

Planning Committee

25 November 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 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

25 November 2019

CONTENTS

Case No.	Site Address	Parish/Town Council
19/00301/FUL	15 Gaiafields Road Lichfield	Lichfield
19/01041/FUH	22 Gaiafields Road Lichfield	Lichfield
19/01339/COU	3 Stapleford Avenue Fradley	Fradley and Streethay

Lichfield
district council

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LOCATION PLAN

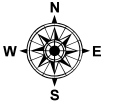
19/00301/FUL
15 Gaiafields Road
Lichfield

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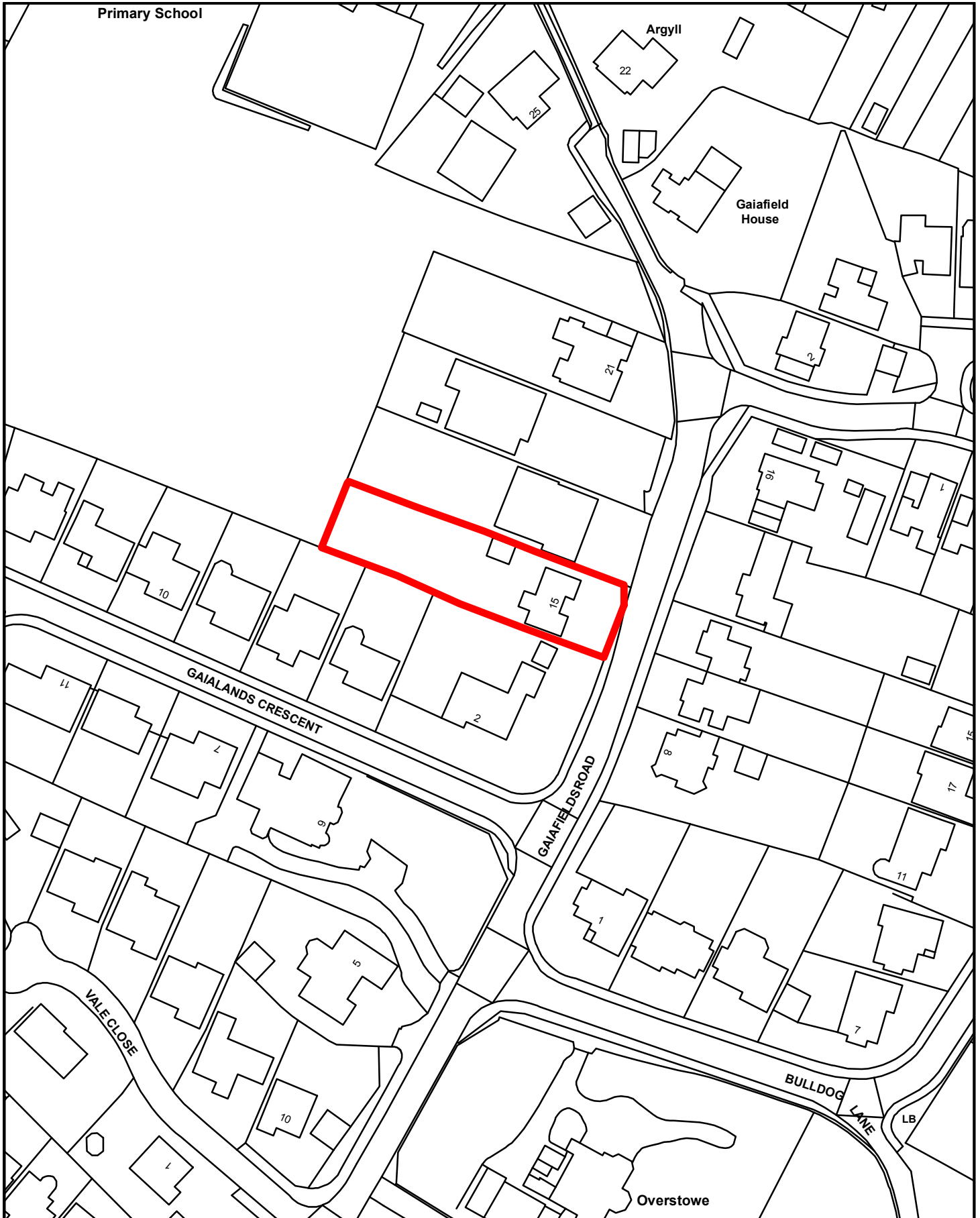
Dated: November 2019

Drawn By:

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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

Registered 25/03/19

Parish: Lichfield

Note 1: This application is being reported to the Planning Committee as the application has been called-in by Cllr Grange on the following grounds:

- Original application was granted “on balance” and included conditions specifically to protect the amenity of neighbours due to relaxation of the spacing standards in the SPD. This application appears to be seeking to get those conditions overturned in particular the changes to the “slit” windows on southern boundary; changes to design; size and siting of garden room; changes to front elevation and window design; inclusion of a hot tub room; and changes to height of the main dwelling.
- The garden room in application 17/01629/FUL was approved under permitted development rules but now breaches spacing from the boundary and height restrictions and so is not clear whether this can now be considered as permitted development under the TCPA 1990.

Note 2: This application was deferred, without discussion, at Planning Committee on the 30 September 2019. It was deferred to allow sufficient time for the consideration of the additional information received since the publication of the committee report. As no discussion was had at Planning Committee, the application is reported in full, including reference to and consideration of all representations made following the publication of the last committee report.

RECOMMENDATION: Approve, subject to the following conditions:

CONDITIONS:

1. The development authorised by this permission shall be carried out 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.
2. The development shall be carried out in accordance with the approved external materials, fenestration and door details approved on 5th October 2018 (under condition 3 of application Ref: 17/01629/FUL), unless otherwise agreed in writing by the Local Planning Authority.
3. The development shall be carried out in complete accordance with the Construction Vehicle Management Plan approved on 5th October 2018 (under the terms of condition 4 of application Ref: 17/01629/FUL) and thereafter adhered to throughout the demolition and construction period.
4. The agreed tree / hedge protection measures, as detailed on approved plan 311.2 Rev 8, shall be provided in accordance with the British Standard 5837: 2012 and retained for the duration of construction (including any demolition and / or site clearance works), unless otherwise agreed in writing by the Local Planning Authority. No fires, excavation, change in levels, storage of materials, vehicles or plant, cement or cement mixing, discharge of liquids, site facilities or passage of vehicles, plant or pedestrians, shall occur within the protected areas. The approved scheme shall be kept in place until all parts of the development have

been completed, and all equipment; machinery and surplus materials have been removed from the site.

5. The development hereby approved shall be carried out in strict accordance with the construction method statements approved on 12th October 2018 (under condition 6 of application Ref: 17/01629/FUL), unless otherwise agreed in writing by the Local Planning Authority.
6. The development shall be carried out in accordance with the finished floor level details as shown on drawing 311.3 Rev 16.
7. Before the development hereby approved is first occupied, details of a bat/bird box to be provided within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved bat/bird boxes shall be installed prior to the first occupation of the dwelling and thereafter maintained, in accordance with the approved scheme for the life of the development.
8. Before the dwelling hereby approved is first occupied, the parking and manoeuvring areas indicated on approved plan 311.3 Rev 16 shall be completed and surfaced in a porous bound material, which shall thereafter be retained as such for the life of the development.
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.
11. The boundary hedgerow to the south west side boundary of the site shall be retained for the life of the development.
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order 2015 (as amended), (or any Order revoking and re-enacting the Order with or without modification) the dwelling hereby approved shall not be enlarged or extended without the prior written permission, on application, to the Local Planning Authority.
13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), (or any Order revoking and re-enacting the Order with or without modification) no windows, or other openings shall be created in the side elevations at first floor level or within the roof slopes without the prior written permission, on application, to the Local Planning Authority.
14. The outbuilding (garden room/site welfare unit) hereby approved shall be used for purposes ancillary to the residential use of 15 Gaiafields Road only, and shall not be used, sold or let as a separate dwelling unit or business unit.
15. The garage accommodation hereby approved shall be used for the garaging of private vehicles and/or for ancillary domestic storage purposes only and shall not be used to provide additional living accommodation without the prior written permission, on application, to the Local Planning Authority.
16. Before the parking and turning area hereby approved is first brought into use, an interceptor drain shall be installed across the site entrance, and retained for the life of the development.

17. Within 1 month of the new site access being completed, the existing site access from Gaiafields Road made redundant as a consequence of the development, shall be permanently closed in accordance with the approved drawing.
18. The approved landscape and planting scheme, as shown on drawing 311.4 Rev 15 shall be implemented within eight months of the development hereby approved being first occupied, unless otherwise first agreed in writing by the Local Planning Authority. Any tree, hedge or plants planted as part of the approved landscape and planting scheme on the site which dies or is lost through any cause during a period of 5 years from the date of first planting shall be replaced in the next planting season with others of a similar size and species, unless otherwise first agreed in writing by the Local Planning Authority.
19. Prior to the construction of the front boundary wall, and wall between and to the front of No.15 and No.17 Gaiafields Road, full details of the design of any above brickwork infilling shall be submitted to the Local Planning Authority for approval. For the avoidance of doubt, any infilling shall be railings. The development shall thereafter be carried out in strict accordance with the approved details.

REASONS FOR CONDITIONS

1. For the avoidance of doubt and in accordance with the applicant's stated intentions, in order to meet the requirements of Policy BE1 of the Local Plan Strategy and the National Planning Practice Guidance.
2. To ensure the satisfactory appearance of the development and to safeguard the character of the surrounding area, in accordance with the requirements of Policy BE1 of the Local Plan Strategy, and the National Planning Policy Framework.
3. In the interests of highway safety, in accordance with Policies BE1 and ST2 of the Local Plan Strategy and the National Planning Policy Framework.
4. To safeguard any existing trees and hedgerow, in accordance with the provisions of Policies BE1 and NR4 of the Local Plan Strategy, the Trees, Landscaping and Development Supplementary Planning Document and the National Planning Policy Framework.
5. To safeguard any existing trees and hedgerow, in accordance with the provisions of Policies BE1 and NR4 of the Local Plan Strategy, the Trees, Landscaping and Development Supplementary Planning Document and the National Planning Policy Framework.
6. To safeguard the amenity of neighbouring occupiers in accordance with the requirements of Policy BE1 of the Local Plan Strategy.
7. In order to encourage enhancements in biodiversity and habitat, in accordance with the requirements of Policy NR3 of the Local Plan Strategy, the Biodiversity and Development Supplementary Planning Document and the National Planning Policy Framework.
8. In the interests of highway safety, in accordance with Policies BE1 and ST2 of the Local Plan Strategy and the National Planning Policy Framework.
9. To safeguard the amenity of neighbouring occupiers in accordance with the requirements of Policy BE1 of the Local Plan Strategy.
10. To safeguard the amenity of neighbouring occupiers in accordance with the requirements of Policy BE1 of the Local Plan Strategy.
11. To safeguard the amenity of neighbouring occupiers and safeguard any existing landscaping features, in accordance with the provisions of Policies BE1 and NR4 of the Local Plan

Strategy, the Trees, Landscaping and Development Supplementary Planning Document and the National Planning Policy Framework.

12. To safeguard the amenity of neighbouring occupiers in accordance with the requirements of Policy BE1 of the Local Plan Strategy.
13. To safeguard the amenity of neighbouring occupiers in accordance with the requirements of Policy BE1 of the Local Plan Strategy.
14. To safeguard the amenity of neighbouring occupiers and to ensure the building is used for ancillary purposes, in accordance with the requirements of Policy BE1 of the Local Plan Strategy.
15. In the interests of highway safety and to ensure a satisfactory level of parking is maintained in accordance with the requirements of Policies BE1 and ST2 of the Local Plan Strategy and the National Planning Policy Framework.
16. In the interests of highway safety, in accordance with Policy BE1 of the Local Plan Strategy and the National Planning Policy Framework.
17. In the interests of highway safety, in accordance with Policy BE1 of the Local Plan Strategy and the National Planning Policy Framework.
18. To ensure the satisfactory appearance of the development in accordance with the provisions of Policies BE1 and NR4 of the Local Plan Strategy, the Trees, Landscaping and Development Supplementary Planning Document and the National Planning Policy Framework.
19. 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.

NOTES TO APPLICANT:

1. The Development Plan comprises the Lichfield District Local Plan Strategy (2015), the Lichfield District Local Plan Allocations (2019) and the Lichfield City Neighbourhood Plan (2018).
2. Please be advised that Lichfield District Council adopted its Community Infrastructure Levy (CIL) Charging Schedule on the 19th April 2016. A CIL charge will apply to all relevant applications determined on or after the 13th June 2016. This will involve a monetary sum payable prior to commencement of development. In order to clarify the position of your proposal, please complete the Planning Application Additional Information Requirement Form, which is available for download from the Planning Portal or from the Council's website at www.lichfielddc.gov.uk/cilprocess.
3. Please note that prior to the access being revised you require Section 184 Notice of Approval from Staffordshire County Council. The link below provides a further link to 'vehicle dropped crossings' which includes a 'vehicle dropped crossing information pack' and an application form for a dropped crossing. Please complete and send to the address indicated on the application form which is Network Management Unit, Staffordshire County Council, 2 Staffordshire Place, Tipping Street, Stafford. ST16 2DH. (Or email to nmu@staffordshire.gov.uk)<http://www.staffordshire.gov.uk/transport/staffshighways/licences/>
4. The applicant is advised that no part of the proposed boundary wall to Gaiafields Road or associated foundations shall project forward of the highway boundary.

