

# Planning Committee

1 July 2019

## Agenda Item 4

Contact Officer: Claire Billings

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### Report of the Director of Place and Community

#### 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 (2015), saved policies of the Lichfield District Local Plan (1998) as contained in Appendix J of the Lichfield District Local Plan Strategy (2015) and an adopted Neighbourhood Plan for the relevant area.
- 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** (Gold Sheets)

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

**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). (Gold Sheets)

## **AGENDA ITEM NO. 4**

### **ITEM A**

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

**1 July 2019**

#### **CONTENTS**

Case No.	Site Address	Parish/Town Council
19/00550/FUL	Little Aston Park Little Aston	Shenstone
19/00584/FUL	Hawkesyard Estate Armitage Lane Armitage	Armitage With Handsacre

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district council

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# LOCATION PLAN

19/00550/FUL  
Little Aston Park  
Little Aston  
Sutton Coldfield

Scale: 1:3,000

Dated: July 2019

Drawn By:

Drawing No:



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# BLOCK PLAN

19/00550/FUL

Little Aston Park Little Aston  
(Junction of Park Drive with  
Rosemary Hill Road)

Scale:

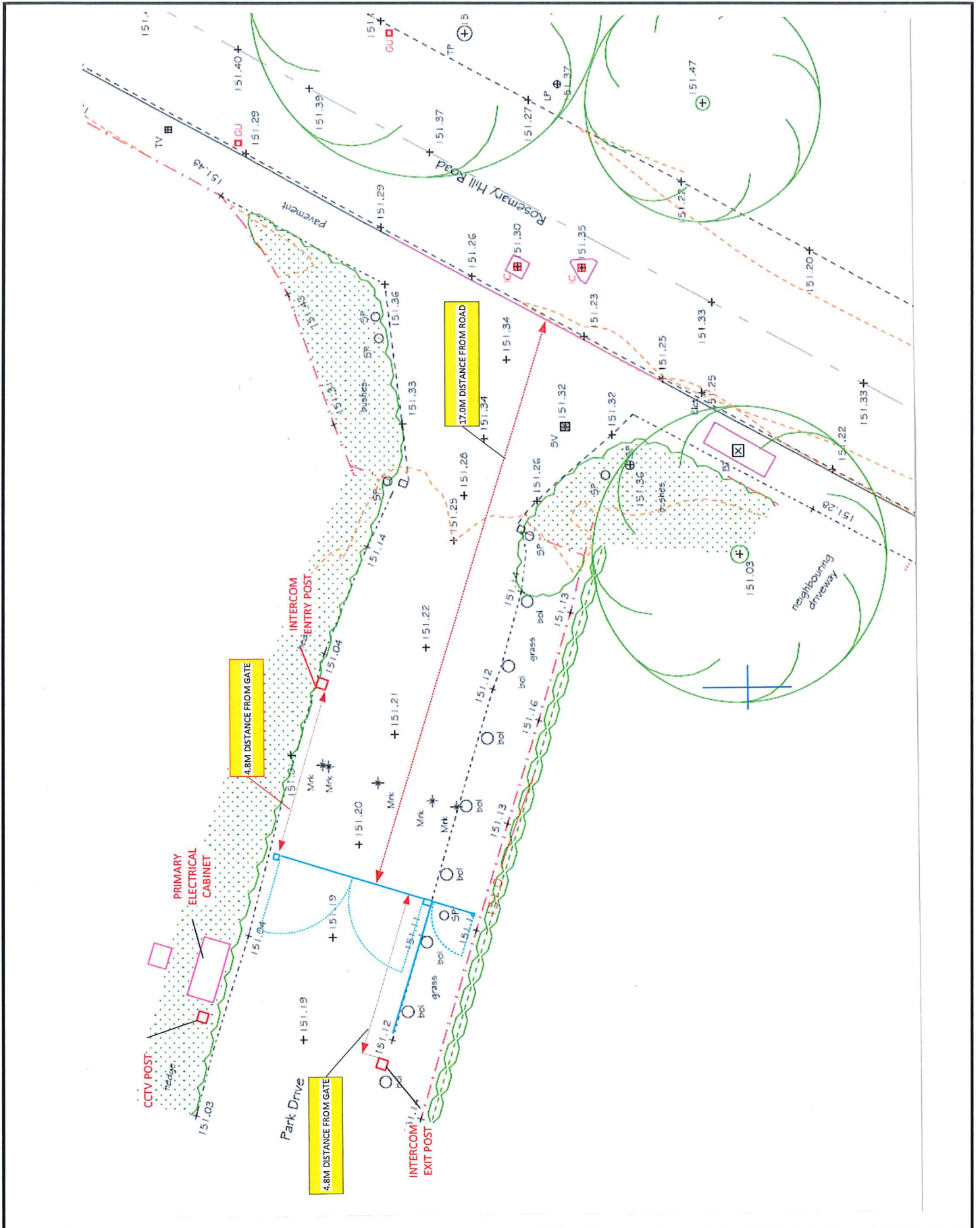
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July 2019

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## 19/00550/FUL

**ERECTION OF 3 SETS OF SECURITY GATES, CCTV AND ASSOCIATED FACILITIES (JUNCTIONS OF KEEPERS ROAD WITH WALSALL ROAD, ENDWOOD DRIVE WITH ROSEMARY HILL ROAD AND PARK DRIVE WITH ROSEMARY HILL ROAD)  
LITTLE ASTON PARK, LITTLE ASTON, SUTTON COLDFIELD, STAFFORDSHIRE  
FOR LAPRA LTD**

Registered **25/04/2019**

**Parish: Shenstone**

**Note:** This application is being reported to the Planning Committee as it has deemed appropriate to do so by the Planning Development Manager and a Principal Planning Officer, due to the significant number of representations received from local residents.

**RECOMMENDATION:** REFUSE, for the following reason:

1. The proposed development, by reason of the lack of any vehicular turning facilities, has the potential to result in vehicles reversing onto busy public highways. This would create a hazardous situation which would be to the detriment of highway safety. The development would therefore be contrary to Core Policy 5 of the Lichfield Local Plan Strategy and guidance contained within the National Planning Policy Framework.

