

# Planning Committee

16 December 2019

## Agenda Item 4

Contact Officer: Claire Billings

Telephone: 01543 308171

### 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**

**16 December 2019**

#### **CONTENTS**

Case No.	Site Address	Parish/Town Council
19/01162/COUM	Southwinds Nursing Home 17 Chase Road Burntwood	Burntwood

### **ITEM B**

#### **LICHFIELD DISTRICT COUNCIL APPLICATIONS, APPLICATIONS ON COUNCIL OWNED LAND AND ANY ITEMS SUBMITTED BY MEMBERS OR OFFICERS OF THE COUNCIL**

#### **CONTENTS**

Case No.	Site Address	Parish/Town Council
19/00762/FUL	Tennis Courts Beacon Park Swan Road Lichfield	Lichfield

# LOCATION PLAN

19/01162/COUM

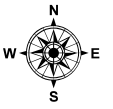
Southwinds Nursing Home  
17 Chase Road Burntwood

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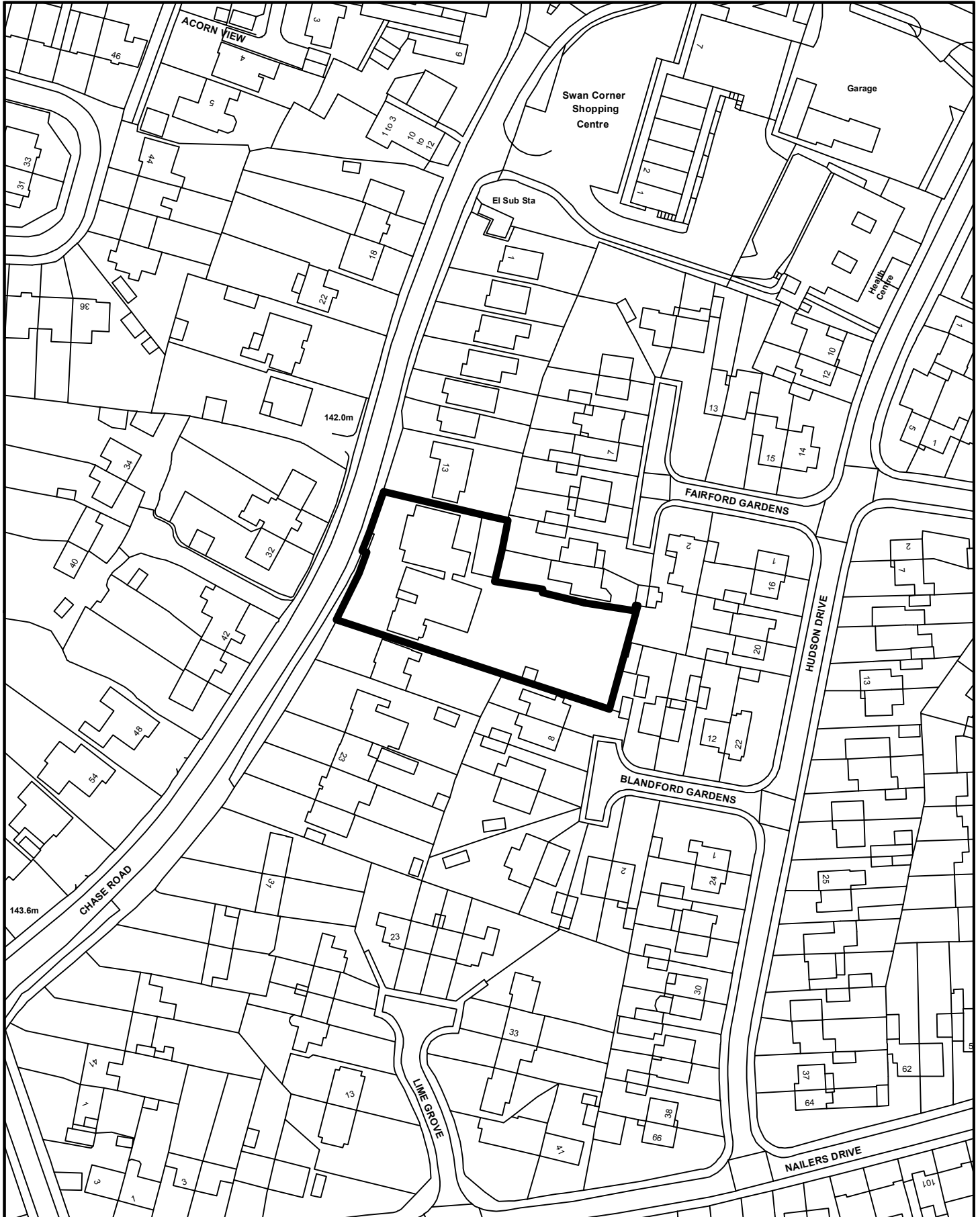
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## **19/01162/COUM**

**Change of use from residential care home (class C2) to 10 no flats (class C3). Works incl window amendment to front elevation with balcony to rear elevations.**

**Southwinds Nursing Home, 17 Chase Road, Burntwood, Staffordshire**

**For Mrs G Bundy**

Registered **13/08/2019**

**Parish: Burntwood**

**Note:** This application is being reported to the Planning Committee due to the call in by Councillor Laura Ennis on the basis of design, residential amenity and parking. There is also an objection from Burntwood Town Council and large number of residents.

### **RECOMMENDATION:**

**(1) Subject to the owners/applicants first entering into a Unilateral Undertaking under the Town and Country Planning Act (as amended), to secure contributions/planning obligations towards the Cannock Chase Special Area of Conservation; and,**

**(2) If the Unilateral Undertaking is not signed/completed by the 1<sup>st</sup> February 2020 or the expiration of any further agreed extension of time, then powers be delegated to officers to refuse planning permission based on the unacceptability of the development without the required contributions and undertakings as outlined in the report.**

**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 first occupation of the development hereby approved:**

3. Before the development hereby approved is first occupied, full details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be installed in accordance with the approved details before the development is first occupied and thereafter shall be retained as such for the life of the development.
4. Before the development hereby approved is first occupied, full details of the bin and cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The bin and cycle storage shall be installed in accordance with the approved details before the development is first occupied and thereafter shall be retained as such for the life of the development.
5. Before the development hereby approved is first occupied, the car parking shall be provided in accordance with the approved drawing 12A 'Proposed Site Layout' and the car parking

spaces clearly delineated. The car parking provision shall thereafter be retained as such for the life of the development.