5. The applicant is advised that any soakaway should be located a minimum of 4.5m rear of the highway boundary.
 6. Severn Trent Water advise that there may be a public sewer located within the application site. Although their statutory sewer records do not show any public sewers within the site, 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.
 7. The Council has sought a sustainable form of development which complies with the provisions of paragraphs 38 of the NPPF.
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PLANNING POLICY

National Planning Policy

National Planning Policy Framework
National Planning Practice Guidance

Lichfield District Local Plan Strategy

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 6 – Housing Delivery
Core Policy 13 – Our Natural Resources
Policy Lichfield 1 – Lichfield Environment
Policy Lichfield 4 – Lichfield Housing
Policy ST1 – Sustainable Travel
Policy ST2 – Parking Provision.
Policy H1 – A Balanced Housing Market
Policy BE1 – High Quality Development
Policy NR3 – Biodiversity, Protected Species & their Habitats
Policy NR4 – Trees, Woodlands & Hedgerows

Lichfield District Local Plan Allocations (2019)

Lichfield City Neighbourhood Plan

Supplementary Planning Document

Sustainable Design
Trees, Landscaping and Development
Biodiversity and Development

RELEVANT PLANNING HISTORY

17/01629/FUL - Demolition of existing bungalow and erection of 1no replacement dwelling with single storey garden room – Approved – 03/08/2018

17/01114/FUL – Demolition of bungalow and erection of a 5 bedroom detached dwelling and a detached garden room / store and associated works – Refused – 29/09/2017

CONSULTATIONS

Lichfield City Council – Recommend Refusal; a number of very significant variations fail to comply with the original conditions imposed. (30/08/19)

Previous comments - Recommend refusal; the work to date is not compliant with the approved application. The addition of a large hot tub building in the garden and a high chimney to the garden room have already been built without planning permission. (05/04/19)

Environmental Health Officer – (Additional Comments) - The presence of a wood burning stove would not raise any concerns because this property lies within a smoke control area. The applicant must therefore use a Defra approved stove and use the fuel for which it is exempt (in a residential setting most people want a stove approved for logs). If a stove is fitted which is not exempt then this is a direct offence. If they use an exempt stove, there may be some smoke on start-up (for no more than about 30 minutes) after which there should be nothing but a heat haze. Happy to contact the applicant to make sure the stove they are using is exempt. (09/10/19)

(Previous Comments) - No comments. (12/04/19 and 02/09/19)

Staffordshire County Council Highways – (Additional Comments) - 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)

(Previous Comments) There are no objections on highway grounds to this proposal. The amended drawings do not appear to indicate any significant changes to the vehicular access from the highway or to the parking area. (16/04/19 and 22/08/19)

Severn Trent Water – No objections. No drainage conditions need be applied (04/12/17 & 3/7/18).

Arboriculture Officer – (Additional Comments) – Given the characteristics of Holly (i.e. it is a very resilient shrub/small tree), imagine that the effects of a small amount of smoke would be minimal. Holly can be found growing well in very polluted circumstances i.e. adjacent to main roads in cities where the particulate pollution is very high. Ditto for hawthorn, plus imagine that most of the use will be in the winter when neither of the species will be growing actively. (11/10/19)

(Previous Comments) - 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. (22/08/19)

Previous Comments - There is no objection to the provision of the additional 4 no. Betula utilis (Himalayan Birch) in the rear garden. Application should demonstrate why changes to the landscaping layout are proposed. (12/06/19)

Ecology Team– Refer to previous comments. (20/08/19)

Previous comments – No objections. The applicant is advised to consult the Biodiversity and Development SPD and take account of all advice detailed within where it may relate to their application. (25/06/19)

LETTERS OF REPRESENTATION

A total of 30 representations have been received during the course of the application.

This includes 7 additional representations that were received since publication of the previous committee report; some of which were included in the supplementary report for the 30 September 2019 committee but are now included below.

The observations/objections received are summarised as follows:

- 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 preserves 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;
- Tree Officer comments not reflected verbatim in the report;
- Dwelling is over half a metre higher than the adjacent property, reductions in ridge height were sought previously;
- The introduction of a 350mm wide pier in a 1300mm gap results in a near continuous masonry elevation. Simply dismissing the impact is unacceptable and deliberately steering the committee to overlook its impact;
- The addition of a large chimney and 600mm roof overhang to incongruous bungalow at the east of the site are clearly visible and highly impactful to neighbouring properties;
- Window and hot tub items would have been a significant issue in tilting the balance of the approval to a refusal;
- Building will be subject to year round use and emission of fumes directly into amenity space where young children play;
- Is the garden room not covered under permitted development rights? Been consistently advised that the garden room is permitted development. Should be subject to assessment on its merits;
- Use of the term modest to describe the hot tub room is intended to influence the committee to believing the structure is small. It is a large structure close to neighbouring property. Maximum height allowable under permitted development and will have an impact;
- Opinion based words should be removed from the report;
- The addition of another substantial building in such close proximity to the main property would have been a major factor in the balance and outcome of the original decision;
- Asks for clarification on how is it known that the wall will be 900mm in height forward of the building line- as not shown on any drawing what the height will be and the hatching shows the 2m high wall;
- Question how the removal of a mature hedgerow and replacement with 4 trees is an increase in vegetation and whether officer has clarified that the developer must remove recently planed conifers along the northern boundary;
- Issue with the windows in southern elevation is not one of overlooking. It was the fact that the spacing distance was only achievable by virtue of it being a blank wall;
- This was a matter of enormous debate, the openings granted in the approval were the absolute maximum that LDC Planning considered could be included whilst still applying the term “blank wall”;
- Case officer was not engaged in the last committee and has no right or ability to suggest what may or may not have been agreed previously. The level of presumption is totally unacceptable;
- Streetscene drawing is still incorrect. The new dwelling sits higher than the adjacent property;

- Why is it stated that this will be a “high quality” development when it fails to meet SPD Guidance for provision of Daylight and Sunlight (hence the developer is seeking to enlarge the windows);
- Due to the nature and topography, the garden room chimney is the same height as the hedge (at 6 Gaialands Crescent). The hedge is over 125 years old and provides cover for species of nesting birds and small animals;
- The hedge is a visual barrier which saves sight of the Garden Room. Will the log burning chimney affect the growth and health of the hedge; or affect the amenity of back garden;
- Core Policy 5 states that development proposals have to make appropriate provisions for improving road safety. It would be contrary to policy to approve proposals which do the opposite. A see through barrier such as railings or a lower wall, is a safety measure which the Council can safely expect to successfully defend in the event of appeal;
- When neighbours park on the opposite side of the road, cars drive at speed down the road, tight to the fronts of properties and therefore the conclusion of relative safety is based upon a false premise.

14 letters of objection received in respect of the second round of consultation following receipt of updated plans and further information providing clarity on the development/alterations sought. The objections are summarised as follows:

Design:

- Hedge to rear replaced with stone patio.
- The roof above has been extended by 1m and external lights installed. This breaks the 2m rule;
- Lighting and overhang to garden room should be removed as not necessity for site;
- The addition of another substantial building in such close proximity to the main property would be major factor in the balance and would have affected outcome of the original decision;
- The outbuilding height at 3m and its massing is clearly in excess of the maximum height for a flat roofed structure under any permitted development rights;
- Hipped dormers proposed style are not the local vernacular, the rest of the roof possess no other relief details. No reason why a poor style detail should be permitted in a row of contemporary properties;
- Overhang increases the visible mass for neighbouring properties. Why build closer to boundary than would otherwise permit?
- Overhang reduces possibility for compensatory planting;
- Inclusion of a masonry pillar, over 2m high, between the two properties (15 and 17) visually links the two properties resulting in terracing effect. Congested streetscene and property now fills entire plot;
- Streetscene drawing does not show any hard landscaped elements;
- Rooflight in garden room not shown;
- Hot tub room adds to massing and height exceed permitted height;
- PD removed under condition 14 and additional building will result in excessive massing and overdevelopment of the site;
- Confusion over what is proposed in planting;
- A solid wall to 2m in height is far in excess of LDC’s limit for a wall of 1.2m and hence is an incongruous feature in the streetscene;
- Chimney on garden room can clearly be seen from neighbouring properties.

Landscaping:

- Plans should be conditioned so that trees are at least 2.5m from fence boundary with No.17;
- Dense hedge of cypress trees have been planted where trees T2 are shown, contrary to planting scheme. These come under measures of High Hedges Act;

- Canopies of 4 trees are not shown to full canopy size (4-5m spread);
- Due to proximity to gym and Wendy house the trees would have to be cut back flush to the boundary which would be an awkward maintenance task and result in imbalanced and dangerous canopies;
- The trees would overshadow a native hawthorn, holly and yew hedge and overshadowing from trees would result in a net loss in biodiversity contrary to policy;
- Applicant already removed many hedges and trees on site, reduced the amount of garden and now wants to reduce the amount of planting;
- Loss of hedge has resulted in clear views across Gaiafields Road and school. As hedge not to be replaced, clear unobstructed views would remain.

Amenity:

- Smoke from stove could affect amenity. DEFRA listed appliances and fuel must be used to avoid pollution;
- Lighting could affect amenity of 6, 8, 10 and 12 Gaialands Crescent;
- Chimney is below the level of first floor bedrooms of surrounding houses. Unacceptable to health of neighbours – increase in deaths from asthma due to air pollution;
- Openings on southern elevation are over three times size of the approved openings;
- Spacing between No.2 Gaialands Crescent and development is significantly less (13.6m) than SPD guide for facing primary windows;
- Size of openings granted in approval were the absolute maximum that LDC considered could be included whilst still applying the term “blank wall”. Condition 12 states that openings shall be maintained in the approved form for life of development;
- Absurd to consider a blank wall, any increase in size of window is an even further encroachment into the privacy of neighbouring property, and the increase would be an unjustifiable decision;
- Greater concern is the impact that this would have on the right to light survey provided to demonstrate no impact on No.17. Clearly the proximity to boundary would have an impact on the RTL survey;
- Were assured the outbuilding nothing more than a garden room. Large chimney suggests year round use and emission of fumes into amenity spaces where young children play;
- Building has clearly been built higher, over half a metre taller than No.17. Drawings are incorrect;
- Streetscene drawing does not show large pillar between 15 and 17, therefore not accurate;
- Streetscene does not show copper beech tree in correct scale or position. Needs correcting due to concerns over failure to respect protected status of the tree and its impact on the property;
- Hedge heights shown are still not correct. Protection and retention of hedge is a mitigating factor for approval of a dwelling at reduced spacing distance, then this should be correctly represented;
- Larger windows shows disregard to privacy of neighbours;
- To vary conditions relating to windows would be fundamentally wrong;
- Position of windows in garden room would face rear and therefore allows for future privacy as a dwelling;
- First floor windows in southern elevation have been increased in size resulting in overlooking;
- LDC should stand by the conditions previously proposed (12, 13, 14, 16 and 20) as they are essential to the protection of their amenity and privacy;
- Hot tub room renders previous right to light survey void;
- Due to topography between 15 Gaiafields Rd and 2 Gaialands Crescent and perpendicular orientation, enforcing condition 12 and the design of the windows is essential to maintain amenity of residents.

Highways Issues:

- Amended plans show boundary wall and fence between number 15 and 17, between front gardens and a front wall between the property and road;
- Existing metal hoarding is a road safety issue due to visibility;
- Wall and hedge at No.17 are around 1m in height and the new front wall, plus any side wall should be limited in height not to block view;
- Deeds show front boundary of No.15 set back from No.17 and from kerb – design as proposed places the front wall 1m into the highway. Plans as submitted cannot result in a lawfully constructible planning approval;
- Plans should accurately show boundary with the road;
- Moving the boundary back to position of previous hedge would improve visibility from No.17.

Other Matters:

- Further variations should be refused not just on point of principle, but the plans as approved should be the end and not starting point of development creep;
- Comparison remains difficult and plans should be absolutely clear;
- Some of the proposed changes are either complete or on their way to being so;
- Applicant never had intention of adhering to those plans originally proposed;
- Granting permission for 17 amendments would make a mockery of planning procedures, and will encourage further changes in the future;
- Chimney nor fireplace were shown on previous approval;
- No evidence of welfare unit being used by employees. Instead its use is tipped towards being a dwelling place. The use as a dwelling contravenes conditions;
- North wall of main house has been built close to southern wall of number 17, it would be impossible for the emergency services to gain access to the SWU;
- Chimney and stove should be removed, electricity provides alternative heating;
- Hot tub room, 1m high chimney and flat roof overhang are not minor alterations;
- Had these amendments been provided previously then the balance would have tilted towards a refusal;
- Approval would call the planning process into question;
- Biodiversity negatively impacted;
- Garden room complete yet large caravan remains parked to front, and is used by development. The building restricts visibility;
- Will give green light for other developers to do the same;
- Planning history important as 8 different sets of plans were rejected by LDC;
- At no point has it been indicated that the garden room would be used all year round/permanently;
- Main building above permitted height;
- Previous decision to approve was “on balance”;
- Why not put hot tub in building to rear;
- Garden room does not need a kitchen and bathroom;
- Garden room is a self-contained bungalow, overhang and chimney make it outside limits of PD;
- Additional hardstanding, buildings and development mean that small mammal species including hedgehogs do not have a route through the garden;
- Proposals would result in a net loss in biodiversity rather than a net gain required by policy NR3.

9 Letters of objection received during original consultation. The comments are summarised as follows:

Accuracy of Plans/Insufficient detail:

- Garden room incorrect, including chimney and significant overhang;
- Distance of garden room from rear boundary, taking into account overhang;
- Hot tub room orientation not clear;
- Actual planting is different. West Himalayan Birch is Leylandii;
- No information on impact of side wall on hedge along southern boundary;
- Form is not explicit in changes proposed;
- Decision cannot be made until accurate plans/clarity is provided;
- Hot tub room – no details of orientation and materials. It is a permanent construction;
- Lifting of the ridge height may occur;
- Height of chimney to main house has increased;
- Application riddled with inaccuracies, ambiguities and unreferenced changes rendering consultation almost impossible;
- Drawings do not reflect what works have been carried out on site to date;
- Roof light in the garden room not shown on the approved plans;
- Foundations for garden room built;
- Boundary walls adjoining neighbours now fully built;
- Wall adjacent No.2 are now over 1800mm high with timber fence atop retaining wall;
- Further windows to garden room;
- Configuration of window position and style completely different to approved;
- Internal features of garden room have altered many times. Number of rooms have increased from 3 to 4 and now an east facing door with 3 windows, a new window in west side and a sky light above food area, not shown on plans;
- Concern that the developer will build taller than approved;
- Application should be rejected for lack of information;
- Unclear what variations are sought and plans do not annotate variations included;
- Plans do not state what is approved and those showing variations sought;
- Application form does not correlate with covering letter;
- Unsure whether hot tub room would result in overlooking;

Amenity:

- Bigger windows, doubled in depth, in south elevation cannot be allowed. Small slit windows were required to be obscure glazed and fixed shut which is a specific requirement as the development breaches LDC spacing requirements and protection of privacy of residents of Gaialands Crescent, the windows were conditioned any change would breach spacing standards;
- 1m higher chimney adjacent to boundary exacerbates the impact on outlook from No.2 Gaialands Crescent;
- Patio and lighting to rear of garden room would suggest extensive use significantly impacting adjoining properties and overlooking the rear gardens of 4, 6, 8, 10 and 12 Gaialands Crescent;
- Additional pollution from garden room chimney;
- Hot tub room is over 3m tall and only 2m from boundary with No.17 Gaiafields Road; Located in front of primary windows. Its height is overbearing given its proximity to neighbour and proposed dwelling;
- Lights could affect amenity;
- Garden Room chimney is against back garden. Smoke control city and DEFRA listed appliances and fuel must be used to avoid pollution;
- The southern windows as approved allowed it to be classified to be blank. Blatant attempt to revert to larger windows in breach of spacing standards;
- The new building at 3m tall, sited significantly beyond the rear of 17 Gaiafields Road, results in the issue of 45 degree rule and right to light which must again be brought to

consideration. Development must be expected to provide another RTL report before LDC can make a decision.

