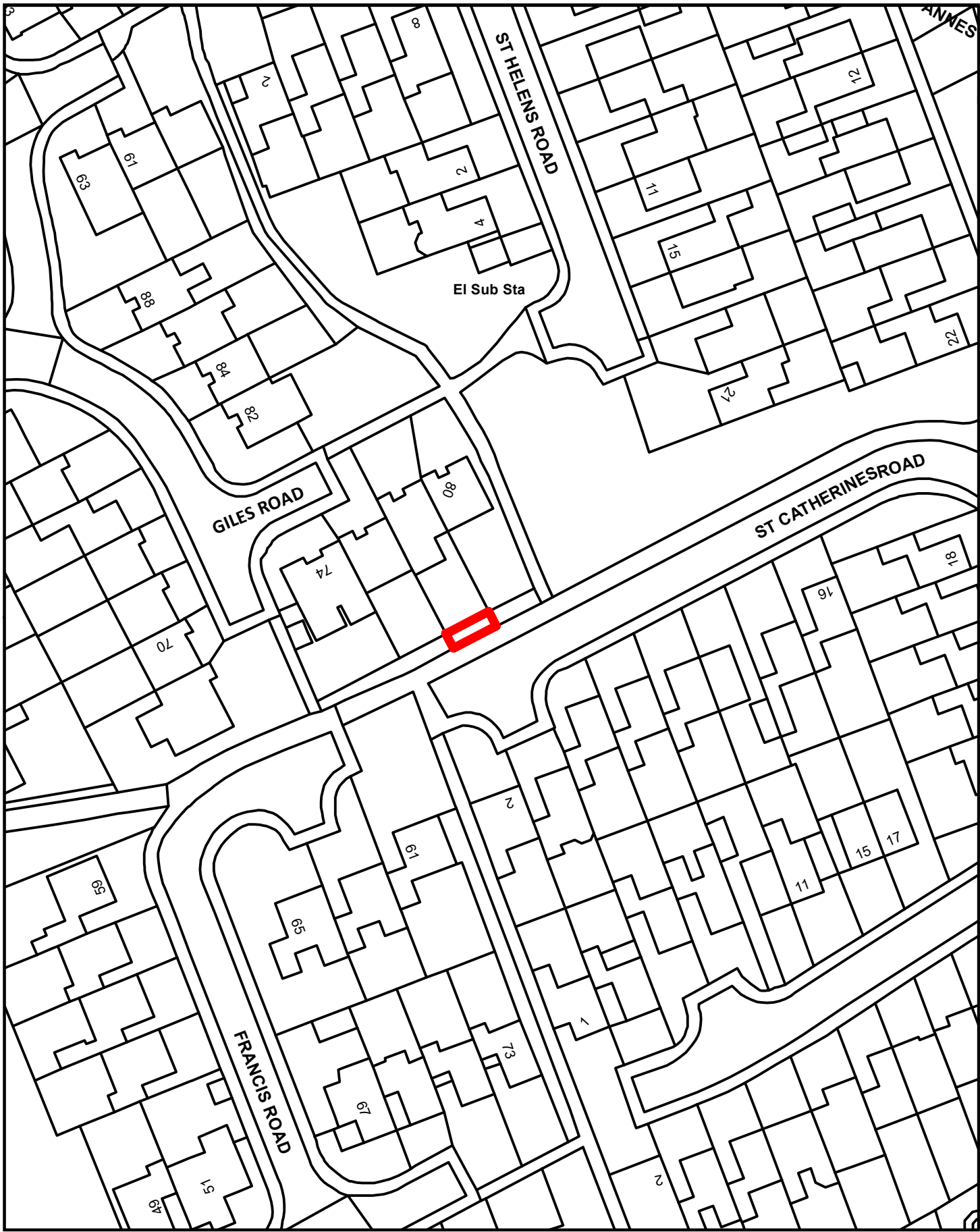
- 7.1 The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with an individual's rights under Article 8 of Schedule 1 to the Human Rights Act, which provides that everyone has the right to respect for their private and family life, home and correspondence. Interference with this right can only be justified if it is in accordance with the law and is necessary in a democratic society. The potential interference here has been fully considered within the report in having regard to the

representations received and, on balance, is justified and proportionate in relation to the provisions of the policies of the development plan and national planning policy.