6. Before the development hereby approved is first occupied, privacy screens shall be installed to the sides of the rear balcony. The privacy screen shall be a minimum of 1.8m in height and fitted with obscure glazing to a minimum level 3. The balcony privacy screens shall thereafter be retained as such for the life of the development.

**All other CONDITIONS to be complied with:**

7. Within one month of completion of the development hereby approved, a minimum of 2 bat or bird boxes shall be installed within the site. The bat or bird boxes shall thereafter be retained as such for the life of the development.

**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 provide adequate privacy and to ensure the satisfactory appearance of the development, in accordance with Policy BE1 of the Local Plan Strategy, Policy BE2 of the Local Plan Allocations Document, the Sustainable Design Supplementary Planning Documents and the National Planning Policy Framework.
4. To ensure the satisfactory appearance of the development, promote sustainable transport and ensure sufficient parking provision within the site in accordance with the requirements of Policies BE1 and ST2 of the Local Plan Strategy and the National Planning Policy Framework.
5. To ensure sufficient parking provision within the site and in the interests of Highway safety in accordance with the requirements of Policies BE1 and ST2 of the Local Plan Strategy, Sustainable Design Supplementary Planning Document and the National Planning Policy Framework.
6. To protect neighbour amenity and to limit potential overlooking, in accordance with the requirements of Policy BE1 of the Local Plan Strategy, Sustainable Design Supplementary Planning Document and National Planning Policy Framework.
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.

**NOTES TO APPLICANT:**

1. The Development Plan comprises the Lichfield District Local Plan Strategy (2015) and Lichfield District Local Plan Allocations (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. Please be advised that Lichfield District Council adopted its Community Infrastructure Levy (CIL) Charging Schedule on the 19th April 2016 and commenced charging from the 13th June 2016. A CIL charge applies to all relevant applications. 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](http://www.lichfielddc.gov.uk/cilprocess).
5. A developer should be aware that even if the approved development's impact upon protected or priority species was not raised as an issue by the Lichfield District Council when determining the application, there remains the possibility that those species may be encountered once work has commenced. The gaining of planning approval does not permit a developer to act in a manner which would otherwise result in a criminal offence to be caused. Where such species are encountered it is recommended the developer cease work and seek further advice (either from Natural England or the Lichfield District Council Ecology Team) as to how to proceed.

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## **PLANNING POLICY**

### **National Planning Policy**

National Planning Policy Framework

National Planning Practice Guidance

### **Local Plan Strategy**

Core Policy 1: The Spatial Strategy

Core Policy 2: Presumption in Favour of Sustainable Development

Core Policy 3: Delivering Sustainable Development

Core Policy 6: Housing Delivery

Policy ST2: Parking Provision

Policy H1: A Balanced Housing Market

Policy H2: Provision of Affordable Homes

Policy NR3: Biodiversity, Protected Species & their Habitats

Policy NR7: Cannock Chase Special Area of Conservation

Policy BE1: High Quality Development

Policy Burntwood 1: Burntwood Environment

Policy Burntwood 4: Burntwood Housing

### **Local Plan Allocations**

N/A

### **Supplementary Planning Document**

Sustainable Design

Biodiversity & Development

Developer Contributions

## **RELEVANT PLANNING HISTORY**

03/00024/COU	Conversion of residential home to 22 no. bedroom guest house	Refused, appeal dismissed	25/02/2003
02/00197/COU	Change of use to guest house	Refused	02/05/2002

L960722	Demolish motorworld and erect extension to southwinds	Approved	04/11/1996
L890636	New bedroom wing extension to existing residential home	Approved	04/09/1989
L870592	Alterations to form an activity room	Approved	05/10/1987
L11709	Residential home for the mentally handicapped	Approved	10/06/1985
L8765	Conservatory and roof alteration to front elevation	Approved	15/02/1982

## **CONSULTATIONS**

**Burntwood Town Council** - Objection even though in principle flats in Burntwood are acceptable, the proposed development fails to provide sufficient parking provision. The development is therefore considered to have a detrimental impact and is contrary to Policy ST2 [Parking Provision] and the balcony to the rear elevations would have a detrimental impact on properties in Fairford Gardens. (8th November 2019)

Objection even though in principle flats in Burntwood are acceptable, the proposed development fails to provide sufficient parking provision. The development is therefore considered to have a detrimental impact and is contrary to Policy ST2 [Parking Provision] and the large dormer roof and balcony to the rear elevations would have a detrimental impact on properties in Fairford Gardens. (12th September 2019)

**Environmental Health Team (LDC)** - No comments. (9th September 2019)

**Staffordshire County Council (Highways)** – No objections subject to a condition to ensure the car and cycle parking and turning facilities are provided prior to the first occupation of the flats. The development of 11 flats requires 15 car parking spaces and 11 cycle spaces. The proposal includes 13 car spaces and 12 cycle spaces. Taking into consideration the likely existing shortfall in car parking for the existing use, the accessible, sustainable location and the presence of waiting restrictions on Chase Road, the proposed car parking is acceptable. The existing accesses are generally compliant with the guidance contained in the Manual for Streets. There have been two serious Personal Injury Collisions on Chase Road in the vicinity of the site frontage, between 1 January 2014 and 31 December 2018. However, taking into consideration the nature of the collisions, there are no existing accident problems or identifiable accident trends locally that would be exacerbated by the construction of the proposed development. (18th October 2019)

**Natural England** - No objection as the proposal will not have significant adverse impacts on designated sites. Concur with the LPA's Appropriate Assessment conclusions. (5th September 2019)

**Severn Trent Water - South Staffs** - No response received.

**Architectural Liaison Officer** – Provide recommendations on security provisions, e.g.: boundary treatments, lighting. (10th September 2019)

## **LETTERS OF REPRESENTATION**

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

- The proposal is not in keeping with the surrounding properties. Most are 3-4 bed houses and bungalows.
- The property is not suitable for this type of accommodation.
- Has parking and access been reviewed as there's double yellow lines outside the property.
- Not enough parking provision. Most residential occupiers now have one or two cars.
- Parking will occur on unrestricted side roads instead.
- The appearance of the proposed parking is not in keeping with the surrounding properties.
- There will be an increase in traffic on an already busy road.