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### **PLANNING POLICY**

#### **National Planning Policy**

National Planning Policy Framework  
National Planning Practice Guidance

#### **Lichfield District Council Local Plan Strategy 2008 - 2029**

Core Policy 1 - The Spatial Strategy  
Core Policy 2 - Presumption in Favour of Sustainable Development  
Core Policy 3 - Delivering Sustainable Development  
Core Policy 5 – Sustainable Transport  
Core Policy 10 - Healthy & Safe Lifestyles  
Core Policy 13 – Our Natural Resources  
Core Policy 14 – Our Built & Historic Environment  
Policy ST1 – Sustainable Travel  
Policy BE1 - High Quality Development  
Policy NR3 - Biodiversity, Protected Species & their Habitats  
Policy NR4 - Trees, Woodlands & Hedgerows  
Policy NR5 - Natural & Historic Landscapes  
Policy NR7 – Cannock Chase Special Area of Conservation  
Policy Rural 1 – Rural Areas  
Policy Rural 2 – Other Rural Settlements

#### **Lichfield District Local Plan 1998 (saved policies)**

Policy C2 – Conservation Areas  
Policy SA6 – Little Aston Park

#### **Emerging Lichfield District Council Local Plan Allocations Document 2008 - 2029**

Policy BE2 – Heritage Assets (Emerging)

## **Little Aston Neighbourhood Plan (2016)**

Policy LAP1 – Density of Development in Little Aston Park

Policy MOV3 – Provision of Pedestrian Safety Improvements

### **Supplementary Planning Documents**

Sustainable Design

Trees, Landscaping and Development

Historic Environment

### **Other Documents**

Little Aston Conservation Area Appraisal (2011)

Little Aston Conservation Area Management Plan (2011)

## **RELEVANT PLANNING HISTORY**

N/A

## **CONSULTATIONS**

**Shenstone Parish Council** - No comments received.

**Conservation Team LDC** - There are no conservation objections to the principle of the installation of the gates or their design, there will need to be additional information provided regarding the additional facilities required. Details of the reader pedestals have been submitted, however numerous options have been shown. Details of the exact location and design, along with their proposed finish will be needed. The colour of the gates and associated equipment will need to be unified in order to add to the sense of the parkland estate. The design and finish will have an impact upon the surroundings and therefore details will be needed prior to determination. (16.05.19)

**Tree Officer LDC** - The supplied tree report is acceptable, if minded to approve this application then a condition relating to the tree protection plan needs to be applied. (09.05.19)

**Staffordshire County Council (Highways)** - Further Comments – Recommend refusal. The proposed scheme would create a hazard to users of the public highway (12.06.19)

Initial Comments – The location of the proposed gates and carriageway width at Park Drive and Endwood Drive would necessitate vehicles refused entry or having entered by mistake needing to reverse on to the B4138 Rosemary Hill Road. There is insufficient information for the highway authority to determine an outcome to the application for the following reasons:

- a) The submitted application doesn't include data on the number of vehicles which would enter the gates from Rosemary Hill Road or the A454 Walsall Road.
- b) The submitted application fails to demonstrate that vehicles refused entry at the Walsall Road/Keepers Drive gate would be able to manoeuvre and enter the Walsall Road facing forwards (15.05.19)

**Fire Safety Team** - No comments received.

**West Midlands Ambulance Service** - No comments received.

**Architectural Liaison Officer** - No objections to these proposals. If this application progresses, provision of CCTV requirements and automated gate guidance and recommendations can be provided. (07.06.19)



**Birmingham City Council** - Object to the proposal on the following points;

- The provision of access gates would impede access on the roads in questions and likely adversely impact upon highway safety in terms of free flow of vehicular traffic, waiting of vehicles and unauthorised manoeuvres should entry not be provided.
- The provision of access gates will result in the creation of a gated community which undermines community integration/cohesion and goes against open access and positive planning and place making for all.
- How will emergency vehicles gain access? Whatever mechanism that is used for access for emergency vehicles it is likely that some delay will occur. (21.05.19)

#### **OTHER BACKGROUND DOCUMENTS**

Planning Statement  
Camera Equipment Supporting Information  
Ancillary Equipment Supporting Information  
Transport Survey (submitted 16/05/19)

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#### **LETTERS OF REPRESENTATION**

123 letters of representation have been received in respect of this application. The comments made are summarised below:

Object (68 comments):

- The proposal will cause chaos at each entrance;
- There will be tailbacks onto the roads;
- Gates won't stop people entering;
- Right to access will be removed;
- The roads are private and maintained at private expense;
- Lack of consultation from management company;
- Cars will be forced to reverse on main roads;
- Emergency vehicles will be impeded;
- Gated communities are socially divisive;
- The level of crime is not as described;
- No evidence of pedestrian safety is at risk;
- We have legal access at all times which will stop;
- Gates will make it more difficult to access properties;
- Physical look on the street scene will be bad;
- Not enough space at each entrance to turn around;
- Tree protection is to be close to our own entrance;
- Gates appear to be crossing our boundary;
- Precedent for gated entrances will be set;
- Our management company have not informed us;
- Are these gates compliant with legislation;
- Detrimental traffic congestion;
- Access to church & golf club will be impinged;
- Creating fear is unfair;
- How will delivery drivers access;
- Undermines community ethos.

### Support (55 comments):

- The gates will enhance safety;
  - This will reduce traffic and speed along this private estate;
  - The gates will reduce crime in the area;
  - They will block undesirable access to area;
  - There are other gated communities in close proximity (Four Oaks Estate);
  - Safer for pedestrians and cyclists;
  - Many properties are already gated within the park;
  - There is no right of way across this private land;
  - Crime will continue to increase without gates;
  - Too many open accesses to the estate;
  - Too many residents being targeted daily;
  - Technology is advanced so this is a viable solution;
  - Traffic will be forced to slow down;
  - Volume of traffic will be reduced;
  - Peace of mind for all residents;
  - Traffic control will be better;
  - Too many comments made from people outside the park.
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### **OBSERVATIONS**

#### **Site and Location**

The application site is located within the settlement of Little Aston as defined by the Local Plan Policies Map. The application relates to three sites located on three private access roads into Little Aston Park, Little Aston, which is a private estate managed by LAPRA Ltd (Little Aston Park Residents Association). The entire park, including the application sites, lie within the Little Aston Conservation Area. The surrounding area is predominantly residential, and is characterised by primarily large detached dwellings sited within large residential curtilages.

The first site relates to land at Keepers Road which is located to the north of the park and joins onto the public highway at Walsall Road, Little Aston. The road is adjoined by a narrow grass verge and mature hedgerows and trees. The trees on the northern side of Keepers Road, which lie adjacent to Walsall Road, are covered by a TPO. The second site relates to land at Park Drive located to the east of the park and joins onto Rosemary Hill Road. The road is adjoined by a narrow grass verge and mature hedgerows and trees. The third site relates to land at Endwood Drive which also joins Rosemary Hill Road to the east. The road is adjoined by a grass verges, driveway access points and mature hedgerows and trees. The trees on the southern side of Endwood Road, which are adjacent to Rosemary Hill Road are covered by TPO. Rosemary Hill Road is under shared ownership with the northbound carriageway owned by Staffordshire County Council and the southbound carriageway owned by Birmingham City Council.

