

SUPPLEMENTARY REPORT

PLANNING COMMITTEE (30th September 2019)

OBSERVATIONS/REPRESENTATIONS RECEIVED SINCE COMPLETION OF REPORT

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19/00033/FULM - ERECTION OF A TWO / THREE STOREY OFFICE BUILDING AND CREATION OF A 230 SPACE CAR PARKING AREA AND ALL ASSOCIATED LANDSCAPE WORKS INCLUDING THE RELOCATION OF SPORTS PITCHES AND APPROPRIATE SAFETY LIGHTING. JOINT MEDICAL COMMAND DEFENCE, TAMWORTH ROAD, WHITTINGTON HEATH, LICHFIELD FOR DEFENSE INFRASTRUCTURE ORGANISATION

Additional Observations

In light of the previously approved demolition consent on the site and for consistency the conditions 3 and 4 have been amended to “exclude” demolition.

Amended Conditions

3.
 - a) Before the development hereby approved is commenced (excluding demolition), a written scheme of archaeological investigation (‘the Scheme’) shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall provide details of the programme of archaeological works to be carried out within the site, including post-excavation reporting and appropriate publication.
 - b) The archaeological site work shall thereafter be implemented in full in accordance with the written scheme of archaeological investigation approved under condition 3A.
 - c) The development shall not be occupied until the site investigation and post excavation assessment has been completed in accordance with the written scheme of archaeological investigation approved under condition 3A and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.
4. Before the development hereby approved is commenced (excluding demolition), a Construction Environment Management Plan (CEMP) and Habitat Management Plan (HMP) expanding upon the information provided within the ‘Preliminary Ecological Appraisal and Bat Survey Report’ produced by Johns Associates, detailing, in full, measures to protect existing habitat during construction works and the formation of new habitat to secure a habitat compensation value of no less than 22 Biodiversity Units, shall be submitted to and approved in writing by the Local Planning Authority. Within the CEMP/HMP document the following information shall be provided:
 - a) Current soil conditions of any areas designated for habitat creation and detailing of what conditioning must occur to the soil prior to the commencement of habitat creation works (for example, lowering of soil pH via application of elemental sulfur).
 - b) Descriptions and mapping of all exclusion zones (both vehicular and for storage of materials) to be enforced during construction to avoid any unnecessary soil compaction on area to be utilized for habitat creation.
 - c) Details of both species composition and abundance (% within seed mix etc) where planting is to occur.
 - d) Proposed management prescriptions for all habitats for a period of no less than 25 years.
 - e) Assurances of achievability.

f) Timetable of delivery for all habitats.

g) A timetable of future ecological monitoring to ensure that all habitats achieve their proposed management condition as well as description of a feed-back mechanism by which the management prescriptions can be amended should the monitoring deem it necessary.

The development shall thereafter be undertaken in accordance with the approved CEMP/HMP.

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**19/00301/FUL - VARIATION OF CONDITION 2 OF APPLICATION 17/01629/FUL (DEMOLITION OF EXISTING BUNGALOW AND ERECTION OF 1NO REPLACEMENT DWELLING WITH SINGLE STOREY GARDEN ROOM)
15 GAIAFIELDS ROAD, LICHFIELD
FOR MR A GARRATT**

Additional Letters of Representation

5 additional representations received. Letter and comments from Mr Goodwin (on behalf of 20 residents), dated 24th September 2019, are appended to this Supplementary.