- The property is on a bend on a narrow road with double yellow lines. It's a dangerous road.
- The construction traffic will make the congestion worse.
- Disturbance to neighbours by increased vehicle activity.
- Concern over pedestrian and road users safety.
- The flats are not quality living.
- Bedsits fail to meet the design quality expected by the NPPF.
- No details of the types of residents has been provided.
- Houses of multiple occupancy or ex-offender homes result in socio-cultural problems.
- Converting the premises to such a dense number of affordable housing, it is not appropriate or in keeping with the immediate local area.
- Concerns that the occupants will cause anti-social behaviour, drug use, theft.
- Residents of one bedroom flats are unlikely to use the nearby schools.
- The owner has previously applied for a hostel, concerned that this is for the same thing really.
- It will set a precedent.
- Impact upon value of neighbouring properties.
- No notification was given to neighbours.

Comments relating to the rear dormer which has now been omitted from the scheme;

- The large dormer window will overlook neighbouring properties and gardens.
- The properties to the rear are at a lower ground level.

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

01B, 02B, 03, 04, 05, 06, 07, 08A, 09A, 10A, 11A, 12A

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#### **OBSERVATIONS**

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

The application relates to a site located east of Chase Road in Burntwood. The site is occupied by two previously detached properties which have been linked with a large rear garden. The property was previously used as a residential care home. The site has 2no access points and parking areas. The site is surrounded by residential properties and approx. 100m to the north is the Swan Island neighbourhood shopping centre.

##### **Proposals**

The application seeks permission for the change of use of the property from residential care home (C2) to form 10no flats (C3). The 8no of the flats will be one bedroom and 2no will be two bedroom. The application also seeks the following alterations to the building;

- installation balconies and doors to the rear elevation,
- replace an existing rear door to a window,
- remove a first floor window to the front elevation,
- install a rooflight to the front elevation,
- replace existing patio doors.

The existing accesses and parking areas will be retained, and car parking for 13no vehicles will be provided. A bin store and cycle parking area will be provided to the rear of the property. The existing garden will be retained for shared use and semi-private patio spaces will be provided for three of the flats.

During the determination of the application the proposed rear dormer and 11<sup>th</sup> flat was omitted from the scheme.

## **DETERMINING ISSUES**

1. Policy & Principle of Development
2. Cannock Chase Special Area of Conservation (SAC)
3. Design and Appearance
4. Residential Amenity
5. Parking & Highways
6. Other matters
7. Human Rights

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

- 1.1 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 the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site”*. 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 2 of this report.
- 1.2 The site lies within the sustainable settlement of Burntwood. Core Policy 6 and Policy Burntwood 4 of the Local Plan Strategy notes that much of the new housing required in Burntwood is to be located within the existing urban area. The development will deliver ten additional dwellings within Burntwood and as such is considered to be policy compliant.
- 1.3 Policy H1 of the Local Plan Strategy encourages smaller (2-3 bedroom) homes, the need for which is identified in the Strategic Housing Market Assessment. The policy does not set out a threshold for the housing mix requirement. The scheme will deliver 8no one bedroom dwellings and 2no two bedroom dwellings. The neighbours’ comments regarding the housing mix are noted, however the development will deliver ten smaller dwellings which will contribute to the housing mix in the area which is predominantly larger properties.
- 1.4 Policy H2 sets out the requirements for affordable housing, this development does not meet the specified threshold (15 dwellings) and as such is not required to provide affordable housing. The neighbours’ comments regarding the types of residents are afforded limited weight as the scheme seeks to provide standard flats.
- 1.5 The proposal is considered to comply with the requirements of the development plan in terms of the principle of development. Matters relating to the general development management criteria are discussed below.

### **2. Cannock Chase Special Area of Conservation (SAC)**

- 2.1 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 satisfactorily avoidance and/or mitigation measures have been secured. The site is located within the 0-8km zone of the SAC, as such a financial contribution is required. An Appropriate Assessment has been completed with regards to the impact of the development upon the Cannock Chase SAC. Natural England have no objections to the proposal and concur with the conclusions Appropriate Assessment. The financial contribution will be secured via a unilateral

undertaking, subject to this the proposal is considered to not have a detrimental impact upon the Cannock Chase SAC.

### 3. Design and Appearance

- 3.1 Policy BE1 of the Local Plan Strategy requires new development to carefully respect the character of the surrounding area and development in terms of layout, size, scale design and public views. Core Policy 3 states that development should protect and enhance the distinctiveness of the District and its settlements, while development proposals should be of a scale and nature appropriate to its locality.
- 3.2 The proposal seeks minimal changes to the exterior of the building with the scale and mass of the building remaining largely as existing. The majority of changes are to windows and doors which includes the introduction of new balconies to the rear. The proposed rear balconies would not be visible from the streetscene and would not result in prominent or disproportionate additions to the existing building. It is considered that the appearance of the balconies and external alterations are considered to be acceptable and would not cause undue harm to the character and appearance of the host building or wider streetscene.
- 3.3 The scheme also includes the provision of a bin and cycle storage to the rear, however no elevations have been provided for these. As such a condition is imposed to secure the details in order to ensure that the appearance is acceptable.
- 3.4 The neighbours' comments regarding the appearance of the parking to the front of the building are noted, however the scheme seeks to utilise and extend the existing parking areas. This will result in the removal of the planting to the front of the site, however the existing fence will be retained and as such the overall appearance of the site from the streetscene will largely be unchanged.
- 3.5 The proposal is considered to be acceptable with regards to design and appearance and accords with the Development Plan and NPPF in this regard.