All of the sites serve as main access points to the estate and, there is signage on each access point stating that they are private roads. The estate's roads are tarmacked and have traffic calming measures in place and the estate roads do not have designated pedestrian footpaths.

#### **Proposals**

This application seeks permission for the erection of 3 sets of security gates, CCTV and associated facilities at the junctions of Keepers Road with Walsall Road, Endwood Drive with Rosemary Hill Road and Park Drive with Rosemary Hill Road. The gates would operate automatically with a key fob for entry and exit. It is also proposed to operate a code system as another method of access.

## Keepers Road

The gates would be set back 17 metres from the public highway at Walsall Road. The gates would measure 2.1m in height; the gate posts 1.65m and the two pedestrian gates either side would measure 1.83m in height. The entire gate structure would have a total width of 7.3m. The gates would be fabricated from metal railings. 1m high railings are also proposed, for a distance of 4.7m, to separate pedestrians from vehicles, are also proposed. The scheme also includes the installation of ancillary infrastructure including an intercom post either side of the gate, and a CCTV post.

## Park Drive

The gates would be set back 17 metres from the edge of the public highway at Rosemary Hill Road. The gates would measure 2.1m in height; the gate posts 1.65m and the pedestrian gate would measure 1.83m. The entire gate structure would have a total width of 5.9m. The gates would be fabricated from metal railings. 1m high railings are also proposed, for a distance of 4.7m, to separate pedestrians from vehicles, are also proposed. The scheme also includes the installation of ancillary infrastructure including an intercom post either side of the gate, and a CCTV post.

## Endwood Drive

The gates would be set back 12 metres from the public highway at Rosemary Hill Road. The gates would measure 2.1m in height; the gate posts 1.65m and the pedestrian gate would measure 1.83m. The entire gate structure would have a total width of 5.9m. The gates would be fabricated from metal railings. 1m high railings are also proposed, for a distance of 4.7m, to separate pedestrians from vehicles, are also proposed. The scheme also includes the installation of ancillary infrastructure including an intercom post either side of the gate, and a CCTV post.

## **Determining Issues**

1. Policy & Principle of Development
2. Design including Impact upon the Character and Appearance of Heritage Assets
3. Residential Amenity
4. Access and Highway Safety
5. Impact on Trees
6. Human Rights

### 1. 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 Lichfield District Local Plan (1998) (saved policies) and the Local Plan Strategy 2008-2019, and the adopted (made) Little Aston Neighbourhood Plan (2016).

1.2 The application proposes the installation of security gates and associated infrastructure to be provided across three access roads into the Little Aston Park estate. The application site lies within the settlement of Little Aston, as defined by the Local Plan Policies Map within a predominantly residential area. There are no specific policies which relate to the application proposals, however Policy Rural 1: Rural Areas of the Local Plan Strategy, states that improvements to social, community and environmental infrastructure will be supported where these address the needs of the village and are sustainably located, and do not conflict with other Core Policies. The principle of the development is considered to be acceptable provided there is no adverse harm arising from the development. Therefore, the main considerations in this instance are the impact of the development on the Little Aston Conservation Area; the impact upon protected trees and hedgerows; the impact on highway safety; and the impact upon residential amenity. These issues are discussed below.

## 2. Design including Impact upon the Character and Appearance of Heritage Assets

### *Impact on the Streetscene and Conservation Area*

- 2.1 The application proposals relate to the construction of three sets of access gates and associated infrastructure. All three sites are located within the Little Aston Conservation Area, which is a designated heritage asset. A key consideration is therefore the impact of the development on the character and appearance of the area, including heritage assets.
- 2.2 Core Policy 3 of the Local Plan Strategy states that development proposals should protect and enhance the character and distinctiveness of Lichfield District and its settlements, while development should be of a scale and nature appropriate to its locality, and seek to conserve, enhance and expand natural built and heritage assets and improve our understanding of them wherever possible.
- 2.3 Core Policy 14 states that the District Council will protect and improve the built environment and have special regard to the conservation and enhancement of the historic environment through positive action. Core Policy 14 confirms that the significance of conservation areas and their setting will be conserved and enhanced and given the highest level of protection.
- 2.4 Policy BE1 states that development will be permitted where it can be clearly and convincingly demonstrated that it will have a positive impact on the significance of the historic environment, including conservation areas, and that new development should carefully respect the character of the surrounding area. New development should have a positive impact on the public realm and ensure high quality, inclusive design. Emerging Policy BE.2 of the Local Plan Allocations Document, relates to heritage assets, and confirms that development proposals which conserve and enhance our historic environment will be supported where development does not result in harm to the significance of the heritage asset or their setting. Saved Policy C2 states development will be permitted where it enhances or preserves the character of the Conservation Area, and states that development will not be permitted where the development would prejudice the essential features of the Conservation Area.
- 2.5 Lichfield District Local Plan 1998, saved Policy SA.6, relates specifically to Little Aston Park, and states that the special character of Little Aston Park is determined by the extensive mature tree cover and low density and individual design of dwellings. Policy SA.6 confirms that new development will only be allowed where the special character of the area is protected by the retention of existing vegetation and provision of an arcadian setting for new and existing dwellings. Little Aston Neighbourhood Plan Policy LAP1 also reaffirms the special character of Little Aston Park and that development will only be allowed where the special character of the area is protected. The Little Aston Conservation Area Appraisal identifies that various closes and cul-de-sacs are gated off which further increases the privacy of plots and gated communities within Little Aston. The Appraisal also identifies that permanently opened metal gates are positioned at the entry into the areas lanes from the surrounding main roads, which conveys a sense of private parklands, going on to state that these entries also help to restrict traffic movement through the area and it is a characteristic of the area that there is very little traffic.
- 2.6 The application proposes the erection of three sets of gates to be sited on three of the entry roads into the area from the main public highways. The gates would be over 2m tall in each instance and permanently closed. As set out above, a characteristic of the estate is the presence of gates, at entry points into the park; on individual cul-de-sacs; or on private driveways. The existing gates at either end of Roman Road are permanently open and have a design and colour finish which is different to the design of those proposed. Notwithstanding this, those existing gates are sited much closer to the adjacent public highways and as such are more prominently positioned than those which are the subject of this application.