Also, the additional comments received are summarised below:

- Original application failed to include gradation of obscure glazing, this error has been carried through and insist that a gradation number be determined and issued as an addendum report;
- Representation on front wall not been adequately represented to committee, as do not include word “danger” or “dangerous”. The caravan and hoarding cause danger to passengers of vehicles of residents reversing out of No.17’s drive and any front wall taller than 1m would make this a permanent danger. This is a road safety issue;
- Front wall constructed on highway and consultation with highways authority not adequate;
- Plans can be amended to show railings or something lower, better to eliminate this hazard while we have the opportunity;
- Need a statement from highways which consider issue, and that blocking view as reversing out does not unduly impair road safety;
- Front wall pillars are around 1400mm with obscure fence panels in between forming a solid barrier over which a reversing driver could not see;
- LPA has the powers to approve a design which preserve road safety;
- Lichfield policy that when a house interferes with light to a habitable room to this degree a BRE 2009 compliant light impact assessment is required, and no valid assessment exists for the development;
- Rowan trees should be conditioned to not overhang neighbouring garden for the purpose of preserving amenity of neighbouring property;
- Before the addition of the chimney and overhang were informed that the construction of the Site Welfare Unit/Garden Room was part of the developers permitted development rights. It would appear that this situation has altered and needs clarification;
- Addition of chimney/wood burning stove are not insignificant, minor additions. Buildings supposedly for site workers but not been used in that way. Building is the size of a small bungalow, intention may be to be use as a future permanent dwelling;
- Chimney protrudes above hedge and is only a few feet away from back gardens at higher level. Low height of the chimney could cause smoke and fumes to blow directly into gardens and could have a detrimental affect upon amenity.

Additional comments received from Cllr Grange:

- Concerned that the summary isn't a completely true representation of words;
- Not described the application as "unacceptable" as clearly this is for the committee to decide.
- Not said the garden "is no longer permitted development", said that the design now breaches the spacing from the boundary and height restrictions and "so it is not clear that this can now be considered permitted development". The point here is that if the garden room fails the tests for being permitted development by virtue of height and distance from the boundary, the committee will need to consider this building according to usual planning rules.

Additional Consultation Response

SCC Highways - At the time of the 17/01629 application it was not considered that the proposals would represent a significant or serious danger to other road users at this particular location. The cul-de-sac did not appear to be a busy road and speeds appeared to be relatively low. Most drivers entering the cul-de-sac and passing the frontage of 15 & 17 tend to keep out from the edge of the road due to the footpath which ends at the boundary of No.15. Whilst the photographs date back to 2011 this tendency to keep away from the edge of the road, which assists emerging vehicles, can be clearly seen on google streetview.

Whilst it is accepted that visibility from an adjoining property should not be made worse, it is not clear if this is actually the case. Prior to site clearance of No. 15 there was a dense frontage hedge which would also have restricted visibility.

As always, safety implications were considered prior to the 17/01629 decision and a reduction in the wall height was requested. However, given the wording of Manual for Streets (break away from standardised, prescriptive, risk averse methods) and NPPF (significant adverse impacts) it would have been difficult to sustain any highway objection to a visibility issue at this particular location.

According to approved drawing AG/101/4 (17/01629) the front wall has steel railing infill. The similar drawing for the current application appears to be consistent but does not actually state the infill type- request that this is checked. It would be helpful if the infill to the side garden wall could be railing for the section closest to the highway but appreciates that approved drawings may not allow this. (20 September 2019)

Arboricultural Officer – Thanks you for consulting with us regarding this current application for a variation of condition 2.

After reviewing the amended landscape and TPP we have the following comments which should be read in conjunction with those made by us on the 12th June 2019.

The tree specification appear to have bounced back to an earlier version and the Betula specified are now replaced Rowan again and this is accepted once more.

The frontage tree has been restored and this is also acceptable. Similarly the trees on the rear boundary are restored as shown on revision 15

The tree protection fencing now fouls the building of the retaining wall on the frontage so this cannot be approved as is as it cannot be enforced.

It would appear that the area inside the fencing at the frontage is listed as a temporary store and this also is not accepted (311.2 Rev8).

The biggest issue is that the two plans lodged are not the same, so on 311.2B the trees at the rear are omitted.

As a consequence of the inconsistency of the submission we are not able to consider this for discharge. (22 August 2019)

Additional Observations

Point(s) of clarification

Various comments have been raised with regard to the “Permitted Development” status of the garden room/welfare unit. The height of the building, and proximity from the boundary of the building previously considered, fell within the parameters set out in the GPDO. However, the inclusion of the overhang, brings the development within 2m of the boundary, while the addition of the chimney makes the development greater than 3m in height. Therefore, the building now proposed falls outside of the scope of permitted development as confirmed in the Committee report. The development has been assessed on that basis.