Landscaping:

- Substantial patio has been laid to rear of garden room, not on approved landscaping plan preventing possible planting to rear boundary;
- Leylandii trees have been planted not approved West Himalayan Birch;
- Hawthorn hedge to rear has been replaced by a stone patio and five external lights installed.

Design:

- Garden room constructed to a design which is very different to that which has planning permission for;
- The side wall with 2 Gaialands Crescent was a small retaining wall but now a 2m brick and timber wall which would impact hedge;
- Further proposed buildings increasing the already over intensive development of the site;
- Atrocious piece of design;
- Substantial structure in already intensively developed site;
- Approval was 400% larger than original and developer was not prepared to add this additional building in original plans;
- Concern over removal of brick banding detail on south elevation. Band important in assessing whether building is built to agreed height. The removal of the detail gives no relief to 18m long 4m high solid brick wall;
- Developer should stick to the obviously flawed design he has permission for.

Other Matters:

- Previous decision “on balance” which was achieved via a number of conditions which are now being sought to vary. The balance has now been destroyed;
- The conditions are still necessary now and there is no reason to lift the conditions that were imposed and they should be strictly enforced;
- The breaches should be enforced against;
- There has been disregard to the CVMP;
- Developer desires to build what he wants, which cannot be permitted given the planning permission was “on balance”;
- Previous plans showed garden room to be 3m in height. A chimney at 1m in height would be against permitted development rights. It would not have been granted had this been the case;
- Chimney should not be ratified as it undermines the planning process;
- The overhang means the building is not 2m from the boundary – breaching permitted development rights. The structure is therefore 1.5m too tall;
- The garden room is a second dwelling;
- Original application was very contentious. The developer must comply with the terms of the original permission;
- Committee must not grant retrospective permissions and should require enforcement action to be taken with the building removed/demolished;
- Developer should be written to state that LDC require total and strict compliance with the permission;
- View of LCC planning committee is to take firm and strict approach;
- Planning system and LDC must have integrity;
- Any deviation from the approved plans, particularly in terms of increased development, encroachment on boundaries or impact on outlook must tip the balance towards refusal;
- Assurances were given that these conditions would not be changed as they were mitigating factors in allowing the development;
- The chimney is above the permissible height for the building;

- Building is long way off being a site welfare unit;
- Gradual changes add up to very significant alterations overall;
- Variations violate and upset the agreed balance and should be refused;
- Acknowledges to install a wood burning stove;
- Dimensions of garden room are that of small bungalow, few garden rooms are large enough to alter internal layout;
- Emphasise the condition that garden room be used for purposes ancillary to residential use of Gaiafields Road only;
- Need for wood burning stove is questioned, why would anyone use it?

PLANS CONSIDERED AS PART OF THIS APPLICATION

311.2 Rev 8 – Tree Protection Plan
 311.3 Rev 16 – Hard Landscape Plan
 311.4 Rev 15 – Planting Plan
 Elevations, Sections & Site Plan Rev 1C
 Ground & First Floor GA Plans Rev 1C
 AG/101/3 Rev B - Streetscene

OBSERVATIONS

Site and Location

The application site relates to 15 Gaiafields Road which is located within the settlement of Lichfield as defined by the Local Plan Policies Map. The site lies on the north western side of Gaiafields Road, in a predominantly residential area which is characterised by larger detached dwellings where dwellings vary in size and design. There are varying land levels along Gaiafields Road, with houses on the opposite side sitting at a lower level, and land levels rising as you progress to the south. The rear garden to the application site backs on to the playing fields of St Peters and St Pauls Primary School. Adjacent to the south east corner of the site, within the side garden of no. 2 Gaialands Crescent is a mature Beech tree subject of a Tree Preservation Order. Along the southern side boundary of the site shared with no. 2 Gaialands Crescent is a substantial mature hedgerow which runs from front to back.

A replacement dwelling is currently under construction on the site which is at an advanced stage of construction. A temporary store and caravan are located on the site frontage, which is currently enclosed by hoardings. A garden room has been constructed, and appears to be completed, to the rear of the site.

Background

Planning permission (Ref: 17/01629/FUL) has been granted for the demolition of the previous dwelling and the erection of a replacement dwelling, along with the construction of a single storey garden room. This permission was considered and approved at Planning Committee on 30 July 2018, with the decision being issued on 3 August 2018. The decision to approve was subject to a number of planning conditions including, amongst others, a condition requiring the development to be carried out in strict accordance with the approved plans.

Development has now commenced and is at an advanced stage of construction. During the course of development it was brought to the Councils attention that the development was not being carried out in accordance with the approved plans. Consequently, a planning application has been submitted to vary the plans previously approved. Since submission of this planning application, development has continued. A number of enforcement investigations have been carried out regarding various aspects of the development in terms of its adherence with the initial approval and its conditions. As

the development has not been erected in accordance with the approved scheme, the development is unauthorised.

This application was to be reported to Planning Committee on 30th September 2019. A significant amount of additional neighbour representation was received following the release of the agenda and prior to consideration of the application at Planning Committee, which resulted in a large supplementary report being produced.

Subsequently, the Committee deferred the consideration of the application, without discussion, to allow for full consideration of the additional information received. This application is therefore reported in full and incorporates those additional comments contained within the earlier supplementary report.

Proposals

This planning application seeks to regularise the development which deviates from the originally approved plans. The development is at an advanced stage and as such the proposals are largely retrospective.

The application seeks to vary condition 2 of planning permission 17/01629/FUL. Condition 2 requires the development to be carried out in strict accordance with the approved plans. The application seeks approval for a number of variations which are summarised below:

Alterations to dwelling

East Elevation (Roadside)

- Increase in width of ground floor bay window and change in design to square bay. This alteration results in the loss of two smaller side windows in the eastern elevation;
- Introduction of a new canopy roof over the bay window;
- Change from two first floor windows serving bedroom 4 to a single opening;
- Change in design of two dormer windows from gable design to hipped design;
- Revised internal layout at ground floor level.

South Elevation (facing towards No. 2 Gaialands Crescent)

- Removal of brick course detail between ground and first floor;
- Increase in width of study and dining room windows (to remain 1.7m above floor level, obscure glazed and fixed shut).

West Elevation (Garden)

- Change from two first floor windows serving the master bedroom to a single opening;
- Change in design of two dormer windows from gable design to hipped design;
- Increase in width of kitchen bi-fold door opening;
- Reduction in width of kitchen window.

North Elevation (facing towards 17 Gaiafields Road)

- Change in design from gable to hip design;
- Removal of first floor windows serving en-suites;
- Removal of side garage door.

Internal

- Alterations to the internal layout including removal and repositioning of internal walls. An open plan kitchen dining room is now proposed, along with larger openings serving study.

Alterations to garden room

- Internal alterations to increase rooms from 3 to 4 and include food area, rest room, w/c, and drying area. The food area is an addition to the previous approved accommodation;
- Repositioning of door and windows and increase in windows from two to three in eastern elevation;
- Provision of new opening to serve w/c in west elevation;
- Addition of a chimney and external chimney stack. Chimney to project 1m above height of roof;
- Addition of roof overhang to rear elevation projecting 600mm from rear elevation.

Other proposed alterations

- Creation of hot tub building measuring 4.15m (w), 4.15m (l) and 3m (h). The building would be sited to the rear of the dwelling 2m from the boundary with No.17 Gaiafields Road. Building to have bi-fold doors to front and high level window to rear;
- Boundary wall between No.15 and No.17, measuring 2000mm high, reducing to 900mm in height forward of building line;
- Changes to hardsurfacing layout including extent of hardsurfacing around garden room;
- Changes to landscaping layout to remove 2 trees to rear of garden room and introduction of 4 rowan trees adjacent to boundary with 17 Gaiafields Road.

With the exception of the change to the front bay window, there are no proposed alterations to the footprint of the dwelling, while there are no other changes proposed to the eaves and ridge height compared to the approved dwelling.

Determining Issues

1. Policy & Principle of Development
2. Design and Impact upon the Character and Appearance of the Surrounding Area
3. Residential Amenity
4. Access and Highway Safety
5. Impact on Trees
6. Ecology
7. Other Issues
8. 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 Local Plan Strategy 2008-2029; the Local Plan Allocations (2019) and the adopted (made) Lichfield City Neighbourhood Plan.

1.2 This application seeks approval to vary the design of a previously approved replacement dwelling. Therefore the principle of the development (replacement dwelling) has been established under planning permission 17/01629/FUL.

1.3 The development is at an advanced stage of construction, the amendment to the design of the dwelling, outbuildings and external elements of the scheme which are sought for

approval are therefore largely retrospective. Notwithstanding the retrospective nature of the planning application, as confirmed by the National Planning Practice Guidance, the application should be considered in the normal way. Therefore, the proposals should be determined on their merits and in accordance with the policies contained within the Development Plan. The fact that the works are retrospective would not therefore be a reason to withhold permission.

2. Design and Impact upon the Character and Appearance of the Surrounding Area

2.1 Local Plan Strategy Policy BE1 advises that *“new development... should carefully respect the character of the surrounding area and development in terms of layout, size, scale, architectural 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”*. Core Policy 3 states that development will protect and enhance the character and distinctiveness of Lichfield District, and that development should be of a scale and nature appropriate to its locality.

2.2 These proposals relate to various alterations to a previously approved replacement dwelling, the approved garden room and the external hard and soft landscaping of the development. The scheme also includes the addition of a hot tub building and new boundary wall between No.15 and 17 Gaiafields Road.

Alterations to Dwelling

2.3 The scale and mass of the dwelling would remain largely as previously approved with no change in the eaves and ridge heights. Furthermore, the siting of the dwelling would be as previously approved. The only additional footprint and mass arising from the development would be from the increased width of the bay window and the proposed new canopy over this feature to the front of the dwelling. The proposed hipping of the dormer windows would contrast from the design of the previously approved gable dormer windows. Nonetheless, the dwelling is sited within a varied streetscene with varying styles of dormers and roof types, and therefore no strict uniformity in style exists. In this context it is not considered that these alterations would have a detrimental effect on the overall design of the dwelling or wider streetscene.

2.4 The removal of the brick detailing on the southern elevation does not cause any undue harm to the character and appearance of the property or wider streetscene, due to the limited visibility of this elevation from the streetscene. Furthermore, it is not considered that the other alterations to elevations in terms of number and size of openings significantly affects the overall design of the proposed development.

2.5 Concern has been raised that the height of the dwelling is greater than the dwelling approved and detailed on the approved and submitted streetscene drawings. During the course of the application, members of the Councils' Planning Enforcement team visited the site on a couple of occasions to ascertain the eaves height of the dwelling as constructed at that time. The Councils' Enforcement Officer was satisfied that the eaves height of the development was as approved and therefore were satisfied that no breach of planning control had arisen in this respect. 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.

2.6 Further comment has been raised that the streetscene drawing fails to show all boundary treatments and does not accurately reflect the development proposed. Details of front and side boundary treatment is detailed on other plans and its absence from the streetscene drawing is not significant. Nonetheless, it is not considered that the erection of a 2m high boundary wall between No.15 and No.17 Gaiafields Road results in any significant erosion of the openness of the streetscene above and beyond what has previously been approved.

Furthermore, it must also be acknowledged that a 2m high boundary between the two properties can be carried out without requiring planning permission in any event.

- 2.7 In view of the above, it is considered that the scale, massing and design of the proposed dwelling are appropriate to the context and would not cause an adverse impact on the character and appearance of the surrounding area and as such, would accord with the Development Plan and NPPF in this regard.

Outbuilding (Garden Room)

- 2.8 The footprint and general dimensions of the garden room would not alter compared to that previously approved. It is acknowledged that the development now includes a 600mm overhang to the rear elevation along with the introduction of a chimney. The introduction of these features does not significantly alter the overall scale of the building to any demonstrable degree. The repositioning of openings also does not significantly alter the design of the building. Views of the outbuilding from public vantage points would be limited, however it is noted that views of the structure are available from nearby neighbouring properties and gardens. Notwithstanding this, it is not considered that the design alterations to the building causes any significant harm to the character and appearance of the area.
- 2.9 It is noted that several comments have been made which state that the design alterations to this building now takes the development proposals outside the parameters of "permitted development" being within 2m of the boundary and over 3m in height. As permission is required for the development, the building needs to be assessed on its merits and in the context of the policies in the Development Plan. The fact that a development does not fall within the parameters of permitted development is not a reason to resist a development. 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.

Proposed Hot Tub Building

- 2.10 The scheme includes the introduction of a hot tub building which would be sited to the rear of the dwelling 2m from the boundary with No.17 Gaiafields Road. Given the size of the application site, and the relatively modest footprint of the new building (4.15m (w), 4.15m (l) and 3m (h)), it is considered that the development can be accommodated within the site without representing an overdevelopment of the plot. As a general guide for site coverage, permitted development rights allow for outbuildings be erected within a site so long as they do not cover more than 50% of the plot and the cumulative proposals would not exceed this site coverage.
- 2.11 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 in this context.
- 2.12 With regard to this building, it would appear that its parameters may fall within the restrictions of permitted development for Class E outbuildings in that the overall height does not exceed 3m and the building would not be sited within 2m of the site boundary. It may be possible therefore that the building could potentially be erected under permitted development rights (after the point in which the replacement dwelling is first occupied).

Other Alterations

- 2.13 As detailed above the scheme now includes the erection of a boundary wall between No.15 and No.17 Gaiafields Road. The wall between the two properties would be 2m in height,

reducing to 0.9m in height forward of the building line. The wall would connect with the previously approved wall along the roadside boundary. It is considered that the wall, in terms of its design and scale is appropriate for its context given the previous approval and would not result in a terracing effect between No.15 and 17.

- 2.14 The amended proposals include alterations to the hard and soft landscaping. This includes the removal of two proposed trees to be sited to the rear of the garden room, and their replacement with 4 Rowan trees which would be sited in the rear garden along the boundary with No.17. The substitution of these trees is considered to be acceptable and would lead to an increase in vegetation at the site above what has previously been approved. The submitted landscaping scheme continues to show the provision of a hedgerow along the rear boundary (behind the garden room). It is noted that there are some coniferous trees currently in the position where the 4 Rowan trees would be sited. Notwithstanding this, these do not form part of the landscaping scheme and the delivery of the landscaping scheme, as detailed on the plans, is required to be carried out within 8 months following completion of the development.
- 2.15 The proposed hardsurfaced areas is also proposed to be amended including alterations to the path from house to rear building, and hardsurfacing surrounding that building. It is not considered that the changes to the extent of hardsurfacing has a detrimental impact on the character and appearance of the area, and the ratio between hardsurfacing and landscaped areas remains appropriate in its context.