- 2.7 The construction of gates in the locations proposed, are considered to be acceptable in this Conservation Area, as they are a consistent feature of the area. The proposed metal fabrication, along with their design and black finish would be appropriate. Furthermore, their siting away from the public highway, set back by between 14m and 17m would mean that they would not appear unduly prominent or incongruous from users of the highway.
- 2.8 Notwithstanding the above, the scheme also includes ancillary elements of infrastructure including intercom posts, CCTV posts and electrical cabinets. These elements of ancillary infrastructure have the potential to affect the character and appearance of the Conservation Area. The submission does not include exact details of these elements. Numerous designs for the pedestal reader have been provided, while the colour detailed in the plans and manufacturers brochures is red (which would be unacceptable). No details of the height of the CCTV posts have been provided while no details of the electrical cabinet are detailed. The precise details of the location, design and colour finish of these ancillary elements could however be secured via condition.
- 2.9 The extensive mature tree cover gives Little Aston Park its special character and represents a high quality environment. Therefore, it is considered important that extensive tree cover remains throughout the park to ensure that the existing character and appearance of the area is retained, in particular the trees from local and more distant viewpoints. A tree survey and tree protection plan have been provided which identify that the trees adjacent to each entrance will not be adversely affected through construction of the proposed gates. Therefore, it is considered that the installation of the gates would not harm the extensive tree cover around each entrance and the views in and out of the roads would be maintained.
- 2.10 In light of the above, it is considered that the proposed development would not harm elements which contribute towards the significance of the Conservation Area. It is therefore considered that the proposed development would not have an adverse impact on the character and appearance of the streetscene or wider area. In terms of impact on heritage assets, it is considered the proposals are compliant with saved Policies C2 and SA.6 of the Lichfield District Local Plan 1998; Core Policy 3, Core Policy 14 and BE1 of the Local Plan Strategy; LAP1 of the Little Aston Neighbourhood Plan; and BE2 of the emerging Allocations Document.

### *Community Cohesion*

- 2.11 Core Policy 1 states that appropriate proposals which contribute to their improved sustainability, cohesion and community wellbeing will be supported. Core Policy 3 states that development proposals should promote social cohesion and inclusion, and reduce inequalities. The NPPF at paragraph 91 states that decisions should aim to achieve healthy, inclusive and safe places which are, inter alia, safe and accessible so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. While paragraph 127 (f) reiterates this goal.
- 2.12 Notwithstanding the existing signage, which highlights that the estate roads are private, the existing environment is an attractive, inclusive and welcoming place to visit. The scheme proposes the introduction of three gates across the access roads which could result in the perception of the estate turning its back on the wider community within which it is sited. This would segregate the community and social interaction and therefore be against the thrust of community cohesion, which is an aspect of achieving high quality design, as set out in the Development Plan and NPPF.
- 2.13 It is noted that other entrances into the estate at Roman Road would remain open (at present) which consequently ensures that an element of social cohesion within the wider community is retained, while the presence of gates, including gated cul-de-sacs are characteristic of the wider estate. Furthermore, it is acknowledged that community safety, crime and the fear of crime are to be weighed in the balance, and the proposed development would provide some



benefits in this respect. On balance, it is considered that the proposed development would be acceptable in terms of social and community cohesion.

### 3. Residential Amenity

- 3.1 It is necessary to consider any potential impacts of the development on the amenities of existing nearby residents. The NPPF emphasises that planning should seek a good standard of amenity for all existing and future occupants of land and buildings and Local Plan Strategy Policy BE1 seeks to protect amenity by avoiding development which causes disturbance through unreasonable traffic generation, noise, light, dust, fumes or other disturbance.
- 3.2 The proposed gates, in all instances, would be sited adjacent to the residential curtilages of dwellings which are located either side of the access roads. The access roads are currently used by vehicles accessing the properties within the park. However, the presence of the gates would mean that vehicles would come to a standstill while gaining entry/exit. Consequently, there would be a change in activity occurring adjacent to these properties including vehicular engines in idle while waiting, the noise/mechanics of the gates, and interaction with the pedestrians. While a change in activity would arise, and possibly be noticeable to the residents adjacent to the gates, it is not considered that the scale and frequency of the activity would be so significant to cause undue harm to the amenity of neighbouring properties through noise and disturbance.
- 3.3 With regard to the impact from the operational development, it is not considered that the presence of the gates and ancillary infrastructure would cause harm to the amenity of neighbouring properties through overbearing, overshadowing or any other way. The impact upon residential amenity is not considered to be significant and therefore a good standard of amenity would be retained in accordance with the Development Plan and NPPF.

### 4. Access and Highway Safety

- 4.1 The NPPF at paragraph 108 requires that in considering specific applications, safe and suitable access to the site can be achieved for all users. Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Core Policy 5 of the Local Plan Strategy states that development proposals should make appropriate provision for improving road safety.
- 4.2 The scheme proposes the gating-off of three private access roads into the Little Aston Park Estate therefore, the impact of the development on highway safety is of importance. As a consequence of the development vehicles would no longer be able to enter the estate from these roads unless authorised to do so i.e. for residents of the estate, visitors, emergency vehicles and deliveries etc. Given the nature of the proposals it is necessary to consider whether the development would result in a backing up onto the public highway, which would be detrimental to highway safety. The application has been supported by a traffic survey to demonstrate the amount of vehicular movements which occur at the site. The survey was conducted for a single hour between 08:00am and 09:00am on Tuesday 14 May 2019. The survey identifies a total of 18 vehicular movements at the Endwood Drive access (9 in and 9 out); 29 vehicular movements at Park Drive access (11 in and 18 out); and 31 vehicular movements at Keepers Road (14 in and 17 out). The survey concludes that the movements at these access points are light and that no more than a single vehicle left or entered Little Aston Park at the same time. While the findings of the traffic survey are noted, it is not considered that a traffic survey of a single hour on one given day can be relied upon as being truly reflective of the movements which occurs from these points of access. A more detailed survey across a week would be more representative of how the highway network operates.
- 4.3 The position of the gates from the public highway is sufficient to ensure that at least two vehicles can pull off and be clear from the highway. Based on the vehicular movement figures which have been presented, it is understood that movements are relatively light (between 8

and 9am on a Tuesday), and therefore it is unlikely that vehicles entering the site would back up onto the public highway, although no specific details has been provided in terms of how long it would take for a vehicle to enter the estate. The set back from the public highway is sufficient to enable larger vehicles to also pull clear from the highway including service vehicles and emergency vehicles. Consultation has been carried out with the emergency services, however no response has been received to establish their view on the proposals. Notwithstanding this, it is understood that such vehicles would have access to the estate where responding to an emergency.