Comment has been made that the case officer has not visited the site or surrounding properties. It can be confirmed that the site was visited by the case officer on 26th April 2019, 6th June 2019, and 25th September 2019. While visits to neighbouring properties have not been carried out, it is considered that the LPA has sufficient information from visits to the site and the submitted plans to enable assessment of the proposals and its impact on neighbours. The submitted report acknowledges that the garden room and chimney would be visible from nearby properties.

The use of the outbuilding, would remain ancillary to the main dwellinghouse, and has been conditioned to remain ancillary. Any alternative use of the building as a separate dwelling or holiday let would require planning consent in its own right.

It is considered that the streetscene drawing is suitable to assess the development and the proposed relationship of the dwelling with neighbouring properties.

The Committee Report has assessed the proposed alterations on their merits and based on the plans which have been previously approved, and it has been considered that the proposed alterations are acceptable. The role of the planning case officer is to provide a report and recommendation to the committee, based upon their professional judgement on having regard to relevant material planning considerations. In this instance regard has been given to all representations received, to the planning history, to the plans and details submitted and to local and national planning policy in making their assessment.

Design Considerations

With regard to the impact of the proposed wall between No.15 and No.17, the “design” impact of this has been covered in the Committee Report and it is not considered that this would cause undue harm to the character and appearance of the streetscene (Para 2.13).

With regard to the hot tub building, officers maintain the view that this building, which has a footprint of circa 4m x 4m, and a height to 3m is modest, and is of a scale which likely could be constructed under Permitted Development rights (post occupation of the dwelling). With regard to the materials of the hot tub building, following discussions with the applicant, it has been confirmed that this would be rendered blockwork. Rendered blockwork would match other features within the development site, including boundary walls, and it is considered that this would be an acceptable appearance for the building.

With regard to the height of the development, it is maintained that the height of the scheme appears to be in accordance with the submitted plans and previous approval. The planning enforcement officer has visited the site on a few occasions during the course of

the construction of the dwelling. As part of these visits the height of the dwelling was measured including eaves and height of the roof trusses. The height was rectified following the initial visit, and officers were satisfied that the overall height is in accordance with the original approved plan.

Impact on Residential Amenity

The spacing between the application building and No.2 Gaialands Crescent is as previously approved and this relationship is not altering. The change in relationship is the increase in the width of two side windows, one a (now secondary) opening to serve a kitchen/dining room, and a second window which serves a study. There is no absolute maximum in policy which dictate how large or small such a window should be. These windows would remain high level and obscure glazed and there would remain an intervening screen between the development and the existing neighbouring property, which is also at a higher ground level. These openings were previously allowed because of these factors and it is considered that the increase in width of these openings would not alter this relationship.

With regard to the use of the garden room, all year round use of an outbuilding is not considered to be a reason to resist the construction of a building which is to be used in a manner which is ancillary to the host dwelling. The development has been conditioned to ensure that it is used in such an ancillary manner.

Comment has been raised that a BRE 2009 right to light assessment is required. Since the application (Ref. 17/01629/FUL) was last considered at Planning Committee, the Sustainable Design SPD has been updated. The Appendix A of the updated SPD no longer requires the submission of such a report with impact upon light assessed against the 25 degree and 45 degree standards set out in the SPD. Paragraph 3.6 of the Committee report confirms that Right to Light legislation falls outside of the planning process.

It is agreed that it would be appropriate, for clarity and precision, to specify the level of obscure glazing in the side windows. The appropriate conditions (9 and 10) should therefore be amended to reflect this.

Highways Considerations

Following concerns raised by neighbours with regard to the front/side boundary wall and highway danger concerns, further consultation has been carried out with SCC Highways to review those comments.