8. Conclusion

- 8.1 Having had regard to all relevant local and national policies and guidance it is concluded that the proposed development is acceptable in principle at this location. Furthermore, it is considered that the development would not cause harm to the character and appearance of the area, the amenity of neighbouring properties or biodiversity.
- 8.2 Consequently, it is recommended that this application be approved, subject to conditions included in this report.

 <b>Lichfield</b> district council <a href="http://www.lichfielddc.gov.uk">www.lichfielddc.gov.uk</a> District Council House Frog Lane Lichfield Staffs WS13 6YY  Telephone: 01543 308000 <a href="mailto:enquiries@lichfielddc.gov.uk">enquiries@lichfielddc.gov.uk</a>	<h1>LOCATION PLAN</h1> <p>78 Giles Road Lichfield Staffordshire WS13 7JY</p>	Scale: 1:750	Dated: October 2022	
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		Drawing No:		
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## 22/01081/COU

**Retention of change of use from scrub verge to residential garden and new boundary fence**  
**78 Giles Road, Lichfield, WS13 7JY**  
**For: Mr Howard Moth**

Registered **18/07/2022**

**Parish: Lichfield**

**Note:** This application is being reported to the Planning Committee due to the application being called in by Councillor Colin Ball, elected member for Curborough Ward on the following grounds:

- Design- the boundary treatment is not in keeping.
- Ecology- loss of a tree and mature bramble hedge have led to a reduction in biodiversity. Compensation should be agreed.
- Highways- impact on St Catherine's Road.
- Planning Policy- the height of the fence may breach SPD guidance.
- Probity- This is a retrospective application for unauthorised work and boundary change on land originally not owned by the applicant and should not be supported, as it gives the green light for other unauthorised works.
- Residential Amenity- Residents of 2, 4, 6 and 8 St. Catherine's Road now have a loss of privacy because of the removal of the mature bramble hedge.

**Note:** This report should be read in conjunction with the report for 22/01047/COU as the two applications are for neighbouring properties and are intrinsically linked.

**RECOMMENDATION: Approve, subject to the following conditions:**

### CONDITIONS

- 1 The development authorised by this permission shall be retained in complete accordance with the approved plans and specification, as listed on this decision notice, except insofar as may be otherwise required by other conditions to which this permission is subject.

Reason:

For the avoidance of doubt and in accordance with the applicant's stated intentions, in order to meet the requirements of Policies CP2, CP3, BE1 and NR7 of the Lichfield Local Plan Strategy, the Sustainable Design SPD, the Biodiversity and Development SPD, the Trees, Landscaping and Development SPD and Government Guidance contained in the National Planning Practice Guidance and the National Planning Policy Framework.

### NOTES TO APPLICANT:

1. The Development Plan comprises the Lichfield District Local Plan Strategy (2015) and Lichfield District Local Plan Allocations (2019) and the Lichfield City Neighbourhood Plan (2018).
2. The applicant's attention is drawn to The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2017, which requires that any written request for compliance of a planning condition(s) shall be accompanied by a fee of £34 for a householder application or £116 for any other application including reserved matters. Although the Council will endeavour to deal with such applications in a timely manner, it should be noted that legislation allows a period of up to 8 weeks for the Local Planning Authority to discharge conditions and therefore this timescale should be borne in mind when programming development.