- 4.4 While it is likely that there would not be a knock-on effect on the public highway(s) as a result of queueing vehicles entering the estate, there is concern with regard to vehicles which are denied entry or have turned into the road as a genuine mistake. There are no turning facilities provided between the public highway and the proposed gates. Due to the lack of any proposed turning facility, and the narrow width of the access roads (which limits the capability for manoeuvre), any vehicle which is denied entry into the park, or who have turned into the road by mistake, would have no option but to reverse onto the busy public highways. This would clearly be a hazardous arrangement resulting in a dangerous manoeuvre which would be to the detriment of highway safety. This is furthermore the view of Staffordshire County Council, who are the highway authority for the area, as they recommend refusal of the application on such grounds.
- 4.5 Consideration has been given to whether a condition could be attached to an approval which would overcome the concerns with regard to highway safety. A condition has been suggested for the submission of a detailed traffic management plan for the operation of the gates to cover how they would operate for different users and in different scenarios. While it is accepted that this would provide greater detail over how the gates would operate, there would be concern over the management and monitoring of this, it is considered that such a condition would not be enforceable. Furthermore, it would not overcome the issues of driver errors of entering the road which may occur as set out above.
- 4.6 It is the applicants' agents' stance that these roads are private roads, and that only those who have a lawful right or reason to be turning into these roads should be doing so. Therefore, they consider that the applicants should not be penalised for those who are unlawfully manoeuvring into the roads. While these comments are noted, it is considered that such errors will inevitably occur given the nature of the roads and that such instances cannot be simply be disregarded from consideration.
- 4.7 Furthermore, the applicants' agent considers that the situation is comparable to the gating of a single access drive. The LPA disagree that they are directly comparable given that application sites relate to roads, which serve a large number of properties, and have the presence/appearance of roads. Therefore, the likelihood of mistakenly using the roads is much more likely compared to an individual properties driveway. It has also been suggested that more prominent signage could be carried out at the site entrances. As this is a conservation area, with protected trees in close proximity, and also a predominantly residential area, the LPA would not wish to be encouraging the introduction of prominent signage at these points of access.
- 4.8 In conclusion, it is considered that the proposed development would have an unacceptable impact on highway safety due to the increased potential for vehicles to reverse onto busy public highways. The LPA has explored other options to address the concerns, however it has been concluded, based on the information available, that this impact could be mitigated. The proposals would be contrary to Core Policy 5 of the Local Plan Strategy and the guidance contained within paragraphs 108 and 109 of the NPPF.

## 5. Impact on Trees

- 5.1 Policy NR4 of the Local Plan Strategy acknowledges that trees, woodland and hedgerows are important visual and ecological assets in our towns and that such features should be protected from damage and retained, unless it can be demonstrated that removal is necessary and appropriate mitigation can be achieved. In this instance, as set out above, the existing vegetation contributes to the significance of the character of the Conservation Area, and is an important feature.
- 5.2 There are TPO trees located adjacent to of the accesses, while other significant trees are protected by virtue of the application site being located within the Conservation Area. There are also existing hedgerows adjacent to the access which also contribute towards the verdant character of the area.
- 5.3 The proposed installations would be sited adjacent to these important landscape features. The application has been supported by appropriate tree surveys and arboriculture impact assessments. The submitted information demonstrates that the development can be carried out without having a detrimental impact on these assets. The submission has been reviewed by the LPA's Tree Officer who has concurred with the findings of the reports and have raised no objection, subject to the imposition of a condition relating to tree protection measures. As such it is concluded that the proposal complies with Policy NR4 of the Local Plan Strategy in this regard.

## 6. Human Rights

- 6.1 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.

## **Conclusion**

The proposed development would not have a detrimental impact on the character and appearance of the Little Aston Conservation Area, including trees which are an identified asset of note that contribute towards the significance of the heritage asset. While there is some concern with regard to the development undermining social cohesion, for the reasons set out above, it is considered that the development is acceptable in this respect, on balance.

However, there is significant concern with regard to the impact that the development would have on highway safety arising from vehicles being required to reverse onto busy public highways. The development would therefore be contrary to Core Policy 5 of the Local Plan Strategy and the guidance contained within paragraphs 108 and 109 of the NPPF which seeks to resist development which would have an impact on highway safety. Therefore, for the reasons set out above, the application is recommended for refusal.

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# LOCATION PLAN

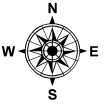
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Armitage