The position of the front boundary wall and its proximity to the public highway remains as previously approved. No changes to this are proposed, therefore as this is as previously approved, it is not deemed appropriate to reconsider this relationship. SCC Highways have observed that it is not clear whether the higher level infill between pillars remains railings. It is therefore considered that it would be appropriate to attach a further condition requiring this detail to be submitted.

The submitted Hard Landscape Plan, includes an annotation which states "Wall to match south boundary. Wall 2m high reducing to 900mm from build line to frontage". It is considered that the height of the wall between the application site and No.17 is appropriate.

Landscape Considerations

The Arboriculture Officers comments were summarised, as it is common for this to be done in reports. However, for clarity the Arboriculture Officer comments are provided above verbatim.

It is observed that conifers have been planted along the boundary to No.17. These do not form part of the landscaping scheme, which would form part of any approval. The developer would therefore be bound to the landscaping scheme as detailed on the plans. This would need to be carried out within 8 months of first occupation.

The proposed 4 rowan trees would be in lieu of the 2 trees which were originally proposed to the rear of the garden room/welfare unit. It is for this reason that it is considered that there would be an uplift in landscaping.

The development does not alter in terms of its relationship with protected trees from that previously approved/accepted.

Amendments to Recommended Conditions

It is considered that the development be approved, as detailed in the Committee Report, subject to amended conditions as follows:

9. Prior to first occupation, the rooflights in the south west facing roof slope shall be fitted with obscure glazing, to a minimum level 3. The rooflights shall be thereafter retained as such for the life of the development.

10. Prior to first occupation, the side facing windows serving the dining room and study in the south west elevation and lounge in the north east elevation, hereby approved, shall be fitted with obscure glazing, to a minimum level 3 and fixed shut and shall thereafter be retained as such for the life of the development.

Additional condition:

20. Prior to the construction of the front boundary wall, and wall between and to the front of No.15 and No.17 Gaiafiels Road, full details of any above brickwork infilling shall be submitted to the Local Planning Authority for approval. The development shall thereafter be carried out in strict accordance with the approved details.

Reason: In the interest of highway safety and the character and appearance of the area in compliance with Policy BE1 of the Local Plan Strategy and the National Planning Policy Framework.

Ian Goodwin
2 Gaialands Crescent
Lichfield
WS13 7LU

24th September 2019

Mr Jeff Upton
Interim Head of Development Services
Lichfield District Council
District Council House
Lichfield
WS13 6YZ

Dear Mr Upton

Re: Variation to Planning Application 19/00301/FUL 15 Gaiafields Rd.

Further to the issue of the Case Officers report for the above, I am writing on behalf of some twenty residents of Gaialands Crescent and Gaiafields Road to express our profound frustration and disbelief that such a poor quality, misleading and factually incorrect report can be produced by one of your team. What is more alarming is this one sided, opinion based report will be presented to the planning committee for them to pass judgement on.

The report contains a number of statements that require either a) clarification, b) a balanced counter view or c) simply omitting from the report.

Our primary concerns are:

1. The Case Officer has not visited any of the affected neighbouring properties to assess the impact of the variations, yet consistently asserts in the report that these variations will be of little or no impact on these properties.
2. The Case Officer has had the audacity to state that the variations would not have impacted on the original decision, when he was not part of the original decision process. This presumptive judgement is not within the scope or capability of a Planning Officer, least of all one that was not involved in the original consultation and decision
3. The Case Officer has supported the inclusion of enlarged windows to the southern elevation of the property despite the condition included in the original approval and the reduction in spacing distance that was afforded the dwelling by virtue of being defined by LDC as a "blank wall".

The level of opinion, presumptive judgment and flexing of previous interpretation and judgement is wholly unacceptable for a Case Officer to include in a Planning Committee Report. To this end we have set out our detailed concerns on the following pages.

We demand that the report is immediately withdrawn and our concerns below are addressed with an accurate, balanced and coherent report that reflects reality, not the case officers uninformed opinion.