### 4. Residential Amenity

- 4.1 Policy BE1 of the Local Plan Strategy states that proposals should not have a negative impact on amenity, and development should avoid unreasonable levels of disturbance through traffic generation, noise, light, dust, fumes, or other disturbance. This Policy is supplemented by the Council's adopted Sustainable Design Supplementary Planning Document (SPD) which sets out the Council's requirements for space about dwellings within Appendix A.
- 4.2 The SPD requires a separation distance of 21m between principle habitable rooms which face each other, or 15m for ground floor windows where there is an intervening screen. There will be a 24m separation between the rear windows of Flat 6 and the neighbouring properties on Fairford Gardens. No additional windows will be installed which overlook neighbouring properties, as such the existing relationship between the application property and the neighbouring properties will be largely unchanged. During the determination of the application the originally proposed rear dormer was omitted from the scheme as this was considered to result in unacceptable overlooking of neighbouring properties.
- 4.3 The SPD also requires there to be a 6m separation distance between primary principle habitable room windows and the garden area of neighbouring properties. The development will retain the existing 11m separation between the Flat 6 and the neighbouring properties on Fairford Gardens.
- 4.4 The development proposes rear balconies to serve Flats 2 and 9. The SPD states that balconies should be sited carefully and designed to prevent overlooking of neighbouring gardens and properties, and should be sited at least 10m unless mitigation through solid screens is

provided. The proposed balconies will be sited approx. 7.8m from the rear garden of 3 Fairford Gardens and 9m from the rear garden of 19 Chase Road. The neighbours' and Town Council's concerns regarding overlooking are noted. The balconies are not considered to result in any direct overlooking of the neighbouring gardens, however in order to mitigate any overlooking to the adjacent gardens a condition is imposed to ensure privacy screens are installed to the sides of the balcony.

- 4.5 The SPD recommends that flats are provided with 10m<sup>2</sup> per unit of shared amenity space. The existing garden will be retained to provide shared amenity space in excess of the required standard. Also semi-private terraces will be provided for Flats 1, 2 and 6.
- 4.6 The neighbours' concerns regarding the size of the flats and that they do not provide quality living or meet the standards within the SPD are noted. The LPA does not have any specific standards with regards to flat sizes. As such the size of the flats is considered to be acceptable in size.
- 4.7 The Council's Environmental Health Officer has raised no concerns to the application. The neighbours' concerns regarding disturbance due to increased vehicle movements are noted. However the site's existing lawful use is a residential care home which can result in numerous vehicle movements from staff, visitors and medical visitors (nurses/doctors). It is therefore considered that the use of the property as flats will not result in any undue increase in vehicle movements to result in additional significant harm to the amenity of nearby residential properties.
- 4.8 Given the above, it is considered that the proposal complies with the LPA standards regarding residential amenity and will provide acceptable standards of living for future and existing residents of the locality. As such the development would accord with the development plan and the NPPF in this regard.

## 5. Parking & Highways

- 5.1 Local Plan Strategy Policy ST2 states that appropriate off-street parking should be provided by all developments, the Council's off street car parking standards are defined within Appendix D of the Sustainable Design SPD. The SPD recommends that flats provide 1no car parking space per dwelling plus 1no space per three dwellings for visitors. The development therefore requires 13 parking spaces. The proposal will provide 13no parking spaces which is compliant with the standards set out in the SPD.
- 5.2 The neighbour's and Town Council's concerns regarding parking are noted. However as addressed above the development complies with the standards as set out in the SPD and SCC Highways have raised no objection to the parking provision. A condition is imposed to ensure the parking provision is provided before the first occupation of the flats.
- 5.3 The SPD also recommends that 1no cycle storage space is provided per apartment. The development would provide 12no secure covered cycle storage, as such is compliant with the SPD standards. No details have been provided regarding the appearance of the cycle parking, as such a condition will be imposed to secure these details.
- 5.4 The development seeks to utilise the existing accesses off Chase Road. The neighbours' comments regarding the busy, narrow road are noted. However SCC Highways have raised no concerns regarding the use of the existing access, and have advised that the development is not considered to result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe.
- 5.5 The neighbours' comments regarding construction traffic are noted, however SCC Highways have raised no concerns regarding construction traffic. The proposals is for a conversion scheme and therefore the intensity of construction traffic would be less than a new build

development. It is also noted that the existing parking areas can be utilised by construction vehicles.

- 5.6 Therefore, it is considered that, subject to conditions, the proposal accords with the development plan with regard to access/egress and parking provision. As such the development would accord with the Local Plan Strategy and the NPPF in this regard.

6. Other matters

- 6.1 The development is considered unlikely to negatively impact upon protected or priority species or habitats. In order to deliver a net gain to biodiversity, in accordance with Policy NR3, it is recommended that a bat or bird box is installed within the site. This will be secured via condition. Subject to this the development is considered to be acceptable with regard to ecology and biodiversity. A note to applicant is included relating to the developers responsibilities regarding protected species.

- 6.2 The comments of nearby residents in respect to other matters, including the devaluation of property, are noted however these are not material planning matters that can be taken into account in the determination of the application.

- 6.3 The concerns regarding anti-social behaviour are noted, however the scheme seeks to provide standard flats which does not necessarily result in anti-social forms of behaviour. It is also noted that no evidence has been provided to demonstrate that a significant increase in anti-social behaviour would be caused directly by the proposed development.

- 6.4 With regards to the comments regarding lack of notification to neighbours, the LPA followed the statutory requirements of notifying all immediate neighbours to the site, erecting a site notice and a notice within the local paper. As such it is considered that the LPA has carried out sufficient notification.

- 6.5 With regards to the comments stating that the application will set a precedent, however every application is considered on its own merits. The comments raising concern that the application is similar to the previously refused application for a guest are noted, however this application has been considered on its own merits in accordance with the current local and national policies.

7. Human Rights

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

**CONCLUSION**

The proposed development will deliver 10 additional smaller dwellings within the sustainable settlement of Burntwood. The development is considered to provide sufficient parking and amenity space for the future residents. As assessed above the proposal is not considered to have a detrimental impact upon the amenity of neighbouring residents. The development, subject to signing the unilateral undertaking, will not affect the integrity of the Cannock Chase SAC. The development is considered to comply with the requirements of the Development Plan and NPPF and is recommended for approval.