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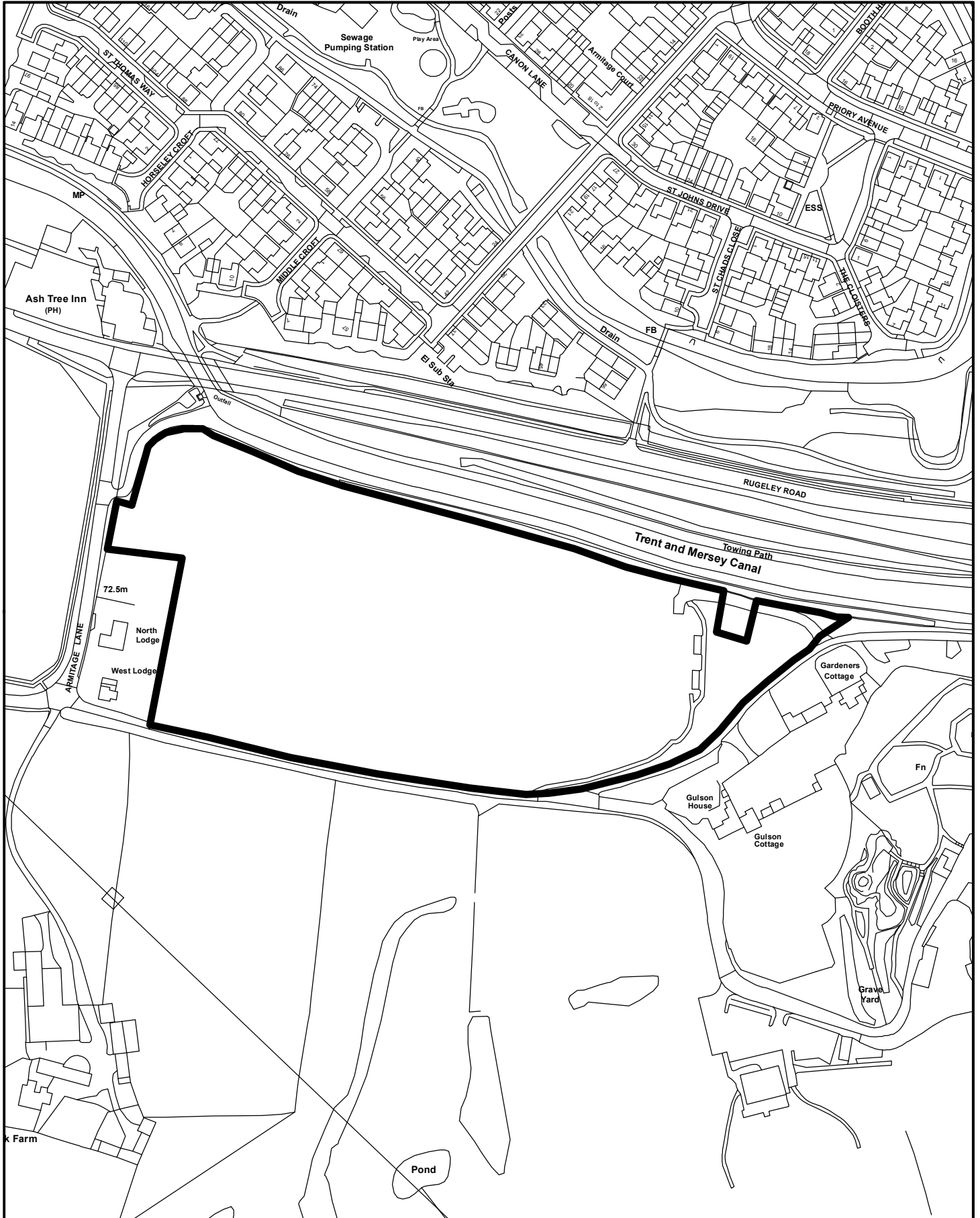
Dated: July 2019

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# BLOCK PLAN

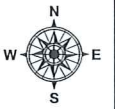
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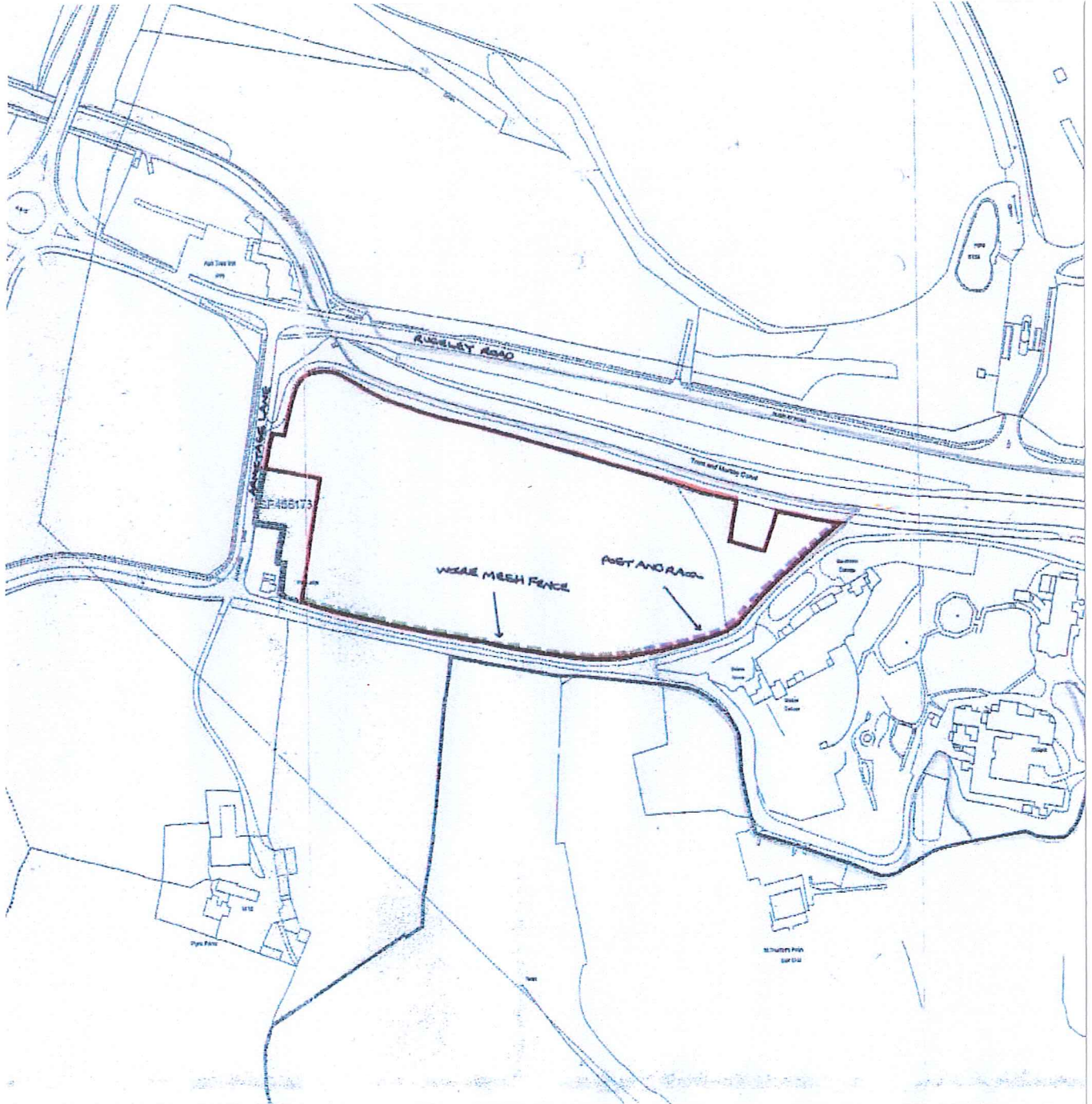
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## 19/00584/FUL

**REMOVAL OF CONDITION 2 OF PERMISSION 10/00472/FUL RELATING TO REMOVAL OF FENCE  
HAWKESYARD ESTATE, ARMITAGE LANE, ARMITAGE, RUGELEY  
MRS R WHORTON  
Registered 26/04/2019**

**Parish: Armitage with Handsacre**

**Note:** This application is being reported to the Planning Committee due to significant planning objections raised by Armitage with Handsacre Parish Council on the following grounds:

- Harm to the visual amenity and openness of the Green Belt;
- Concerns that the fence is higher than 2m; and,
- Retention of the fence is not accordance with condition No.2 of 10/00472/FUL.