3. The development is considered to be a sustainable form of development which complies with the provisions of paragraph 38 of the NPPF.
  4. Severn Trent Water standard advise is that there may be a public sewer located within the application site. Even where statutory sewer records do not show any public sewers within the application area, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact Severn Trent Water at the earliest opportunity to discuss the implications of their assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.
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## **PLANNING POLICY**

### **National Planning Policy**

National Planning Policy Framework

National Planning Practice Guidance

### **Local Plan Strategy**

Core Policy 1: The Spatial Strategy

Core Policy 2: Presumption in Favour of Sustainable Development

Core Policy 3: Delivering Sustainable Development

Policy BE1: High Quality Development

### **Supplementary Planning Document**

Sustainable Design SPD

Biodiversity & Development SPD

Trees, Landscaping and Development SPD

### **Lichfield City Neighbourhood Plan (2018)**

No relevant policies

### **Lichfield District Local Plan 2040**

The emerging Lichfield District Local Plan 2040 has completed its Regulation 19 public consultation stage (August 2021) and the draft Local Plan has been submitted to the Secretary of State for the Department for Levelling Up, Housing and Communities. Planning Inspectors have been appointed, however no date for public examination has been set. At this stage limited weight is given to the draft Emerging Local Plan Policies.

## **CONSULTATIONS**

**Lichfield City Council** - Object as the applicant has failed to demonstrate the development will provide a net gain for biodiversity. In fact the removal of the established blackberry bushes is a loss in biodiversity and loss of habitat for invertebrates and small birds and animals. (12.08.2022)

## **LETTERS OF REPRESENTATION**

Seven letters of representation were received, 5 raising objections to the proposals and 2 in support. The comments of the objections made are summarised as follows: -

- The area of land in question was not overgrown scrubland but contained a blackberry bush maintained and enjoyed by local residents.
- Residents of St Catherine's road now look out on the industrial, cheap fencing that has been constructed in the place of the bushes.
- Concerns over the privacy and outlook of no.2 and no.8 St Catherine's Road as a result of the works completed.
- Works were conducted early in the morning on a bank holiday weekend.
- Concerns about a change of levels being proposed and the structural security of the fencing that has been installed.
- Object to the installation of a gate access onto St Catherine's Road.
- The existing area was well maintained and did not impede the footpath.
- Residents of St Catherine's Road were not consulted and consideration was not given to the local community.
- Approving this retrospective application would set a bad precedent and encourage bad behaviours.

The comments in support of the proposal are summarised as follows

- The changes are in keeping with other properties in close proximity and sympathetic to the local area.
- They are an improvement on the accumulated weeds, debris and unhygienic refuse deposited by members of the public over the course of many years.
- Any privacy derived from trees to the rear of No.76 only occurred during the summer months as they were deciduous trees.

#### **PLANS CONSIDERED AS PART OF THIS RECOMMENDATION**

A101 Location Plan dated as received 18 July 2022

A201 Existing Plans and Elevations dated as received 18 July 2022

A301 Proposed Plans and Elevations dated as received 18 July 2022

#### **OBSERVATIONS**

##### **Site and Location**

The application property is located in a residential area to the south of Giles Road, Lichfield. The rear garden of the property slopes down to the rear and backs onto St Catherine's Road. There is an area of land that stretches approximately 2 meters beyond the southern boundary of the rear garden of the property and borders the highway of St Catherine's Road. This area of land was originally separated from the garden of the property by a dwarf wall with brick pillars and a timber fence and has now been replaced by a new 2m high close board fence that envelopes the area of land into the existing garden. The area of land which has been enclosed is now in the ownership of the applicant.

The site is within the 15km area of the Zone of Influence for Cannock Chase Special Area of Conservation.

##### **Proposals**

This application seeks permission for the retention of the change of use from a scrub verge to residential garden and a new boundary fence which includes a pedestrian gate providing access onto St Catherine's Road.

The application follows the erection of a fence on an area of land approximately 2 meters beyond the existing southern boundary of the rear garden of the property, effectively enveloping this parcel of land into the boundary of the existing garden. A similar development has been carried out to the adjacent property No.76 Giles Road, which is subject to a separate report elsewhere on this agenda.

The application is supported by a planning statement.