## **ITEM B**

### **LICHFIELD DISTRICT COUNCIL APPLICATIONS, APPLICATIONS ON COUNCIL OWNED LAND AND ANY ITEMS SUBMITTED BY MEMBERS OR OFFICERS OF THE COUNCIL**

**16 December 2019**

#### **CONTENTS**

Case No.	Site Address	Parish/Town Council
19/00762/FUL	Tennis Courts Beacon Park Swan Road Lichfield	Lichfield

# LOCATION PLAN

19/00762/FUL

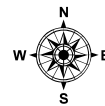
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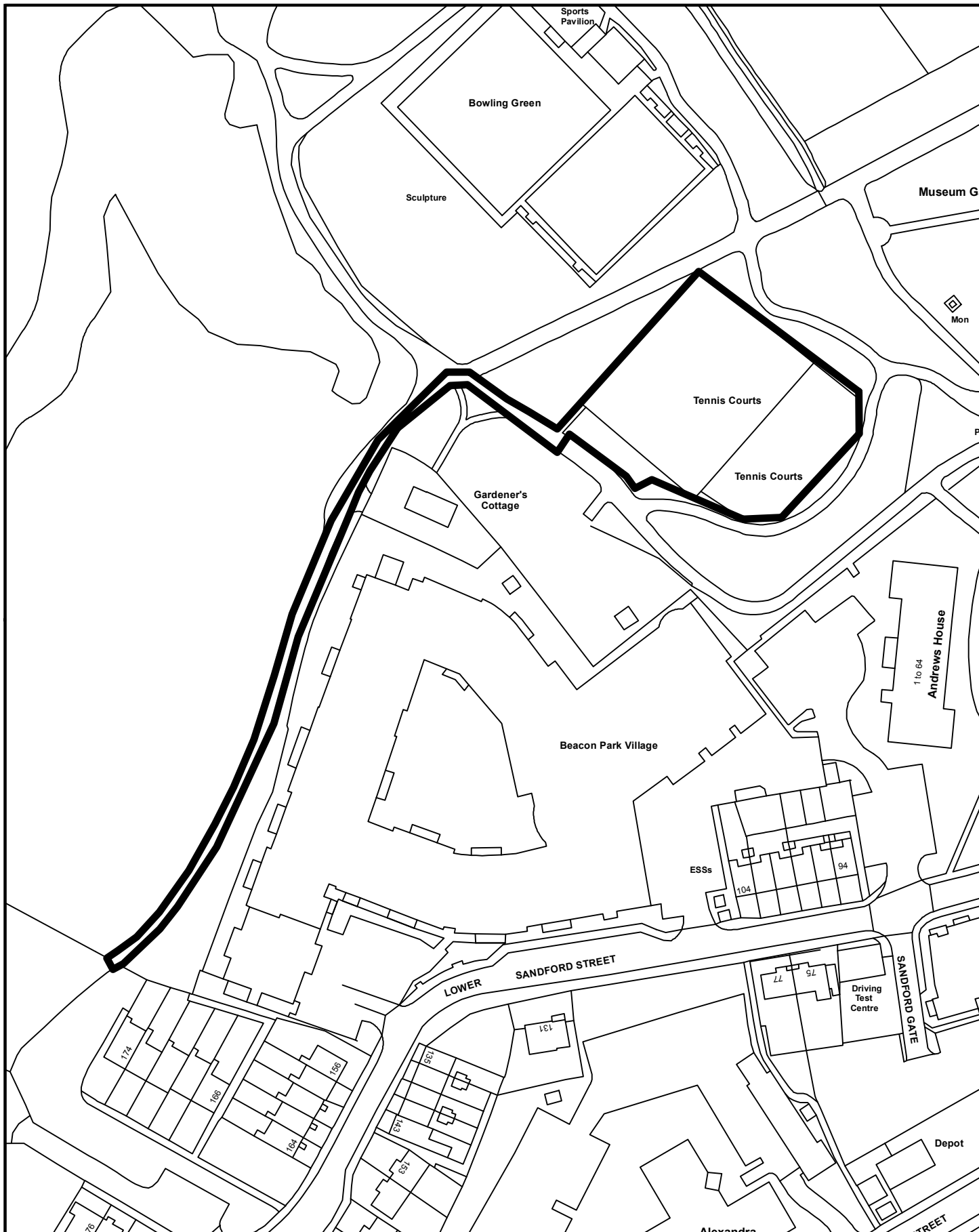
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## 19/00762/FUL

**Resurfacing and reorientation of 4 no existing tarmac courts; replacement of existing fencing and floodlights.**

**Tennis Courts, Beacon Park, Swan Road, Lichfield  
For Mr P Shaw**

Registered **22/05/2019**

**Parish: Lichfield**

**Note:** This application is being reported to the Planning Committee due to the application land falling under the ownership of Lichfield District Council.

**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.
- 3 Notwithstanding any details of materials within the submitted documents, the hereby approved 3m high perimeter fence and 10m high lighting columns as shown on plans '18-0120-003', '18-0120-004' and '18-0120-005' shall be installed with a Moss Green (RAL 6005) colour external finish and thereafter retained as such for the life of the development.
- 4 The hereby approved floodlighting shall not operate outside the hours of 09:00am to 21:00pm.
- 5 The hereby approved lighting as shown on plans 18-0120-003, 18-0120-004 and 18-0120-005 shall at all times be directional LED lights.
- 6 All site clearance and removal works shall only take place outside of the bird nesting season (March-September inclusive) unless such works are overseen by a suitably experienced ecologist.
- 7 Prior to any site clearance or removal works taking place, the tree protection measures as set out in the hereby approved Tree Protection Plan reference 'EA-2019-102 (TPP) Rev A' and Arboricultural Impact Assessment reference 'EA-2019-102 (AIA) REV A' shall be fully implemented, adhered to, and retained as such for the duration of all works, including construction and installation of the hereby approved development.
- 8 The hereby approved development shall be carried out to adhere to all methods of working set out in the hereby approved Arboricultural Impact Assessment reference 'EA-2019-102 (AIA) REV A' and Arboricultural Method Statement reference 'EA-2019-102 (AMS) REV A'.

### **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 satisfactory appearance of the development, to protect nearby heritage assets and the setting of the Lichfield Conservation Area, and to accord with CP14, BE1 and Lichfield 1 of the Local Plan Strategy, BE2 of the Local Plan Allocations, the Historic Environment SPD and the National Planning Policy Framework.
- 4 To safeguard nearby residential occupiers and to accord with BE1 of the Local Plan Strategy and the National Planning Policy Framework.
- 5 To safeguard nearby residential occupiers and important and protected species, and to accord with BE1 and NR3 of the Local Plan Strategy, the Biodiversity and Development SPD and the National Planning Policy Framework.
- 6 To safeguard important species and to accord with NR3 of the Local Plan Strategy, the Biodiversity and Development SPD and the National Planning Policy Framework.
- 7 To safeguard retained trees of important visual amenity and to accord with NR4 of the Local Plan Strategy, the Trees Landscaping and Development SPD and the National Planning Policy Framework.
- 8 To safeguard retained trees of important visual amenity and to accord with NR4 of the Local Plan Strategy, the Trees Landscaping 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. Please be advised that Lichfield District Council adopted its Community Infrastructure Levy (CIL) Charging Schedule on the 19th April 2016 and commenced charging from the 13th June 2016. A CIL charge applies to all relevant applications. 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](http://www.lichfielddc.gov.uk/cilprocess).