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

### **ORIGINAL CONDITIONS RE-ISSUED:**

1. The fence hereby approved shall be maintained in a dark green colour for the life of the development.
2. The fence hereby approved shall remain free of any hoardings for the life of the development.

### **REASONS FOR CONDITIONS:**

1. In order to safeguard the visual amenity and openness of the Green Belt and to accord with Local Plan Strategy Policies NR2 and BE1 and the NPPF.
2. In order to safeguard the visual amenity and openness of the Green Belt and to accord with Local Plan Strategy Policies NR2 and BE1 and the NPPF.

### **NOTES TO APPLICANT**

1. The Development Plan comprises the Lichfield District Local Plan Strategy (2015) and saved policies of the Lichfield District Local Plan (1998) as contained in Appendix J of the Lichfield District Local Plan Strategy (2015) and the Armitage with Handsacre Neighbourhood Plan.
2. The development is considered to be a sustainable form of development which complies with the provisions of paragraph 38 of the NPPF.

### **APPROVED PLAN REF.**

Plan No. WHN/002/01

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### **PLANNING POLICY**

#### **National Planning Policy**

National Planning Policy Framework  
National Planning Practice Guidance

#### **Lichfield District Local Plan Strategy**

Core Policy 3 - Delivering Sustainable Development  
Core Policy 14 – Our Built & Historic Environment  
Policy BE1 - High Quality Development  
Policy NR2 – Development in the Green Belt

## **Lichfield District Local Plan 1998 (saved policies)**

Policy C2 – Conservation Areas

## **Armitage with Handsacre Neighbourhood Plan (2018)**

Policy AH6 - Maintaining the Rural Nature of the Villages

### **Supplementary Planning Documents**

Sustainable Design

Rural Development

### **RELEVANT PLANNING HISTORY**

10/01222/FUL	Retention of 2 golf practice shelters	Refused	17/12/2010
10/00472/FUL	Retention of boundary fence	Approved	08/06/2010
09/00943/FUL	Retention of boundary fencing	Refused	21/10/2009
08/00048/FUL	Retention of golf buggy shed and compound	Approved	11/03/2008
02/00744/COU	Use of land to the left of the golf club approach drive for a golf practice area	Approved	12/08/2002

### **CONSULTATIONS**

**Armitage with Handsacre Parish Council** – Strongly object due to harm to the visual amenity and openness of the Green Belt and concerns the fence is higher than 2m. Its retention is not accordance with condition No.2. Note that in 2010 the existence of the fence was only deemed appropriate with the on-going use of the neighbouring facility of the golf course. Feel in view of the closure of the golf course it is very inappropriate for the fence to remain (21/05/2019).

**Armitage with Handsacre Parish Council** – Originally raised no objection to this application (03/05/2019).

**Conservation Team (LDC)** – Requested additional justification for the retention of the high metal fence given the associated golf practice use has ceased. Notes the fence adjacent to the Trent and Mersey Conservation Area is post and rail, and accepts the fall-back position that the application fence could be erected under current permitted development rights but would prefer the continuation of post and rail fence instead (23/05/2019).

**Architectural Liaison Officer** – No comments received.

### **LETTERS OF REPRESENTATION**

2 objections have been received from local residents in respect of this application. Their comments are summarised below:

- Non-compliance with planning conditions;
- Other structures on-site without planning permission;
- Golf course, and practice area now ceased and fence no longer required;
- Insufficient justification provided for retention of fence;
- Metal fence out of sympathy with rural environment and local character;
- Negative impacts on neighbours' amenity;
- Poor maintenance of fence;
- Protruding metal on fence is a danger to others;
- Granting planning permission would set a dangerous precedent;
- The Inspector's stance on the appeal decision for shelters on-site should also apply to the fence i.e. their removal and reinstatement of landscape buffer; and
- Previous Parish Council objection still relevant.

## **OTHER BACKGROUND DOCUMENTS**

Planning Statement

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### **OBSERVATIONS**

#### **Site and Location**

The application site is located within the wider the Hawkesyard Estate, off Armitage Lane and is located within the Green Belt. The site's north and east boundaries adjoin the Trent and Mersey Canal Conservation Area, but the fence itself is set around 24 metres away from the Conservation Area's south-west boundary. The fence is also set back by over 150 metres from Rugeley Road to the north. The remainder of the site boundary to the south east, and adjoining the Conservation Area is lower level post and rail.

The application site itself was previously used as a golf practice area in connection with the main golf course within the wider site area. The application site is now in agricultural use to graze sheep following the cessation of the golf course and practice area.

#### **Proposals**

This Section 73 application seeks the removal of condition 2 of planning permission 10/00472/FUL relating to the removal of a fence. Condition 2 states:

*"2. The fence hereby approved shall be removed from the site within 2 months of the use as a practice area ceasing. The land shall thereafter be restored to open grass verge, in accordance with a scheme of work to have been previously submitted to and approved in writing by the Local Planning Authority."*

The 2 metre high paladin mesh fence runs along the southern boundary of the site and has been in situ since around 2009 and, was approved in 2010 under permission reference 10/00472/FUL. The permission tied the fence to the use of the land as a golf practice area and condition 2 currently requires the removal of the fencing within two months of the practice area use ceasing.

The submitted supporting statement explains the golf practice area use has ceased, but has not been abandoned, and that this application is submitted to retain the fence in its current position through the removal of condition 2.

#### **Determining Issues**

1. Policy & Principle of Development
2. Green Belt Impact
3. Residential Amenity
4. Permitted Development
5. Other Issues
6. Human Rights

##### **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 Lichfield District Local Plan (1998) (saved policies) and the Local Plan Strategy (LPS) 2008-2019, and the adopted (made) Armitage with Handsacre Neighbourhood Plan (2018).