3. Residential Amenity

- 3.1 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. Core Policy 3 also states that development should protect the amenity of residents and seek to improve overall quality of life. The adopted Sustainable Design Supplementary Planning Document (SPD) at Appendix A sets out guidelines to ensure a satisfactory standard of amenity for existing and proposed occupiers. It is important to note that since this development was last considered at Planning Committee, the content and guidance contained within Appendix A has been reviewed and updated.
- 3.2 The dwelling would remain as previously approved in terms of its overall scale, height and its proximity to, and relationship with, neighbouring properties. This is with the exception of the slight increase in footprint arising from the increased width of the bay window. It is considered that this increase in footprint is small scale and does not affect the overall relationship with neighbouring properties. Therefore, the relationship with neighbouring properties from the built form of the dwelling would be as previously approved, and does not give rise to any issues above and beyond the approved development.
- 3.3 The positioning of windows would remain largely as previously approved. Within the front elevation the approved first floor windows (serving bedroom 4) would be consolidated to one opening, while within the rear elevation the first floor master bedroom openings would be reduced from two to one. The scheme includes alterations to the proportions of ground floor openings within the front and rear elevations, and it is also proposed to remove openings from the side elevation facing towards No.17 Gaiafields Road. No additional issues would arise from these alterations.
- 3.4 Within the southern elevation, facing towards No.2 Gaialands Crescent, it is proposed to increase the width of the side facing windows which serve the study and dining room. These openings were approved as high level, obscure glazed and fixed openings. 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, therefore resulting in amenity issues. These openings

would increase in width from the previously approved widths of 1.8m and 1.2m to circa. 2.9m in width each. The windows would remain high level (1.7m above internal floor level), obscure glazed and fixed shut. The SPD states that there should be no windows serving principal habitable rooms on side elevations at ground floor level, unless there is an intervening screen (wall or fence) blocking interaction, or the window is obscure glazed top hung/fixed shut. It should also be noted that the internal layout has been altered so that the dining room and kitchen are open plan. This side window would no longer be the principal opening serving that room, and as such can be considered to be a secondary opening. Comments raised by neighbouring residents state that the previously approved openings were the maximum permissible for this elevation to be considered to be a "blank wall". There is no absolute maximum in policy which dictate how large or small such a window should be. The question is whether the increase in width of the openings would give rise to any further amenity issues, above and beyond, that previously approved. Between the openings and the adjacent property there is a 1.9m high boundary wall/fence, with a substantial hedge beyond, which is sited at a higher level. This substantial boundary screening prevents direct interaction between the openings and the neighbours property. Notwithstanding this, the fact that the windows are to be obscure glazed, high level and fixed shut, ensures additional mitigation to prevent any loss of privacy or overlooking. It is considered therefore that additional harm to amenity arising from the increased width of the high level, fixed shut, obscure glazed windows is not demonstrated and therefore no further amenity issues would arise, so as to justify refusal of the proposals. As previously determined, a condition is recommended for the windows within the side elevation to be fitted with obscure glazing, for clarity this condition has been amended to specify a minimum level 3 obscurity.

- 3.5 While the heights and relationship of the dwelling with neighbours would remain the same, additional built form is proposed through the addition of a hot tub room. This building would be sited to the rear of the dwelling and would have a height of 3m, and a width and depth of 4m. The building would be set in 2m from the boundary with No.17 Gaiafields Road. It is therefore necessary to assess whether the addition of this building would affect daylight and outlook from openings in No.17 Gaiafields Road. Within the side elevation of No.17 are two openings at ground floor level which would have the potential to be affected. The nearest opening is a dining room window, however this is a secondary opening as there are other windows serving that room. The building would be within the 45 degree horizontal line from that opening, however given the modest height of the building, the 45 degree vertical fall would fall short of the opening. The building would also sit below the 25 degree line from this opening, therefore no demonstrable loss of outlook would arise. There is also a playroom window which is located further away from the hot tub building, this is a principal opening to a habitable room. The hot tub building would fall within the 45 degree horizontal from this opening, however given the distance between the hot tub room and this opening, along with its modest height the 45 degree fall would not be close to this opening, and therefore no breach of the standards set out in the SPD would occur.
- 3.6 It must also be noted that there is a 2m high boundary constructed between the two properties which, due to its close proximity to openings in No.17, affects daylight and outlook, while the orientation of the building to these openings is also a factor. Neighbours have suggested that an up to date right to light survey should be carried out. Since the application (Ref. 17/01629/FUL) was last considered at Planning Committee, the Sustainable Design SPD has been updated. Appendix A of the updated SPD no longer requires the submission of such a report, with impact upon light now assessed against the 25 degree and 45 degree standards set out in the SPD. The SPD confirms that Right to Light legislation falls outside of the planning process, as this is a matter of property law, and it would be for the parties affected to seek a legal remedy separate from the planning process. The SPD confirms that, the "Impact on right to light will not therefore justify a reason to refuse planning permission". As set out above the provision of the hot tub building falls within the guidelines of the SPD.

- 3.7 With regard to the garden room, it is considered that the addition of the overhang and external chimney are not significant additions and minor having regard to the overall scale and mass of the development. Also, they are primarily sited adjacent to the playing fields to the rear, rather than a residential curtilage. It is considered that no additional issues would arise from this building in terms of overbearing, overshadowing or loss of daylight to neighbouring occupiers. The additional openings to the front do not result in any further amenity issues compared to the previously approved scheme.
- 3.8 Concern has been raised with regard to the impact of the proposed log burner stove and chimney which has been installed on the garden room, and the impact that this would have on neighbours from smoke/fumes. The Council's Environmental Health Officer has clarified that the presence of a wood burning stove would not raise any concerns because the property lies within a smoke control area. A DEFRA approved stove and use the fuel for which it is exempt (in a residential setting most people want a stove approved for logs). If a stove is fitted which is not exempt then this is a direct offence. If they use an exempt stove, there may be some smoke on start up after which there should be nothing but a heat haze. Consequently, it is considered that no adverse impact on neighbours would arise from the proposed development that would be sustained as being unacceptable in planning terms by reason of the chimney/stove.
- 3.9 Concern has also arisen with regard to the external lighting which has been installed on the underside of rear projecting canopy of the garden room. The installation of such lighting is not development and does not require planning permission in its own right.
- 3.10 Furthermore, the 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 previously been conditioned to ensure that it is used in such an ancillary manner and such a condition is replicated in the recommendation.
- 3.11 Therefore overall, whilst it is appreciated that there are a number of changes proposed, it is considered that the amended proposals are not at significant variance to the previously approved scheme to result in any further undue harm to the amenity of neighbouring properties, as it is considered that the proposals, subject to conditions, adhere to the guidelines contained within the Council's adopted Supplementary Planning Document. Accordingly, it is considered the proposals do not conflict with the development plan and NPPF, with regards to the proposals impact on neighbouring residential amenity.

4. Access and Highway Safety

- 4.1 Concern has been raised with regard to the development being carried out within the public highway and the potential for the development obscuring visibility from neighbouring properties. The positioning of the front boundary wall, and access arrangements, would remain as approved on the previous planning permission.
- 4.2 With regard to encroachment onto the public highway, this issue was considered under the previous scheme, where it was observed that *"although there is no substantial footway to the frontage, only a narrowing strip indicated on OS plans, Staffordshire County Council records show that the proposed wall on its proposed alignment will not encroach onto the adopted highway"*. SCC Highways have raised no concern with regard to this application, which is in line with the previously approved scheme.
- 4.3 The only alteration to the front of the site is the provision of a 900mm high wall between No.15 and No.17 Gaiafields Road, as detailed in the submitted plans. This wall would not project above the height of the previously approved front boundary wall. 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. However, SCC Highways have observed

that it is not clear whether the higher level infill between pillars remains as railings as previously considered. The applicants have confirmed that there is no change in this respect and that the above brickwork infilling will be railings, as previously approved. It is therefore considered that it would be appropriate to attach a further condition requiring this detail to be submitted prior to the construction of the wall.

- 4.4 Sufficient off street parking would remain for the proposed development. Therefore, it is considered that the proposed development would not give rise to any highway safety issues.

5. Impact on Trees

- 5.1 Policy NR4 of the Local Plan Strategy identifies the ecological and visual importance of trees and hedgerows across the District. Trees which are of particular significance will be protected and retained where possible, and the removal of large mature species and their replacement with smaller short lived species will be resisted. The policy also acknowledges the need to retain sufficient space to allow for sustainable growth and looks to retain the important tree cover in the District as a whole.

- 5.2 The Council's Supplementary Planning Document; Trees, Landscaping and Development provides guidance on how to successfully integrate existing trees into development and integrate new planting into a scheme to ensure its long term retention. The site is not within any designated Conservation Area and there are no TPO's directly on site. However, there is a large TPO'd Beech tree directly adjacent to the site adjacent to Gaiafields Road within the confines of no. 2 Gaialands Crescent.

- 5.3 The impact of the development on the protected tree has previously been considered, and deemed to be acceptable. The construction of development within close proximity to the protected tree is as previously approved and no further development is proposed that would give rise to any significant implications on protected trees. The siting of the temporary store, the installation of tree protection measures, and the manner of construction close to the tree, have previously been agreed through condition. The implementation of such measures can be secured by condition in this application, as the retention of tree protection measures and the means of construction, in accordance with the previously approved scheme, would remain pertinent.

- 5.4 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 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 implementing the landscaping scheme as detailed on the plans which would need to be carried out within 8 months of first occupation.

- 5.5 Concern has been raised with regard to the impact that emissions from the chimney/log burning stove would have on a hawthorn and holly hedge. Holly and hawthorn are resilient species and can be found growing well in polluted areas. The Arboriculture Officer, therefore considers that the affects from fumes would be minimal.

6. Ecology

- 6.1 Local Plan Strategy Policy NR3 requires that a net gain to biodiversity should be delivered through all development. This will be achieved in this case through the installation of a bat or bird box within the application site. A condition to secure the installation of a suitable bat/bird box is proposed. The net gain in biodiversity value derived by this provision will be given due weight as required by Paragraph 118 of the NPPF. Accordingly, the Councils ecologist has raised no objection to the scheme and the proposal complies with the requirements of Development Plan and NPPF in this regard.

6.2 Policy NR7 of the Local Plan Strategy sets out that any development leading to a net increase in dwellings within a 15km radius of the Cannock Chase Special Area of Conservation (SAC) will be deemed to have an adverse impact on the SAC unless or until satisfactory avoidance and/or mitigation measures have been secured. The Council has adopted guidance on 10 March 2015 acknowledging a 15km Zone of Influence and seeking financial contributions for the required mitigation from development within the 0-8km zone. Whilst the site lies within the 15km zone of Cannock Chase SAC, there is no requirement for contributions in this instance as the site lies outside the 8km limit and there would be no net increase in dwellings.

7. Other Matters

7.1 Concern has been raised that there is no emergency access to the garden room. As an outbuilding, which is ancillary to the main dwellinghouse, it is not considered necessary for this building to have access for emergency vehicles.

7.2 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. The development has been assessed on that basis.

7.3 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 by the current case officer, other officers of the Council have visited some neighbouring property and it is considered that officers have sufficient information from visits to the site and the submitted plans to enable their considered assessment of the proposals and its impact on neighbours. Photographs of the site from the neighbouring property has also been made available.

7.4 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.

7.5 Numerous comments have been made with regard to the previous application being approved on balance. These concerns are noted, however it is not considered by officers that the proposed alterations detailed within this application, individually or cumulatively, tip the planning balance in favour of a refusal, as discussed above.

7.6 The previous conditions applied to the earlier permission would need to be transferred over to any approval for the amended scheme. The majority of this conditions would remain pertinent including those conditions which seek to preserve the amenity of adjoining properties. The conditions have been varied where appropriate to reflect previously approved detail or reflect new plans. The approved construction vehicle management plan required the removal of the temporary caravan to the front of the site once the welfare unit (garden room) was completed. This caravan has now been removed from the site so no conditions is required in respect of this element.

7.7 With regard to concerns relating to the accuracy of plans and level of information provided. During the course of the application, amended plans and additional information was sought. Following receipt of these amended plans and additional information providing clarity on the extent of the amended proposed, it is considered that an appropriate level of information has been provided to enable an informed decision to be made on the development proposed.

7.8 The fact that a significant number of the alterations proposed are “retrospective”, does not make them unacceptable on planning grounds, but the merits of these changes should and have been given due consideration by officers, as set out above, to consider whether there are acceptable in planning terms. It is appreciated that there is already consent for a substantially similar built form and this proposal relates to the changes/alterations and the harm, or otherwise, such changes cause.

8. Human Rights

8.1 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.

8.2 Representations received consider that Article 1 of the first protocol, which states that every person is entitled to peaceful enjoyment of their possessions has not been fully considered. It is however considered that the impacts on neighbouring residents have been given due and full consideration as part of the consideration of the application, as set out above. Regard has been given to Lord Justice Pill in the case of *Lough v the First Secretary of State and Bankside Developments Limited (2004) EWCA Civ 905*, and in particular the conclusions therein. This highlights the need to also acknowledge of the rights of the landowner/developer and amongst other things, to appropriate planning control. As set out above, proportionate consideration has been given in making this recommendation to the Planning Committee in such regard.

Conclusion

The NPPF states that there are three dimensions to sustainable development, namely economic, social and environmental and that these should be considered collectively and weighed in the balance when assessing the suitability of development proposals.

With regard to the specifics of design and layout, it is considered that the application provides a scheme, which will integrate successfully into the existing local character and context and provides a high quality development, it is not considered that the proposed alterations detailed in this application would water down the quality of the scheme. The proposal would deliver a 4-bed dwelling in a sustainable location, which is supported by both National and Local Policies. It is considered that the plot size and relationship of the built form to amenity space is consistent with that to be found in the surrounding area, and adequate garden area would also be retained for the new dwelling.

The significant concerns raised by local residents have been duly noted and fully considered, however it is considered that there would be sufficient separation and adequate relationship between neighbouring dwellings, so as not to cause significant undue harm to the amenity of adjacent neighbouring occupiers.

Consequently, it is considered that the scheme is acceptable, and as such, it is recommended that this application be approved, subject to conditions, as set out above.