Yours Sincerely,

Ian D Goodwin

19/00301/FUL

VARIATION OF CONDITION 2 OF APPLICATION 17/01629/FUL (DEMOLITION OF EXISTING BUNGALOW AND ERECTION OF 1NO REPLACEMENT DWELLING WITH SINGLE STOREY GARDEN ROOM)
15 GAIAFIELDS ROAD, LICHFIELD

Report Issues

For clarity we have set out our specific issues with the report in accordance with the report structure as follows:

Arboriculture Officer - The Case Officer has clearly looked to steer the committee by not including all of the statement from the arboriculture officer. The full comments made include the paragraph below and we insist that this is reinserted into the correct section to afford the committee the full picture of the objections to the variations.

"The tree protection fencing now fouls the building of the retaining wall on the frontage so this cannot be approved as is as it cannot be enforced.

It would appear that the area inside the fencing at the frontage is listed as a temporary store and this also is not accepted (311.2 Rev8).

The biggest issue is that the two plans lodged are not the same, so on 311.2B the trees at the rear are omitted.

As a consequence of the inconsistency of the submission we are not able to consider this for discharge."

It is interesting to note that this is the only consultee statement not included in the report verbatim.

Para 2.5 (see also Para 7.4) – The Case Officer states:

"Furthermore, based from on and off site observations of the development, the ridge height of the dwelling does not appear to be dissimilar to that of No.17."

Has the Case Officer visited site? It is abundantly clear when viewed from the road that the new dwelling is over half a metre higher than the adjacent property. In his "opinion" this may not be significant, however in the original application LDC Planning were at pains to stress that they had secured a 500mm reduction in ridge height from the developer to bring it in line with the neighbouring property. **It mattered then and it still matters now.** Why has the Case Officer not acknowledged this? We insist this statement is corrected in the report as the c

Para 2.6 – In the Case Officers opinion the introduction of a 350mm wide pier in a 1300mm gap makes no difference to the openness of the street scene. We could not disagree more – it is undeniable that there is a near continuous masonry elevation of almost 30 metres along Gaiafields Road. Simply dismissing its impact is unacceptable and deliberately steering the committee to overlook its impact.

Para 2.8 & Para 3.7, 3.8 – The Case Officer has simply dismissed the addition of a large chimney and a 600 mm roof extension to an already incongruous bungalow at the east boundary of the site. Has he overlooked the fact that no building existed here previously? These additions are clearly visible and highly impactful to neighbouring properties. The Case officer states:

“it is not considered that the design alterations to the building causes any significant harm to the character and appearance of the area”.

This is absurd. Can the Case Officer confirm that he has visited 4,6,8,10 and 12 Gaialands Crescent and assessed the impact?

As with the window and hot tub items described above, this would almost certainly have been a significant issue in terms of tilting the balance of the approval decision to refusal. Despite the concern of residents that this was simply a new dwelling in the rear garden, we were assured that it was nothing more than a “garden room”.

However, the addition of a large chimney suggests the building will be subject to year-round use and the emission of fumes directly into amenity space where young children play.

Para 2.9 – This requires urgent clarification. Is the Case Officer now suggesting that the Garden Room is not covered under Permitted Development? This is deeply concerning as we were advised last year that the erection of this building was permissible under the developers permitted rights. Consequently, no meaningful consultation was carried out. The Case Officers report states:

“In light of this, and as set out above, it is considered that the alterations in design terms are appropriate and would not cause harm to the character and appearance of the area and as such, it is considered that the development complies with the Development Plan in this respect.”

Can you confirm whether or not this building is covered by the applicants permitted rights or is subject to assessment on its merits? If it is the latter, we demand that consultation is re-opened as we have been consistently advised by LDC Planning that the Garden Room is Permitted Development so “we cant do anything about it” (Jon Allinson, July 2018).

Para 2.10 & Para 3.5 – Why has the Case Officer used the term “modest” to describe the footprint and height of the hot tub room? Such terminology is clearly intended to influence the committee into believing the structure is small. It is a large structure build in close proximity to a neighbouring property. It is the maximum height allowable under permitted development rights. **It will have an impact.** We insist that such “opinion” based words are removed from the report as they are clearly included to influence members.