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#### **PLANNING POLICY**

##### **National Planning Policy**

National Planning Policy Framework

### **Local Plan Strategy**

Policy CP1 - The Spatial Strategy  
Policy BE1 - High Quality Development  
Policy CP3 - Delivering Sustainable Development  
Policy CP10 - Healthy & Safe Lifestyles  
Policy CP11 - Participation in Sport & Physical Activity  
Policy CP14 - Our Built & Historic Environment  
Policy HSC2 - Playing Pitch & Sport Facility Standards  
Policy NR2 - Development in the Green Belt  
Policy NR3 - Biodiversity, Protected Species & their  
Policy NR4 - Trees, Woodland, and Hedgerow  
Policy NR5 - Natural & Historic Landscapes  
Policy LICH1 - Lichfield Environment  
Policy LICH2 - Lichfield Services and Facilities

### **Local Plan Allocations**

Policy BE2 - Heritage Assets

### **Supplementary Planning Document**

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

### **Other**

Lichfield City Neighbourhood Plan (2018)

### **RELEVANT PLANNING HISTORY**

None

### **CONSULTATIONS**

**Environmental Health Team - LDC** - No comments to make (19th June 2019).

**Leomansley Area Residents Association** - No Comments Received - (N/A)

**Staffs Gardens And Parks Trust** – Objects to replacement of four existing lighting columns with eleven taller columns and resulting harm to the historic landscape. Recommends the replacement fence is painted dark green (8th September 2019)

#### **Conservation Team – LDC:**

(Final Comments) Removes previous objection on the grounds that when compared against alternative lighting options, the proposed 11 lighting columns at the same height as existing (10m), would be preferable over the following alternatives which are considered would result in additional visual harm / increased light spill:

*Option 2: 4 x 15 metre and 4 x 10 metre floodlights.*

*Option 3: 17 x 8 metre floodlights.*

Whilst the proposal would cause some harm, this is less than substantial and will need to be weighed against public benefits. The proposed Moss Green (RAL 6005) colour finish to fence and lighting columns is acceptable (12th September 2019).

(Further Comments) Maintains objection regarding impacts arising to heritage assets from the proposed lighting columns (12th August 2019).

(Initial Comments) The site is located within Beacon Park, and is within the area of the Cathedral Close and Linear Park, which is a Grade 2 registered park and garden. The site is also within the setting of Grade 2 listed buildings and structures, most notably the former Library and Art Gallery, the statue of King Edward VII, the fountain and the statue of Captain Smith (all of which are Grade 2 listed). The site is located outside of, but close to the boundary of the Lichfield City Conservation Area.

No objections to the re-surfacing element of the proposals, or the replacement of the existing fence for a very similar style of fencing but raise concerns with the proposed additional lighting columns and the resulting 'less than substantial harm' to the designated heritage assets (21st June 2019).

**Sport England** - No Comments Received - (N/A)

**Ecology Team - LDC** – No objection subject to the use of LED directional lighting used only when courts are in use, the carrying out of works outside of the bird nesting season (March-September inclusive) or overseeing of works by a suitably experienced ecologist during nesting season. Seeks provision of a bat box or a bird box to achieve a net-gain to biodiversity (13th June 2019).

**Staffordshire County Council (Flood Risk Officer)** – No objection (21st June 2019).

**Directorate Of Leisure And Parks** - No Comments Received

**Lichfield City Council** - No Objections (19th June 2019)

**Planning Policy** – Supports retention and enhancement of existing facilities and advises of the need to consider potential impacts on the Cannock Chase SAC (04/10/2019).

**Arboriculture:**

(Final Comments) No objection subject to a condition to secure tree protection details as set out in the submitted tree report by Eden Arboriculture (20/11/2019).

(Further Comments) Request service runs to new lighting columns be shown and concerns around proposed construction methods (24/10/2019).

(Initial Comments) Tree Survey and Method Statement required (19/09/2019).

**LETTERS OF REPRESENTATION**

No letters of representation have been received in respect of this application.

**OTHER BACKGROUND DOCUMENTS**

The developer has submitted the following additional documents in support of their application:

Heritage Statement  
Labosport Technical Report  
LED Lighting Design  
Arboricultural Impact Assessment - EA-2019-102 (AIA) REV A  
Arboricultural Method Statement - EA-2019-102 (AMS) REV A

**PLANS CONSIDERED AS PART OF THIS RECOMMENDATION**

18-0120-005  
18-0120-001  
18-0120-004  
18-0120-003  
EA-2019-102 (TCP1)  
EA-2019-102 (TPP) Rev A

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## **OBSERVATIONS**

### **Site and Location**

The application site relates to existing tennis / netball courts (four courts in total) at Beacon Park which are located to the north east of Beacon Park Village, and within the area of the Cathedral Close and Linear Park, which is a Grade II registered park and garden. The site is also within the setting of Grade II listed buildings and structures, most notably the former Library and Art Gallery, the statue of King Edward VII, the fountain and the statue of Captain Smith (all of which are Grade II listed).

The site is located outside of, but close to the boundary of the Lichfield City Conservation Area (around 21m to the north east of the site) and falls entirely within the West Midlands Green Belt.

A number of mature trees exist in close proximity to the application site boundary and are not subject to a Tree Preservation Order. The existing facility is served by four 10m high floodlights located at either end of the three courts to the west.

### **Background**

The submitted application documents explain that the current facility is in need of refurbishment and does not currently meet the minimum size and lighting requirements as set out by the British Tennis Lawn Tennis Association (LTA), the governing body for tennis.

The application site is owned by Lichfield District Council and leased to Beacon Park Tennis CIO on a long-term basis. A letter submitted in support of this application from the Council's Leisure and Operational Services Team confirms the Council's overall support for the proposed refurbishment project.

Furthermore, the applicant has explained that the proposed refurbishment project, subject of this planning application, is reliant upon external LTA and Sport England funding which hinges on the provision of the proposed lighting columns which are necessary to extend utilisation of the facility. Without this funding, the necessary refurbishment would not take place thus putting the future of this City centre sports facility at risk.