Lichfield
district council

www.lichfielddc.gov.uk

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Frog Lane
Lichfield
Staffs
WS13 6YY

Telephone: 01543 308000
enquiries@lichfielddc.gov.uk

LOCATION PLAN

19/01041/FUL
22 Gaiafields Road
Lichfield

Scale: 1:1,000

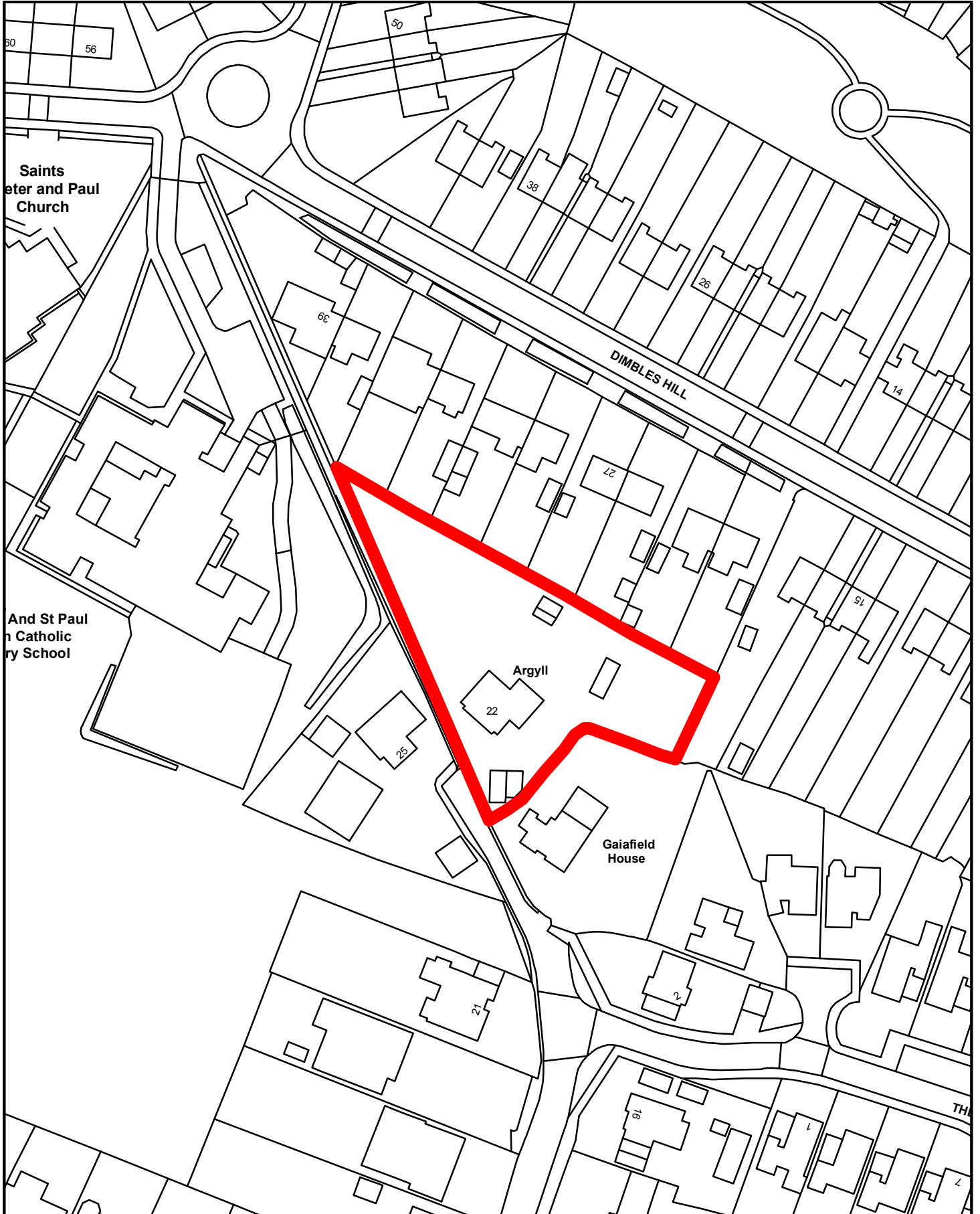
Dated: November 2019

Drawn By:

Drawing No:



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19/01041/FUH

**SINGLE STOREY EXTENSION TO REAR AND ENLARGEMENT OF FIRST FLOOR SECTION
22 GAIAFIELDS ROAD, LICHFIELD, STAFFORDSHIRE, WS13 7LT
FOR Mr S Armstrong**

Registered **23/07/2019**

Parish: Lichfield

Note: This application is being reported to the Planning Committee due to being called in by Councillor Grange on the following grounds:

- design, massing, spacing and impacts on street scene;
- risk to established trees; and
- harm to residential amenity.

RECOMMENDATION: Approve, subject to the following conditions:

CONDITIONS:

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.
2. The development authorised by this permission shall be carried out 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.

CONDITIONS to be complied with PRIOR to the commencement of development hereby approved:

3. Before the development hereby approved including any demolition and / or site clearance works is commenced or any equipment, machinery or materials is brought onto site, the tree protection measures as shown on approved Tree Protection Plan October 2019, Rev D shall be installed in accordance with the British Standard 5837:2012 and retained for the duration of construction (including any demolition and / or site clearance works). No fires, excavation, change in levels, storage of materials, vehicles or plant, cement or cement mixing, discharge of liquids, site facilities or passage of vehicles, plant or pedestrians, shall occur within the protected areas. The approved scheme shall be kept in place until all parts of the development have been completed, and all equipment; machinery and surplus materials have been removed.

All other CONDITIONS to be complied with:

4. Notwithstanding any description/details of external materials in the application documents, the facing materials to be used for the external walls and roof of the extensions shall match in colour, size and texture, those of the existing dwelling and shall thereafter be retained as such for the life of the development.
5. a) Notwithstanding the details shown on the approved plans, the development hereby approved shall not be occupied until full details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. The details shall include full details of replacement tree planting to compensate for the loss of T10, the formation of any banks, terraces or other earthworks, hard surfaced areas and materials, planting plans, specifications and schedules (including planting size, species, working regime and numbers/densities), existing plants / trees to be retained and a scheme for the timing / phasing of implementation works.

- b) The landscaping works shall be carried out in accordance with the approved scheme for timing / phasing of implementation or within 18 months of first occupation of the development hereby approved, whichever is the later.
- c) Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted.
6. Before the development hereby approved is first occupied, the parking areas and turning areas as shown on approved plan '2327-04, Rev A' shall be completed and surfaced in a porous bound material and thereafter retained as such for the life of the development.
7. The first floor bedroom window in the side elevation facing the rear amenity space serving No.25 Gaiafields Road to the west shall be top-opening only, and non-opening below 1.7m above internal floor level, and fitted with, and permanently glazed, in textured glass whose obscuration level is at least 3 on the Pilkington scale of 1-5 (where 1 is clear and 5 is completely obscure).
8. During the period of construction and demolition of the development, no works including deliveries shall take place outside the following times: 07:30am to 19:00pm hours Monday to Friday and 08:00am to 13:00pm hours on Saturdays and not at any time on Sundays, Bank and Public holidays (other than emergency works).
9. a) The development shall be carried out in full conformity with the methods and recommendations contained within the submitted Preliminary Ecological Appraisal '430PEA Rev B' (24th March 2017 and updated 5th November 2019).
- b) Any and all demolition and site clearance works should occur outside of bird nesting season (March-September inclusive). If, site clearance outside of bird nesting season cannot be achieved then the site must be checked to be free of nesting birds, by a suitably experienced ecologist, immediately prior to commencement of any site clearance works. Netting of vegetation to exclude birds shall not be used across the development site.
10. Within one month of completion of the hereby approved development, the following shall be installed within the application site and thereafter be retained as such for the life of the development:
- i. One bat box;
 - ii. One bird box; and
 - iii. Hedgehog gates within the application boundary treatment to allow free movement of hedgehogs into and out of the application site.

REASONS FOR CONDITIONS

1. In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended.
2. For the avoidance of doubt and in accordance with the applicant's stated intentions, in order to meet the requirements of Policy BE1 of the Local Plan Strategy and the National Planning Practice Guidance.
3. To ensure that no existing trees on the site which contribute towards the character of the area are damaged during the construction process, in accordance with the provisions of Policies BE1 and NR4 of the Local Plan Strategy and the National Planning Policy Framework.

4. To ensure that the external appearance of the development is physically well related to existing buildings and its surroundings, in accordance with Core Policy 3 and Policy BE1 of the Local Plan Strategy and the National Planning Policy Framework.
5. To ensure the satisfactory appearance of the development, to safeguard the character and appearance of the area, and to provide suitable wildlife habitat in accordance with the requirements of Core Policies 3 and 13 and Policies NR3, NR4 and BE1 of the Local Plan Strategy, the Trees Landscaping and Development SPD, the Biodiversity and Development SPD and the National Planning Policy Framework.
6. In the interest of highway safety and to comply with Local Plan Strategy Policy ST2 and the National Planning Policy Framework.
7. To safeguard the amenity of residents in accordance with Policy BE1 of the Local Plan Strategy, the Sustainable Design SPD and the National Planning Policy Framework.
8. To safeguard the amenity of residents in accordance with Policy BE1 of the Local Plan Strategy, the Sustainable Design SPD and the National Planning Policy Framework.
9. To safeguard and enhance important and protected wildlife species and provide net biodiversity gains in accordance with Local Plan Strategy Policy NR3, the Biodiversity and Development SPD and the National Planning Policy Framework.
10. To safeguard and enhance important and protected wildlife species and provide net biodiversity gains in accordance with Local Plan Strategy Policy NR3, the Biodiversity and Development SPD 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 advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, 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 us at the earliest opportunity to discuss the implications of our 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.

PLANNING POLICY

National Planning Policy

National Planning Policy Framework
National Planning Practice Guidance

Local Plan Strategy

Policy BE1 - High Quality Development
Core Policy 3 – Delivering Sustainable Development
Policy Lichfield 1 – Lichfield Environment
Policy NR3 – Biodiversity, Protected Species & their Habitats
Policy NR4 – Trees, Woodland & Hedgerows
Policy NR7 – Cannock Chase Special Area of Conservation
Policy ST2 – Parking Provision

Local Plan Allocations

No relevant policies

Supplementary Planning Document

Biodiversity and Development SPD
Sustainable Design SPD
Trees Landscaping and Development SPD

Other

Lichfield City Neighbourhood Plan (2018) – no relevant policies

RELEVANT PLANNING HISTORY

04/00231/FUL	Erection of three four bedroom dwellings each with a detached double garage	Refuse	20/07/2004
04/00920/FUL	Erection of two four bedroom dwellings each with a detached double garage	Refuse	29/09/2004
15/00341/FUL	Demolition of existing dwelling and erection of 2no 5 bedroom houses and associated works	Refuse	01/05/2015
16/01412/FUL	Demolition of existing dwelling and erection of 2no 4 bedroom detached dwellings, detached garage block and associated works	Refuse	09/02/2017
17/00864/FUL	Erection of 2no three bedroom dwellings with detached garage and associated works	Refuse	22/09/2017
19/00168/FUL	Erection of 2no three bedroom detached dwellinghouses and garage block	Approve	25/06/2019
19/00248/FULH	Two storey extension to rear to extend kitchen and dining room area and form 1no bedroom with ensuite	Withdrawn	29/05/2019
19/00168/DISCH	Discharge of conditions 3a,3b,3c,4,5 and 6 of Planning permission 19/00168/FUL relating to external materials, external lighting, boundary treatment, protective fencing, 'No dig' driveway method statement and foul and surface drainage	Approve	22/10/2019
15/00017/REF	Demolition of existing dwelling and erection of 2no 5 bedroom houses and associated works	Dismissed	09/11/2015
17/00049/REF	Erection of 2no three bedroom dwellings with detached garage and associated works	Allow	15/03/2018

CONSULTATIONS

Tree Officer – LDC: (Final Comments) Verbally confirmed that the proposed removal of trees T1 and T10 is acceptable subject to the provision of appropriate compensatory planting within the wider application site being secured by condition (21st October 2019).

(Further Comments) The submitted details now fully address previous comments and proposal is acceptable subject to a tree protection condition (17th October 2019).

(Further Comments) The amended arboricultural report and plans are acceptable subject to minor revisions regarding tree protection details and a tree protection condition (3rd October 2019).

(Further Comments) The proposed plans have been revised to respond to the constraint imposed by trees T12 and T13 but the tree report has not been updated and still refers to the removal of T12 and T13. A scheme of tree protection and heads of terms for an arboricultural method statement are recommended. The proposed rear extension is acceptable in principle with the addition and clarification of the above details (12th August 2019).

(Initial Comments) Submitted tree survey does not relate to the current proposal, and it is unclear whether tree reference T. 3 is to be removed or retained (23rd July 2019).

Ecology Team – LDC: (Final Comments) The Ecology Team is satisfied with the methodology and the information provided within the submitted Preliminary Ecological Appraisal and Bat emergence surveys and recommends the inclusion of a condition to ensure the development is carried out in accordance with the recommendations and methods of working contained therein. Further conditions are also suggested regarding hedgehog gates and habitat provision, and site clearance methods of working relating to nesting birds. Compliance is also required with the requirements of the Biodiversity and Development Supplementary Planning Document (SPD) (2nd October 2019).

(Initial Comments) There is a likelihood of roosting bats, hedgehogs, nesting bird's etc. being present/affected by the schemes and the appropriate surveys and ecological enhancements are therefore required along with net biodiversity gains and compliance with the requirements of the Biodiversity and Development Supplementary Planning Document (SPD) (21st August 2019).

Lichfield City Council: (Final Comments) Recommend refusal on the grounds of issues with safety as the parking is now at the front of the site, overdevelopment of the site due to scale and massing, and clarification required regarding the retention or removal of trees T12 and T13 (27th September 2019).

(Further Comments) Recommend refusal on the grounds of issues with safety as the parking is now at the front of the site, overdevelopment of the site due to scale and massing, and clarification required regarding the retention or removal of trees T12 and T13 (30th August 2019).

(Initial Comments) Recommends refusal on the grounds of loss of protected trees, and massing (31st July 2019).

Severn Trent Water - No objection and no drainage condition required. Recommends note to applicant regarding potential for a public sewer to be located within the application site (26th July 2019).

Staffordshire County Council (Highways) – No objection subject to a condition to secure the parking and turning areas as shown on plan reference '2327-04A' (5th September 2019).

Chadsmead - Lichfield Ward Councillors:

- Application called in by Councillor Grange on the grounds of design, massing, spacing and impacts on street scene, risk to established trees and harm to residential amenity (03/08/2019).

- Comments made by Councillor Ray refer to Lichfield City Council Committee process, access issues resulting from proposed parking to front, the need to consider this proposal in context of approved development within wider site, density issues, residential amenity impacts and recommends a “finely balanced” decision is reached in line with the previous Inspectors decision (15/08/2019).