As with the item above, the overall massing of the above development, including the bungalow built at the rear of the site was the subject of extensive debate during the original application. The addition of yet another substantial building, in such close proximity to the main property would also have been a major factor in the balance and outcome of the original decision.

Para 2.11 – Clearly, we can only conclude that the Case Officer is having separate discussions with the developer and is confirming material choices with him.

Para 2.13 – Can you confirm how you know the wall will be 900mm high forward of the building line? It is not shown on any drawing at that height (the hatching shows the 2m high wall). Comments regarding the terracing are covered above in 2.6

Para 2.14 – Please confirm how the removal of a mature hedgerow and replacement with 4 trees can be an increase in vegetation? Furthermore, why has the Case Officer not clearly stated that the developer has recently planted the conifers along the northern boundary and that they must be removed?

Para 3.4 – The issue of the windows to the southern elevation was not one of overlooking, it was the fact that the spacing distance (13.6m) was only achievable by virtue of it being a blank wall.

We are concerned that the Case Officer has included the following:

“The proposed increase in width of these openings has given rise to significant objection from the neighbouring occupants, in that this alteration would (in their opinion) result in a breach of spacing standards set out in the SPD”

This was not “our opinion”, it was the view stated in the previous case officers report and was further confirmed by Clare Billings on the 6th August 2018 in our meeting to discuss the matter. We therefore demand that this statement is removed as it is incorrect, inflammatory and extremely misleading to members.

This matter was the subject of enormous debate, both during the consultation, the planning committee meeting and subsequent meetings with the LDC Planning Team and Cllr Marshall (the Head of the Planning Committee). The sizes of the openings granted in the approval were the absolute maximum that LDC Planning considered could be included whilst still applying the term “blank wall”. Condition 12 was applied in the approval document stating that the openings were to be maintained in the approved form for the life of the development.

Para 7.2 – The Case Officer is clearly in possession of a “crystal ball” of sorts, as he is seemingly able to tell what would or wouldn’t have been agreed at the committee meeting last year when the original application was heard. In the report he states:

“These concerns are noted, however it is not considered that the proposed alterations detailed within this application, individually or cumulatively, tip the planning balance in favour of a refusal, as discussed above”

We find the dismissive presumption in this statement deeply upsetting. This Case Officer was not engaged on this application last year, so has no right or ability to suggest what may or may not have been agreed previously. This level of presumption is totally unacceptable for a Case Officer to assert in a report to the planning committee and we demand it is removed.

Para 7.4 – Why will the Case Officer not acknowledge that the street scene drawing provided is still incorrect? The paragraph is deliberately obtuse yet seeks to assure members that information sought from the applicant is acceptable. The new dwelling clearly sits approximately 500mm higher than the adjacent property (17 Gaiafields Road). Why won’t the Case Officer be honest and acknowledge the drawings are

incorrect and he hasn't requested clear updated versions? We insist that an updated street scene drawing is provided once and for all.

Para 7.5 – Why is the Case Officer making this point? We are well aware that the retrospective nature of the items makes them no less valid, that is not out argument. We find this paragraph is condescending and a clear directive to members to dismiss consultee concerns. We insist this be removed.

Conclusion – Why has the Case Officer stated that this will be a “High Quality” development when it fails to meet your own SPD Guidance for the provision of Daylight and Sunlight (hence the developer seeking to enlarge the windows)?

LIST OF SPEAKERS

PLANNING COMMITTEE MEETING

30th September 2019

18/00301/FUL

Mr Ian Goodwin

Objector

Councillor Paul Ray

Ward Councillor

Mr Ron Oliver

Applicant's Agent

19/01061/FUH

Councillor Keith Willis-Croft

Objector

Mrs Rachel Thompson

Applicant

Tree Preservation Order No. 434-2019 (19 Rectory Lane, Armitage)

Mr Stephen Locke (*Stephen Locke Associates*)

Objector Agent