- 1.2 LPS Core Policy 3 seeks to ensure sustainable development is brought forward by addressing a number of key issues, including minimising any environmental impacts arising.
- 1.3 Core Policy 14 affirms that the District Council will protect and improve the built environment and have special regard to the conservation and enhancement of the historic environment through positive action and partnership working.
- 1.4 Policy NR2 states that development in the Green Belt must retain its character and openness, and that inappropriate development should not be approved unless very special circumstances exist.
- 1.5 Policy BE1 states that all development proposals should ensure that a high quality sustainable built environment can be achieved. Development will be permitted where it can be clearly and convincingly demonstrate that it will have a positive impact on:
- The significance of the historic environment;
  - Reducing carbon emissions;
  - The built vernacular;
  - Public safety, health and reducing inequality;
  - Amenity;
  - The natural environment;
  - Sustainable transport.
- 1.6 The application fence was originally approved in 2010 under planning permission 10/00472/FUL and is required by condition No.2 to be removed within two months of the associated golf practice area ceasing. The fence has been in situ for around ten years and the submitted supporting statement explains the golf practice area use has since ceased, but has not been abandoned.
- 1.7 The 2010 application is linked to the use of the wider land as a golf practice area permitted under planning permission 02/00744/COU. It is understood that the associated golf club use has ceased, but is not necessarily abandoned and this use, and the associated practice area, could potentially come back into use at any time. Due to the specific matters of this application considered below, it is not deemed necessary to assess whether the use has indeed been abandoned.
- 1.8 Objectors' confirm the golf practice area ceased in 2017, and enforcement enquiries were first lodged with the Council regarding the fence in November 2018. The fence was therefore in situ for up to a year after the associated use of the practice land ceased, and before being formally raised as an issue.
- 1.9 Objectors' comment on a lack of justification for the retention of the fence. Whilst it is agreed that the paladin fence may not completely prevent trespass given that it does not extend along the entire boundary, it is likely to act as a deterrent helping to minimise such access.
- 1.10 The Parish Council considers that the retention of the fence without the associated golf practice use to be very inappropriate. However, whilst the fencing was originally tied specifically to the use of the land, on reviewing the fencing in isolation against the current adopted Development Plan and NPPF, and as set out further below, it is not considered to result in significant additional harm and is therefore acceptable in principle as a stand-alone development.

## 2. Green Belt Impact

- 2.1 The starting point for development in the Green Belt is Local Plan Strategy Policy NR2 which requires development to retain its character and openness, and repeats the Green Belt provisions set out within the NPPF.
- 2.2 Paragraphs 143 and 144 of the NPPF explain that inappropriate development should only be approved in exceptional circumstances which outweigh the harm arising. It follows at Paragraphs 145 and 146 by setting out forms of development which are acceptable in the Green Belt. Whilst the erection of fencing is not explicitly listed under these paragraphs, the application fence could be erected under permitted development rights set out within Part 2, Class A of the GPDO 2015 (as amended), and this demonstrates the acceptability in principle. This is explained further below.
- 2.3 For these reasons, the fencing is not considered to be 'inappropriate development' and the proposal does not need to demonstrate 'very special circumstances'. The Parish Council's objection in regard to harm to the openness and visual amenity of the Green Belt is noted, however, the green paladin fencing, due to its mesh design, allows views through the fence thereby maintaining open views to and from the site and helps to blend into the overall landscape and is not therefore considered to result in significant additional harm.
- 2.4 Objectors' comments suggesting the Council adopts the same approach as the Inspector as part of their appeal decision for the shelters on-site is noted i.e. removal of the structures on cessation of associated use and reinstatement of a landscape buffer. However, the shelters are of a more solid construction which may not retain the openness and visual amenity of the Green Belt in the same way as the application fencing does. For this reason, and in the view of the permitted development fall-back position, it is considered a refusal would not be warranted in this instance.
- 2.5 In summary, it is considered that the retention of the fencing would not result in harm to the Green Belt by way of openness, character and appearance, furthermore, the re-issuing of conditions 1 and 3 of 10/00472/FUL would ensure the fence is maintained in an acceptable green finish and free of hoardings.

## 3. Residential Amenity

- 3.1 It is necessary to consider any potential impacts of the development on the amenities of existing nearby residents. The NPPF emphasises that planning should seek a good standard of amenity for all existing and future occupants of land and buildings and Local Plan Strategy Policy BE1 seeks to protect amenity by avoiding development which causes disturbance through unreasonable traffic generation, noise, light, dust, fumes or other disturbance.
- 3.2 The fence has been in situ for around 10 years and when combined with its open mesh design, and green finish, the fence is considered to blend into the overall landscape and its retention is not considered to result in any significant additional harm to the amenity of nearby residents.

## 4. Permitted Development

- 4.1 The submitted supporting statement argues that the fence could be erected under current Permitted Development rights and incorrectly refers to a 2 metre high fence adjacent to the highway falling within these allowances.
- 4.2 Part 2, Class A1(a) of the 2015 GPDO (Minor Operations), only allows fences up to 1 metre in height adjacent to a highway, extending up to 2 metres high only where it relates to a school. In defining a highway, Part 1 of the GPDO explains that this includes "an unadopted street or a private way", and this is reflected in the Government's published 2018 Householder



Technical Guidance. Whilst no such highway definition is set out in relation to works under Part 2 of the GPDO, it is understood that case law has defined a highway as anywhere where people can pass and re-pass.

4.3 Notwithstanding the points above, the fencing is set-back from the private road by over 2 metres and it could therefore be argued in any case that the fence is not 'adjacent' to a highway, thus enabling a fence up to 2 metres high to be erected under Part 2, Class A1(b) of the GPDO.

4.4 Comments made by the Parish Council regarding the height of the fence are noted. The officer's site visit confirms the fence is 2 metres high, thus falling within current permitted development allowances referred to above.

## 5. Other Issues

5.1 Objectors' comments regarding the presence of other structures on the application site which do not benefit from planning permission are noted, but these fall outside the scope of this current planning application and cannot therefore be considered at this time.

5.2 Reference to non-compliance with planning conditions is also noted, and as explained above, this planning application is limited to the removal of condition 2 of 10/00472/FUL. This has been assessed above.

5.3 Regarding protruding metal on the fence, whilst this was not apparent during the officer's site visit, it is not a material planning consideration and is a private matter in any case.

5.4 Further to comments that approving this application would set a precedent, and that previous objections made by the Parish Council are still relevant, it should be noted that each application must be judged on its own merits.

5.5 In summary, there are no other material planning grounds which are considered would warrant a refusal in this instance.

## 6. Human Rights

6.1 The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with neighbours' 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 and on balance is justified and proportionate in relation to the provisions of the policies of the Development Plan and National Policy in the NPPF.

## **Conclusion**

Given the fall-back position of 'permitted development' set out above, when combined with the overall acceptability of the proposal and passage of time since the fence was originally erected, it is considered that there are no sustainable planning grounds to refuse this application. It is therefore considered that any appeal against refusal would unlikely be successful.

This application to remove condition No.2 of 10/00472/FUL is therefore recommended for approval subject to conditions, as set out above.