LETTERS OF REPRESENTATION

6 letters of representation have been received in respect of this application. The comments made are summarised as follows:

- Large scale extension would change the scale and height of property;
- Permission already granted for two new houses on the site and combined with this proposal it would result in over-development, being out of character with the area;
- Garages serving the two new houses would be behind my fence and increased pollution from vehicles using the garages;
- Area not suitable for proposed amount of development;
- Protected trees should be safeguarded;
- Previously raised concerns on other applications at this site still remain;
- Clarification required over proposed vehicle access to serve whole site and pedestrian safety concerns regarding adjacent public footpath;
- Concerns over proposed parking spaces and how these would be accessed;
- Increased traffic and concerns over conflict / disruption between right of way users and construction traffic;
- Protected trees T1, T12 and T13 should be retained;
- Proximity of T12 and T13 to proposed extension likely to result in shading and loss of light, leading to demands for their future removal;
- Trees within falling distance of proposed extension;
- Cyprus trees should be felled and replaced with native species in more sympathetic locations within site;
- Discrepancies in submitted tree survey;
- Application site is some metres above our property;
- Proposal would transform bungalow to two storey house with 30% increase in size and raised roof level which results in overbearing scale, footprint and mass;
- Impacts on adjacent residential neighbours amenity regarding overlooking;
- Provision of three detached houses on this site has previously been resisted on grounds of over intensive development and adverse impacts on the locality;
- Query raised as to whether garage space for this property was already granted as part of approved two new dwellings;
- Dust, air quality impacts, and noise arising from construction;
- Impacts on established fauna, flora and natural wildlife;
- Proposed works are unnecessary and inappropriate;
- Support Lichfield City Council’s objection to this proposal;
- Involvement in planning applications at this site since 2004 has been very stressful;
- Discrepancies with submitted ecology survey regarding felled Black Poplar (Tree 10) and presence of hedgehogs which have been identified recently by residents; and
- Development should be carried out in accordance with the details contained within the ecological survey.

OTHER BACKGROUND DOCUMENTS

Tree Report - THC/2019/10/29 – 29th October 2019

Preliminary Ecological Appraisal – 430PEA Rev B - 24th March 2017 (Updated 5th November 2019)

Bat Emergence Surveys – August 2019

PLANS CONSIDERED AS PART OF THIS RECOMMENDATION

Tree Protection Plan October 2019, Rev D

Tree Constraints Plan October 2019, Rev A

Arboricultural Impact Assessment October 2019, Rev C

Proposed Elevations and Layout - 2327-04, Rev A

OBSERVATIONS

Site and Location

The application site relates to a detached, vacant dormer bungalow, which is currently in a state of disrepair, known as Argyll House, and of a modern overall appearance with red facing external brick, white UPVC windows and doors, brown main roof tiles with two dormer windows to front. At rear and side, single storey brick and UPVC glazed extensions are present. The site lies within the settlement of Lichfield as defined by the Local Plan Policies Map.

The application dwelling is set within a triangular shaped plot measuring in total around 0.2 hectares which is currently unempt, although it is understood that the applicant is carrying out some tidying works. There are a number of trees within the site which are protected by Tree Preservation Orders (TPO 231-2003 and TPO 5- 1966).

The existing vehicle access is located to the south west of the application dwelling, accessed off the northern most section of Gaiafields Road which also serves numbers 23 and 25 Gaiafields Road. The access road has a narrow width and is an adopted public highway up to the public footpath (Lichfield City 5) which runs adjacent to the western boundary of the application site.

The immediate surrounding area is residential, with the exception of St Peter and St Paul Roman Catholic Primary School which is situated 43m to the north-west. Surrounding residential dwellings are comprised of a mix of large two storey modern and traditional-style detached houses, modern detached dormer bungalows, and modern two storey semi-detached houses along Dimbles Hill to the north-east.

The application site sits at the top of Gaiafields Road which slopes upwards from south to north, resulting in the site sitting at a higher land level than adjoining Gaiafield House and properties along Dimbles Hill.

The application site is not within, or in close proximity to, a Conservation Area, is not within the West Midlands Green Belt, and does not contain, or affect, any designated or non-designated heritage assets.

The existing application dwelling measures:

- 6.4m high to main roof ridge;
- 6m high to ridge of dormer windows;
- Between 9.2m and 11.5 m wide;
- Between 8.4m and 11.6m deep;
- Existing rear extension measures 3.2m deep from original rear wall; and
- Footprint of around 93m².

Background

Two New Dwellings in Eastern Corner

An application was previously submitted to the Local Planning Authority in June 2017 for the erection of 2 x three bedroom semi-detached dwellings and a detached garage in the eastern corner of the

application site. The application went to the Planning Committee in September 2017 with an officer recommendation of an approval, which was overturned by Members of the Committee.

Subsequently, the applicant sought an appeal to the Planning Inspectorate and filed a further appeal for costs against the Council. Both appeals were successful and allowed by the Planning Inspectorate. The appeal against application 17/00864/FUL was allowed on the following grounds (summarised):

- Mass, scale, layout and design is consistent with locality;
- Density of 15 dwellings per hectare (including Argyll House) is commensurate with locality;
- No harm to protected trees;
- No harm to neighbours' amenity; and
- No harm to highways safety, or conflict with pedestrians from the increased use of vehicle access.

Planning permission was subsequently granted in June 2019 for the erection of two detached houses and garages in the same location, in the eastern corner of the application site, which effectively sub-divides the site leaving a site area of around 0.1 hectares associated with the application dwelling which is the subject of this current planning application. The pre-commencement conditions for the two new houses permitted under application 19/00168/FUL were discharged on 22nd October 2019, and this indicates the applicant's intention to implement this permission. Both the application dwelling, and the two new houses would use the shared main vehicle access off of Gaiafields Road, which would be widened, and improved, as approved under planning permission 19/00168/FUL.

As part of planning permission 19/00168/FUL, the Council's Tree Officer Agreed to the loss of tree T1 within the proposed widened vehicle access, and compensatory replacement planting.

Argyll House (Application Dwelling)

A number of previous planning applications at the site, which proposed to demolish the application dwelling and erect 2 x large detached houses, have been refused by the Council, and an appeal was dismissed in 2015 against the erection of 2 x 5no. bedroom houses on the following grounds:

- *Poor layout* – cramped appearance and overdevelopment of site, proximity to protected trees;
- *Loss of protected trees* – the loss of protected trees T9 and T13 would be unacceptable due to their high amenity value; and
- *Harm to neighbours' amenity* – overbearing relationship with neighbours' adjoining rear gardens and resulting loss of outlook, privacy and increased shading.

Notwithstanding the Inspector's reasons above, they also state *"I am satisfied that the contained nature of the site ensures that the proposed design and layout, other than the loss of the two central trees, would have only a limited impact on the character and appearance of the area."*

A planning application was lodged in early 2019 under reference 19/00248/FULH for a two storey rear extension to the application dwelling, but was subsequently withdrawn by the applicant due to concerns raised by the Council's Tree Officer regarding proximity of the extension to protected trees and the potential harm arising.

Proposals

This application seeks permission for the erection of a single storey extension to rear, enlargement of first floor section and dormers to front and rear to provide an increase in the number of bedrooms from three to four bedrooms, and an extended kitchen area at ground floor. The extensions would measure:

- Increased overall height of 8.1m to ridge of main roof and eaves height of 4.4m (increase of 1.7m over and above original 6.4m ridge height);
- 6m high to ridge of proposed dormers (matches height of existing front dormers);
- 6.6m deep rear extension (3.4m deeper than existing rear extension);
- 4.3m high rear extension to ridge (2.3m to eaves); and

- 1.6m deep, 2.5m wide and 3.8m high enclosed porch.

This proposal would replace the existing extensions and would result in a total footprint of around 117m² which roughly equates to a 26% increase over and above the existing footprint.

3 x parking spaces would be provided to the front of the application dwelling and the extensions would be finished in external materials to match the existing application house. Trees T1 and T10 are shown to be removed.

DETERMINING ISSUES

1. Policy & Principle of Development
2. Design and Impact upon the Character and Appearance of the Surrounding Area
3. Residential Amenity
4. Access and Highway Safety
5. Impact on Trees
6. Ecology
7. Other Issues
8. 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 2008-2019, and the adopted (made) Lichfield City Neighbourhood Plan (2018).

1.2 The NPPF sets out a presumption in favour of sustainable development, this is echoed in Local Plan Strategy Core Policy 2. Paragraph 12 of the NPPF states that “the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.” Furthermore, paragraph 177 states that “the presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.” In this case the site falls within the catchment of the Cannock Chase Special Area of Conservation (SAC), therefore it is necessary for the development to demonstrate it has satisfied the Habitats and Species Regulations in that the integrity of the Cannock Chase SAC will not be adversely affected, having regard to avoidance or mitigation measures. This issue is addressed later under section 6 of this report.

1.3 The proposal seeks to extend an existing dwelling which is located within the sustainable settlement of Lichfield, and within an existing residential area and the principle is therefore considered acceptable. The main considerations are therefore design, amenity, trees, ecology and highways.

2. Design and Impact upon the Character and Appearance of the Surrounding Area

2.1 Core Policy 3 states that development should protect and enhance the character and distinctiveness of Lichfield District Council, while development should be of a scale and nature appropriate to its locality. Policy BE1 states that new development should carefully respect the character of the surrounding area and development in terms of layout, size, scale, architectural design and public views.

2.2 The overall proposed scale, and simple design, is acceptable and reflects the character of the original application dwelling and the mixed character of the nearby area. A condition would be included on any permission to secure the use of matching exterior materials to ensure a satisfactory appearance of development. Whilst the proposal would result in an increased

height of the dwelling by 1.7m, this would not appear excessive, and would reflect the style of nearby two storey properties. Furthermore, the proposed rear extension at its single storey height would appear subservient to the main dwelling and would not result in harm to the character of the application dwelling or nearby area.

- 2.3 Comments made regarding over-development of the site, and density are noted. However, this current application relates to extending an existing dwelling, and density is not therefore a material consideration in the same way as it would be for the erection of new dwellings. This application will therefore be judged on its own merits, relating to design and character, and having regard to the residential design standards as set out in Appendix A of the adopted Sustainable Design SPD.
- 2.4 When taking account of the large plot that the application dwelling is sited within, and the remaining space that would be present around the application dwelling, between nearby existing neighbouring dwellings, and between the dwellings approved in the eastern corner of the site, it is considered that the proposal would not result in over-development and is consistent with the character of the locality.
- 2.5 Furthermore, the proposal would bring a vacant and dilapidated dwelling back into an appropriate residential use, along with providing an improved overall appearance of the dwelling to the benefit of the visual amenity of the area in accordance with Local Plan Strategy Policies BE1, CP3 and Lichfield 1.

3. Residential Amenity

- 3.1 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. Core Policy 3 also states that development should protect the amenity of residents and seek to improve overall quality of life.
- 3.2 **Dimbles Hill to north-east** – a distance of 14.5m would be present between proposed habitable windows in the single storey rear extension, and the boundary to No.25 and No.27 Dimbles Hill. The extension would extend 3.4m further towards this boundary than the existing rear extension, and the application site sits on a higher ground level than these neighbours. However, approved plan ref 'sketch proposal 2312.01 A' under 19/00168/FUL (two new houses) shows garages and new tree planting along the boundary to 25 and 27 Dimbles Hill which would help to screen views from the proposed extension in the current application. The proposed rear dormers would be around 21m from these neighbouring boundaries, and over 40m to neighbours habitable rear windows. Overall, it is considered that the proposal would not result in significant additional harm to these neighbours' amenity.
- 3.3 **Gaiafield House to south-east** – a distance of 11.5m would be present between the proposed kitchen window in the single storey extension and the boundary to Gaiafields House across the shared vehicle access, and would be screened by a 1.8 close boarded fence around the application dwelling (as approved under discharge of condition application 19/00168/DISCH). This distance matches the existing distance between the current kitchen window in the application dwelling and the shared boundary, but would be located further north east away from Gaiafield House itself. The proposal also removes an existing conservatory which currently faces the neighbour's boundary at only 9m away. No windows are proposed in upper floors facing this neighbour and overall, it is considered that the proposal would not result in any significant additional harm to this neighbour's amenity.
- 3.4 **25 Gaiafields Road to west** – whilst the roof would be enlarged by around 1.7m, the proposed front dormer windows would be at the same height as the existing dormers and no additional harm would arise in this regard. The proposed first floor side facing window in the north-west elevation serving a bedroom is shown to be obscure glazed, and top-opening only and this is

considered sufficient to minimise any potential overlooking / perceived overlooking of this neighbour's rear garden amenity area. A condition would be included to secure this. Overall, it is considered that the proposal would not result in any significant additional harm to this neighbour's amenity.

- 3.5 **2 new dwellings in eastern corner (approved under 19/00168/FUL)** – none of the proposed windows in the application dwelling would directly face habitable windows serving the two new dwellings. A distance of 16m would be present between the proposed kitchen window in the proposed single storey extension and the living room window serving nearest 'Plot 2' which would be screened by 1.8m high boundary treatment. The proposed first floor rear bedroom window is around 15m to the nearest front bedroom window serving 'Plot 2', but this is at a 50 degree angle, and is not directly facing. Overall, it is considered that the proposal would not result in harm to the amenity of future occupiers of these new dwellings.
- 3.6 The remaining garden area serving the application dwelling at over 700m² would be well in excess of the recommended garden size for a 4 bedroom dwelling, of 65m², as set out in the Council's adopted Sustainable Design SPD.3.6
- 3.7 Whilst in isolation the proposed works are relatively minor in nature, when combined with works associated with the erection of two new dwellings within the wider site it is considered reasonable, and necessary, to impose a condition to restrict the hours of construction to safeguard neighbours' amenity. Concerns raised regarding dust and air quality impacts arising from the development are noted, but are not considered likely to give rise to significant impacts on the immediate locality due to the minor nature of the proposed works. It is not therefore considered necessary, or reasonable, to impose any further conditions in this instance.
- 3.8 Neighbours' comments raised regarding impacts on amenity are noted, and these have been considered above and found to be acceptable subject to conditions. There are considered to be no grounds for a refusal relating to residential amenity in this instance and the proposal accords with Local Plan Strategy Policies CP3 and BE1, the aims of the Sustainable Design SPD, and the National Planning Policy Framework.