## **Determining Issues**

1. Policy & Principle of Development
2. Design and Impact on the Character of the Area
3. Residential Amenity
4. Biodiversity
5. Cannock Chase SAC
6. Other Matters
7. Human Rights
8. Conclusion

### **1. Policy & Principle of Development**

- 1.1 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan, unless material considerations indicate otherwise. The Development Plan for Lichfield District comprises the Local Plan Strategy (2008-2029), adopted in February 2015, the Local Plan Allocations Document (2008-2029), adopted in July 2019 and the Lichfield City Neighbourhood Plan (2018). The Local Plan Policies Maps form part of the Local Plan Allocations Document.
- 1.2 The NPPF sets out a presumption in favour of sustainable development and this is echoed in the Lichfield District Local Plan Strategy Core Policy 2.
- 1.3 The application relates to residential development to an existing dwelling house located within a predominantly residential area. The application site is sustainably located within the settlement boundaries for Lichfield as identified in the Local Plan and as such, the principle of the proposal is considered to be acceptable. However, proposals that are acceptable in principle are subject to all other policy tests which will now be discussed in turn.

### **2. Design and Impact on the Character of the Area**

- 2.1 The NPPF attaches great importance to design of the built environment and sets out that high quality and inclusive design should be applied to all development, including individual buildings, private spaces and wider area development schemes. It also states that development should respond to local character and history, and reflect the identity of local surroundings. This sentiment is echoed in Core Policy 3 of the Local Plan Strategy which states that development should: “protect and enhance the character and distinctiveness of Lichfield District”; “be of a scale and nature appropriate to its locality” and “encourage the re-use of previously developed land”. Policy BE1 of the Local Plan Strategy states ‘development will be permitted where it can be clearly and convincingly demonstrated that it will have a positive impact on new development in terms of layout, size, scale, design and public views’. The policy continues to expand on this point advising that good design should be informed by “appreciation of context, as well as plan, scale, proportion and detail”.
- 2.2 The replacement boundary treatment that has been installed contains timber fencing, with gravel boards at the base and a timber gate to the rear of the application site. It is noted that objections have been made regarding the materials that have been used with the fencing referred to as ‘cheap and industrial’. However, it is the case that timber fencing with gravel boards is prevalent in the local area with examples found on Giles Road and Francis Road.

Furthermore, the design is consistent with a residential boundary treatment, ensuring a satisfactory appearance.

- 2.3 Given the above it is considered that the development is acceptable. In terms of overall design and impacts on the character of the area, it is considered that the proposals meet the design requirements of Policy BE1 and Core Policy CP3 of the Lichfield Local Plan Strategy.

### 3. Residential Amenity

- 3.1 Paragraph 130(f) of the NPPF states ‘planning policies and decisions should ensure that developments [amongst other things] 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. Similarly, Core Policy 3 of the Lichfield Local Plan Strategy states that development should “protect the amenity of our residents”.

- 3.2 Policy BE1 of the Local Plan Strategy states that development should have a positive impact upon amenity by avoiding development which causes disturbance through unreasonable traffic generation, noise, light, dust, fumes or other disturbance. When assessing the impact of development on the neighbouring properties reference should be made to Appendix A of the Sustainable Design SPD which contains guidelines to assess the impact of development on the amenities of neighbouring dwellings.

- 3.3 The potential for the proposal to impact on the privacy and amenity enjoyed by the occupiers of the residents of St Catherines Road has been given full consideration in the assessment of the proposals. The Sustainable Design SPD requires at least 21m between dwellings where primary principal habitable windows face each other. In this case there is a 34m separation between the rear elevations of 76 and 78 Giles road and the front elevations of the facing properties on St Catherines Road. Therefore, although the works may have resulted in a loss of vegetative screening, the separation distances would be met with respect to principal windows and it is therefore considered that an acceptable level of outlook, light and privacy would be retained for the occupiers of the application site and the properties to the rear.

- 3.4 It is noted that concerns were raised regarding a change of levels being included as part of the application with potential implications for neighbouring amenity and the structural soundness of the fencing. However, a change of levels is not proposed as part of this application and any approval given would not include any permissions relating to a change in levels of the rear garden.