The Council's draft Playing Pitch Strategy (Summer 2019) explains that the provision of floodlights to serve tennis courts are key to increased participation in this sport and identifies all four Tennis Courts at this application site as being 'poor quality' due to "having loose gravel, damage to the surface and poor grip underfoot."

The applicant has also explained that the proposed configuration of eleven 10m high lighting columns has been recommended by LTA and Sport England, and that the following alternative lighting options have been considered, but are not suitable for the reasons as set out:

*Option 2:* 4 x 15 metre and 4 x 10 metre floodlights – this configuration lights 3 courts via the 4 x 15metre poles and the 4 x 10 metre floodlights light the single court. This provides effective light coverage, but is less environmentally friendly forcing 3 courts to be lit when only one is being used and also increases the light spill.

*Option 3: 17 x 8 metre floodlights – this configuration is not viable as the increased number of lighting poles prevents continued use of the courts for netball.*

## **Proposals**

This application seeks permission for the following:

- Replacement 3m high paladin mesh fencing around the perimeter of the courts finished in a dark green colour (RAL 6005);
- Eleven 10m high LED low energy lighting columns positioned around the perimeter of all four courts and finished in a dark green colour (RAL 6005) to match the fencing; and
- Resurfacing and re-orientation of the four tennis courts to be finished in painted porous macadam.

## **Determining Issues**

1. Policy & Principle of Development
2. Assessment of Impacts on Heritage Assets
3. Residential Amenity
4. Impact on Trees
5. Ecology
6. Cannock Chase Special Area of Conservation
7. Flooding
8. Conclusion
9. Human Rights

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

#### *Green Belt*

- 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 2008-2019, Local Plan Allocations (2019) and Lichfield City Neighbourhood Plan (2018).
- 1.2 Local Plan Strategy Policy NR2 supports proposals which enhance the beneficial use of the Green Belt (including for outdoor sports provision) providing it would retain the openness and character of the Green Belt, or very special circumstances can be demonstrated to outweigh any harm arising to the Green Belt.
- 1.3 NPPF Paragraphs 143 and 144 seek to protect the Green Belt from inappropriate development and requires very special circumstances to demonstrate that benefits / other considerations would outweigh any harm arising from inappropriate development.
- 1.4 NPPF Paragraph 145 sets out exceptions to the construction of new buildings in the Green Belt and at (b) it lists the provision of appropriate facilities for outdoor sport as being an acceptable form of development, providing they preserve the openness of the Green Belt, and do not conflict with the purposes of including land within it. Whilst 'appropriate facilities' is not clearly defined in policy, it is considered that the proposals which are the subject of this planning application, which includes the erection of lighting, replacement fencing and surfacing, fall within this exception.
- 1.5 The proposed resurfacing of the tennis courts would have no greater impact on the openness of the Green Belt as it would provide no further hardsurfacing above and beyond the existing extent. The scheme also proposes the replacement of the existing fencing which would be of similar height. An additional 7 lighting columns are also proposed, these would be the same height as the existing lighting columns. Given their slim-line nature and the context of the site

with surrounding built form and vegetation it is not considered that the additional lighting proposed would have a detrimental impact upon the openness of the Green Belt.

- 1.6 In terms of whether the development would conflict with the purposes of including the land within the Green Belt, the NPPF identifies, at paragraph 134 that the Green Belt serves 5 purposes. The most pertinent of these would be to safeguard the countryside from encroachment and preserving the setting and special character of historic towns. The proposals would not extend beyond the existing extents of the site and as such would not result in an encroachment into the wider countryside and therefore it is considered that the proposals would not conflict with the purposes of including the land within the Green Belt.
- 1.7 As the proposed development is considered to preserve openness and does not conflict with the purposes of including the land within the Green Belt, it is considered that the delivery of these proposals to support an existing sporting facility would represent appropriate development within the Green Belt.

#### *Provision of Sports Facilities*

- 1.8 Core Policy 1 of the Local Plan Strategy states that support will be given to maintaining and improving the health and wellbeing of residents including improvements to existing facilities to serve Lichfield City and its hinterland. Core Policy 3 seeks to improve overall quality of life through the provision of appropriate services and facilities. Core Policy 10, which relates to Healthy and Safe Lifestyles, states that the District Council will support the development of improved facilities which contribute towards improved and accessible physical wellbeing. Core Policy 11 states that initiatives to enhance and increase accessibility to sports facilities will be supported including the provision of supporting infrastructure such as, inter alia, floodlighting, and also initiatives which encourage increased levels of participation in sports and physical activity.
- 1.9 This proposal seeks to upgrade and maintain an existing outdoor sports facility to provide four tennis / netball courts which would otherwise fall into further disrepair and therefore are unlikely to be future-proofed resulting in uncertainty over their future, with the potential eventual loss of an existing outdoor sports facility. One of the key threads of the Local Plan Strategy is for the retention and enhancement of existing facilities which help to improve the health and wellbeing, and quality of life for residents. The proposed development is therefore considered to be compliant with the policies set out in the Development Plan and would be an acceptable form of development, as a matter of principle.

## 2. Assessment of Impacts on Heritage Assets

- 2.1 The application site lies within a Grade II Listed Registered Historic Park and Garden, while the site lies outside, but adjacent to the Conservation Area, which are both identified heritage assets. Local Plan Strategy, and Local Plan Allocations seek to protect the historic environment. Policy BE2 of the Local Plan Allocations Document explains that where harm arises to heritage assets, it should be demonstrated that such harm can be clearly outweighed by any public benefits arising and this reflects the position set out in NPPF Paragraph 196.
- 2.2 The proposed resurfacing and replacement fencing is unlikely to result in any additional harm to the setting of heritage assets above and beyond the existing condition. Notwithstanding this, the introduction of new lighting columns would result in some change in the character of the area. Whilst some harm would arise to the historic environment from the proposed development, in particular the erection of eleven lighting columns at 10m high, this configuration is preferred over the alternative options for improving the facilities, as set out further above in this report. It is likely therefore, that some impact would arise to the setting of heritage assets but such harm amounts to 'less than substantial harm'. The objection raised by the Gardens and Parks Trust refers to the installation of eleven taller lighting columns than

existing, however this proposal would retain the same height as existing (10m), albeit at an increased number from four to eleven columns.