4. Access and Highway Safety

- 4.1 Policy BE1 of the Local Plan Strategy states that new development should be located in areas which have good safe access to public transport to reduce the need to travel by private car. Policy ST2 requires appropriate provision to be made for off street parking. The sustainable design SPD highlights parking standards and confirms that a four bedroom dwelling would require two off street parking spaces.
- 4.2 The application dwelling would utilise the existing vehicle access which is to be widened as part of the permission relating to the two new dwellings in the eastern corner of the application site. The adopted Parking Standards only require two parking spaces to serve a three / four bedroom dwelling and the proposed three parking spaces are therefore acceptable.
- 4.3 The layout provides sufficient room to manoeuvre, and enable vehicles to leave the application site in a forward gear. Furthermore, the Inspector determined that the provision of two new dwellings within the wider site would not result in harm to highways safety, or result in conflict with pedestrians from the increased use of the vehicle access. On the basis that this current application would only seek to increase the number of bedrooms at the application house from three to four, and given the fact that the same level of parking is required based on adopted Parking Standards (two spaces), it is considered that the proposal would not result in severe harm to the operation, or safety, of the highway, or to vehicle and pedestrian conflict. The Highway Authority have not objected to this proposal. On balance, it is considered a refusal would not be warranted on these grounds. A condition would be

included in line with the Highway Authority recommendations to secure the parking and turning areas.

4.4 Comments made regarding highway and pedestrian safety are noted, and these have been considered above and found to be acceptable subject to conditions. It is considered that the proposal accords with Local Plan Strategy Policies BE1 and ST2, the Sustainable Design SPD, and the National Planning Policy Framework.

5. Impact on Trees

5.1 Policy NR4 states that trees, woodland and hedgerows are important visual and ecological assets and that trees will be protected from damage and retained. The application site contains a number of protected trees and this application is supported by a Tree Survey which has been carried out by a qualified, and chartered Arboriculturalist, and sets out how the majority of these trees would be retained, and afforded protection during works.

5.2 The report identifies the felling of a protected Cypress tree 'T1' which has already been considered under previous planning permission 19/00168/FUL due to its location within the approved widened vehicle access, and was found to be acceptable subject to compensatory replacement planting which was secured by condition as part of that permission. This matter has already therefore been considered as part of a wider planning consent at the application site, and is not material to the determination of this current application.

5.3 This current application also proposes the removal of a 'C' class Holly tree 'T10' located along the western boundary due to its low leaf density. This tree is not protected, and the Tree Officer has no objection to its removal subject to compensatory planting within the application site which can be achieved by condition. A further condition would be included to ensure retained trees are protected during works in line with the recommendation of the Tree Officer.

5.4 Protected trees 'T12' and 'T13' are to be retained and whilst the glazed bi-fold doors serving the proposed kitchen / dining area would face these trees at a distance of 6m and 9m respectively, and some level of shading to this living space may therefore be experienced at particular times of day, the proposed open-plan living space within the rear extension would also be served by further windows in the eastern elevation, and roof lights to the south-east roof section. On balance, this is considered would allow natural light to enter the space during different times of day thus providing a satisfactory living environment, thereby minimising any potential future pressure for the removal of these protected trees.

5.5 Comments regarding the falling distance of trees, and the proposed extension are noted, however this broadly reflects the existing relationship between existing trees and the application dwelling, and is not therefore considered to carry significant weight in the determination of this current application.

5.6 Neighbours raised discrepancies with the submitted tree survey regarding reference to a felled Black Poplar tree to the rear of No.19 Dimbles Hill, and incorrect application description and recommendations. These points have now been addressed in the revised submitted tree survey which has been carried out by a qualified, and chartered Arboriculturist. The assessment and recommendations contained therein are therefore now considered to provide a sound basis to assess this current application.

5.7 Comments regarding the retention and protection of existing trees has been considered above and on balance, the proposal is considered to be acceptable subject to conditions, and accords with Local Plan Strategy Policy NR4, the Trees Landscaping and Development SPD and the National Planning Policy Framework.

6. Ecology

- 6.1 Policy NR3 confirms that development should protect, enhance, restore and implement appropriate conservation management of biodiversity, and that development should deliver a net gain of biodiversity.
- 6.2 The submitted Preliminary Ecological Appraisal and Bat emergence surveys demonstrate that the proposal is unlikely to negatively impact upon a European Protected Species (EPS) in a manner as defined as an offence under the Conservation of Natural Habitats Regulations (Habitat Regs.) 1994 (as amended 2017); or upon a protected or priority species or habitat, as defined by the Wildlife and Countryside Act 1981 (as amended 2016); The Protection of Badgers Act 1992 or listed under section 41 of the Natural Environment and Rural Communities (NERC) Act 2006).
- 6.3 The submitted bat emergence survey confirms that there are no bat roosts associated with the application buildings, bat activity was extremely low and that no bats were emergent from any buildings on site.
- 6.4 The Local Planning Authority (LPA) is therefore in a position to demonstrate compliance with the Habitat Regulations 1994 (as amended 2017), which places a duty on the LPA when considering an application for planning permission, to have regard to its effects on European protected species. It is also deemed that the LPA has a sufficient understanding to discharge its Biodiversity Duty (as defined under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006).
- 6.5 Conditions would be included in line with the recommendations of the Ecology Team to ensure adherence to all recommendations and methods of working detailed within the submitted Preliminary Ecological Appraisal, to provide hedgehog gates and habitat provision due to the suitability of habitat and records within 1km of the site, and to ensure works are carried out in a manner which would protect nesting birds to comply with Part 1 section 1 of the Wildlife and Countryside Act 1981 (as amended 2016). Comments regarding the potential presence of hedgehogs has been considered, and appropriate measures would be secured by condition as set out above.
- 6.6 The recommendations within the submitted Preliminary Ecological Appraisal regarding the provision of a landscaping scheme, and bat / bird boxes would also be secured by condition to ensure net biodiversity gains are achieved in accordance with Local Plan Strategy Policy NR3, the Biodiversity and Development SPD and the National Planning Policy Framework.
- 6.7 The application site falls within the 15km zone of influence for the Cannock Chase SAC, but this application for the extension of an existing dwelling would not result in a net increase in the number of dwellings at the site and no mitigation measures are therefore necessary. This proposal accords with Local Plan Strategy Policy NR7.
- 6.8 Neighbours raised discrepancies with the submitted ecology survey regarding reference to a felled Black Poplar tree to the rear of No.19 Dimbles Hill. This has now been addressed in the revised submitted ecology survey which has been carried out, and supervised by, qualified Ecologists. The assessment and recommendations contained therein are therefore now considered to provide a sound basis to assess this current application.

7. Other Issues

- 7.1 Comments made regarding the approved development associated with two new dwellings within the wider application site cannot be considered as part of this current application which relates only to extensions at Argyll House. Each application is judged on its own merits.

- 7.2 A neighbour has stated that involvement in numerous planning applications at this site over the years has been stressful, and whilst this is appreciated, the Council is unable to prevent the submission of planning applications, and has carried out its statutory duty by undertaking the necessary public consultations with each application determined accordingly on their merits.
- 7.3 Comments made regarding the Lichfield City Council Committee process fall outside of the remit of the Local Planning Authority at Lichfield District Council, and cannot be taken into consideration as part of the determination of this planning application. In terms of coming to a “finely balanced” decision, the Local Planning Authority has considered all material planning considerations as set out in this report, and has used the planning balance to arrive at the recommendation.
8. Human Rights
- 8.1 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 NPPF states that there are three dimensions to sustainable development, namely economic, social and environmental and that these should be considered collectively and weighed in the balance when assessing the suitability of development proposals.

The material planning matters have been considered as set out in this report, and found to be acceptable subject to the inclusion of necessary conditions. The modest scale and overall simple design of the proposed development is not considered to result in harm to the built or natural environment and the character of the area, and would bring about improvements to a vacant dwelling in a poor state of repair which currently detracts from the attractiveness of the area. Furthermore, the proposal would not give rise to any significant additional harm to adjoining, or nearby neighbours’ amenity, or result in severe highways safety impacts.

Consequently, it is recommended that this application be approved, subject to conditions, as set out above.

Lichfield
district council

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LOCATION PLAN

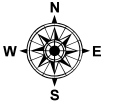
19/01339/COU
3 Stapleford Avenue
Fradley

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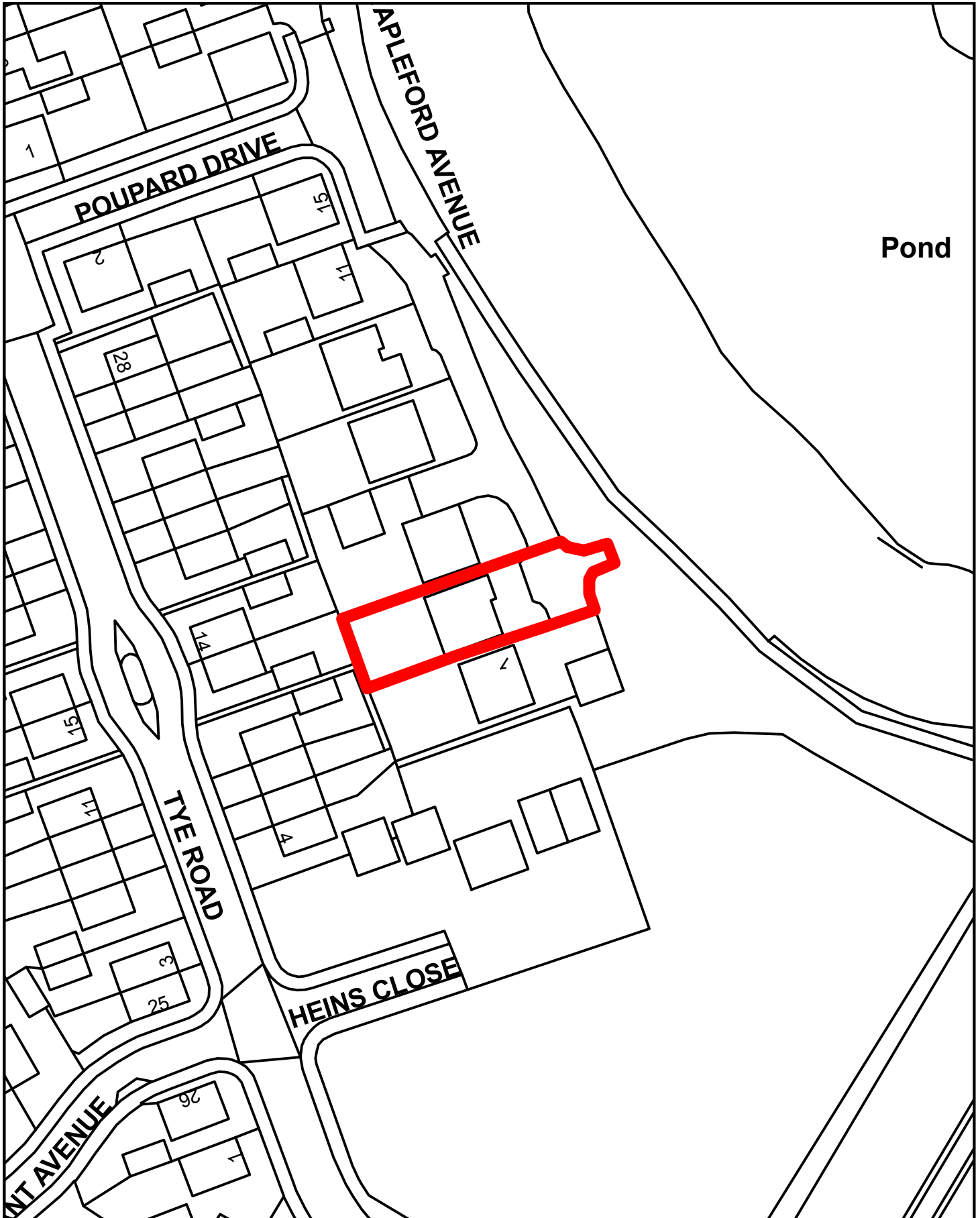
Dated: November 2019

Drawn By:

Drawing No:



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19/01339/COU

ERECTION OF A DETACHED LOG CABIN IN REAR GARDEN TO BE USED AS A HAIRDRESSING SALON 3 STAPLEFORD AVENUE, FRADLEY, LICHFIELD, STAFFORDSHIRE FOR MRS A RUSSELL

Registered: 26/09/2019

Parish: Fradley

Note: This application is being reported to the Planning Committee due to a Call-In by Councillor Cross relating to design, highways, planning policy, probity, residential amenity and the length of hours of operation.

RECOMMENDATION: Approve, subject to the following conditions:

CONDITIONS:

1. The development authorised by this permission shall be carried out 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.
2. The premises shall only be open to customers between the hours of 09:00 and 20:00 on Mondays to Fridays inclusive; 9:00 and 17:00 on Saturdays and 10:00 and 16:00 on Sundays and Public Bank Holidays.
3. Only one customer shall be present at the site at any one time.
4. The use hereby approved, shall be carried out only by the applicant, Mrs A Russell. When the premises cease to be used by the applicant or the dwelling occupied, the use hereby approved shall cease.
5. A log book detailing appointment dates and times shall be kept for monitoring purposes and shall be made available at the request of the Local Planning Authority for inspection during normal office hours.
6. The use hereby approved shall cease and the building thereafter shall remain for purposes ancillary to the dwellinghouse known as 3 Stapleford Avenue following the expiration of a period of 24 months from the date of this permission.
7. When the business hereby approved is operational one off street car parking space shall be made available for customers of the business.

REASONS FOR CONDITIONS:

1. For the avoidance of doubt and in accordance with the applicant's stated intentions, in order to meet the requirements of Policy BE1 of the Local Plan Strategy and Government Guidance contained in the National Planning Policy Framework.

2. To protect the amenity of the neighbouring properties, in accordance with Policy BE1 of the Local Plan Strategy, and the National Planning Policy Framework.
3. To protect the amenity of the neighbouring properties, and to ensure that sufficient parking can be provided in accordance with Policies BE1 and ST2 of the Local Plan Strategy, Sustainable Design SPD, and the National Planning Policy Framework.
4. An unrestricted permission could result in the business being run by a third party, which would cause highway safety issues and impact on the amenity of the surrounding area contrary to the requirements of Policies BE1 and ST2 of the Local Plan Strategy, Sustainable Design SPD, and the National Planning Policy Framework.
5. To ensure the development is utilised in accordance with the applicant's stated intentions, and to protect the amenity of the neighbouring properties, in accordance with Policy BE1 of the Local Plan Strategy and the National Planning Policy Framework.
6. In the interests of the character and appearance of the area, residential amenity and highway safety with regards to off-road parking, in accordance with Policies BE1 and ST2 of the Local Plan Strategy, Sustainable Design SPD and the National Planning Policy Framework.
7. To ensure that an appropriate level of off street parking is available for customers of the proposed use in the interest of highway safety, in compliance with Policy ST2 of the Local Plan Strategy and the National Planning Policy Framework.