- 3.5 It is therefore considered that a high standard of residential amenity would be maintained for all existing and future occupiers of the host property and those of neighbouring properties in accordance with policies CP3 and BE1 of the Lichfield Local Plan Strategy and paragraph 130(f) of the NPPF.

### 4. Biodiversity

- 4.1 Policy NR3 of the Local Plan Strategy states that development will only be permitted where it “Protects, enhances, restores and implements appropriate conservation managements of the biodiversity and/or geodiversity value of the land and buildings”. It further requires that all development deliver a net gain for biodiversity.

- 4.2 In this respect it is noted that objections were made regarding the biodiversity implications of the development. Neighbours contended the submitted description of the site as ‘scrubland’ was incorrect and that the site was actually well maintained, containing blackberry bushes. However, the area was not known to support any species or habitat that has special conservation status or ecological value. In respect to the issue of the provision of net gain, this should be proportionate to the scale of the proposal. The proposal in question would generally fall below the threshold for what would be considered proportionate to provide a net gain for biodiversity when dealing with a new development. It is noted that the area



would be retained as garden area which is likely to include planting and grass areas. It is therefore concluded, on balance, that although the proposal would not be in strict accordance with Policy NR3 of the Local Plan on balance the proposal is acceptable without requiring any net gain for biodiversity.

5. Cannock Chase SAC

- 5.1 Policy NR7 of The Lichfield Local Plan Strategy states that before development is permitted it must be demonstrated that either alone or in combination with other developments the proposal will not be likely to lead directly or indirectly to an adverse effect on the integrity of the Special Area of Conservation (SAC).
- 5.2 The provisions of the Conservation of Habitats and Species Regulations 2017, require that the Local Planning Authority, as the competent authority, must have further consideration, beyond planning policy matters, to the impacts of the development on the Cannock Chase SAC.
- 5.3 A Habitat Regulation Assessment has been completed which has screened out the requirement for an Appropriate Assessment as the development will not increase the number of dwellings within the defined zone of influence for the Cannock Chase SAC. Where the number of dwellings does not increase through the development proposals there is no requirement for mitigation through a financial contribution. It is therefore considered that the proposals will not have an adverse impact on the Cannock Chase SAC.

6. Other matters

- 6.1 Other concerns have been raised by the occupiers of neighbouring properties which have not been addressed in the main body of the report. These will now be addressed.
- 6.2 In respect to the timing of works and works being completed on a bank holiday weekend. This is not a material planning consideration.
- 6.3 In respect to the opposition to the new pedestrian access from the rear garden to St Catherine's Road in the form of a gate, Officers would advise that this does not breach any local or national planning policy. It is not considered that the development raises any issues in respect of highway safety.
- 6.4 It is noted that concerns have been raised that residents of St Catherine's Road were not consulted and consideration was not given to the local community. The publicity requirements for a planning application, which includes notification by individual letter to neighbouring residents has been complied with.
- 6.5 In respect to the assertion that if permission was granted it would set a precedent for future development Officers advise that as the application is policy compliant and acceptable in planning terms it is not considered that the precedent argument is material in this case. Consequently, the issue of precedence should be given very little weight in these circumstances.

7. Human Rights

- 7.1 The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with an individual's rights under Article 8 of Schedule 1 to the Human Rights Act, which provides that everyone has the right to respect for their private and family life, home and correspondence. Interference with this right can only be justified if it is in accordance with the law and is necessary in a democratic society. The potential interference here has been fully considered within the report in having regard to the

representations received and, on balance, is justified and proportionate in relation to the provisions of the policies of the development plan and national planning policy.

8. Conclusion

- 8.1 Having had regard to all relevant local and national policies and guidance it is concluded that the proposed development is acceptable in principle at this location. Furthermore, it is considered that the development would not cause harm to the character and appearance of the area, the amenity of neighbouring properties or biodiversity.
- 8.2 Consequently, it is recommended that this application be approved, subject to conditions included in this report.