- 2.3 Where less than substantial harm arises from a development, the NPPF and Policy BE2 confirm that this harm ought to be weighed against the public benefits of the proposal. The benefits arising from the retention and enhancement of this sports facility by way of helping towards the improved health, wellbeing, and quality of life of residents in the District is considered to outweigh the 'less than substantial harm' arising to heritage assets in this instance. As mentioned above, a condition would secure the finish of the replacement fence and lighting columns in dark green (RAL 6005) which would help to further minimise the harm and integrate the structures into their setting as recommended by the Council's Conservation Team and the Gardens and Parks Trust.
- 2.4 It is therefore considered that any harm to heritage assets would not be significant, whilst the colour finish of the proposals would help to minimise the impact. The harm arising would be outweighed by the public benefits of the proposals and therefore, in accordance with Policy, the impacts are acceptable.

### 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 The proposed lighting columns are directional low energy LED lights which would help to minimise light spill and would only be in use when the courts are in use during 09:00am to 21:00pm. This is considered would help to minimise any additional impacts, over and above the existing lighting, to the amenity of nearest residents at Beacon Park Village to the south and would be secured by condition. The proposal is therefore considered to accord with Policy BE1 of the Local Plan Strategy in this regard.
- 3.3 The proposed operating hours of 09:00am to 21:00pm are considered acceptable to provide sufficient flexibility on the use of this facility at different times of the day to suit different work / life patterns of its users. No objection has been raised by Environmental Health to these operating hours. As this application relates to operational development only, and does not seek any change of use of the land, it is not considered necessary or relevant to impose any condition to restrict the operating hours for this already established sports facility.

### 4. Impact on Trees

- 4.1 Local Plan Strategy Policy NR4 seeks to protect and retain trees due to their contribution towards visual amenity and ecological benefits and this reflects the aims of NPPF Paragraph 170.
- 4.2 A number of mature trees surround the application site of mixed species which are considered to be of high amenity value, and the submitted Arboricultural Impact Statement categorises the majority of these trees as being within category B (moderate quality with 20 years life expectancy). The Statement confirms that no trees are to be removed as a result of this proposal.
- 4.3 Some of the works associated with this proposal, such as the foundations for fence posts and lighting columns and associated services, would take place within the root protection area of these trees. The submitted Arboricultural Method Statement explains that excavations would be carried out by hand in these areas along with a range of measures to protect any exposed roots encountered, thereby safeguarding the health and longevity of the trees. This, in

combination with the location of protective fencing and storage area as shown on the submitted Tree Protection Plan is considered acceptable to ensure the retention of these trees. These measures would be secured by condition in line with the recommendations of the Arboricultural Team.

- 4.4 For the reasons set out above, the proposal is considered to be in accordance with Local Plan Strategy Policy NR4, the Trees Landscaping and Development SPD and the NPPF.

5. Ecology

- 5.1 Core Policy 13 and NR3 of the Local Plan Strategy seek to safeguard ecological networks, and to achieve net biodiversity gains as part of development proposals and this reflects NPPF Paragraphs 170 and 175.

- 5.2 The site of the proposed development contains numerous trees along its boundary which could be utilised by birds for nesting and bats. The use of LED directional lighting should be used in a manner to ensure minimal light spill to surrounding vegetation, and the area illuminated only when the area is in use to safeguard potential local bat species. It is considered that the current proposal has been designed to minimise light spill whilst providing the necessary level of lighting to support the continued, and enhanced use, of this existing sports facility. A condition would be included to ensure that the area is only illuminated at the times during which the facility is in use to safeguard important species and their habitat in line with the recommendations of the Council's Ecology Team and to accord with Local Plan Strategy Policy NR3, the Biodiversity and Development SPD and the NPPF.

- 5.3 Whilst the Council's Ecology Team has recommended the provision of a bat or bird box to provide net biodiversity gains, there is no reasonable opportunity to provide this within the application site boundary which runs tightly around the tennis courts to reflect the area of land leased by the applicant. Furthermore, given the scale and nature of this proposal, which is to enhance an existing facility, it is not considered necessary to seek net biodiversity gains and this is considered meets the aims of Local Plan Strategy Policy NR3 and the NPPF.

- 5.4 All nesting birds are afforded protection under Part 1 section 1 of the Wildlife and Countryside Act 1981 (as amended 2010), making it an offence to: disturb, injure or kill a nesting bird; disturb, take or destroy their nest; or damage, take or destroy their eggs. As such, a further condition would be included as recommended by the Council's Ecology Team to ensure that any, and all, site clearance and removal works would occur outside of the bird nesting season (March-September inclusive), or to secure the presence of a suitably experienced ecologist to check the site prior to the carrying out of such works.

6. Cannock Chase Special Area of Conservation

- 6.1 Whilst the application site falls within the 15km zone of influence of the Cannock Chase Special Area of Conservation (SAC), the scale and nature of the proposals relating to an existing facility is considered would not be a form of development that is likely to result in harm to this important designated asset, and does not therefore require an 'Appropriate Assessment' to be carried out under the Habitat Regulations. No mitigation measures are necessary, and the proposal accords with Local Plan Strategy policy NR7.

7. Flooding

- 7.1 The application site falls within Flood Zone 2, defined as land as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% – 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% – 0.1%) in any year.

- 7.2 The Lead Local Flood Authority were consulted on this application and did not raise any objection on the grounds that there are no recorded flooding hotspots within 20m of the

Ordinary Watercourses within 5m of the proposed scheme and on the basis that this proposal relates to enhancements to an existing recreation facility thus no significant change would arise to the impermeable area and surface water runoff generated by the site. The proposal is therefore considered to meet the aims of CP3 of the Local Plan Strategy and the NPPF and it is not considered necessary to include any flood-related conditions on this application.

## 8. Conclusion

- 8.1 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. These have been considered, and the proposal is deemed to be sustainable, on the basis that an existing sports facility would be retained and enhanced to the benefit of the local community, and overall attractiveness of the City centre as a place to live, work, and visit, and due to the proposed safeguarding of existing habitat, important and protected species and visually important trees. The development proposals are considered to be appropriate development within the Green Belt, while in terms of the impact upon heritage assets, there are considered to be overriding public benefits of the scheme to outweigh the less than substantial harm which would arise.
- 8.2 The development is considered to accord with local and national planning policies and guidance as set out in this report and consequently, it is recommended that this application be approved, subject to the conditions as set out.

## 9. Human Rights

- 9.1 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.