NOTES TO APPLICANT

1. The Development Plan comprises the Lichfield District Local Plan Strategy (2015), the Lichfield District Local Plan Allocations (2019) and the Fradley Neighbourhood Plan (2019).
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. The display of adverts may require Advertisement Consent. This approval does not authorise any signage or adverts which may otherwise require express consent under the Advertisement Regulations.
5. Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, 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.

PLANNING POLICY

National Planning Policy

National Planning Policy Framework

National Planning Practice Guidance

Local Plan Strategy

Core Policy 2 – Presumption in Favour of Sustainable Development

Core Policy 3 – Delivering Sustainable Development

Core Policy 7 - Employment & Economic Development

Core Policy 8 – Our Centres

Policy BE1 – High Quality Development

Policy ST2 – Parking Provision

Policy NR3- Biodiversity, Protected Species and their Habitats

Local Plan Allocations

None relevant

Fradley Neighbourhood Plan

FRANP1 – Fradley Village Settlement Boundaries

FRANP6 – Character and Design

Supplementary Planning Document

Sustainable Design

Biodiversity and Development

RELEVANT PLANNING HISTORY

16/00001/REMM	Reserved matters application (appearance, landscaping, layout and scale) for the erection of 216no. dwellings comprising 14no. 1 bedroom dwellings, 94no. 2 bedroom dwellings, 72no. 3 bedroom dwellings and 36no. four bedroom dwellings together with associated SUDs, landscaping and car parking	Approved- 23.05.2016
10/01498/OUTMEI	Demolition of existing buildings and redevelopment of the site to provide up to 750 new homes, primary school, health centre, nursery, public house, public and private open space, car and cycle parking together with landscaping and associated servicing (all matters reserved except points of access)	Approved- 22.05.2012

CONSULTATIONS

Fradley & Streethay Parish Council- No objection (09.10.2019).

Severn Trent Water- No objection; note regarding public sewer (08.10.2019).

Staffordshire County Council Highways- No objections subject to a condition being included on any approval. Recommended that a personal permission is granted for a period of 12 months in order for the site to be monitored (21.10.2019).

Environmental Health Officer LDC- No objections but recommend that a scheme of drainage be submitted and agreed in writing by the LPA and implemented prior to the development being brought into use.

LETTERS OF REPRESENTATION

3 letters of representation have been received for this application. The comments are as follows:

Objections:

- Will the proposal have an overbearing effect on the residential amenity currently enjoyed by neighbouring residents?
- Object to the proposed intensity of use and change of use of this property from residential to commercial.
- Main issues; length of hours of operation; parking and servicing proposals; whether services should be located in local service centres; how the use could be reasonably controlled.
- Property is on a new Bellway residential development still under construction.
- Property behind the Stirling Centre where our Salon has been situated for almost 10 years, and several other units which are available.
- The applicant employed by KUDOS Hair Salon for the past 9 years, if consent is granted it would take away business and force us to close down.
- Applicant states a total of 69 hours per week, find it impossible to believe that 16 hour working week would be complied with.
- Opening hours should be restricted.
- Parking is an issue, no room to extend the off street parking.

Applicant comments:

- Mrs Russel was an employee at Fradley Hair Ltd for 9 years, began to seek self-employment for better flexibility.
- Mrs Chaundy dismissed Mrs Russel from employment over the planning application.
- Threat of business closure due to planning applicant is exaggerated.
- Operating hours is the window of operation, not the total hours to be worked.
- Target audience differs to that of a salon.
- Neighbour comments have not been submitted formally.
- Scale of this venture is not substantial enough to adversely affect the salon.
- Parking is off the main road on a private driveway, no objections from Highways.

OTHER BACKGROUND DOCUMENTS

Planning and Sustainability Statement

PLANS CONSIDERED AS PART OF THIS RECOMMENDATION

Site / Location Plan

General

Proposed Elevations/ Plans

Proposed Elevations / Plans

Site Location Plan

Proposed Location of Log Cabin

Proposed Floor and Roof Plan

Elevations for the Proposed Log Cabin

OBSERVATIONS

Site and Location

This application relates to a detached dwelling sited to the western side of Stapleford Avenue, a cul-de-sac in Fradley. The dwelling is located within the village settlement boundary for Fradley as defined by the Local Plan Policies Map. The dwelling is a new build located in a new estate in Fradley where

properties differ in style and size. There is designated parking to the front of the dwelling and a garden to the rear.

Proposal

This application seeks permission for the erection of a detached log cabin in the rear garden which is proposed to be used as a hair dressing salon. A concrete slab base with hardcore foundations would be set down for the log cabin to sit on. The building would measure 4m in width and 3m in depth. It would reach a maximum height of 2.4m from ground level with a lean-to roof. It would be constructed from wooden walls painted grey in colour, and the roof would be wooden with Celotex type insulation and OSB3 boards with the top layer being EPDM which is dark grey in colour. To the front of the cabin, there would be a set of double doors and two opening windows constructed of double glazed glass with wooden frames painted dark grey in colour.

The proposed hairdressing room would be for the sole use of the applicant and owner of the property to provide a hair dressing service to clients on a one- to-one basis. Clients would be on a booked service only and it would be managed so that only one client will attend the property at any time. It is anticipated that up to three clients will visit the property in a single day and up to ten clients in a calendar week.

The applicant has provided a time table of potential operating hours which are proposed to be 9:00-20:00 Monday through Friday, 9:00-17:00 Saturday and 10:00-16:00 on Sunday's and bank holidays. It is stated that of these hours, the applicant would only work 20 of these on a part time basis.

DETERMINING ISSUES

1. Policy & Principle of Development
2. Design
3. Amenity
4. Parking
5. Other Matters
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 Strategy 2008-2019 and the Allocations Document (2019).

1.2 The site is located within the settlement of Fradley within a predominately residential area. Government guidance contained in the National Planning Policy Framework sets out that there should be a presumption in favour of sustainable development and also recognises the need to support sustainable economic growth. The NPPF states that Local Planning Authorities should facilitate flexible working practices such as the integration of residential and commercial uses within the same unit. Policy FRANP1 of the Fradley Neighbourhood Plan states that development within the settlement boundaries will be supported as this will help the settlement to continue to provide for the services and facilities required by a growing community.

1.3 Core Policy 7 of the Local Plan Strategy aims to support employment growth. It states that the District Council, working in partnership with business and local communities, will maintain

and enhance a diverse local economy and encourage opportunities for inward investment. Opportunities for new business formations will be actively pursued and the long-term survival of these businesses encouraged, with sustainable forms of business, including home-working, particularly supported where this accords with other development plan policies.

- 1.4 Core Policy 8 of the Local Plan Strategy confirms that Key Rural Centres, including Fradley, will be protected and enhanced to provide shops, services, employment and community facilities.
- 1.5 The National Planning Policy Framework states that main town centre uses should, in the first instance, be directed towards identified centres. The proposed hairdressing salon is an A1 use, and therefore such uses ought to be directed towards an identified centre. The application site is not located within an identified town centre boundary, and therefore ordinarily a sequential test should be carried out. Notwithstanding this, it must be acknowledged that operating a business from home can be carried out without requiring planning permission, it is only when the nature and intensity of that use results in a material change of use of land when planning permission is required. Given the personable nature of the proposed use it is not uncommon for hairdressers to operate from home, and in a manner which does not result in a material change of use of the dwelling. While, in this instance, the use would operate on an appointment basis. Furthermore, the NPPF also acknowledges that (policies) should allow for new and flexible working practices (such as live-work accommodation). It is acknowledged that there would be some tension with Policy with regard to a town centre first approach however, in this instance, given the modest scale of the proposals and the nature of the proposed use and the manner in which it would operate, it is considered that a sequential test is not essential and that the proposed operating of a hair dressing salon from home is acceptable.
- 1.6 In view of the above, subject to normal development management criterion, it is considered the principle of a small log cabin to be used as a hair dressing salon in this location is acceptable and supported by national and local planning policy.

2. Design and Appearance

- 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 Policy BE1 of the Local Plan Strategy which requires 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”. Core Policy 3 of the Local Plan Strategy requires that development contributes to the creation and maintenance of sustainable communities. Development should protect and enhance the character and distinctiveness of Lichfield District and its settlements. Policy FRANP6 of the Fradley Neighbourhood Plan states that proposals for new development should contribute towards the local distinctiveness of Fradley. Proposals should demonstrate high quality, sustainable and inclusive design and architecture as well as good urban design.
- 2.2 The proposed log cabin would be located in the rear garden, approximately 0.6m from the curtilage boundary. Policy BE1 of the Local Plan states that innovative and contemporary designs will be supported where they are sympathetic to the setting and context of the surrounding area and existing development. The surrounding area has examples of outbuildings which vary in style and size, thus the building would be considered appropriate in the context of the local vicinity and the appearance of the structure is considered to be

modern, opting for a grey finish. The building reaches a modest height of 2.4m from ground level; it is considered that an outbuilding of this scale would ordinarily be permitted development, and only requires consent because the use is not “incidental” to the use of the dwellinghouse. Furthermore, it is not considered that the structure would be highly visible from the surrounding streetscene as it is sited in the rear garden where existing boundary treatments are present.

- 2.3 From a design perspective it is considered that the development is acceptable and in accordance with the Development Plan.

3. Residential Amenity

- 3.1 Policy BE1 of the Local Plan Strategy requires proposals to respect the character and appearance of their surroundings, the policy also requires development does not cause loss of amenity to adjacent properties through overlooking or loss of privacy, noise, dust, fumes or other disturbance. Core Policy 3 of the Local Plan Strategy states that development should protect the amenity of our residents and seeks to improve their overall quality of life through the provision of appropriate services and facilities and it should be of a scale and nature appropriate to its locality. Policy FRANP6 of the Fradley Neighbourhood Plan states that development should respect the residential amenity of neighbouring occupiers.

- 3.2 The applicant is applying for the erection of a log cabin within the rear garden of the existing dwelling to be used as a hair dressing salon. The proposals would result in additional vehicular comings and goings from the residential property whilst the nature of the use may generate some additional intensity of noise, for example through the use of hairdryers. It is noted that Environmental Health have raised no concerns with regard to the proposed use from a noise impact point of view.

- 3.3 Notwithstanding the above, the proposed enterprise would be for a sole practitioner, who is the applicant who occupies the existing dwelling. It is considered that the nature of the business would be low intensity. Whilst there would be increased movements associated with the use as a hair salon, these would be minimal given the relatively small-scale of the business. However, it is considered that to ensure that there would be no undue intensification beyond the intentions cited, it would be necessary to control how the use operates. This could be done through conditions to limit the use only by the applicant (Mrs A Russell); a restriction on the operating hours; and the number of clients attending the premises. Additionally, a temporary consent is also considered necessary to enable the LPA to monitor how the development impacts upon the amenity of neighbours. With the use of appropriate conditions, it is considered that this would not cause significant adverse harm to the amenity of occupiers of neighbouring properties by reason of loss of privacy, noise and other disturbances.

- 3.4 The log cabin would have two long windows and a set of double doors to the east elevation, there would be no openings to the sides or rear of the cabin. The openings to the front would be facing onto the residential property and would not overlook into the private residential amenity space of neighbours or facing any neighbouring principal habitable windows.

- 3.5 The log cabin is modest in scale and would be sited to the rear of the property, approximately 0.6m from the boundary of the curtilage of the dwellinghouse. There are existing boundary treatments which would minimise views from neighbouring properties. To the rear garden there is residential development on Tye Road, with neighbouring garages located directly behind the proposed site location for the log cabin, thus it is considered that views would be further minimised. Given the modest scale of the proposals it is therefore considered that the

development would not give rise to any amenity issues relating to loss of daylight; overbearing or overshadowing on the neighbouring property and adjoining private amenity spaces.

- 3.6 It is recognised that the nature of the business is such that some noise may be created, however only one customer can visit the salon at any one time and the activities involved with hairdressing are considered to be domestic. In addition, as the log cabin would be constructed of 44mm thick wooden logs, thermal insulation and double glazing, noise disturbance would be reduced. As such, it is considered that any noise generated would be no more than could reasonably be expected from any domestic dwelling where people reside.
- 3.7 Subject to conditions restricting the use and hours of operations, it is therefore considered there would be no undue impact on residential amenity caused.

4. Highways and Parking

- 4.1 Local Plan Policy ST2 states that appropriate provision should be made for off street parking in development proposals in accordance with the maximum parking standards set out in the Council's Sustainable Design Supplementary Planning Document.
- 4.2 The existing dwelling has four bedrooms; the SPD states that there should be 2 spaces provided for a 4 bedroom dwelling which the driveway currently accommodates. The SPD advises that non-food A1 uses require 1 space per 25sqm gross floor area. The proposed development would require 3 off road parking spaces to accommodate 2 for the residents of the dwelling and one for customer parking. County Highways have determined that the existing drive to the front of the dwelling would be large enough to accommodate customers given the proposed scale of the operation. Notwithstanding this there is on-site parking for at least 3 vehicles at the site, due to the double driveway at the front and the integrated garage, which are accessed from the public highway. Consequently, the proposal meets the requirements of Policy ST2 of the Local Plan Strategy and guidance within the Sustainable Design Supplementary Planning Document.
- 4.3 County Highways have no objection provided that the development hereby permitted shall remain ancillary to 3 Stapleford Avenue, Fradley and shall not be sold, let or occupied independently, it is recommended that a personal use permission would be sufficient to ensure that this matter is controlled. Furthermore, it has been recommended that a personal permission be granted for a period of 12 months, this will allow the site to be monitored appropriately, on the basis of residential amenity and highways matters such as parking and traffic congestion. After consideration it is recommended that the personal permission will be granted for a period of 24 months as opposed to a 12 month period from the date of permission. This is to allow time for the log cabin to be erected and the hairdressing salon to be brought into use.

5. Other Matters

- 5.1 Environmental Health have requested that a scheme of drainage be submitted and agreed in writing by the LPA and implemented prior to the development being brought into use. This is not considered to be necessary as Severn Trent have not asked for a scheme of drainage to be submitted and details of the drainage have been provided which are considered to be acceptable.
- 5.2 The comments of objections raised are noted, however it is not considered that the competition is a valid planning reason to justify a refusal of the application. It should also be highlighted that it is not a breach of planning control to operate a business from home. It is

only when a material change of use of the property occurs, as a result of the activities arising, based on fact and degree, that planning permission is required.

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

For the reasons outlined above, it is considered that subject to conditions, the proposal represents an appropriate form of development that would not cause significant harm to the amenity of nearby residents or highway safety. Therefore, this application is recommended for approval, subject to conditions.